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S.C. Supreme Court

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Williamsburg County

R. Ferrell Cothran, Jr., Circuit Court Judge

EDMOND GOODMAN,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-002471

APPENDIX

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF WILLIAMSBURG) THIRD JUDICIAL CIRCUIT
2008-GS-45-0253

THE STATE OF SOUTH CAROLINA,)
PLAINTIFF,)
VS.)
EDMOND L. GOODMAN,)
DEFENDANT.)

TRANSCRIPT OF RECORD

MARCH 17, 18, 2009
KINGSTREE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE MICHAEL G. NETTLES, JUDGE, AND A JURY

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

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ATTORNEYS FOR THE STATE

LEGRAND CARRAWAY, ESQUIRE
ATTORNEY FOR THE DEFENDANT

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CIRCUIT COURT REPORTER

I N D E XWITNESS/DESCRIPTIONPAGE NO.

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2009, BY DIFFERENT COURT REPORTER AND INCLUDED UNDER
SEPARATE COVER.)

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1 TUESDAY, MARCH 17, 2009

2 (COURT RESUMES AT 10:06 A.M.)

3 THE COURT: I have been informed that one of the
4 jurors has since had a revelation that they know some of
5 the witnesses. What is this juror?

6 BAILIFF: Ms. Mitchem.

7 THE COURT: Ms. Mitchem?

8 BAILIFF: Yes, sir.

9 THE COURT: Would you ask Ms. Mitchem to come out to
10 the courtroom for a moment?

11 (A PAUSE.)

12 THE COURT: Ms. Mitchem, if you could come down,
13 please. I'm going to ask you to come forward, place your
14 left hand on the Bible, and raise your right hand as the
15 clerk administers the oath.

16 LOIS MITCHEM, BEING DULY SWORN,

17 TESTIFIES AS FOLLOWS:

18 EXAMINATION BY THE COURT:

19 THE COURT: Ms. Mitchem, if you could have a seat
20 right here in the witness chair? Ms. Mitchem, could you
21 state your full name for the record?

22 JUROR: Lois Hannah Mitchem.

23 THE COURT: All right, Ms. Mitchem, I've been informed
24 by the bailiff that you have indicated that you know some
25 of the witnesses. Who are those witnesses?

1 JUROR: When I got back to work yesterday afternoon,
2 Shannon Singletary came in. I work in the OMD department
3 in -- at Sikes, and she came in with her team manager and
4 said that she had been subpoenaed for court for -- as a
5 witness. And I didn't realize she was a witness in this
6 case until she came in here, which we have, like, 350
7 employees out there, and I don't know all of them. I just
8 know some of the names.

9 THE COURT: What is your come relationship with this
10 particular witness?

11 JUROR: I don't really know her.

12 THE COURT: Okay.

13 JUROR: I mean, I just know the name.

14 THE COURT: All right, and there was certainly no
15 discussion about the case, was there?

16 JUROR: No. No, sir.

17 THE COURT: All right, and you don't have a special
18 social relationship with this particular witness?

19 JUROR: No, sir.

20 THE COURT: You don't know whether she's going to
21 testify on behalf of the state or the defendant, or you
22 don't know anything about that, do you?

23 JUROR: No, sir.

24 THE COURT: All right. If she were to call -- be
25 called as a witness in this case, could you set aside the

1 fact that y'all work at the same organization and base your
2 decision on the evidence that comes forth in this trial, or
3 the lack of evidence, and the law as I charge it to you?

4 JUROR: Yes, sir.

5 THE COURT: All right. You feel as though by virtue
6 of the fact y'all work at the same employment, that you
7 might give her testimony greater weight than other
8 witnesses?

9 JUROR: No, sir.

10 THE COURT: All right. Is that the only witness that
11 you've been made aware of?

12 JUROR: Yes, sir.

13 THE COURT: Very good. All right, any questions from
14 the state?

15 MS. BARR: None, Your Honor.

16 THE COURT: Any from defense?

17 MR. CARRAWAY: None, Your Honor.

18 THE COURT: All right, you may retire back to the jury
19 room.

20 JUROR: Okay. Thank you, sir.

21 (THE JUROR EXITS THE COURTROOM.)

22 DEFENDANT: Your Honor? Your Honor?

23 THE COURT: All right, Mr. Goodman.

24 DEFENDANT: Yes, sir.

25 THE COURT: You understand that my role in this case

1 is to rule on matters of evidence, charge the jury what the
2 law is, and to make sure that you and the state of South
3 Carolina get a fair trial. Do you understand that?

4 DEFENDANT: Yes, sir.

5 THE COURT: All right, and from this point forward,
6 you're to communicate to me through your lawyer. Do you
7 understand that?

8 DEFENDANT: Yes, sir.

9 THE COURT: And any matters that need to be tended to,
10 I will indeed do that.

11 DEFENDANT: Yes, sir.

12 THE COURT: There will not be any raising of your
13 hands. There won't be any talking because this is your day
14 in court, but I have an obligation to make sure you get a
15 fair trial. Do you understand that?

16 DEFENDANT: Yes, sir.

17 THE COURT: All right, and I'm going to make sure that
18 happens. That's my job; I've got an obligation to do that.
19 I can't do that when you interrupting. This is a procedure
20 that's governed by the rules of evidence and South Carolina
21 Rules of Procedure; we have to abide by those. Do you
22 understand that?

23 DEFENDANT: Yes, sir.

24 THE COURT: All right.

25 DEFENDANT: A little bit, little bit, sir.

1 THE COURT: All right. Well, if you have any
2 questions, talk to your lawyer about it. He's a very
3 capable lawyer. He's been practicing criminal defense law
4 for twenty-five years probably. So, you need to
5 communicate with him, and that's the way we're going to
6 proceed.

7 The other thing is if there -- and I don't anticipate
8 this being the case because you strike me as being a calm
9 individual who's been respectful to me and to your lawyer,
10 but if you are disruptive, we can do, we can do a number of
11 different things, one of which is we can shackle you to
12 your chair. The other thing is that we can remove you from
13 the courtroom. We don't want that to happen, do we?

14 DEFENDANT: No, sir.

15 THE COURT: All right.

16 MR. CARRAWAY: He has asked me to forward this motion
17 to the court.

18 THE COURT: All right and, Mr. Goodman.

19 DEFENDANT: Yes, sir.

20 THE COURT: We will entertain those matters.

21 DEFENDANT: Okay.

22 THE COURT: But the jury has been here, the jury has
23 been here since 9:30. It's now 10:10. We had other
24 matters to tend to.

25 DEFENDANT: Yes, sir.

1 THE COURT: We're going to proceed forward with
2 preliminary charge, opening statements, and then we will
3 take up matters of law.

4 Very good. We're ready for the jury.

5 (THE JURY ENTERS AT 10:13 A.M.)

6 THE COURT: Madame Forelady, ladies and gentlemen of
7 the jury, we're about to begin the trial of indictment
8 2008-GS-45-253, the *State of South Carolina vs. Edmond*
9 *Louis Goodman*.

10 As I had indicated to you during the jury selection
11 process, Mr. Goodman is merely being accused of a crime;
12 it's merely an accusation. This accusation is set forth in
13 this indictment. This indictment has absolutely no
14 evidentiary value whatsoever, and to this indictment Mr.
15 Kaufman has pled not guilty.

16 Y'all need to realize from the very beginning that
17 y'all have taken a very solemn oath to well and truly try
18 this case. And one of the things that the law requires
19 that you do from the very outset is to operate from the
20 presumption that Mr. Goodman, as he sits there at the
21 defense table, is presumed to be innocent, just as innocent
22 as me or you.

23 You know, in our civics classes and on TV, we hear
24 about these words, the presumptions, the presumption of
25 innocence. Sometimes it's kind of like the Pledge of

1 Allegiance or the blessing: we don't really pay it much
2 attention. Look here. This is a very real right; it's a
3 substantial right. All of us as American citizens are
4 presumed to be innocent.

5 When an individual pleads not guilty, the presumption
6 of innocence guards him like a protective cloak and when
7 that happens, the burden is placed on the state to prove
8 each and every element of each of the offenses beyond a
9 reasonable doubt.

10 Now, there are two reasons for that, one of which is
11 that in the United States of American, we live in a free
12 country. And if a government agency, a state agency
13 accuses an individual of a crime, it's incumbent upon them
14 to prove it beyond a reasonable doubt. And there are some
15 practical reasons for that, one of which is they're the
16 ones with all the resources. They're the ones that are
17 able to gather all the evidence, and the law requires they
18 come forth with that.

19 There's some theoretical reasons behind that because
20 in some third-world countries, you can be accused of a
21 crime and hauled before a tribunal of the government and be
22 required to prove your innocence. You know, quite often
23 many of us in our lives have been accused of things where
24 it's absolutely impossible to prove your innocence.

25 In the United States of America, you're not required

1 to do that. The state is required to prove these charges
2 beyond a reasonable doubt. This presumption of innocence
3 follows Mr. Goodman throughout this trial and even into
4 your deliberation process. It's only after the state is
5 able to prove each and every element beyond a reasonable
6 doubt that you can consider convicting him of the crime.

7 Let's talk about what beyond a reasonable doubt is.
8 I'm going to charge you at the conclusion of the case a
9 specific definition of it. But I'm going to ask you, if
10 you could, to imagine with me, if you will, the lady who is
11 blindfolded from all bias and all prejudice. And she's
12 ready to begin the trial, and the scales start off even.
13 In a civil case, and many of you probably have served on a
14 civil case where maybe it was an automobile accident, a
15 contract dispute, a business dispute. If a plaintiff
16 brings a lawsuit against other citizen essentially about
17 money, then all they are required to do is just tilt the
18 scales just a little bit in their favor, and they would
19 prevail.

20 However, in criminal cases the burden of proof is much
21 higher than that. It's proof beyond a reasonable doubt,
22 and I envision that as locking up the scales, proof beyond
23 a reasonable doubt, the heaviest, highest burden known to
24 our judicial system. And there's a reason for that because
25 in civil cases, after all, all you're talking about is

1 money. In criminal cases, we're talking about very
2 important rights and very important liberties that belong
3 to all of us as American citizens.

4 I'll tell you from the very outset that you are going
5 to be called upon to be the triers of fact. You're the
6 ones that are going to sit back and evaluate the evidence.
7 And of course in every trial there's a conflict in
8 evidence, there's a conflict in positions. Sometimes
9 potentially in some cases, people could agree on the facts
10 but disagree as the inference to be drawn from the facts.
11 But it's your job as jurors to listen to the evidence as it
12 comes from this witness stand and find the truth.

13 The law does not allow me to have an opinion about the
14 facts. That's completely your parameter. You are the
15 judges of the fact, the sole and exclusive judges of the
16 facts. The law doesn't even allow me to have an opinion
17 about the facts. That's your job, and I can't invade.

18 But likewise, I'm the trier of the law. I'm the one
19 who determines which evidence you get to hear, and what --
20 and I'll explain to you the law. And just like you're the
21 sole and exclusive triers of the fact, I'm the sole and
22 exclusive trier of the law. You need to accept and apply
23 the law exactly as I charge it to you.

24 One thing that I need to make you very aware of is
25 that these are serious matters. This is an important case

1 for the state of South Carolina; it's an important case for
2 the defendant. And you have the most important job in this
3 courtroom as being the finders of the fact. And if there
4 is an error in law that I make, those are easily corrected,
5 but quite often errors in the finding of fact can't be
6 corrected. So, I implore you to pay very close attention
7 to the evidence. This is an important matter, the most
8 important matter. So, play very close attention to it.

9 Necessarily as the triers of fact, you're going to be
10 called upon to weigh the credibility of the witnesses. You
11 need to ask yourself what opportunity this witness has to
12 see and observe the things to which they are testifying.
13 Ask yourself if they have an interest or a bias in the
14 outcome of the case. Ask yourself whether what they say is
15 corroborated by other witnesses, whether or not it's
16 contradicted.

17 I'll tell you from the very outset that you can
18 believe one witness against many or many against one. You
19 can believe all of what one witness says, part of what one
20 witness says, or none of what one witness says.

21 In addition to that, the law says that you can take
22 into consideration the demeanor of a witness. All of us
23 who have teenaged children, sometimes not important what
24 they say as much as it is how they say it. And the law
25 doesn't require that you leave your good common sense at

1 home, and you are to take all of that into consideration.
2 And I implore you to pay close attention as the evidence
3 comes before you.

4 Want to tell you a little bit about the procedure in
5 this case. The procedure allows the state to have an
6 opening statement. They will get up and set forth what the
7 charges are and what they intend to prove. The defendant
8 is going to have an opportunity to make an opening
9 statement. However, it's very important for you to
10 realize, as I've already explained to you, that the state
11 doesn't have to prove a thing -- I mean, the defendant does
12 not have to prove a thing. The burden is on the state.
13 The defendant need not testimony, need not put forth any
14 evidence, need not present an opening statement. The
15 burden rests solely upon the state of South Carolina.

16 After the opening statements or an opportunity for the
17 opening statements, the evidence will begin. And just like
18 in the opening statements, the taking of the evidence, the
19 state goes first. They can call witnesses. They can
20 present stipulations, documents, maps, anything that is
21 admissible through this witness stand, they will be able to
22 present.

23 I want to tell you from the very outset, in every
24 trial that I've ever participated in or presided over, you
25 will hear words like I object, Your Honor. I need to take

1 up a matter of law with the court. I want to tell you
2 about that from the very outset so you'll know what's going
3 on.

4 I have an obligation to rule on the evidence that
5 you're allowed to hear, and that is based on the rules of
6 law and the rules of procedure. And quite often when those
7 motions are made, it requires that I comment on the facts.
8 And it would be inappropriate for you to hear any comment
9 that I might have on the facts because the law doesn't
10 allow me in this setting to have an opinion about the
11 facts. So, those conversations will take place up here at
12 the bench, or sometimes I'll excuse you to the jury room so
13 we can discuss those matters. At the conclusion of the
14 case, if there is a particular point of law that you have
15 an interest in, and if I can remember what we were talking
16 about, I'd be happy to discuss it with you at that time.
17 But until a verdict is rendered, it would be inappropriate
18 for me to discuss any such matters in your presence.

19 At the conclusion of the state's case, the defendant
20 will have an opportunity to present any witnesses that they
21 might have, although they're not required to do so. The
22 law and the United States Constitution doesn't require
23 that.

24 But after the conclusion of the state's case, each
25 side will be given the opportunity for a closing statement.

1 Then there will be a charge on the law, and then you will
2 begin deliberations.

3 Madame Forelady, ladies and gentlemen of the jury, I'm
4 going to emphasize, order, and direct that there be no
5 discussion about this case until I give instructions to do
6 so. It would be inappropriate for you to discuss it
7 amongst yourselves or with anyone else.

8 Given the nature of this case and the length of this
9 case, I'm going to order and direct and instruct that you
10 not take notes. So, it's very important for you to pay
11 very close attention as the witnesses testify and the
12 evidence comes before you.

13 At this time, Ms. Barr, you are recognized for opening
14 statements.

15 MS. BARR: Thank you, Your Honor. Please the court?
16 Madame Forelady, ladies and gentlemen of the jury, good
17 morning.

18 JURY: Good morning.

19 MS. BARR: I am Kimberly Barr, and of course Mr. Sabb
20 and I are assistant solicitors, and we're prosecuting this
21 case on behalf of the state of South Carolina.

22 Let me begin by thanking you all most sincerely for
23 being with us this week. Now, I can imagine that no one
24 volunteered to perform jury service. I'm sure that there
25 are thousands of other places you all would rather be than

1 to be here trying a murder case. But one of the comments
2 that the judge made that I think bear repeating -- bears
3 repeating is the fact that you all are the most important
4 people in the courtroom, and we certainly depend on you and
5 trust that you will administer justice in this case.

6 Now, folks, I'm not going to be very long, but I will
7 like to take this opportunity to tell you why we're here.
8 This case is about two people. First person is, fellow's
9 name is Jaron White, a young man in the prime of his life.
10 He was living in Myrtle Beach with his girlfriend and their
11 one-year-old son. The evidence is going to show that on a
12 hot day back in July of 2008, he was driving to Salters in
13 Williamsburg County to help a friend pick up a car. He had
14 left his girlfriend and baby son home and, folks, he didn't
15 make it back home.

16 You see, you all are here because on that day the
17 defendant, the fellow sitting right over there, killed
18 Jaron. Shot him in his head, and he died instantly as a
19 result of that. It's a horrible set of facts. It's a
20 senseless crime, and we all are counting on you to listen
21 very attentively.

22 Now, you're going to hear from a few folks during the
23 trial of the case. You're going to hear from some of the
24 witnesses who unfortunately happened to be there at the
25 time of the killing but who very fortunately made it out

21

1 and are here today to tell you what they saw. In addition,
2 you're going to hear from certain law enforcement officers
3 who came and investigated. And one of the last persons who
4 you will hear from in this case is the forensic
5 pathologist. She's the doctor who works down at MUSC. She
6 performed the autopsy on the body of Mr. White, and she
7 will tell you about her findings and her conclusions.

8 You all heard me talk about there are two people that
9 this case was about. The second person is the defendant,
10 Mr. Edmond Goodman. And, folks, the judge told you that
11 this is an important case. He's absolutely one hundred
12 percent right about this. See, Jaron White, the victim's
13 family is here. They've waited quite some time to get this
14 case into court. The defendant is here; he's waited quite
15 some time to get this case to court.

16 And Mr. Carraway and I, when we selected you to serve
17 as jurors in this case, we did that not knowing a whole lot
18 about you. You know, as lawyers when you're selecting a
19 jury -- you all may have noticed that yesterday some jurors
20 got picked and some didn't. Well, Mr. Carraway and I made
21 a gut instinct when it came to picking the fourteen of you.
22 We said -- I kind of look at this person. This person
23 seems like he can be fair, or this person seems like she'll
24 be attentive. And, folks, that's all we ask.

25 The defendant is facing two charges, one which is

1 murder, and the second charge is possession of a weapon
2 during the commission of a violent crime. Now as it
3 relates to the murder charge, the state has to prove a
4 couple of things. The state has to prove, prove that the
5 defendant took the life of another human, human being and
6 when he did it, he acted with what we call malice
7 aforethought.

8 Now, that's a legal principle. Malice just means
9 somebody acts with ill will or hatred or anger or has
10 intentionally done something that the law forbids or
11 prohibits. Aforethought just means that at the time that
12 you committed the killing, you committed the act, you did
13 the shooting, you had this in your mind and it was
14 premeditated.

15 Now, one of the things that the judge is going to tell
16 you once all the evidence comes in, once the lawyers
17 finishes our closing arguments, the judge is going to tell
18 you that this malice and the premeditation, and it doesn't
19 have to exist in your mind for any significant period of
20 time. You can have the intent to kill somebody for five
21 seconds and then fire the gun that ultimately takes the
22 life. And I expect that after you've heard all of the
23 testimony, you've seen all the photographs and the
24 pictures, you will conclude that that is exactly what
25 happened in this case.

23

1 Now, the judge told you, and I'm going to say this one
2 last thing and I'll sit down. The judge told you that it's
3 important that you pay attention. And again he's
4 absolutely right about this. You see, the state only gets
5 one day in court. The defendant only gets one day in
6 court, and it's not enough for folks to be here. We have
7 to be here, and we have to pay attention to the process
8 because ultimately at the conclusion of this case, each
9 side is going to demand that justice be served. And each
10 side is going to be looking to each of you to give us that
11 justice. And I'm confident that we have just the right
12 folks to do it. Thank you all so much.

13 THE COURT: Thank you, Ms. Barr.

14 Mr. Carraway, you're recognized.

15 MR. CARRAWAY: Defense waives opening, Your Honor.

16 THE COURT: All right. Madame ---

17 MR. CARRAWAY: May we approach, Your Honor?

18 THE COURT: You may.

19 (OFF-THE-RECORD BENCH CONFERENCE.)

20 THE COURT: Madame Forelady, member of the jury, I'm
21 going to ask that you retire to the jury room momentarily.
22 Thank you very much. Do not discuss the case.

23 (THE JURY EXITS AT 10:30 A.M.)

24 THE COURT: All right, Mr. Goodman, I'm going to ask
25 if you could stand right where you are and raise your right

1 hand as the clerk administers the oath.

2 EDMOND L. GOODMAN, BEING DULY
3 SWORN, TESTIFIES AS FOLLOWS:

4 EXAMINATION BY THE COURT:

5 THE COURT: Mr. Goodman, you and have I had a brief
6 discussion here in this courtroom about, about the way this
7 matter is going to proceed.

8 DEFENDANT: Yes, sir.

9 THE COURT: And you have, through your lawyer, have
10 handed up a motion to have your counsel relieved. Before
11 we get into the merits of that, how old are you?

12 DEFENDANT: Thirty-six.

13 THE COURT: And how far did you go in school?

14 DEFENDANT: Twelfth.

15 THE COURT: All right. Can you read and write?

16 DEFENDANT: Yes, sir.

17 THE COURT: How much training in the law have you had?

18 DEFENDANT: Not that much.

19 THE COURT: Have you ever taken a course on
20 substantive criminal law? Have you ever take a course in
21 that regard?

22 DEFENDANT: I, I've read over a little law, sir.

23 THE COURT: All right, but you've never taken a course
24 of any, any sort, never have taken a course with regard to
25 criminal, the criminal rules of procedure?

1 DEFENDANT: No, sir. I, I haven't. I haven't. I've
2 read, read over it.

3 THE COURT: You have never taken a course with regard
4 to evidence?

5 DEFENDANT: No, sir.

6 THE COURT: All right. Mr. Goodman, do you recall
7 before we selected a jury, and I was not aware of there
8 being any friction between you and your client in great
9 detail, but before the jury was sworn, your lawyer asked me
10 to speak with you to determine whether or not there were
11 any legal matters you wanted to discuss. And I
12 specifically called upon you at that time to bring up any
13 matters that you have with the court, and you indicated you
14 did not want to do that.

15 DEFENDANT: I had gave ---

16 THE COURT: Is that correct?

17 DEFENDANT: I had gave -- you have a letter. I
18 thought you had read the letter.

19 THE COURT: Right, and is it correct that you chose
20 not to make a motion at that time?

21 DEFENDANT: I didn't understand what was going on
22 until I got the rest of this stuff last night.

23 COURT REPORTER: Excuse me. I'm having difficulty
24 hearing him.

25 THE COURT: Okay, you need to speak up.

1 DEFENDANT: I, I didn't get -- until I got this
2 material last night, I had -- I didn't, I didn't, I didn't
3 know the magnitude of this situation.

4 COURT REPORTER: I can't hear him. I'm sorry.

5 THE COURT: Okay, you need to speak up. Look at the
6 court reporter you when you talk.

7 DEFENDANT: I didn't know the surroundings about this
8 case till last night. I didn't know.

9 THE COURT: Well, here we are and the jury has already
10 been sworn, and jeopardy is attached, and you've asked that
11 I relieve your counsel in this motion which I'm going to
12 make a part of the record. It essentially says that you
13 want to relieve your lawyer. Is that what your motion is?

14 DEFENDANT: Yes, sir.

15 THE COURT: All right. One of the things that
16 separates the United States of America from all other
17 countries is that when someone is accused of a crime, our
18 system appoints a lawyer if you can't afford one. You
19 understand that?

20 DEFENDANT: Yes, sir.

21 THE COURT: But it does not allow you the right to
22 pick which lawyer you want. You understand that?

23 DEFENDANT: Most definitely.

24 THE COURT: All right, and if you wanted to hire a
25 lawyer, you were free to do. But you have not hired one,

1 have you?

2 DEFENDANT: I just, I just got this information, Your
3 Honor. I just ---

4 THE COURT: You need to answer my question. Have you
5 hired a lawyer?

6 DEFENDANT: No, sir.

7 THE COURT: All right, Mr. Carraway, I'm going to ask
8 if you could put on the record your state of preparation
9 and whether or not you feel as though you're in a position
10 to go forward.

11 MR. CARRAWAY: I feel like I am.

12 THE COURT: Have you had an adequate opportunity to
13 review the evidence?

14 MR. CARRAWAY: Yes, I have.

15 THE COURT: Have you gone over this evidence with your
16 client?

17 MR. CARRAWAY: I have.

18 THE COURT: And do you understand the state's theory
19 of the prosecution?

20 MR. CARRAWAY: I do.

21 THE COURT: Do you have a -- have you developed a
22 theory with regard to a defense?

23 MR. CARRAWAY: I have, Your Honor.

24 THE COURT: All right. Do you feel as though you are
25 prepared and ready to go forward here in this court today?

1 MR. CARRAWAY: I certainly do.

2 THE COURT: All right. What kind of -- when did you
3 graduate from law school?

4 MR. CARRAWAY: In 1990.

5 THE COURT: All right, and how long have you been
6 practicing criminal law?

7 MR. CARRAWAY: Since 1990.

8 THE COURT: All right, and how many serious felony
9 trials have you been involved in?

10 MR. CARRAWAY: I've had three death penalty cases, and
11 I've been the only public defender in Williamsburg County
12 for...

13 THE COURT: Nineteen years?

14 MR. CARRAWAY: I was in Orangeburg for eleven months,
15 and then I came here in '91. Since then.

16 THE COURT: So, would it be fair to say that you've
17 had some experience in the realm of criminal defense?

18 MR. CARRAWAY: Yes, Your Honor.

19 THE COURT: All right. You feel confident you're in a
20 position to go forward?

21 MR. CARRAWAY: I am.

22 THE COURT: All right. You need any additional time?

23 MR. CARRAWAY: No.

24 THE COURT: All right, Mr. Goodman, your motion is
25 denied, and we will proceed forward.

1 DEFENDANT: Yes, sir.

2 (MOTION BY DEFENDANT MARKED INTO EVIDENCE AS COURT'S
3 EXHIBIT NUMBER 1.)

4 THE COURT: I understand there is a motion with regard
5 to, with regard to sequestration of witnesses. Be glad to
6 hear from the state.

7 MS. BARR: Judge, we don't have any objection to that
8 as long as the motion is reciprocal.

9 THE COURT: Very good. All right, is there anybody
10 from the prosecution standpoint who needs to remain in the
11 courtroom?

12 MS. BARR: Judge, we would ask -- we don't anticipate
13 calling any of the victim's families' members as witnesses.
14 We'd like our chief investigating officer, Justin Whack, to
15 remain in a courtroom. We anticipate that the first
16 witness we'll call is Ms. Shannon Singletary. She's the
17 young lady who's seated over there, and we'd ask that she
18 be allowed to remain in the courtroom.

19 THE COURT: All right. Very good. I will allow the
20 chief investigating officer to remain. And, Ms. Barr,
21 you'd indicated that none of the victim's family is going
22 to testify. But if they remain in the courtroom, they
23 would be precluded from testifying. You understand that?

24 MS. BARR: Yes, sir.

25 THE COURT: Anything from defense with regard to

1 motion for sequestration?

2 MR. CARRAWAY: Nothing, Your Honor.

3 THE COURT: All right and, Ms. Barr, is there anybody
4 else in the courtroom presently that is subject to the
5 sequestration order?

6 MS. BARR: I, I -- there are several people, Judge,
7 and I will instruct them to, to go to another room.

8 THE COURT: All right, and the sequestration order,
9 and I'm going to ask that you explain that to all the
10 people involved in the prosecution of this case. It not
11 only prohibits them, from witnesses being in the courtroom
12 and hearing the testimony. It also prohibits the people
13 who are in this courtroom from discussing the substance,
14 substance of the testimony with witnesses. They are
15 ordered and instructed not to do that. If that does
16 happen, they will be subjected to contempt of court. Do
17 they understand that?

18 MS. BARR: I'll make sure they do.

19 THE COURT: Very good, and the same applies with
20 regard to the defense. Any defense witnesses in the
21 courtroom now, Mr. Carraway?

22 MR. CARRAWAY: None, Your Honor.

23 THE COURT: All right, very good. All right, anything
24 before we proceed forward, Ms. Barr?

25 MS. BARR: Judge, there is one matter, and it concerns

1 the criminal history of several of the witnesses who we
2 propose to call. And, Your Honor, for the record I'll give
3 you the rap sheet of Milton Phillips, who's expected to be
4 a witness; Frederick Williams, who is expected be a
5 witness; Cleveland Williams, who is expected to be a
6 witness; Jamar Finklea, who is expected to be a witness as
7 well. And, Judge, I'll go through the ones that I'm
8 particularly concerned about.

9 THE COURT: All right.

10 MS. BARR: Your Honor, as it relates to Milton
11 Phillips, it appears from his rap sheet that he was
12 convicted of lewd act on a minor back on May the 23rd of
13 2000, and that seems to be the only impeachable conviction
14 that is on his record. And, Judge, it appears that
15 incident that forms the basis of the conviction happened
16 when he was sixteen or seventeen years old. And although
17 it satisfies the criteria in terms of time frame, in terms
18 of possible sentence under Rule 609, I think that Rule 609
19 requires the court to conduct an analysis as to its
20 prejudicial effect and its probative value.

21 We would take the position that, given his youth and
22 given the fact that the crime was committed almost nine
23 years ago, that any relevant or probative value is
24 substantially outweighed by its prejudicial effect. And,
25 therefore, we're making a motion in limine at this time to

1 exclude any reference to his criminal conviction for that
2 crime.

3 THE COURT: Be glad to hear from defense in that
4 regard, Mr. Carraway.

5 MR. CARRAWAY: I think it should come in, Your Honor.
6 I think it should be allowed. I think I should be able to
7 impeach his credibility on the charge of lewd act on a
8 minor.

9 THE COURT: I'll rule that it is admissible for
10 impeachment purposes, lewd act. 2000, 2000 conviction of a
11 lewd act. I will give a curative charge with regard to the
12 record of a witness.

13 MS. BARR: And, Your Honor, is it also the court's
14 ruling that if an inquiry is made, that defense will not be
15 permitted to get into the facts of that particular charge?

16 THE COURT: Absolutely and that's, that's always the
17 case.

18 MS. BARR: And, Your Honor, same motion as it relates
19 to Frederick Wilson -- Williams. He has a conviction for
20 possession of cocaine back in 2001. We would argue that
21 the probative value of that conviction is substantially
22 outweighed by its prejudicial effect.

23 THE COURT: Mr. Carraway?

24 MR. CARRAWAY: We certainly argue that likewise his
25 charge of possession of cocaine should be used to impeach

1 his credibility and may be used.

2 THE COURT: In view of the fact it's within the ten
3 years and it falls within the parameters of the rule, I'm
4 going to allow the introduction of the 2001 possession of
5 cocaine as it relates to Frederick Cornelius Williams.

6 MS. BARR: That's all the motions the state has at
7 this time.

8 THE COURT: Okay, very good. There are some other
9 ones. Cleveland Williams, is there a criminal record with
10 regard to him?

11 MS. BARR: Judge, I don't believe Cleveland has any
12 convictions. I know that he's got a couple of different
13 charges. But one of the convictions for Cleveland I
14 believe occurred as a juvenile, and it just indicates that
15 he had a probation violation. I'm not sure what the
16 substantive charge was. But I see a possession of cocaine
17 in 2007, and that was nolle prossed. He's got pending
18 charges, but I don't see that he has any criminal
19 convictions that are admissible under Rule 609.

20 THE COURT: Do your records reflect the same
21 information, Mr. Carraway?

22 MR. CARRAWAY: Is this for Mr. Williams?

23 THE COURT: Cleveland Williams.

24 MR. CARRAWAY: Cleveland Williams. I would ask, I
25 know what the -- I've done the preliminary hearing on this.

1 These charges are still pending. I know what the facts of
2 this case are. Can I ask him about the facts of this case?

3 THE COURT: In a vacuum, no, but if there is some
4 relevant -- I don't know anything about that case, what the
5 facts are that led to this. Does it have some relation to
6 this case?

7 MR. CARRAWAY: It did not happen around this time.
8 It, it, it does not happen -- it happened around this time,
9 but it doesn't have any relation to this case. It's not at
10 this house or it's not connected, it's not connected to the
11 events when this happened.

12 THE COURT: Very good. Well, I'm not going to allow
13 that in that regard.

14 MR. CARRAWAY: Okay.

15 THE COURT: All right, and there's a James Lee
16 Finklea.

17 MS. BARR: Your Honor, I believe that the convictions
18 on his, his record would clearly be admissible because one
19 involves a crime of dishonesty, so.

20 THE COURT: Okay and which, so we can -- the record
21 can be clear, which ones do you -- let's go through what
22 the records are, what the record is.

23 MS. BARR: For Mr. Jamar Finklea, Your Honor?

24 THE COURT: James Lee Finklea, Jamar Finklea, yes.

25 MS. BARR: Yes, sir. He's got a conviction for common

1 law strong-armed robbery.

2 THE COURT: And what year was that?

3 MS. BARR: That was May of 1998, and he received two
4 years' probation.

5 THE COURT: May of '98?

6 MS. BARR: Yes, sir.

7 THE COURT: All right.

8 MS. BARR: And it looks like his probation might have
9 been revoked, and he had actually had to serve time. He
10 has a conviction for simple possession of marijuana. We
11 would take the position that that conviction is not, cannot
12 be used in Rule 609.

13 THE COURT: Well, it is -- are we having difficulty?

14 COURT REPORTER: I'm having difficult hearing both
15 sides. Their voices are going straight up and not towards
16 me.

17 THE COURT: Okay, I'm going to ask everybody to speak
18 up, if you could. It's my understanding ---

19 Can you hear me?

20 COURT REPORTER: You're perfect.

21 THE COURT: Okay, good. All right.

22 Simple possession of marijuana, I thought that was
23 indeed a crime of moral turpitude. Am I wrong?

24 MS. BARR: Judge, I would, I would think not. If it,
25 if it, if it's a crime involving dishonesty, I...

1 THE COURT: I thought it very specifically involved --
2 Mr. Sabb, isn't it a law with regard to controlled
3 substances that simple possession is actually a crime of
4 moral turpitude?

5 MR. SABB: Judge, I don't believe marijuana to be one
6 of those, one of those crimes. Simple possession of
7 cocaine, yes; simple possession of crack, yes; and simple
8 possession of some of the other scheduled substances. But
9 not simple possession of marijuana.

10 MS. BARR: And, Your Honor, if I also may place on the
11 record we had a similar discussion in the murder that we
12 tried last week. And one of the comments that Judge James
13 made from the bench was that it appears that the language
14 in Rule 609 had changed from being a crime of moral
15 turpitude now being a crime involving dishonesty or false
16 statements. And I do know that in that instance, we were
17 seeking to use a crime of, I think it was possession of
18 cocaine against a defendant last week. And of course it
19 had no precedential value at all, but I know one of the
20 statements that Judge James made from the bench was that it
21 did not involve false statement or crime of dishonesty.
22 So, that actually turned against us when we attempted to
23 use it last week. But we would take the position, then,
24 that simple possession of marijuana would not be admissible
25 under 609.

1 THE COURT: Mr. Carraway.

2 MR. CARRAWAY: And of course my position is that it
3 should be allowed. I should be allowed to impeach him on
4 that.

5 THE COURT: Any other record of Mr. Finklea?

6 MS. BARR: Your Honor, he has a PWID cocaine in 2000
7 in Myrtle Beach, and it looks like he also has a attempted
8 armed robbery in 2000 in Myrtle Beach.

9 (A PAUSE.)

10 THE COURT: All right, my ruling is that the
11 strong-arm robbery is clearly admissible. Possession with
12 intent to distribute, the 2000 conviction is admissible.
13 Attempted armed robbery is admissible. And I take the
14 position that the simple possession of marijuana is a crime
15 of moral turpitude. I might be wrong in that regard, and I
16 don't think it would be very prejudicial, in view of all
17 the other things that he's got going on. I think the
18 possession of marijuana would be inconsequential, but out
19 of an abundance of precaution, I'm going to allow the
20 defense to go into all of these areas, and you're protected
21 on the record.

22 MS. BARR: Thank you.

23 THE COURT: All right, anything further before we
24 proceed?

25 MR. CARRAWAY: Nothing, Your Honor.

1 THE COURT: All right, we're ready for the jury.
2 Are any of these individuals intending to testify, Ms.
3 Barr?

4 MS. BARR: Judge, I forgot about that just that
5 quickly. I'll have them leave.

6 MR. SABB: Judge, if we could just take a recess for a
7 few minutes? We'll get the courtroom situated and then get
8 ready to crank back up.

9 THE COURT: Yes.

10 (OFF THE RECORD.)

11 THE COURT: I understand that there are two jurors who
12 have reported to the bailiff that they are familiar with
13 the defendant's mother, and I'm going to -- first of all,
14 is the defendant's mother going to testify?

15 MR. CARRAWAY: No, Your Honor.

16 THE COURT: All right. Very good. All right, let's
17 bring the jurors in one at a time.

18 (A PAUSE.)

19 THE COURT: Yes, ma'am, I'm going to ask you to come
20 forward in front of the clerk and place your left hand on
21 the Bible and raise your right hand as the clerk
22 administers the oath.

23 PATRICIA MCGILL, BEING DULY SWORN,
24 TESTIFIES AS FOLLOWS:

25 EXAMINATION BY THE COURT:

1 THE COURT: Yes, ma'am, if you can have a seat in the
2 witness chair? I'm just going to ask you a few questions.
3 State your full name, please, ma'am.

4 JUROR: My name is Patricia McGill.

5 THE COURT: All right, Ms. McGill, you have notified
6 the bailiff that you know the defendant's mother. Is that
7 true?

8 A. Yeah.

9 THE COURT: How do you know her?

10 JUROR: We used to work together.

11 THE COURT: You what?

12 JUROR: Worked together.

13 THE COURT: Okay, and where do you work?

14 JUROR: That was maybe about ten years ago.

15 THE COURT: Okay, so you worked together about ten
16 years?

17 JUROR: Uh-huh.

18 THE COURT: Were you close, personal friends with her?

19 JUROR: No.

20 THE COURT: Did she ever come eat at your home?

21 JUROR: Uh-uh.

22 THE COURT: Did you ever eat at her home?

23 JUROR: No.

24 THE COURT: Did y'all go to church together?

25 JUROR: Uh-uh.

1 THE COURT: Did y'all go out dancing on Saturday night
2 together?

3 JUROR: No.

4 THE COURT: Did y'all go shopping together?

5 JUROR: No.

6 THE COURT: All right. So, she wouldn't be a close,
7 personal friend. She just happened to work at the same ---

8 JUROR: Right.

9 THE COURT: --- employment? Of course she's not going
10 to testify in this case, and as you have taken a solemn
11 oath to listen to the evidence that comes forth in this
12 trial and the law as I charge it to you and render a fair
13 verdict, are you in a position to do that?

14 JUROR: Yes, I am.

15 THE COURT: Could the fact that -- could you set aside
16 the fact that you know the defendant's mother and give both
17 the state and the defendant a fair and impartial trial?

18 JUROR: Yes, I can do.

19 THE COURT: All right, any questions from the state?

20 MS. BARR: Judge, may we just inquire very
21 specifically if she's heard anything at all about the facts
22 of this particular case?

23 THE COURT: Okay, we have covered in *voir dire*. We
24 asked if you had heard anything about this case. Have you
25 heard anything about this case?

1 JUROR: No, because I, I didn't -- no, because I
2 didn't even know it happened yesterday. No, uh-uh.

3 THE COURT: Very good. All right.

4 All right, anything from defense?

5 MR. CARRAWAY: Nothing, Your Honor.

6 THE COURT: You are qualified to serve. Do not
7 discuss these matters with the jury. Thank you.

8 JUROR: Okay.

9 (THE JUROR EXITS THE COURTROOM.)

10 MS. BARR: Your Honor, I don't have any problem with
11 the juror.

12 THE COURT: Very good. Anything from defense?

13 MS. BARR: Nothing, Your Honor.

14 THE COURT: All right.

15 (A PAUSE.)

16 THE COURT: Yes, ma'am, I'm going to ask you to go in
17 front of the clerk, Ms. Williams, and place your left hand
18 on the Bible, and raise your right hand as she administers
19 the oath.

20 MARGARET E. SHAW, BEING DULY

21 SWORN, TESTIFIES AS FOLLOWS:

22 EXAMINATION BY THE COURT:

23 THE COURT: Yes, ma'am.

24 JUROR: Right here?

25 THE COURT: Yes. What's your full name?

1 JUROR: Margaret E. Shaw. .

2 THE COURT: All right, Ms. Shaw, we have received
3 notice from the bailiff that you know the defendant's
4 mother. Is that correct?

5 JUROR: Yes, sir.

6 THE COURT: How do you know her?

7 JUROR: By seeing her on Blakeley either or Casey
8 [phonetic] coming to work.

9 THE COURT: Okay. Are y'all close, personal friends?

10 JUROR: No, sir. We just, I just know her.

11 THE COURT: Just in passing?

12 JUROR: We talk and stuff like that.

13 THE COURT: All right, just in passing?

14 JUROR: Yes, sir.

15 THE COURT: All right. She ever come to your house to
16 eat?

17 JUROR: No, sir.

18 THE COURT: Have you ever eaten at her house?

19 JUROR: No, sir.

20 THE COURT: Pardon?

21 JUROR: No, sir.

22 THE COURT: Okay, and do y'all go shopping together on
23 the weekends?

24 JUROR: No, sir.

25 THE COURT: All right. How often do you see her in

1 passing?

2 JUROR: I used to see her regular last year by coming
3 to work, but I haven't see her yet but one time this year.

4 THE COURT: All right. Okay. Well, you know, we've
5 asked a number of questions in the *voir dire*, and one of
6 which is -- was the question asked could you give both by
7 the state and the defendant a fair and impartial trial,
8 whether you could listen to the evidence or the lack of
9 evidence that comes forth from this trial and apply it to
10 law, and give both the state and the defendant a fair and
11 impartial trial. Can you do that?

12 JUROR: Yes, sir.

13 THE COURT: All right, any questions from state, Ms.
14 Barr?

15 MS. BARR: No, Your Honor.

16 THE COURT: Any from defense?

17 MR. CARRAWAY: None, Your Honor.

18 THE COURT: You're qualified to serve. Do not discuss
19 this matter with the jurors.

20 JUROR: All right. Thank you.

21 (THE JUROR EXITS THE COURTROOM.)

22 THE COURT: All right, is the state ready to proceed?

23 MS. BARR: State's ready, Your Honor.

24 THE COURT: All right, we're ready for the jury?

25 MS. BARR: Yes, sir. Yes, sir.

1 THE COURT: Do you have your witness available? Is
2 she in the courtroom already?

3 MS. BARR: Yes.

4 THE COURT: Your first witness?

5 MS. BARR: Yes, sir. She's right behind me.

6 THE COURT: Very good.

7 (PHOTOGRAPHS MARKED INDIVIDUALLY AS STATE'S EXHIBITS 1
8 THROUGH 22 FOR IDENTIFICATION.)

9 (THE JURY ENTERS AT 11:07 A.M.)

10 THE COURT: Madame Forelady, ladies and gentlemen of
11 the jury, thank you for your time and your patience.
12 Sometimes the wheels of justice grind kind of slow. There
13 are legal matters that we had to tend to.

14 Ms. Barr, you are recognized. You may call your first
15 witness.

16 MS. BARR: Thank you, Your Honor. Please the court?
17 At this time, the state calls Shannon Singletary.

18 THE COURT: Ms. Singletary, I'm going to ask if you
19 could come forth and place your left hand on the Bible.
20 Raise your right hand as the clerk administers the oath.

21 SHANNON SINGLETARY, BEING DULY
22 SWORN, TESTIFIES AS FOLLOWS:

23 THE COURT: All right, Ms. Singletary, if you could
24 please come forward and have a seat in the witness chair.
25 I'm going to ask you if you could pull up close to that

S. SINGLETARY - DIRECT EXAMINATION BY MS. BARR

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1 microphone. Speak loudly, clearly, and slowly in order
2 that everyone can hear what you've got to say. I'm going
3 to ask you to state your full name, please ma'am.

4 WITNESS: It's Shannon Sierra Singletary.

5 THE COURT: Okay, very good.

6 Ms. Barr, you are recognized.

7 DIRECT EXAMINATION BY MS. BARR:

8 Q. Ms. Singletary, I need you to get just a moment to
9 compose yourself, okay? There is tissue up there if you
10 need it.

11 A. Okay.

12 Q. Now, I don't know it everybody heard your full name.
13 Let me get you to state your full name again for me.

14 A. Shannon Sierra Singletary.

15 Q. Shannon Sierra Singletary?

16 A. Yes, ma'am.

17 Q. How old are you, Ms. Singletary?

18 A. I'm twenty-one.

19 Q. Twenty-one. You live here in Williamsburg County?

20 A. No, ma'am.

21 Q. Which county do you live in?

22 A. Florence.

23 Q. You live in Florence County.

24 A. Yes, ma'am.

25 Q. All right, and do you have any children?

S. SINGLETARY - DIRECT EXAMINATION BY MS. BARR

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- 1 A. Yes, ma'am.
- 2 Q. How many children do you have?
- 3 A. Four.
- 4 Q. A son?
- 5 A. One three-year-old son.
- 6 Q. A one three-year-old son?
- 7 A. Yes, ma'am.
- 8 Q. And what's your three-year-old's name?
- 9 A. Keenan Rhodes.
- 10 Q. Keenan?
- 11 A. Yes, ma'am.
- 12 Q. Okay. All right, and you live there with just you and
- 13 your son?
- 14 A. Yes, ma'am.
- 15 Q. All right. Now, do you work?
- 16 A. Yes, ma'am.
- 17 Q. All right. Tell me where you work.
- 18 A. I work with the Sikes company.
- 19 Q. The Sikes company?
- 20 A. Yes, ma'am.
- 21 Q. All right, let me make sure you -- I don't know if I
- 22 can get the mic any closer to you, but I need you to make
- 23 sure you speak up for me, okay?
- 24 A. Okay.
- 25 Q. All right, there we go. That's a little better. What

S. SINGLETARY - DIRECT EXAMINATION BY MS. BARR

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1 do you do for Sikes?

2 A. Customer service representative.

3 Q. Okay, and how long have you been there?

4 A. I've been there since October the 6th.

5 Q. Of '08?

6 A. Yes, ma'am.

7 Q. All right, and in addition to working, do you go to
8 school?

9 A. Yes, ma'am.

10 Q. All right, and what are you going to school for?

11 A. Registered nurse.

12 Q. You're going to be a registered nurse?

13 A. Yes, ma'am.

14 Q. All right, and where do you go to school?

15 A. I'm going to O&B Tech, but I'm going to transfer the
16 first semester coming up in August.

17 Q. Okay, now you are very soft-spoken, so again I need
18 you to make sure you speak up nice and clear for me.

19 A. Okay.

20 Q. Now, you appear to be a little upset. Are you
21 nervous?

22 A. Yes, ma'am.

23 Q. Is this the first time you've ever done anything like
24 this?

25 A. Yes, ma'am.

S. SINGLETARY - DIRECT EXAMINATION BY MS. BARR

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1 Q. Okay. All right, we'll just, we'll take all the time
2 that you need, but we need to make sure that everybody can
3 hear you, okay?

4 A. Okay.

5 Q. Now, Ms. Singletary, back in July of 2008, last
6 summer, you were dating a fellow by the name of Frederick
7 Williams?

8 A. Yes, ma'am.

9 Q. All right, and how long had the two of you been dating
10 at that time?

11 A. Maybe a couple of weeks.

12 Q. Okay. Frederick had a house in Salters, a home in
13 Salters?

14 A. Yes, ma'am.

15 Q. Okay. All right. Now, prior to the incident that
16 happened back July the 17th -- I'm sorry, July the 18th of
17 2008, had you ever seen a person who you called Dewey prior
18 to that day?

19 A. On two or three occasions.

20 Q. Okay, all right, and Dewey, is he, or the person you
21 believed or you called to be Dewey, you know, and you'd
22 known to be Dewey, is he the young man that's seated at the
23 defense table with Mr. Carraway?

24 A. Yes, ma'am.

25 Q. All right, and that's Edmond Goodman you later learned

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1 to be. Is that correct?

2 A. Yes, ma'am.

3 Q. Okay. Now, where was Frederick living at the time
4 that this incident occurred?

5 A. He, he was back and forth from my house to his
6 grandmother's.

7 Q. Okay. Now, we talk about this incident, we're talking
8 about the shooting. You understand?

9 A. Yes, ma'am.

10 Q. Okay. Now, were you with Frederick the day of the
11 shooting?

12 A. Yes, ma'am.

13 Q. Okay. Tell me where the shooting occurred.

14 A. Where? In the den part of the home. You mean exact
15 like that?

16 Q. No. Where was the home located?

17 A. It was across from his grandmother's house. I'm not
18 sure what that street is, but I know exactly where it is.

19 Q. Okay, but it's in Salters?

20 A. Yes, ma'am.

21 Q. And that's here in Williamsburg County. Is that
22 right?

23 A. Yes, ma'am.

24 Q. Okay. All right. Now, do you remember what time it
25 was that you and Frederick got to the mobile home?

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1 A. It was before dark. it was ---

2 Q. Before dark?

3 A. --- about in the evening about 6 or 7, I think it was.

4 Q. Now, would you happen to remember what day of the week
5 it was, and if you don't, that's fine.

6 A. No, ma'am.

7 Q. Okay. All right. Now, when you and Frederick first
8 arrived, did y'all come there together, or did you come
9 after he got there?

10 A. Together.

11 Q. Y'all came together?

12 A. Yes, ma'am.

13 Q. When you came together, who else was at the mobile
14 home?

15 A. A few of his friends.

16 Q. A few of Frederick's friends?

17 A. Yes, ma'am.

18 Q. Okay. At some point in time, did Jaron White come?

19 A. I don't know him.

20 Q. Okay, the fellow that got shot, did he come at some
21 point?

22 A. Yes, ma'am.

23 Q. All right. Now, you didn't call him Jaron, and you
24 didn't hear people calling in him Jaron. Is that correct?

25 A. No, ma'am.

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1 Q. Did he have a nickname?

2 A. Yes, ma'am.

3 Q. What nickname were people calling him?

4 A. Beev.

5 Q. They were calling him Beef?

6 A. Beev.

7 Q. Beev?

8 A. Yes, ma'am.

9 Q. Okay. All right. So, at some point Beev got there.

10 Do you remember who came with him?

11 A. Yes, ma'am.

12 Q. Okay.

13 A. I remember, like, two other, I think it was. I'm not
14 sure.

15 Q. You think two other guys came with him?

16 A. Yes, ma'am.

17 Q. All right. Now, when Beev got there with the two
18 other guys, was Dewey there?

19 A. No, ma'am.

20 Q. Okay. When did Dewey come? How many minutes later
21 did Dewey arrive?

22 A. I'm not sure of the time, but a while after.

23 Q. Okay. When Dewey arrived, what was Beev and his
24 friends doing?

25 A. In the den talking. Everybody was, like, talking,

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1 standing around, standing around. Some were sitting down.

2 Q. Okay. Tell the ladies and gentlemen of the jury what
3 happened when Dewey got there.

4 A. Beev asked the guy that was riding with Dewey, Jimmy,
5 about an incident that occurred a couple of days ago.

6 Q. Okay.

7 A. And Jimmy was telling Beev that he didn't want to hear
8 it. Like, leave him alone about it. And then, like, Jimmy
9 was, like, walking off from Beev, saying he didn't, he
10 didn't have time for it. And I can remember Dewey, like,
11 taking up Jimmy's argument with Beev.

12 Q. Okay. Slow down for just a minute. Dewey came with
13 this fellow named Jimmy?

14 A. Yes, ma'am.

15 Q. Did you know Jimmy before that occasion?

16 A. Yes, ma'am. I met Jimmy a couple of times.

17 Q. Okay. Beev, the young man who got shot, and Jimmy got
18 into an argument about something that happened a few days
19 earlier?

20 A. Yes, ma'am.

21 Q. Is that correct?

22 A. Yes, ma'am.

23 Q. Okay, and you testified that Jimmy said man, that's
24 old and kind of walked off?

25 A. Yes, ma'am.

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1 Q. Is that correct, and then how did Dewey get involved
2 into the conversation?

3 A. I can remember him saying, asking him who he thought
4 he was or something like that.

5 Q. Who said that?

6 A. That's what Dewey was asking Beev. Why, and asking
7 him why was he coming around here with that mess.

8 Q. Okay. Now, at the time this happened, tell me. Where
9 was Jimmy, Dewey, the defendant, and Beev, the young man
10 that got shot? Where were they at in the home?

11 A. Beev was, when they started on the, when they -- Beev
12 never walked from the den area.

13 Q. He was in the den?

14 A. Yes. Like, leaving out the den, entering the kitchen.

15 Q. Okay.

16 A. Jimmy went and sat. Jimmy first, like, walked. When
17 he walked off, I guess he was going around in the den, but
18 when Beev started exchanging words with him, he walked out.
19 He walked back. He walked in the kitchen. I guess he was
20 nervous. He walked in the kitchen. He walked back in the
21 living room. He sat down and him and -- then that's when
22 Beev exchanged words.

23 I, I'm sorry, Dewey exchanged words with Beev, and
24 they were standing. Beev was standing, like, coming out,
25 entering out of the den.

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1 Q. Okay. Now, get me situated with the house. Where
2 were you when all of this was going on?

3 A. I was in the master bedroom.

4 Q. Okay. How far would the master bedroom have been from
5 the den area where this argument took place?

6 A. I'm not, I'm not sure the measurements, of the
7 distance.

8 Q. Okay. Well, let me do this.

9 A. Yes, ma'am.

10 Q. Imagine that you are standing where you were in the
11 bedroom the day this happened.

12 A. Okay.

13 Q. And I'm the young man, the fellow who got shot and got
14 into the argument with Jimmy. Tell me how far apart we
15 are. When I stop -- tell me to stop me when I get as far
16 apart as the two of you were back then.

17 A. You can come up a little.

18 Q. Okay.

19 A. At the end of the table.

20 Q. Maybe here?

21 A. Right there, yes, ma'am.

22 Q. All right, and you can see me pretty good?

23 A. Yes, ma'am, and I could very -- I could clearly hear
24 everything.

25 Q. All right, and could you see Dewey very well?

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1 A. Yes, ma'am.

2 Q. And could you see Beev very well?

3 A. Yes, ma'am.

4 Q. All right. So, when Dewey, the defendant, is telling
5 the victim man, you know, don't come in here with all that
6 noise, tell me what happened next.

7 A. Beev was just setting in there looking at him, like,
8 round up and he said -- I can remember him just, like,
9 bracing his body back, looking at him like that, like -- I
10 remember Beev looking at Dewey with a confused expression
11 on his face.

12 Q. Okay.

13 A. And then that's when Dewey make the comment that --
14 about shooting him, saying what he would do to him.

15 Q. What did he say he would do to him?

16 A. I can't remember the, the exact term he used, but I
17 know it was a term that he was, he would just shoot him.
18 And that's when I remember him grabbing the gun.

19 Q. You remember who grabbing the gun?

20 A. Dewey.

21 Q. The defendant right there?

22 A. Yes, ma'am.

23 Q. Where did he get the gun from?

24 A. I don't recall if he -- I, I think he took it from
25 either his belt or -- I'm not, I'm not sure.

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1 Q. You're not sure where he got the gun from?

2 A. Yes, ma'am, but I'm ---

3 Q. You remember seeing a gun in his hand?

4 A. Yes, ma'am. It was in the right hand.

5 Q. Okay. In his right hand?

6 A. Yes, ma'am.

7 Q. All right. Can you describe the gun to me?

8 A. It was a all black gun.

9 Q. All black?

10 A. Yes, ma'am.

11 Q. Do you know anything about guns or pistols?

12 A. No, ma'am.

13 Q. Just know it was black and it was a handgun?

14 A. Yes, ma'am.

15 Q. All right. Now, tell me what happened after he made
16 the comment about what he would do to Beev and you saw the
17 gun in his hand. Tell me what happened.

18 A. I sat back down because I thought it was a, like,
19 normal guy argument because for me observing, like, hearing
20 things about them, that they were all, like, close friends
21 and everything. So, I just sat down, and I didn't think
22 nothing of it. And when I heard the gun, and it -- when I
23 heard him pull the gun back, that's when I stood up.

24 Q. When you heard the gun do what?

25 A. Like cock back.

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1 Q. When you heard the gun cock?

2 A. Yes, ma'am.

3 Q. Okay.

4 A. That's when I stood up.

5 Q. Okay, and you stood up and did what?

6 A. I never did walked out the room. I just, like, braced
7 myself to where I could, like see what was going on. But I
8 never did leave out the room.

9 Q. Okay. When you braced yourself and after you heard
10 the gun being cocked, then what happened?

11 A. I put my hand over my mouth like that because it all
12 happened so fast. It seemed like soon as he did like that,
13 then he pulled the trigger, and the guy fell. When the guy
14 fell, everybody ran out the house.

15 Q. Okay, when you say when he pulled the trigger, you
16 have to tell me who you're talking about.

17 A. I'm sorry. When Dewey pulled the trigger, everybody
18 shot out of the house.

19 Q. Okay. What did he fire the gun at? Who did he fire
20 the gun at?

21 A. He -- when Dewey fired the gun at Beev.

22 Q. Okay. Which part of Beev's body did he fire the gun
23 at?

24 A. Towards his head.

25 Q. Okay. Did you actually see when Beev was shot?

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1 A. Yes, ma'am.

2 Q. Did you see his face?

3 A. Yes, ma'am. I saw his head, like -- when he aimed the
4 gun like that, Beev had, like, twitch, like, switched over
5 like he was kind of -- like he was going to duck from the
6 fired gun.

7 Q. Yes, ma'am.

8 A. But it seem like he went right into it, and he fell.

9 Q. All right. When he fell, what happened next?

10 A. When he fell, I ran into the bathroom.

11 Q. Okay. Now, is the bedroom and the bathroom situated
12 such that the bathroom is inside the bedroom?

13 A. Yes, ma'am.

14 Q. Like a master bedroom and bath?

15 A. Yes, ma'am.

16 Q. All right. So, you didn't have to leave one room to
17 go in to the other?

18 A. No, ma'am.

19 Q. Okay. All right. When you ran into the bathroom,
20 where was everybody else?

21 A. Everybody left. I don't remember nobody being in
22 there.

23 Q. Okay. Was Frederick in the house when the shooting
24 happened?

25 A. He was, but he ran. I remember him. Out of all the

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1 voices, I remember when Beev was shot, he said oh SH, like
2 that.

3 Q. Okay. All right. When you ran in to the bathroom,
4 what did Dewey do?

5 A. I could hear, like, footsteps pacing back and forth.
6 When I was in, I peeped out. I was skeptical about should
7 I walk out. You know, should I walk out the bathroom or
8 not. I peeped out, and I could ---

9 Q. Keep your voice to the mic. You peeped out and?

10 A. Yes, ma'am. I, I, I was peeping out the, the corner
11 of the doorway. Like, I never walked to the door, but I
12 could just see, like, every -- like, I could see him and he
13 was, like, bending down over him. And it was, like,
14 fanning his hands over his eyes.

15 Q. Who was doing that?

16 A. That's what Dewey was doing. He had his hands over,
17 like, waving.

18 Q. Over the victim's eyes?

19 A. Over Beev's eyes, yes, ma'am.

20 Q. Okay. Then what happened? Well, did he say anything?

21 A. He just said the "S" word.

22 Q. Okay.

23 A. While he was standing over Beev and his eyes, like.

24 Q. All right. Did you see Beev's face as he was laying
25 down on the floor and Dewey was fanning over his eyes?

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1 A. I could see the glare. Like, I could see his pupil
2 from how he was laying out. From where I was standing, I
3 could see that his eyes was open or partially open.

4 Q. Okay.

5 A. Yes, ma'am.

6 Q. All right, and after Dewey was leaning over him, was
7 fanning over him, where was the gun?

8 A. It was, it was by him. He, he sat it down by him
9 while he was kneeling down. Like, I guess if he knelt
10 down, he just sat it right beside him.

11 Q. Okay. Would -- as you're watching this, did you ever
12 see Dewey attempt to give the victim CPR?

13 A. No, ma'am.

14 Q. Did you ever see him shake him and say, oh, man, are
15 you okay?

16 A. No, ma'am.

17 Q. He just fanned his hands over the victim's eyes?

18 A. Yes, ma'am.

19 Q. All right. Then what did he do?

20 A. That I was walked -- I was -- I walked back into the
21 bathroom, and then I was thinking to myself that I needed
22 to get out or whatever. And when I walked back in the
23 bathroom, I walked back out. And me and him was, like, in
24 the, in the area at the same time. In the, like, in the
25 living room at the same time. And he told me, he said you

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1 ain't see nothing. You ain't heard nothing, and you got a
2 two-year-old son, right? And I just held my hands up to
3 him, like, held my hands up at him.

4 And from me jumping up off the bed when I -- going,
5 like, running out, I popped my dress strap. And I can
6 remember holding my dress strap. But when he said that, I
7 held up both of my hands like...

8 Q. All right. okay. When he made the comment to you --
9 you ain't seen nothing, you didn't hear nothing, you have a
10 two-year-old son, right -- where was, where was the gun?

11 A. He had it. It was still in his -- it was, like,
12 swinging by his side. He never did point it at me.

13 Q. Okay.

14 A. He just had it, like, swinging by his side.

15 Q. All right. What was your state of mind? What were
16 you thinking when he made those comments to you?

17 A. Because he had, like, met my little -- met us. He had
18 been in my home on two other occasions picking Frederick up
19 from my home. And if I -- we -- if Frederick was ever,
20 like, wasn't ready when he got there, my kid would be
21 outside. Keenan would be outside playing, so I knew that
22 he was -- you know, I knew he knew.

23 Q. That you had a son?

24 A. Yes, ma'am.

25 Q. Okay. So, what were you thinking when he made those

1 comments to you?

2 A. I felt threatened and, and harmed.

3 Q. Where did you go after you got out of the house?

4 A. When I walked out of the house, I went straight out
5 the door and went across the street towards Frederick's
6 grandma house.

7 Q. Okay. When you left of the house, was Dewey still in
8 the house?

9 A. Yes, ma'am. I think he like -- yes, ma'am, he was
10 still there.

11 Q. Was he the only one in the house after you left out?

12 A. Yes, ma'am.

13 Q. Now, how long after you get out of the house did you
14 either return or did you call the police to report it?

15 A. Fifteen minutes.

16 Q. Maybe fifteen minutes or so?

17 A. Yes, ma'am.

18 Q. All right. Now, when you were initially questioned by
19 law enforcement, you didn't tell them that you saw the
20 shooting. Is that correct?

21 A. No, ma'am.

22 Q. You gave them a statement saying you weren't even
23 there. Is that correct?

24 A. Yes, ma'am.

25 Q. And Frederick gave them a statement saying that he

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1 wasn't there. Is that correct?

2 A. Yes, ma'am.

3 Q. I need you to explain to the jurors why you did that.

4 A. Because I felt I was -- I didn't know at the time if
5 he was caught or anything like that, or I just -- and I
6 didn't want to be involved.

7 Q. Okay. After you have that initial statement when you
8 said that you weren't there when it happened, did you at
9 some point that same day later tell the police the truth
10 about what you saw?

11 A. Yes, ma'am. I went back the next morning.

12 Q. And you told them what happened?

13 A. Yes, ma'am.

14 Q. Did it bother you that night?

15 A. Yes. Yes, ma'am. I didn't sleep, not that night.

16 Q. All right. Have you understood all my questions?

17 A. Yes, ma'am.

18 Q. Have you answered them truthfully?

19 A. Yes, ma'am.

20 MS. BARR: Please answer any questions Mr. Carraway
21 may have for you.

22 THE COURT: Mr. Carraway, you're recognized.

23 MR. CARRAWAY: Okay.

24 THE COURT: Might counsel approach the bench just one
25 moment?

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 (OFF-THE-RECORD BENCH CONFERENCE.)

2 CROSS-EXAMINATION BY MR. CARRAWAY:

3 Q. Ms. Singletary, how are you doing?

4 A. I'm fine.

5 Q. All right, and you, as a matter of fact, you, you're
6 -- you act like you're upset here today.

7 A. I am.

8 Q. You weren't upset the night you were talking about
9 this, were you? They talked to you that night about you
10 thought it was a joke, didn't you?

11 A. No, I did not.

12 Q. Didn't they, didn't they, didn't they question you?
13 You were laughing that night, weren't you?

14 A. No, I was not laughing.

15 Q. Do you remember them saying that you would -- you
16 thought this was a joke?

17 A. I remember them saying that this was a serious matter.

18 Q. You don't remember them telling you that you thought
19 it was a joke?

20 A. I was not laughing.

21 Q. Okay. Do you recall them telling you that you thought
22 this was a joke?

23 A. I remember them -- I recall them saying that this was
24 a serious matter.

25 Q. You don't recall that? You want me to refresh your

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1 memory here?

2 MS. BARR: Your Honor, object.

3 MR. CARRAWAY: Court's indulgence.

4 MS. BARR: Your Honor, may I place my objection on
5 the record?

6 THE COURT: You may.

7 MS. BARR: All right, Judge, we would object to
8 hearsay. If he's asking her what someone else said to her,
9 that's clearly hearsay, so we object to the question based
10 on hearsay.

11 THE COURT: Well, I think that he can ask the question
12 here today, and if it's different than what's in the
13 statement, he can cross-examine in that regard.

14 MS. BARR: Your Honor, I believe he's attempting to
15 ask her about what an officer said, not necessarily what
16 she said, and that would be my objection.

17 MR. CARRAWAY: And I would ask her reply to that.

18 THE COURT: Very good.

19 MR. CARRAWAY: All right.

20 BY MR. CARRAWAY:

21 Q. Do you recall Office Brown asking you that this is
22 real serious matter, and you're taking it for a joke? You
23 recall that?

24 A. I -- no, sir. I recall him saying that this was a
25 serious matter.

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. You recall him telling you that this: And you're
2 taking it as a joke. Does that refresh your memory?

3 (A PAUSE.)

4 A. I don't recall him saying that. I don't recall him
5 saying that.

6 Q. Does it say that on this transcript?

7 A. It does say that ---

8 Q. All right.

9 A. --- on the transcript.

10 Q. He accused you as taking this as a joke, didn't he?
11 Isn't that right?

12 MS. BARR: Objection, Your Honor. Hearsay.

13 THE COURT: Overruled.

14 BY MR. CARRAWAY:

15 Q. Didn't he accuse you of taking it as a joke, this
16 whole thing? That's what he said, isn't it?

17 A. That's what he said on that.

18 Q. Okay, and this was on the tenth page of this
19 interview, wasn't it?

20 A. That's what the -- there's a ten at the top.

21 Q. Tenth page, and you took this as just a joke that
22 night, didn't you?

23 A. No, sir. I did not.

24 Q. Now you're here crying. You, you, you, you were
25 taking this as a joke the same night that this happened,

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1 but now you're here crying these months later, aren't you?

2 A. No, sir. I did not take it as a joke.

3 Q. Okay. Anyway. Well, he thought you were, didn't he?

4 He asked you that, didn't he? He accused you of that,
5 didn't he?

6 MS. BARR: Objection. Asked and answered.

7 THE COURT: Sustain the objection.

8 MR. CARRAWAY: All right.

9 BY MR. CARRAWAY:

10 Q. Now, so you lied throughout this whole statement that
11 you gave at 3:10 in the morning and told them you weren't
12 even there, didn't you?

13 A. Yes. As I stated, I was upset and I was threatened.

14 Q. Okay, but the officer saw it as you were taking it as
15 a joke. All right, and you never 'fessed up at all
16 throughout this statement, did you? You never throughout
17 this statement ever told them that you were there when this
18 happened, did you?

19 A. No, sir, I did not because as I stated, I, I never
20 experienced no one being shot before or anything. And then
21 the comment that was made to me once he shot was so -- if
22 someone shoots, just deliberately shoots someone for no
23 reason, there's no, there's no telling what they'll do to
24 the next person.

25 Q. All right. This happened at your boyfriend's house,

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 didn't it? Isn't that right?

2 A. Yes, sir.

3 Q. Happened at your boyfriend's house, and you and your
4 -- you claim, you told law enforcement that you and your
5 boyfriend came back up and just found this man dead there,
6 didn't you?

7 A. I did not state that.

8 MR. CARRAWAY: Court's indulgence.

9 THE COURT: Sure.

10 BY MR. CARRAWAY:

11 Q. You didn't tell law enforcement that you walked in and
12 saw this man lying in there?

13 A. I don't recall that.

14 Q. You don't recall any of that, but y'all did call law
15 enforcement and told law enforcement there was a man dead
16 in the house, right?

17 A. Frederick called law enforcement. Frederick called
18 law enforcement.

19 Q. And they interviewed you, what, about a fifteen-page
20 statement about what happened, didn't they, that night?

21 A. I'm -- I don't know how many long the interview was.

22 Q. That's right, but you told them we just came back and
23 found this guy dead at the house, didn't you? That y'all
24 didn't know what happened, didn't you?

25 A. I don't recall my exact words on that night.

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. Well, you didn't, didn't tell them that you were there
2 and witnessed this, did you, that night?

3 A. Okay, as I stated.

4 Q. Just, if you will answer the question, and then you
5 can explain it. You didn't tell them that, and we know
6 that. You didn't tell them that you saw what happened ---

7 A. No.

8 Q. --- when you talked that night, did you? You told
9 them y'all just came back there and found the guy dead,
10 didn't you? Isn't that right? Isn't that right?

11 A. I'm not -- I'm -- I, I don't remember that, my exact
12 words that night.

13 Q. Y'all called and told, and told them to come there.
14 That law enforcement came there. You don't need to be
15 looking at anybody else as to what to answer here and
16 looking around me.

17 MS. BARR: Objection.

18 Q. You just need to answer what I'm asking you.

19 THE COURT: I'll -- just will ask that you direct a
20 question without editorials.

21 MR. CARRAWAY: Okay.

22 THE COURT: Just ask her the question.

23 He's going to ask the question.

24 WITNESS: Okay.

25 THE COURT: Which required a yes or no answer.

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 WITNESS: Okay.

2 THE COURT: Then you can explain.

3 WITNESS: Okay.

4 THE COURT: Mr. Carraway.

5 BY MR. CARRAWAY:

6 Q. You called law enforcement to tell them that somebody
7 was dead in the house, didn't you?

8 A. No.

9 Q. Frederick didn't tell them that?

10 A. Frederick called. I did not call law enforcement.

11 Q. All right, but they talked to you, and you said that's
12 what happened. We came back and found a guy dead. Isn't
13 that right?

14 A. No.

15 Q. Well, what did you tell them then when you talked to
16 them that night? What did you tell them?

17 A. I said that I came up with Frederick, and I never went
18 in the house, and Frederick told that he went in the house.

19 Q. And found a guy dead then, right?

20 A. Yes.

21 Q. And that wasn't true, was it?

22 A. No.

23 Q. Okay. That was a lie, wasn't it?

24 A. Yes.

25 Q. For twenty, for fifteen pages you lied to them, didn't

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1 you?

2 A. I'm not sure how, I mean, long the interview was.

3 Q. But you never told them the truth on this night, did
4 you?

5 A. No, sir, and as I stated.

6 Q. Okay. Go ahead.

7 A. My reason of why, because I never been through
8 anything like this, and I did not want to involve myself
9 into anything like this.

10 Q. Okay, and the only -- well, why did you come back the
11 next day? Tell me why you came back at -- and this was at
12 3:10 in the morning when this interview started?

13 A. Yes, sir.

14 Q. You recall that?

15 A. Yes, sir.

16 Q. About 4:55 from the afternoon of the same day, you
17 came back?

18 A. I'm not sure what time it was.

19 Q. You didn't come back down there. Law enforcement came
20 and picked you up, didn't they?

21 A. No, they did not.

22 Q. They didn't come? They didn't call and tell you to
23 come down there?

24 A. No.

25 Q. You said you came down there on your own?

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. Willingly.

2 Q. Willingly?

3 A. Yes.

4 Q. You went down there on your own?

5 A. Yes.

6 Q. Okay. Now, tell me all about who was, who was arguing
7 in the house. Who was arguing?

8 A. Beev exchanged words with Jimmy.

9 Q. Okay. All right, and the argument was about Jimmy
10 beating somebody up earlier?

11 A. Yes.

12 Q. Isn't that right? All right, and Beez didn't like.
13 Isn't that right?

14 A. Yeah.

15 Q. And that's what they were arguing about?

16 A. Yes.

17 Q. Is that right?

18 A. Yes.

19 Q. Okay. All right. What kind of guy -- and Frederick's
20 your boyfriend, right? Is that right?

21 A. He, he was my friend. We don't date anymore.

22 Q. You don't date anymore?

23 A. No.

24 Q. Okay. All right. Okay. Now, how tight were Jimmy
25 and Frederick?

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. They're first cousins. They're first cousins.

2 Q. Beyond that, how close are they? There's some first
3 cousins are close. Some aren't. How close were they
4 beyond that?

5 A. They seem, they seemed pretty okay, but I'm, I'm not
6 sure if they have any, any issues between the two.

7 Q. Okay. You're -- I mean, was Frederick, was Frederick
8 and Jimmy very close?

9 A. As I stated, I know they are first cousins. But if
10 they had any personal issue, I don't know anything about
11 that.

12 Q. So, you don't know anything whether they were -- all
13 you know is they were first cousins?

14 A. Yes, sir.

15 Q. And you don't know whether they were close or had some
16 problems? Whether they were ---

17 A. Yes.

18 Q. You don't know whether they were real close, or were
19 they having problems. Is that right?

20 A. Yes.

21 Q. Well, gee whiz. You recall telling law enforcement on
22 that afternoon when you talked to them -- what did Jimmy
23 tell you about how close he was to Freddie? What did he
24 tell you?

25 A. Jimmy never -- me and him, Jimmy never had no personal

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 conversations.

2 Q. Oh, you never, you never had a personal conversation
3 with Jimmy about his relationship with Freddie?

4 A. No.

5 Q. Well, why would you have told law enforcement that
6 Jimmy told you that if anybody ever tried to hurt Freddie

7 ---

8 MS. BARR: Objection. Hearsay.

9 A. No.

10 THE COURT: Rephrase the question.

11 MR. CARRAWAY: Okay.

12 BY MR. CARRAWAY:

13 Q. This is what you -- Jimmy told you this now: Jimmy's
14 of course -- nobody -- we don't know where Jimmy is now, do
15 we?

16 A. I don't, I don't know.

17 Q. You don't know? All right, Jimmy's not here, but you
18 hadn't seen him here today, have you? You see him here
19 yesterday or today?

20 A. No.

21 Q. No. All right. Didn't you tell law enforcement that
22 Jimmy told you if anybody tried to hurt Freddie ---

23 MS. BARR: Objection, Your Honor.

24 Q. --- he'd kill them?

25 MS. BARR: Hearsay.

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 THE COURT: Well, I think the question was what she
2 told law enforcement. That's not hearsay.

3 A. I don't recall telling ---

4 THE COURT: Hold on just one, just one second.

5 WITNESS: Okay.

6 MS. BARR: Judge, if she is telling somebody what
7 somebody told her, then it's clearly hearsay.

8 THE COURT: Well.

9 MR. CARRAWAY: I don't know whether it's being offered
10 for the truth of, of what's asserted, but this is how close
11 they were.

12 THE COURT: Very good. Well, I think I'll allow the
13 question. Go ahead.

14 MR. CARRAWAY: Okay.

15 BY MR. CARRAWAY:

16 Q. You recall telling law enforcement: Back when I first
17 met Freddie, Jimmy told me if I tried to hurt his cousin or
18 whatever, that he would kill me.

19 A. Oh, okay, because he knew that we were dating.

20 Q. Oh. All right. Now, what, what ---

21 A. He just said don't try to get over with my cousin.

22 Q. Okay. Yeah, but what did you tell law enforcement
23 just before you said that about what -- about Jimmy's
24 reputation? You recall what you told them?

25 A. No.

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. You don't recall telling law enforcement he'd been
2 known for hurting people?

3 A. No.

4 Q. You don't recall that? Well, read this.

5 MS. BARR: Objection, Your Honor, relevance.

6 Q. Read this right there.

7 THE COURT: I'll overrule the objection.

8 Q. Read what you said right here.

9 (A PAUSE.)

10 A. I don't know anything about his personal history.

11 Q. Well, you don't know anything about it, but why did
12 you say these guys are known for hurting people?

13 A. I don't know anything about them ---

14 Q. I didn't ask you that. I said why did you say that?
15 You don't deny you said that, do you?

16 A. It's there, but I don't...

17 Q. I know it. I, I, I, I -- you just -- it just came
18 out. I know. It just came from nowhere, but you said
19 that, didn't you? You told law enforcement that, didn't
20 you, that they got a reputation for hurting people? Isn't
21 that right? Let me let you read this again for the third
22 time.

23 A. I can see that there, but I don't...

24 Q. I know. Okay. I know. Okay. Jimmy's got a
25 repetition. You told them that Jimmy had a reputation for

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 hurting people, didn't you? You said that, didn't you?

2 You've read it. Did you not say that?

3 (A PAUSE.)

4 Q. Let me let you read it again.

5 A. I don't want to read it again because I can -- I see
6 what that says, but I don't, I don't see how that could --
7 I don't under -- I don't understand that.

8 Q. All right. Do you understand English when you tell
9 somebody that somebody's got a reputation for hurting
10 people? You understand what that means? That's what you
11 said, isn't it?

12 A. I don't understand what -- how that could ---

13 Q. I, I know it.

14 A. --- be like that.

15 Q. Well, all right. I know it, and then he'd killed --
16 he'd kill you if you hurt his Freddie. Is that right, his
17 cousin?

18 MS. BARR: Objection. Asked and answered, Your Honor.

19 THE COURT: I'll allow the answer.

20 BY MR. CARRAWAY:

21 Q. Oh, gee, here we go. Read this again. All right, did
22 you say that?

23 A. Yes.

24 Q. All right. Okay, but I guess you don't know why you
25 said that either, right? You just don't know how that got

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 on here. How did -- you don't know how these ---

2 A. I don't know.

3 Q. --- words came out of your mouth, do you? Is that
4 right?

5 (A PAUSE.)

6 Q. Sounds like two guys pretty close to me, Frederick and
7 Jimmy. First cousins, right?

8 A. Yes.

9 Q. All right. Now, was the house in the same condition
10 when y'all, I mean, when y'all called law -- how long was
11 it before y'all called law enforcement here at the house?

12 A. About fifteen minutes.

13 Q. About fifteen minutes?

14 A. Yes, sir. Yes, sir.

15 Q. Tell me. Where did the color TV and all of that stuff
16 go?

17 A. I don't know because when I walked out of the house,
18 when I left out of the house, Dewey was behind me. I know
19 I didn't go back in the house once I left out of that
20 house.

21 Q. All right, I know, but when you did go back in the
22 house, you went back in when law enforcement was there,
23 didn't you?

24 A. No, law enforcement didn't take me back in the house.

25 Q. They go back in there, but the house was ransacked,

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 wasn't it? They took ---

2 A. I don't ---

3 Q. Those guys -- go ahead.

4 A. I don't recall that. When I walked past after -- he
5 exchanged words with me. I walked out the door. I never
6 entered back, entered back in that house.

7 Q. You ever spent the night at that house?

8 A. No.

9 Q. Never did?

10 A. No.

11 Q. When you're in that room, weren't there bedclothes and
12 all on the bed?

13 A. There was, there was a sheet on that bed.

14 Q. Sheet on the bed?

15 A. Yes.

16 Q. All right and, I mean, there weren't any drawers,
17 there weren't any drawers pulled out, clothes all over the
18 place or anything when you were back there, were there?

19 A. I, I didn't walk into the whole house. I only went to
20 the master bedroom.

21 Q. Well, when you went into the master bedroom, there
22 wasn't anything, dressers and everything turned over and
23 everything there? There wasn't any of that stuff was
24 there?

25 A. Everything was -- the room was not clean. It was,

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 like, clothes all over the place. But as far as
2 everything, you're talking about drawers, I don't recall
3 that.

4 Q. You don't recall any of that. Okay, you don't recall.
5 Now, tell me what business Frederick is in. What job does
6 he have?

7 A. I don't know anything about his personal business.

8 Q. You don't know anything about his personal business.
9 Tell me about all these cars he's got. Tell me about the
10 Dodge Charger with the Lamborghini doors that y'all've
11 been, that y'all, that -- you met him. You met him. You
12 know about that car, don't you?

13 MS. BARR: Your Honor, objection. Relevance.

14 THE COURT: I'll allow him some leeway. It's
15 cross-examination.

16 MR. CARRAWAY: All right.

17 BY MR. CARRAWAY:

18 Q. Just, just tell what -- tell about that -- now, you
19 know about that car, don't you?

20 A. Do -- I've seen that car. I don't know anything about
21 that car.

22 Q. When he came to -- you, didn't you meet him -- didn't
23 you go with him to a parts store? Didn't you tell that?

24 A. Yes.

25 Q. All right, and you told about him getting a, getting a

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 pin for those Lamborghini doors. That's what he was
2 looking for, wasn't it?

3 A. Yes. Dewey, we, we left. P.I. came to Lake City with
4 Dewey and Jimmy.

5 Q. And excuse me here. P.I. is Frederick?

6 A. Frederick.

7 Q. That's Frederick, and his nickname is Pig. Is that
8 right?

9 A. Yes.

10 Q. And they call him P.I.?

11 A. His, his -- Pig is a nickname his mother's sister gave
12 him.

13 Q. Okay, Pig, but when you refer to P.I., you're
14 referring to Frederick, who is the guy who owned the house.
15 Is that right?

16 A. Yes.

17 Q. Your boyfriend?

18 A. Frederick and Jimmy and Dewey met me at the Auto Zone
19 right across from the Huddle House on 52 in Lake City.

20 Q. I gotcha. Okay.

21 A. And I -- and that's where I met them at, and he got in
22 the car with me, in the -- in my car. Well, a car I was
23 driving, and we went, we went to Salters.

24 Q. All right, and you described him getting that pin for
25 these, for these Lamborghini doors?

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. That's what he told me he came to Lake City for.

2 Q. Okay.

3 A. But as far as you're talking about the car, personally
4 I wouldn't know, but I know he said that.

5 Q. All right. He's got that car. He's also got an
6 Escalade, does he not?

7 A. No.

8 Q. Who's that -- whose, whose black Escalade is that?

9 A. I don't know anything about an Escalade.

10 Q. All right. What about the Chrysler 300?

11 A. I seen that car before.

12 Q. All right. Well, I mean, this is your boyfriend.

13 Which -- did you ever ride in that car? Did you ever ride
14 in the Chrysler 300?

15 A. No.

16 Q. You never rode in it. Did you ever ride in the Dodge
17 Charger, the new Dodge Charger?

18 A. No.

19 Q. You never rode in that?

20 A. No.

21 Q. Okay. All right. Frederick has these cars, does he
22 not? Aren't these his cars?

23 A. Why are you asking me about these cars?

24 THE COURT: All right, Ms. Singletary.

25 WITNESS: Yes, sir?

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 THE COURT: The way the procedure works is ---

2 WITNESS: Okay.

3 THE COURT: --- he asks the questions. You provide
4 the answers. The rules of procedure don't allow you to ask
5 him questions. You need to pay attention to the questions.

6 WITNESS: Okay.

7 THE COURT: Answer them yes or no. Then you can
8 explain them. Is that fair enough?

9 WITNESS: Okay.

10 THE COURT: Very good.

11 Mr. Carraway.

12 BY MR. CARRAWAY:

13 Q. All right, go ahead. Tell me about that now. These
14 are his cars, are they not?

15 A. Yes.

16 Q. All right, and he don't have a job, does he?

17 A. I don't know anything about his employment.

18 Q. He don't have a legal job, does he?

19 A. I don't know.

20 Q. You don't know. You don't know anything about that.

21 All right, weren't these his employees there at the house,
22 the guys that worked, his boys that worked for him there at
23 the house?

24 A. I don't know.

25 Q. You don't know anything?

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. I do not know anything about him.

2 Q. I know it. How long had you been dating him?

3 A. Probably about for a couple of weeks, not even two
4 months.

5 Q. A couple of weeks, not even two months?

6 A. Yes.

7 Q. Okay. So, less than two months?

8 A. Yeah.

9 Q. Okay. All right. Okay, and in that time, you didn't
10 know that he had a legal job, did you?

11 A. I don't know anything about his personal life.

12 Q. I know. You don't know anything about his personal
13 life, but y'all had been dating for less than two months,
14 somewhat less than two months. You know he had these cars
15 or whatever here, and you know all the -- he had all these
16 boys chillin' at that -- at his house and in that ---

17 A. That was my first time being at that house.

18 Q. I know, just -- I know. First time being at that
19 house. Now, you sure this wasn't the first time you saw
20 him? You'd seen these guys before, hadn't you?

21 A. Yes.

22 Q. Okay, and Jimmy had told you this before. He'd warned
23 you about this before, didn't he?

24 A. Yes.

25 Q. Okay. All right. First time at the house, all right,

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 and there were ten or twelve guys at this house, weren't
2 there?

3 A. I, I don't know how ---

4 Q. Well, how many do you say were there?

5 A. I don't know exact number.

6 MS. BARR: Judge, I'm sorry, could she be allowed to
7 finish her answer?

8 THE COURT: Yes. Once again, ask your -- rephrase the
9 question. Let her answer yes or no and explain. Then you
10 ask another question.

11 BY MR. CARRAWAY:

12 Q. Did you say ten or twelve people were there at the
13 house?

14 A. I'm not sure how many people was there, but I can
15 remember faces from people I have met prior.

16 Q. My question was this. Did you say there were ten or
17 twelve people there at the house?

18 A. I, I would say no because I don't, I don't -- I can
19 remember the faces that I seen, that I seen there when I
20 walked in.

21 Q. Well, how many people were there?

22 A. I can, I can only remember seven that I've met prior.
23 But as far as how many exact were in there, I'm not sure
24 how many exact were in there.

25 MR. CARRAWAY: Court's indulgence?

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 THE COURT: Yes.

2 (A PAUSE.)

3 MR. CARRAWAY: Thank you, Your Honor.

4 BY MR. CARRAWAY:

5 Q. Do you recall telling Officer Whack that there were
6 eleven or twelve guys at the house?

7 A. Yes. He said give -- he didn't said exact number, but
8 I was just giving the amount that I could remember faces, .
9 face-wise that I had met prior, but he didn't say -- he
10 said an estimate or something like that. He didn't ask for
11 an exact number of people.

12 Q. He said: How many people were in the house total,
13 including you? And what did you say?

14 A. I said eleven or twelve, but it wasn't, it wasn't that
15 many ---

16 Q. I understand.

17 A. --- people in there.

18 Q. I know, but this is what you told him when this was
19 freshest in your mind that next day, right, eleven or
20 twelve guys?

21 A. Yes.

22 Q. All right. They were all guys. There weren't any
23 girls, or were there girls?

24 A. No.

25 Q. One girl, eleven or twelve guys. Is that right?

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. Yes.

2 Q. All right.

3 A. But he did not, he did not say the exact number. He
4 -- I just gave them an amount of how many and people that I
5 could -- I remember at least seven people in there, but
6 eleven or twelve. If there were any extra people...

7 Q. Did you say eleven or twelve?

8 A. Yes, because he said -- he didn't ask for an exact
9 number. I didn't -- he -- that's, that doesn't say the
10 exact number of people that were there.

11 Q. He asked you, did he ask you how many people were
12 there?

13 A. Yes, asked me how many people were there.

14 Q. And you said eleven or twelve, didn't you?

15 A. To be specific, there wasn't eleven or twelve people
16 there.

17 Q. I didn't ask you that.

18 A. Okay. Yes.

19 Q. I said you said -- he asked you how many people were
20 there, and you said eleven or twelve?

21 A. Yes.

22 Q. All right. Everybody ran out of the house, didn't
23 they?

24 A. Yes.

25 Q. Okay. All right, and you ran out as soon as you

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 could, didn't you?

2 A. Yes.

3 Q. As soon as you could?

4 A. Yes.

5 Q. Now, you saw Jimmy later on that night, didn't you?

6 A. I'm sorry?

7 Q. You saw Jimmy later on that night, didn't you?

8 A. I see, everybody that was there later on once the ---

9 Q. You saw -- go ahead.

10 A. --- police and everything came.

11 Q. All right. You saw Corey and Jimmy later on that
12 night, didn't you?

13 A. Yes.

14 Q. All right. They were together, and they came back and
15 got with you and Frederick, didn't they?

16 A. No, because Frederick was, Frederick was arrested, and
17 there was a lot of people across the street when the police
18 came.

19 Q. Okay.

20 A. If you're asking about one-on-one, no because we never
21 did leave off the grounds from in the yard.

22 Q. I asked you about an Escalade before, didn't I?

23 A. Yes.

24 Q. You said you didn't know anything about an Escalade,
25 didn't you?

S. SINGLETARY - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. Yes.

2 Q. All right. Why did you tell law enforcement that: We
3 have an Escalade truck in the yard?

4 A. I did not say that we have an Escalade truck in the
5 yard.

6 Q. Does this word -- does this wording not say: We have
7 an Escalade truck in the yard?

8 A. Where does that say that? He doesn't -- he did not
9 have an...

10 (A PAUSE.)

11 A. No, that's not what I said.

12 Q. Does it say on this paper that you said that ---

13 A. It says that: We have ---

14 Q. We have an Escalade truck in the yard?

15 A. It says that on that paper.

16 Q. Okay.

17 A. But I did not say that.

18 Q. Thank you, ma'am, and all these guys at that house,
19 these ten or eleven, are Frederick's boys, are they not?

20 A. From my understanding, they're family members and
21 friends. I don't know anything personally about them.

22 Q. Okay. All right, but all these boys or eleven or
23 twelve guys are at Frederick's house. There's no doubt
24 this is Frederick's house, is it not? Is that right?

25 A. Yes.

S. SINGLETARY - REDIRECT EXAMINATION BY MS. BARR

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1 Q. Okay.

2 MR. CARRAWAY: Court's indulgence.

3 (A PAUSE.)

4 MR. CARRAWAY: Thank you, Ms. Singletary.

5 THE COURT: Redirect?

6 MS. BARR: Just a few questions.

7 REDIRECT EXAMINATION BY MS. BARR:

8 Q. Ms. Singletary, you were very specific about there not
9 being an Escalade. Is that right?

10 A. Yes.

11 Q. Could counsel possibly have been talking about a
12 Tahoe, a black Tahoe?

13 A. Yes.

14 Q. Okay. Frederick did have a black Tahoe at that time?

15 A. Yes.

16 Q. Okay, and he asked you some questions about statements
17 that you made to the police that night or the next day. Do
18 you remember those, the statements and the questions about
19 those statements?

20 A. Yes.

21 Q. And one of the things he asked you was -- he made the
22 statement to you that the officer said that this is not a
23 joke. Is that correct?

24 A. Yes.

25 Q. What was your response when the officer said that?

S. SINGLETARY - REDIRECT EXAMINATION BY MS. BARR

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1 A. I know that it's not.

2 Q. You said that you knew that it was not a joke?

3 A. I understand, yes.

4 Q. Okay, and you understood then, you understand now that
5 it's serious?

6 A. Yes. I don't recall laughing.

7 Q. Okay.

8 A. Like he stated that.

9 Q. You never were laughing when the officers was asking
10 you questions?

11 A. No.

12 Q. Okay. All right. He asked you on cross-examination
13 about this fellow named Jimmy.

14 A. Yes.

15 Q. And you indicated that Jimmy and Frederick were
16 related.

17 A. Yes.

18 Q. Is that correct?

19 A. Yes.

20 Q. Okay. Now, did you see Jimmy shoot Beez, or did you
21 see the defendant shoot Beez?

22 A. The defendant.

23 MS. BARR: Thank you, ma'am.

24 THE COURT: All right, you may step down.

25 (THE WITNESS EXITS THE STAND.)

1 MS. BARR: Judge, we'd ask that the witness be
2 excused.

3 THE COURT: Any objection from defense?

4 MR. CARRAWAY: I would, I would object, Your Honor.

5 THE COURT: Okay.

6 MR. CARRAWAY: I may, there may be something that
7 comes up. I may need to recall.

8 THE COURT: We will allow her to remain sequestered.

9 MS. BARR: We'd call Milton Phillips.

10 (A PAUSE.)

11 THE COURT: Yes, sir, I'm going to ask if you would
12 come forward and place your left hand on the Bible and
13 raise your right hand as the clerk administers the oath.

14 MILTON T. PHILLIPS, JR., BEING
15 DULY SWORN, TESTIFIES AS FOLLOWS:

16 THE COURT: Sir, I'm going to ask that you pull up
17 close to that microphone. Pull up the chair and get close
18 to that microphone. Speak loudly, clearly, and slowly in
19 order in order that we can hear everything you've got to
20 say, and your full name?

21 WITNESS: Milton Thomas Phillips, Jr.

22 THE COURT: Need to say that again.

23 WITNESS: Milton Thomas Phillips, Jr.

24 MS. BARR: May it please the court?

25 THE COURT: Yes.

M. PHILLIPS - DIRECT EXAMINATION BY MS. BARR

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1 DIRECT EXAMINATION BY MS. BARR:

2 Q. All right, Mr. Phillips, good afternoon.

3 A. Good afternoon.

4 Q. Sir, where do you live?

5 A. I live in Myrtle Beach.

6 Q. All right. How long have you lived in Myrtle Beach?

7 A. For about eight, nine years now.

8 Q. Okay. How old are you?

9 A. I'm twenty-five.

10 Q. Twenty-five years old?

11 A. Yes, ma'am.

12 Q. Okay, and were you subpoenaed to testify in this case?

13 A. Yes, ma'am.

14 Q. All right. You understand why you're here. Is that
15 correct?

16 A. Yes, ma'am.

17 Q. All right. This concerns a shooting of Jaron White.
18 You understand that?

19 A. Yes, ma'am.

20 Q. All right. Now, sir, did you know Mr. White prior his
21 death?

22 A. Yes, ma'am.

23 Q. How long did you know him?

24 A. I've known Jaron for about maybe a year, year and a
25 half.

M. PHILLIPS - DIRECT EXAMINATION BY MS. BARR

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1 Q. Okay. Did he also live at the beach at the time he
2 was killed?

3 A. Yes, ma'am.

4 Q. All right. Who did -- who was he living with?

5 A. His baby's mother.

6 Q. All right, and that's Latonya Walker?

7 A. Yes, ma'am.

8 Q. Now, did Jaron have any children of his own?

9 A. Yes, ma'am.

10 Q. How many children did he have?

11 A. I knew of the two -- well, the one that she had before
12 him and her daughter. Those are the only ones that I know
13 of.

14 Q. All right. Now, Latonya has a daughter. That's not
15 Jaron's biological daughter. Is that right?

16 A. Yes, ma'am.

17 Q. But he took her to be his daughter. Is that correct?

18 A. Yes, ma'am.

19 Q. All right, and then he and Latonya had a one-year-old
20 son?

21 A. Yes, ma'am.

22 Q. His son look like him?

23 A. Exactly like him. The spitting image.

24 Q. Looks just, looks just like him, okay.

25 Now, sir, prior to May -- or, I'm sorry, July of 2008,

M. PHILLIPS - DIRECT EXAMINATION BY MS. BARR

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1 did you know the defendant?

2 A. No, ma'am.

3 Q. Okay. Had you ever seen him before?

4 A. I think I met him maybe once prior to that.

5 Q. Okay. Which name did you know him by?

6 A. Dewey.

7 Q. Everybody called him Dewey?

8 A. Yes, ma'am.

9 Q. Okay. Now, on July the 18th of 2008, you were with
10 Jaron that day. Is that right?

11 A. Yes, ma'am.

12 Q. All right, and you all rode together from Myrtle
13 Beach?

14 A. Yes, ma'am.

15 Q. All right, and why were you riding from Myrtle Beach,
16 and tell me where you were going.

17 A. He was bringing me down there to buy a car from a
18 friend of his.

19 Q. All right. What type of car were you looking to buy?

20 A. It was a, I think it was a '90, '91 Cadillac
21 Fleetwood.

22 Q. Okay, and do you remember how much you were going to
23 pay for it?

24 A. \$600.

25 Q. \$600. Now, who was driving the car to get you to

M. PHILLIPS - DIRECT EXAMINATION BY MS. BARR

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1 Salters?

2 A. Jaron.

3 Q. Okay, Jaron was driving the car. What type of vehicle
4 was he driving?

5 A. I think it was a 2008 Toyota Avalon.

6 Q. Okay. Was that a rental car?

7 A. Yes, ma'am.

8 Q. He was renting that car. All right, so you all drove
9 from Myrtle Beach. Who else was with you other than Jaron?

10 A. It was me and Jaron, my brother Dominique, and Jamar.

11 Q. Okay, you, your brother Dominique, and Jamar Finklea?

12 A. Yes, ma'am.

13 Q. Okay. All right. About what time did you all get to
14 Williamsburg County?

15 A. I really can't recollect the exact time. I know it
16 was in the evening; it was around the time it was starting
17 to get dark.

18 Q. Okay. All right. So, maybe 7 to 8 or so?

19 A. Probably around 6 or so.

20 Q. Okay. All right, and did he take you to get the car?

21 A. Yes, ma'am.

22 Q. Did you purchase the car?

23 A. Yes, ma'am.

24 Q. And you got the keys to the car that day?

25 A. Yes, ma'am.

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1 Q. Now, at some point you and Jaron and Mr. Finklea and
2 your brother ended up over at Frederick's house. Is that
3 right?

4 A. Yes, ma'am.

5 Q. All right. Do you remember what time you got to
6 Frederick's house?

7 A. Like I said, it was around -- the first place we went
8 when we got down there was to the guy house who had the
9 car, and he wasn't there. And that around, maybe a little
10 after 6. And then from there we went to Frederick's house.

11 Q. Okay. All right.

12 MS. BARR: Your Honor, I have what has been marked for
13 identification purposes as State's Exhibits Numbers 1
14 through 22. I understand they are without objection, so we
15 would move to admit these at this time.

16 THE COURT: Any objections from defense?

17 MR. CARRAWAY: Without objection.

18 THE COURT: State's Exhibit 1 through 22 are into
19 evidence.

20 (PHOTOGRAPHS MARKED INDIVIDUALLY INTO EVIDENCE AS
21 STATE'S EXHIBITS 1 THROUGH 22.)

22 MS. BARR: Your Honor, may I approach the witness?

23 MS. BARR: Yes.

24 BY MS. BARR:

25 Q. Mr. Phillips, is this the front of Frederick's house,

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1 the home you would have went to that day?

2 A. Yes, ma'am.

3 Q. And I am referring to State's Exhibit Number 20.

4 That's the front of the mobile home. Is that correct?

5 A. Yes, ma'am.

6 Q. All right, I'm going to call your attention to what's
7 been marked as State's Exhibit Number 19. Does that also
8 show the front of the house?

9 A. Yes, ma'am.

10 Q. All right, if I can, let me get you to step down off
11 the witness stand for me for just a moment, please. Now,
12 here's what I need you to do. I need you to make sure you
13 speak nice and clear so the court reporter can hear you.

14 Point to the portion of this photograph that shows the
15 front door of the mobile home. All right, and do you know
16 where the bedrooms are in the, in that home?

17 A. I know where one bedroom is.

18 Q. Okay. Would that be the master bedroom?

19 A. This one right here.

20 Q. And that's the last window that's ---

21 A. Yes.

22 Q. If you're facing ---

23 A. That's the ---

24 Q. --- the residence, it would be to the left. Is that
25 correct?

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1 A. Yes, ma'am.

2 Q. All right, let's kind of walk down so we can show the
3 rest of the jurors. This is the front door?

4 A. Yes, ma'am.

5 Q. And that's the master bedroom. Is that correct?

6 A. Yes, ma'am.

7 Q. Come on down some more. The front door and master
8 bedroom. Okay, have seat back.

9 Now, sir, kind of familiarizes us with the residence.
10 Once you enter the residence through the front door, what
11 is the first room you enter?

12 A. The living room.

13 Q. The living room?

14 A. Yes, ma'am.

15 Q. And if you're standing and you're facing the living
16 room, are the bedrooms to your left or to your right?

17 A. I know the, the bedroom is to your left.

18 Q. Okay. All right. Now, when you entered the
19 residence, who all was there?

20 A. When we first got there was P.I., Corey, and Jamar I
21 think where there, and I think Shannon was in the bedroom.

22 Q. Okay. Shannon Singletary, you believe she was in the
23 bedroom?

24 A. Yes, ma'am.

25 Q. And you said Corey was there. What's Corey's last

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- 1 name?
- 2 A. I haven't the slightest clue.
- 3 Q. Okay. You said Frederick was there?
- 4 A. Yes, ma'am.
- 5 Q. All right. Had Dewey gotten there? Had -- was he
- 6 there when you all arrived.
- 7 A. No, ma'am.
- 8 Q. He came some point later?
- 9 A. Yes, ma'am.
- 10 Q. Okay. How long did it take after you got there did
- 11 Dewey arrive?
- 12 A. After we got in the car and we had came by to tell
- 13 Frederick that we were leaving, I'd say Dewey might have
- 14 pulled up maybe between five and seven minutes after we had
- 15 got there.
- 16 Q. How did he -- did you see how he got there? Was -- he
- 17 walked? Was -- he drove there?
- 18 A. I was already in house.
- 19 Q. Okay. Did he have anybody with him?
- 20 A. It was him and Jimmy.
- 21 Q. Do you know Jimmy's last name?
- 22 A. No, ma'am.
- 23 Q. Had you ever met Jimmy before?
- 24 A. Yes, ma'am. I had met him once before.
- 25 Q. Okay. Do you know whether or not he's related to

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1 Dewey?

2 A. No, ma'am.

3 Q. But they came together?

4 A. Yes, ma'am.

5 Q. All right. Tell us what happened once Jimmy and Dewey
6 came together, once they got in the house.

7 A. Once they came in the house and Beev realized that
8 Jimmy was there, it was ---

9 Q. And again, we've got to make sure we understand names.

10 A. Jaron, well, once Jaron realized that Jimmy was there,
11 he had -- there had been an incident that had happened with
12 one of his cousins, Jaron's cousins, and he had, he, he be
13 having seizures, so ---

14 Q. Who? Jaron or his cousin?

15 A. His cousin.

16 Q. Okay.

17 A. So, the incident, someone said that Jimmy slapped the
18 dude in the face with a bottle.

19 Q. And that's the one who had the seizures?

20 A. Yes, ma'am.

21 Q. Is that Dave Fluitt?

22 A. Yes, ma'am.

23 Q. Okay. All right. So, somebody, it's reported that
24 somebody had hit Dave Fluitt with a bottle?

25 A. Yes, ma'am.

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1 Q. All right, and Dave Fluitt is the one who has
2 seizures?

3 A. Yes, ma'am.

4 Q. And that incident happened about a week or so ago?

5 A. I think it might have been, like, a week or maybe two
6 weeks before that.

7 Q. All right. Please continue.

8 A. So, when Jaron realized that Jimmy was there, he said
9 something to him. He was telling him that's messed up that
10 you hit him with that bottle because it was over, I think
11 it was a Black and Mild, and so ---

12 Q. Black and Mild? What, what are those?

13 A. Cigars.

14 Q. Cigars, okay.

15 A. And so whenever Jaron said something to him, Dewey
16 tell him. Dewey was, like, that's dead, man. That's dead,
17 man. And that's whenever Jaron was, like, how can you --
18 how you gonna tell me what I can, you know what I'm -- I'm
19 a grown man, and they exchanged words. And then I remember
20 Dewey grabbing the gun and cocking the gun and saying
21 nigger, I'll kill you. And that's when Jaron looked at
22 him. He was, like, nigger, you walking up on me with this
23 pistol? And they exchanged a few more words, and I heard
24 Dewey say nigger, get loud with me again. And that's when
25 Jaron was, like, you right. And then we heard a pop.

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1 Q. When you heard the pop, what was the pop?

2 A. When Dewey shot him in the head.

3 Q. Okay. Before Dewey came in the house, what was Jaron
4 doing?

5 A. Him and my brother was sitting around there playing a
6 game.

7 Q. They were playing video games?

8 A. Yes, ma'am.

9 Q. Okay. Describe the pistol to me that Dewey had.

10 A. It was a black -- I know it was black. I think it
11 might have been a black high point .45.

12 Q. Okay. Where did he get it from?

13 A. If I recall correctly, it was off the kitchen counter.

14 Q. So, he got it off the kitchen counter?

15 A. Yes, ma'am.

16 Q. Okay. Did he point it straight at Jaron once he
17 picked it up, or what did he do with it? Did he kind
18 of ---

19 A. When he picked it up ---

20 Q. --- flash it around a little bit or what?

21 A. When he picked it up, he cocked it and he was, like,
22 'nigger, I'll kill you, and then he just held it down by his
23 side, and then they started exchanging words.

24 Q. Okay. What happened after Dewey shot Jaron in the
25 head?

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1 A. After he shot him, I stood there for a second looking
2 at him thinking okay. Well, maybe he going to get up, you
3 know what I'm saying? He didn't shoot him. He ain't gonna
4 shoot him. Maybe he just shot him, shot beside his head
5 and he thought he got hit.

6 But after I stood there for a second, I saw he wasn't
7 moving. I heard the door close behind me, and I looked
8 behind me, and I saw that my friend Pipsqueak was going.

9 So ---

10 Q. Now, Pipsqueak is?

11 A. Jamar.

12 Q. Jamar Pringle?

13 A. Yes, ma'am.

14 Q. He had ran out?

15 A. Yes, ma'am.

16 Q. Okay.

17 A. So, soon as I saw that he was going, I turned around
18 and ran out the door.

19 Q. Okay. When you ran out the door, who did you leave in
20 the house? Who all was in the house?

21 A. Everybody was still in the house except for me and
22 Jamar.

23 Q. Okay.

24 A. But after I left, I didn't even look back to see if
25 anybody was behind me, running behind me. All I know was I

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1 just wanted to get out the house.

2 Q. Why? I mean, why wouldn't you want to stay and see if
3 your friend was okay? Why did you -- why were you trying
4 to get out of the house so quickly?

5 A. Because he was still standing there with the gun in
6 his hand.

7 Q. Okay. Where was Jimmy?

8 A. In the living room.

9 Q. Okay. Did Jimmy run out before you?

10 A. No, ma'am.

11 Q. Did he ---

12 A. Jamar, Jamar run out the door, and then I ran out
13 behind Jamar.

14 Q. Okay.

15 A. And that was the last thing that I can remember from
16 the house.

17 Q. All right. Now, how was Jaron's body positioned once
18 he was shot and he was laying on the floor?

19 A. They were standing there in front of the tables.
20 Like, when you come in the front door, directly in front of
21 you is a table.

22 Q. Yes, sir.

23 A. And when he shot Jaron, Jaron was -- they was, like,
24 at the corner of the table. And when he shot him, he just
25 fell to the right.

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1 Q. Okay. Did you see him laying on the floor?

2 A. Yes, ma'am.

3 Q. Could you tell that he had been shot?

4 A. I didn't really too much look to see if he was shot
5 because I didn't really think that he had been shot
6 because, like, he told me. That's his family, you know
7 what I'm saying? So, I wasn't expecting nothing like that
8 to happen.

9 Q. When you say like he told you, who are you talking
10 about?

11 A. Jaron.

12 Q. Jaron told you who was his family?

13 A. That Dewey -- he told me, said Dewey was his cousin.

14 Q. The defendant?

15 A. Yes, ma'am.

16 Q. Was the victim's cousin? I need you to answer.

17 A. Yes, ma'am.

18 MS. BARR: Madame Court Reporter, may I have these
19 marked as Exhibits 23 through 26, and I understand they are
20 without objection.

21 THE COURT: Any objection from defense?

22 MR. CARRAWAY: No objection, Your Honor.

23 THE COURT: State's Exhibit 23 through 26 are into
24 evidence without objection from defense.

25 (PHOTOGRAPHS MARKED INDIVIDUALLY INTO EVIDENCE AS

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1 STATE'S EXHIBITS 23 THROUGH 26.)

2 BY MS. BARR:

3 Q. Mr. Phillips, I'm going to get you to step down again
4 for me, please. I need you to turn and face the jury.

5 Let's go down this way to the left. I'm going to hand you
6 what's been marked and admitted as State's Exhibit Number

7 23. Do you recognize what is in this photograph?

8 A. Yes, ma'am.

9 Q. Which room of the house is this?

10 A. Living room.

11 Q. And can you tell me where the door is? Is that the
12 front door, the white door that's in the picture?

13 A. Yes, ma'am.

14 Q. All right. There appears to be a china cabinet in
15 this picture and a little chair by the china cabinet. Was
16 someone seated there?

17 A. Yes, ma'am.

18 Q. Who was seated there?

19 A. Jamar.

20 Q. And that's who you call Pipsqueak?

21 A. Yes, ma'am.

22 Q. We have to keep up with all these nicknames. All
23 right, now I'm going to show you what's been marked as
24 State's Exhibit Number 24. Do you recognize what's
25 depicted in this photograph?

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1 A. Yes, ma'am.

2 Q. Tell me what it is.

3 A. That's Jaron laying on the floor.

4 Q. That's your friend on the floor after he'd been shot?

5 A. Yes, ma'am.

6 Q. All right, come down here this way for me. Keep your
7 voice up so -- the court reporter's right behind you. Now,
8 was he seated on this sofa right -- playing, playing the
9 video games?

10 A. No, ma'am.

11 Q. Where was he seated?

12 A. In the chair.

13 Q. In the chair that's turned over?

14 A. Yes, ma'am.

15 Q. All right.

16 THE COURT: Mr. Phillips, I'm going to ask if you can
17 turn your body a little bit towards Ms. Barr so the court
18 reporter can hear you better.

19 BY MS. BARR:

20 Q. Okay, he was seated in this chair that's turned over?

21 A. Yes, ma'am.

22 Q. All right. Now, can you tell at this picture where he
23 was standing at the point he was shot? Can you see it
24 based on how this picture is?

25 A. You can sort of kind of, but it's like right here in

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1 the top corner of the picture. I think that's the leg of
2 -- one of the legs of the table.

3 Q. Okay. All right. Sir, the first picture that I
4 showed you, you talked about the front door and you talked
5 the china cabinet. Is that right? Do you remember talking
6 about that? Is that also a view of the china cabinet?

7 A. That's right.

8 Q. And what is this little area here?

9 A. That's the table. That's the table right there where
10 they're arguing in front of.

11 Q. Okay. Would that be considered the dining room table?

12 A. Yes, ma'am.

13 Q. And that has a blue cover on it?

14 A. Yes, ma'am.

15 Q. Okay. Okay, sir, I'm going to show you what's been
16 marked as State's Exhibit Number 25. The room that Jaron
17 is in, would that be considered the den or the living room?

18 A. That's right.

19 Q. All right, and the chair that's overturned, is that
20 the same chair that he was seated in?

21 A. Yes, ma'am.

22 Q. All right, and is this a view from the living room --
23 I mean, the dining room where the table had the blue cover
24 to it? Is that the same thing, just a different view?

25 A. Yes, ma'am.

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1 Q. All right, Mr. Philips, have a seat for me.

2 After you ran out of the house, where did you go?

3 A. We ran back down the road trying to -- me and Jamar
4 were running down the road trying to flag people down to
5 get them to stop and help us so that we could tell them
6 what was going on because all the houses that we had
7 stopped at when we ran around there and knock on the door,
8 no one answered the door.

9 Q. Okay.

10 A. But no one wanted to stop and help us either. We have
11 -- we just happened to catch a guy outside in his yard
12 working on his truck, changing the tire on his truck.

13 Q. Yes, sir.

14 A. And we asked him for a ride up to the store, and he
15 gave us a ride to the store.

16 Q. Okay. Now, as far as that night and the next night,
17 did you ever see Dewey again?

18 A. No, ma'am.

19 Q. Okay. Now, you said that Jaron had mentioned that
20 they were cousins. Did the defendant know that Jaron had a
21 one-year-old son?

22 A. Yes, ma'am.

23 Q. Had he ever met him?

24 A. Yes, ma'am.

25 Q. Had he seen his son?

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1 A. Yes, ma'am.

2 Q. Had held his son in his arms?

3 A. Yes, ma'am.

4 Q. Some point later after the shooting, you received a
5 call from one of the deputies from the sheriff's
6 department?

7 A. Yes, ma'am.

8 Q. And they asked you to, or he asked you to give him a
9 statement about what all happened?

10 A. Yes, ma'am.

11 Q. And did you do that?

12 A. Yes, ma'am.

13 Q. And told them everything that you remembered?

14 A. Yes, ma'am.

15 MS. BARR: I beg the court's indulgence.

16 (A PAUSE.)

17 BY MS. BARR:

18 Q. Mr. Phillips, let me clear something up. When you all
19 bought the car, where did you buy the car from? Do you
20 remember?

21 A. A guy down the street.

22 Q. Okay. How far from, from Mr. Williams's house was it
23 in terms of where you bought -- the person you bought the
24 car?

25 A. Maybe, like, five minutes.

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1 Q. Okay. Did you get a certificate of title on that day?

2 A. Yes, ma'am.

3 Q. All right. What did you do with the title?

4 A. It was in the Avalon.

5 Q. All right.

6 MS. BARR: I'd like to have this marked as State's
7 Exhibit Number 27.

8 THE COURT: Any objection from defense?

9 MR. CARRAWAY: Without objection.

10 THE COURT: State's Exhibit Number 27 is into
11 evidence.

12 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
13 NUMBER 27.)

14 BY MS. BARR:

15 Q. Mr. Phillips, is this the inside of the Avalon that
16 you rode in with Jaron that day?

17 A. Yes, ma'am.

18 Q. There appears to be a dollar bill, some change, and a
19 certificate of title inside that vehicle. Is that correct?

20 A. Yes, ma'am.

21 Q. Is that the same certificate of title you got for your
22 car?

23 A. Yes, ma'am.

24 Q. And that was the only reason you came from Myrtle
25 Beach to Williamsburg County that day. Is that right?

1 A. Yes, ma'am.

2 MS. BARR: Permission to publish, Your Honor?

3 THE COURT: Yes.

4 MS. BARR: Mr. Phillips, please answer any questions
5 Mr. Carraway may have.

6 THE COURT: All right, Madame Forelady, ladies and
7 gentlemen, we're going to take a break for lunch. We're
8 going to recess until 2:00. Once again, do not discuss
9 this case in any way, shape, or form amongst yourselves or
10 with anyone else.

11 In addition to that, some of y'all might be familiar
12 with this area, and it's completely inappropriate for you
13 to go and do any independent investigation on your own. In
14 addition to that, there's not anything that you can't look
15 up on the Internet nowadays. It's inappropriate that you
16 do any kind of investigation, research of the law, or
17 anything such as that. You need to base your decision on
18 what transpires here in this courtroom. Do not discuss the
19 case with anyone. I'm going to ask that you be back at
20 2:00 sharp, 2:00 sharp.

21 Everyone remain seated as the jury exits the
22 courtroom.

23 Yes, ma'am?

24 FOREPERSON: They haven't all seen the picture yet.

25 THE COURT: Very good. That's into evidence. They'll

1 have -- it will be published, and we'll leave that on the
2 rail, and we will continue again. Everyone is free to
3 leave at this time.

4 (THE JURY EXITS AT 12:27 P.M.)

5 THE COURT: Mr. Phillips, you're still on the witness
6 stand. We're going to take a break. We're going to ask
7 you that you be back at 2:00 sharp. In view of the fact
8 that you're still on the witness stand, you can't discuss
9 this case with anybody, in particular emphasis with regard
10 to the lawyers. You can't do that. Don't discuss the case
11 with anyone. I'm going to ask that you be back here in the
12 courtroom on the witness stand at a quarter to 2. Is that
13 fair enough?

14 WITNESS: Yes, sir.

15 THE COURT: Very good.

16 All right, anything from the state before we break for
17 lunch?

18 MS. BARR: No, Your Honor.

19 THE COURT: Anything from defense? Anything from
20 defense?

21 MR. CARRAWAY: Nothing, Your Honor.

22 THE COURT: All right. Am I'm mistaken? Is the
23 deceased, is his name Jaron or Jason?

24 MS. BARR: It's Jaron.

25 THE COURT: Somebody needs to amend the indictment. I

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1 think it was a typo on there. Any objection with regard to
2 amendment of the indictment?

3 MR. CARRAWAY: No, Your Honor.

4 THE COURT: All right, the indictment is so amended to
5 reflect Jaron Lamont White as opposed to Jason Lamont
6 White.

7 MS. BARR: Thank you, Your Honor.

8 THE COURT: Very good. We will stand at ease until
9 2:00.

10 (OFF THE RECORD.)

11 THE COURT: Mr. Phillips, you may resume the stand.
12 Thank you.

13 (A PAUSE.)

14 THE COURT: Ms. Barr, I received another note from the
15 bailiff that there's someone else who knows the defendant's
16 family. Sort of spreading like a cancer, I believe. At
17 any rate, I think we probably need to bring Mr. -- I can't
18 read his name.

19 CLERK OF COURT: Mr. Henryhand.

20 THE COURT: Mr. Henryhand.

21 I'm going to ask if you can step down one moment.

22 (THE JUROR ENTERS THE COURTROOM.)

23 THE COURT: Mr. Henryhand?

24 JUROR: Yes, sir.

25 THE COURT: I'm going to ask if you could place your

1 left hand on the Bible and raise your right hand as the
2 clerk administers the oath.

3 WILLIAM CHARLES HENRYHAND, JR.,
4 BEING DULY SWORN, TESTIFIES AS FOLLOWS:

5 THE COURT: Mr. Henryhand, have a seat in the witness
6 chair if you could, please, sir.

7 EXAMINATION BY THE COURT:

8 THE COURT: State your full name, Mr. Henryhand.

9 JUROR: William, William Charles Henryhand, Jr.

10 THE COURT: Okay, when we were going through the voir
11 dire process, the questions were asked is there anything
12 that would prevent you from giving both the state and the
13 defendant a fair and impartial trial. Do you recall those
14 questions?

15 JUROR: Yes, sir, I do.

16 THE COURT: All right, and I received a note from the
17 bailiff which seem to indicate that you know the
18 defendant's family. How do you know the defendant's
19 family?

20 JUROR: Being that they're from the area that my
21 father's firm serves, I know a lot of people down in that
22 area.

23 THE COURT: Okay. Well, who in the family
24 specifically do you know?

25 JUROR: I can't call a specific name.

1 THE COURT: Okay, you just know who the family is?

2 JUROR: Yes, sir.

3 THE COURT: You don't have a close social, personal,
4 or business relationship with the defendant, do you?

5 JUROR: Not to my knowledge.

6 THE COURT: Okay. You just happen to know who they
7 are?

8 JUROR: Yes, sir.

9 THE COURT: Is that correct?

10 JUROR: Yes, sir.

11 THE COURT: All right. You have never had dinner, or
12 brought the defendant over to your home for a social
13 engagement, have you?

14 JUROR: No, sir.

15 THE COURT: And have you ever been over to his home
16 for a social engagement?

17 JUROR: No, sir.

18 THE COURT: Have you ever had a private conversation
19 with the defendant?

20 JUROR: No, sir.

21 THE COURT: All right. Is there anything that you can
22 think of that would prevent you from giving both the state
23 and the defendant a fair and impartial trial?

24 JUROR: Yes, sir. I feel that it will affect the
25 business that my father and I are in.

1 THE COURT: Okay.

2 JUROR: It may affect that, yes, sir.

3 THE COURT: Might I ask you why didn't you bring that
4 up when we were going through the *voir dire*?

5 JUROR: I really didn't think of it; honestly, I
6 really didn't think of it.

7 THE COURT: All right. Who is your father, and what
8 kind of business is he in?

9 JUROR: My father is William C. Henryhand, Sr., and
10 he's the owner of Henryhand Funeral Home.

11 THE COURT: All right. All right. How would that
12 affect your ability to be a fair and impartial juror?

13 JUROR: I feel that it may come back to where it's, it
14 may hurt my business if I -- whether or not I say he's
15 guilty or not guilty, it, either way it goes, it may harm,
16 it may harm my business in the future.

17 THE COURT: All right, any questions from the state?

18 MS. BARR: No questions for this juror.

19 THE COURT: Any questions?

20 MR. CARRAWAY: None, Your Honor.

21 THE COURT: All right, I'm going to ask you if you
22 could have a -- the bailiff will take you in to the hall
23 for just one moment.

24 Don't take him back in the jury room.

25 (THE JUROR EXITS THE COURTROOM.)

1 THE COURT: What is the state's position with regard
2 to this particular juror?

3 MS. BARR: Judge, would ask that the court excuse this
4 juror and seat one of the alternates. It's clear that at
5 the point where deliberations will begin that there will be
6 some conflict. It appears, based on not just what he said
7 but how he said it, that he's going to be hesitant to find
8 guilt or, or not guilty. And given that, we would ask that
9 the court excuse him and seat one of the alternates.

10 THE COURT: Be glad to hear from the defendant.

11 (COUNSELOR CONFERS WITH DEFENDANT.)

12 MR. CARRAWAY: Whatever the court's pleasure is, Your
13 Honor. They, they don't know him that well. They don't
14 feel like he's for or against them. I would ask that the
15 court consider. He doesn't seem to be one way or the
16 other. It's just he doesn't want to make a decision either
17 way.

18 THE COURT: Well, that's, that's very typical.

19 MR. CARRAWAY: It seems to me.

20 THE COURT: That's very typical of the undertaker.
21 They want to be friends with everybody.

22 MR. CARRAWAY: Yeah.

23 THE COURT: Well, that's kind of discouraging, and I
24 do -- I'm going to ask if we can ask him to have a seat in
25 the audience. I want to have a long discussion with him at

1 the conclusion of the trial today.

2 Madame Clerk, if you can remind me about that. We
3 need to -- there needs to be a good understanding about how
4 you respond to questions. These are important matters.

5 And let's bring him back in, if we could.

6 BAILIFF: Mr. Henryhand?

7 THE COURT: Yeah, I want to bring him back in. I want
8 to speak to him. Then we're going to make sure that he
9 stays.

10 And, deputies, I'm going to ask y'all to make sure
11 that he stays there with you on that front chair.

12 (THE JUROR ENTERS THE COURTROOM.)

13 THE COURT: Mr. Henryhand, come around. Mr.
14 Henryhand, one of the things that's kind of discouraging is
15 we -- you took a solemn oath to listen to the questions
16 that I had and to answer them truthfully and honestly. And
17 it's discouraging that you didn't do so. We've got a lot
18 invested in this case. This is a very important case for
19 the state; it's a very important case for the defendant.
20 And here you are.

21 We've already taken the preliminary charge. We've
22 done the opening statements. We've already had a witness,
23 and now you feel as though all you can't do what's fair and
24 what's honest. You can't listen to the evidence and the
25 law and do what you think is right because you think it

1 would affect your business.

2 I'm discouraged by that; I'm disappointed by that.
3 I'm going to ask you to stay with the deputies on the front
4 row. I'll talk with you at the conclusion of the day.

5 JUROR: Yes, sir.

6 THE COURT: All right, before we bring the jury out,
7 there is the division of authority with regard to how you
8 seat the alternates. Some authority seems to indicate that
9 you do the first one seated. I personally ascribe to the
10 school of thought that you draw in random between the two
11 alternates. What is the state's pleasure?

12 MS. BARR: Judge, we had this come up last week, and I
13 think we draw it random.

14 THE COURT: What's the defense's pleasure?

15 MR. CARRAWAY: Whatever the court's pleasure is.

16 THE COURT: All right, we will draw that randomly from
17 the remaining alternates, Shaw and McKenzie.

18 (A PAUSE.)

19 CLERK OF COURT: Thomasena Shaw.

20 THE COURT: All right, Ms. Thomasena will be activated
21 as an active juror, and we'll note that the clerk put the
22 names in the envelope, shook them up, and allowed the
23 deputy clerk to draw them out.

24 Any objection with regard to the selection process,
25 Ms. Barr?

1 MS. BARR: No, Your Honor.

2 THE COURT: Any from defense?

3 MR. CARRAWAY: None, Your Honor.

4 THE COURT: Very good. We'll bring the jury in.

5 Mr. Phillips, come, come back up.

6 (THE JURY ENTERS AT 2:09 P.M.)

7 THE COURT: Mr. McKenzie, I'm going to ask that you
8 have a seat on that back row and, Ms. Shaw, you have been
9 activated to a regular juror. Mr. McKenzie, you are still
10 an alternate.

11 Ladies and gentlemen of the jury, we have spent a
12 great deal of time and effort going through the voir dire
13 process and the qualification process, and each one of you
14 had taken a solemn oath to answer the questions
15 appropriately and accurately with regard to whether or not
16 you could give the state and the defendant a fair and
17 impartial trial.

18 There seems to have been some vacillation on the part
19 of some of the jurors, and these matters are never easy.
20 It's a very difficult thing to do quite often. But you,
21 that's one of your duties and your obligations as citizens,
22 to listen to the evidence and apply the law, do what you
23 think is right.

24 I will remind you that Mr. Phillips is still under
25 oath, and cross-examination, Mr. Carraway.

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 CROSS-EXAMINATION BY MR. CARRAWAY:

2 Q. Mr. Phillips, where did you, where did you go to high
3 school?

4 A. Conway High School.

5 Q. You went to Conway High, and when did you finish?

6 A. I didn't.

7 Q. You didn't finish. Now, you went on -- you came over
8 and bought a Cadillac on this day, right?

9 A. Yes, sir.

10 Q. Who all did you come with? You came with Jamar?

11 A. Me and Jamar, my brother Dominique, and Jaron.

12 Q. All right, and what's Dominique's -- is he also
13 Phillips?

14 A. No, sir.

15 Q. What is Dominique's last name?

16 A. Sessions, Sessions.

17 Q. Sessions, Dominique Sessions, and this is Jamar
18 Finklea. Is that right?

19 A. Yes, sir.

20 Q. Is that right?

21 A. Yes, sir.

22 Q. That's who you rode with?

23 A. Yes, sir.

24 Q. Where's Jamar from?

25 A. He's from Myrtle Beach.

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. He's from Myrtle Beach. Where -- does your brother
2 live in Myrtle Beach also?

3 A. Yes, sir.

4 Q. Okay, and did, did the deceased come over with y'all
5 today? Did he drive with you today or not -- on that day?

6 A. Yes, sir.

7 Q. He drove with you that day. So, it was five in the
8 car?

9 A. No, sir. It was four.

10 Q. Okay. All right, you and your brother and Jamar and
11 the deceased. Is that right?

12 A. Yes, sir.

13 Q. How long had you known the deceased? You knew him
14 very well, didn't you?

15 A. About a year and a half, almost two years.

16 Q. Y'all used to hang together pretty well, right?

17 A. Yes, sir.

18 Q. All right. Tell me where were you working at this
19 time?

20 A. At the time, I wasn't working.

21 Q. Okay. You weren't working, okay, but you came over
22 and you bought a Cadillac on this day. Is that right?

23 A. Yes, sir.

24 Q. Okay. Is that a Cadillac you were going to --
25 intended to restore?

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. Yes, sir.

2 Q. Okay. Were did you work before this?

3 A. I worked at Ryan's.

4 Q. Where?

5 A. Ryan's Steakhouse.

6 Q. Ryan's Steakhouse. What did you do at Ryan's?

7 A. I was a cook.

8 Q. You were a cook. Which Ryan's did you work at?

9 A. Surfside.

10 Q. Surfside. How long did you work at Ryan's?

11 A. For about a year.

12 Q. About a year. How long before this did you work at
13 Ryan's?

14 A. Probably maybe a year, year and a half prior to this.

15 Q. A year and a half prior to this. Did you save up
16 enough money working at Ryan's to carry you for the next
17 year and a half?

18 A. My mother had just died.

19 Q. Your mother had just died. How much, how did you get
20 out of that -- well, what did that -- did that -- you get
21 left some money or what?

22 A. Yes, sir.

23 Q. Well, when did she die?

24 A. She died in '06.

25 Q. She died in '06? This was in 2008.

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. Yes, sir.

2 Q. So, you was, you -- did your brother work anywhere at
3 that time?

4 A. I'm not sure.

5 Q. Well, let's stop and think, or were you both just not
6 working at this time?

7 A. I wasn't working. I can't account for all of my
8 brother's action. I mean, I'm not him.

9 Q. I'm not asking you all of your actions. I'm asking if
10 he had a, if he had a job.

11 A. And I'm telling you I'm not sure.

12 Q. You don't know? What day of the week was this y'all
13 came over here?

14 A. On a Friday.

15 Q. On a Friday. You came over here about midday?

16 A. It was that evening, probably around -- we got down
17 there probably around 6, 6 or so.

18 Q. Got down there about 6, or whatever, okay, but you
19 don't know whether your brother had a job at that time.
20 Where was the deceased working at this time?

21 A. If I'm not mistaken, he was working at Ripley's.

22 Q. Working at where?

23 A. Ripley's Believe It or Not.

24 Q. Ripley's Believe It or Not. Well, do you know he was
25 working, or you just don't know?

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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- 1 A. I know that he had been leaving to go to work. I
2 mean, I'm not with him in the car when he goes to work.
3 Q. Well, I know. But, I mean, how far does he live from
4 you?
5 A. I live across the bridge. He lives maybe ten minutes
6 away from me.
7 Q. Ten minutes away. Now, y'all were best buddies,
8 weren't you?
9 A. Yes, sir.
10 Q. Okay. You said, I believe I heard you say that y'all
11 used to spend just about all y'all -- a great deal of
12 y'all's time together and hang a lot, didn't you?
13 A. Yes, sir.
14 Q. Okay, but you don't know whether he was working at
15 this time?
16 A. Like I said, I'm not in the car with him whenever he
17 says ---
18 Q. All right. I got you.
19 A. --- he's needing to go to work.
20 Q. All right. Tell me where Mr. Finklea was working at
21 this time.
22 A. I haven't the slightest clue.
23 Q. Don't have -- but he, he's a friend of yours from
24 Myrtle Beach also?
25 A. I met Mr. Finklea through Jaron. I met Mr. Finklea

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 through Jaron.

2 Q. How long had you known him?

3 A. Mr. Finklea?

4 Q. Yeah.

5 A. Not long.

6 Q. You hadn't known him long, but you don't really know
7 where they -- really, the heart of the matter is none of
8 you had jobs, did you? None of you had real jobs.

9 A. I didn't.

10 Q. All right.

11 A. I mean, I can't speak on anybody else.

12 Q. Okay, but you can't tell me if anybody else had a job,
13 can you?

14 A. No, sir, because I'm not them.

15 Q. Okay, but y'all were coming over to buy a Cadillac,
16 and you were going to restore this ---

17 A. I was coming to buy the car.

18 Q. --- Cadillac and everything. Is that right?

19 A. I was.

20 Q. I know. Okay. All right. Now, tell me what kind of
21 gun that the deceased carried.

22 A. A . 9 millimeter.

23 Q. .9 millimeter. Tell me which, which leg of your lap
24 -- of his lap was this gun on when all this broke out.

25 A. When all this broke out, he didn't have a gun on his

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 lap.

2 Q. Oh, you sure of that?

3 A. Yes, sir.

4 Q. Now, where, where -- I want to ask you now. Were you
5 in a position to see everything?

6 A. Yes, sir.

7 Q. Okay. So, you saw, you're telling this jury here that
8 you saw everything that happened in there. Is that right?

9 A. Yes, sir.

10 Q. Or are you saying that, or did you come in and out, or
11 did -- or were you sitting there watching all of it?

12 A. I was sitting there the whole time.

13 Q. You were sitting there the whole time?

14 A. Yes, sir.

15 Q. Okay. All right, and you don't know where it is it
16 would come from if somebody said the deceased had a gun in
17 his lap at this time? You don't know where any of that
18 would come from?

19 A. No, sir.

20 Q. But you know he did -- you're saying not only did you
21 -- are you saying you didn't see a gun, or you know he
22 didn't have a gun on his lap?

23 A. I know he didn't have a gun on him.

24 Q. You know he didn't have a gun. I'm not talking about
25 on him because you don't know what he's got in his pocket.

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Is that right?

2 A. That's true.

3 Q. All right, but you're saying you never saw a gun in
4 his lap?

5 A. No, sir.

6 Q. All right, and you never saw Jimmy take the gun from
7 him?

8 A. No, sir.

9 Q. You did see that?

10 A. No, sir.

11 Q. All right. Now, what ---

12 A. Because Jimmy was in the front room with us the whole
13 time.

14 Q. All right, Jimmy's in the front room. Well, wasn't
15 Jimmy -- was Jimmy ever arguing with the deceased?

16 A. I wouldn't even call it arguing.

17 Q. Okay. Well, tell me ---

18 A. It was more ---

19 Q. Tell me what, what were they doing?

20 MS. BARR: Judge, Your Honor, I'd like to please just
21 ask the court to let the witness answer the question. It's
22 like they're kind of back and forth.

23 THE COURT: All right.

24 MS. BARR: We'd ask that he be allowed to answer the
25 question.

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 THE COURT: All right, repeat the question, Mr.

2 Carraway.

3 BY MR. CARRAWAY:

4 Q. All right, you said that they weren't arguing.

5 A. No, sir.

6 Q. Okay. What was, what did Jimmy and the deceased --
7 were they talking?

8 A. I won't call it a conversation. It was more so Jaron
9 telling Jimmy that he didn't like the way that he hit Toot
10 with the bottle, which neither one of them were getting
11 loud.

12 Q. Repeat that. He didn't like what?

13 A. He didn't like the fact that he had hit Toot with the
14 bottle.

15 Q. Hit two with the bottle?

16 A. David Fluitt.

17 Q. And David Fluitt, do you know David Fluitt, too?

18 A. Yes, sir.

19 Q. Okay, and David Fluitt is from where originally?

20 A. I'm assuming he's from originally down here, but I met
21 him on the beach.

22 Q. You met him on the beach, okay. How many times had
23 you been to Frederick's house?

24 A. Twice.

25 Q. Been there twice, okay, and how many people were in

1 the house when this incident occurred?

2 A. About nine or ten people.

3 Q. About ten or ten people. Is this including the --
4 now, is this, is this nine or ten males, or is this
5 including a -- did you see ---

6 A. Nine or ---

7 Q. --- a female there?

8 A. Nine or ten males. Shannon, Shannon was, if I'm not
9 mistaken, Shannon was in the room. I remember seeing her
10 there, but for a brief -- when it's, when it first started
11 out, when they started, when Mr. Goodman and Jaron started
12 arguing, I didn't see Shannon.

13 Q. Okay.

14 A. So, I'm not sure she was in a room, or if she had left
15 out the house.

16 Q. So, this happened in a living room or was ---

17 A. It's, when you come in the door, when you come in the
18 front door, directly in front of you is a table. It's a
19 dining room table. They were in front of the dining room
20 table.

21 Q. Okay. Were you in that room?

22 A. I was standing in front of the china cabinet in the
23 front of the dining room table.

24 Q. Okay. So, my question again to you, you were in the
25 room?

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. Yes, sir.

2 Q. You were in the room when this happened?

3 A. Yes, sir.

4 Q. And you saw everything that happened from -- did you
5 see when Jimmy and he started, as you say, discussing Jimmy
6 hitting David Fluitt with a bottle? Were you there then?

7 A. Yes, sir.

8 Q. Okay. Where did Jimmy -- now, you -- and of course
9 they were just talking. They weren't even arguing at all.
10 Isn't that right?

11 A. Yes, sir.

12 Q. That's what, that's what you're saying here?

13 A. Yes, sir.

14 Q. Okay. All right. Was Jimmy standing there? Did
15 Jimmy stay in the room, or Jimmy leave the room?

16 A. Jimmy was in the room.

17 Q. He was in the room when the deceased was shot?

18 A. Yes, sir.

19 Q. Is that right?

20 A. Yes, sir.

21 Q. Okay. All right, and -- but you know, you don't just
22 think, you know that the deceased did not have a gun out?
23 If there's one in his ---

24 A. I don't ---

25 Q. --- pocket, you don't know, but ---

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. I didn't see him with a gun on his lap.

2 Q. All right. Now, did you testify earlier that you know
3 he didn't have a gun on his lap?

4 A. No one ever asked me earlier that, did he have a gun
5 on his lap.

6 Q. I think I asked you that, and you said that you saw
7 him, and he didn't have one. Now, is that ---

8 A. I didn't ---

9 Q. --- still your answer or not?

10 A. That's still my answer.

11 Q. Okay. You were in a position to see what was on his
12 lap, right?

13 A. Yes, sir.

14 Q. Okay, and you didn't see a gun?

15 A. No, sir.

16 Q. All right. So, he didn't have a gun on his lap?

17 A. No, sir.

18 Q. All right. You, you, you saw what he had in his lap,
19 and he didn't have a gun. Is that right or is that wrong?

20 A. Yes, sir.

21 Q. Okay. All right. So, he did not? You know he did
22 not have a gun in his lap?

23 A. Yes, sir.

24 Q. All right. Okay. What kind of gun did he normally --
25 you said he carried normally a . 9 millimeter?

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. Yes, sir.

2 Q. Is that right? You came with him from the beach on
3 this day. Do you or do you not know if he had that gun on
4 him?

5 A. Yes, sir.

6 Q. All right, you know whether he did or he didn't? Did
7 he have it on him?

8 A. It was in the car.

9 Q. It was in the car, okay. Is it your testimony that
10 you did not see him take the gun out of the car and go in
11 the house?

12 A. Yes, sir.

13 Q. Okay, that's what it is, okay, and your testimony is
14 it was in his pocket, or whatever. I don't know, but it
15 was not out and on his lap?

16 A. Yes, sir.

17 Q. All right, that's not true. That, that is not true.
18 Did you ever see, did you ever see -- and, and, and
19 following that, he just never had a gun. Is that right?
20 First gun you saw, the only gun you saw in the house that
21 day, was that the gun that you say the defendant had, or
22 did you see somebody else with a gun?

23 A. I mean, it was another gun in the house, but I didn't
24 know whose gun it was.

25 Q. Okay. Where was that gun?

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. On the floor.

2 Q. On the floor? When did you see the gun on the floor?

3 A. While all this was going on.

4 Q. While all this was going on. Now, was it when Jimmy
5 and the deceased were discussing that fight with David
6 Fluitt, or was it after that?

7 A. It was after that.

8 Q. It was after that. What kind of gun was on the floor?

9 A. I'm not sure. I know it was a black gun or -- yeah, a
10 black gun.

11 Q. Black gun. Small black gun or large black gun?

12 A. Probably fair to say a medium-sized black gun.

13 Q. Medium-sized black gun. Now, you claim the defendant
14 had a gun?

15 A. Yes, sir.

16 Q. You claim he had one, and you claim that it was a .45
17 High Point. Is that right?

18 A. Yes, sir.

19 Q. Okay. Now, are you sure the deceased does not have a
20 .45 High Point?

21 A. I've never seen him with one.

22 Q. Never seen him with one, okay. All right. You -- was
23 the gun you saw on the floor a different gun than the gun
24 that you claim he had, or was it the same gun?

25 A. It was a different gun.

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. Different gun on the floor?

2 A. Yes, sir.

3 Q. All right. Did you notice -- are you saying you
4 didn't notice the gun on the floor before the argument, but
5 you noticed it after the argument? Is that ---

6 A. They were never arguing.

7 Q. Excuse me?

8 A. Jaron and Jimmy were never arguing.

9 Q. Well, I know. I, I, I'm talking about throughout all
10 of this. Did, did you see the gun before the shot was
11 fired on the floor, or did you see it after?

12 A. Yes, sir. I seen it before.

13 Q. You saw the gun on the floor. How long before the
14 shot was fired did you see the gun?

15 A. Whenever they first start arguing, I mean, I seen the
16 gun on the floor. But, I mean, wasn't nobody touching the
17 gun or nothing, I mean.

18 Q. Okay. All right. How long did they argue?

19 A. Not long. Maybe four or five minutes exchanging
20 words.

21 Q. Okay. All right, four or five minutes, and the
22 deceased was sitting down, was he not?

23 A. When they were arguing?

24 Q. Yeah.

25 A. No, sir.

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. He was standing up?

2 A. Yes, sir.

3 Q. The whole time?

4 A. Yes, sir.

5 Q. All right. Was he sitting down or standing up when he
6 and Jimmy were discussing this fight with David Fluitt?

7 A. Whenever Jimmy first came to the house, he was
8 sitting. And then he had stood up, and he had came around
9 the corner. And him and Jimmy were talking about it, and
10 he had walked back around there, and that was when they
11 were still talking. But that was at the time when Mr.
12 Goodman had tell him, man, that's dead. That stuff dead.

13 Q. Okay. So, when he -- he got up to start talking to,
14 to Jimmy. Is that right?

15 A. Yes, sir.

16 Q. He's sitting down, but he got up to start talking to
17 Jimmy is what you're saying?

18 A. Yes, sir.

19 Q. And he never sat back down after that?

20 A. No, sir.

21 Q. Okay. He stayed up talking to Jimmy, and then the
22 entire time you say he was arguing with Mr. Goodman, he was
23 still standing up?

24 A. Yes, sir.

25 Q. Is that right?

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. Yes, sir.

2 Q. Okay, and he actually got up and walked around a
3 corner to come in and talk to Jimmy?

4 A. That's not a ---

5 Q. Is that right or wrong?

6 A. Not completely around the corner. It's like a
7 doorway.

8 Q. Okay.

9 A. That leads in to the den area.

10 Q. All right, but he had been sitting in another area of
11 the house, and he got up and came in to this living room
12 area where you were, right?

13 A. He was in the -- no, he was in the doorway.

14 Q. Came in to the doorway, but he got up and came to the
15 doorway and started talking with Jimmy?

16 A. Yes, sir.

17 Q. Okay, and he stood up the whole time, and then he
18 started talking to Mr. Goodman, right?

19 A. Yes, sir.

20 Q. Okay.

21 A. Him and Mr. Goodman started arguing.

22 Q. All right, they started arguing, whatever. Now, did
23 the deceased ever move towards either Jimmy or Mr. Goodman?

24 A. No, sir. He was, he was standing at the corner of the
25 table, and they was talking. Well, arguing, and he had the

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 control in his hand for the game.

2 Q. Okay.

3 A. And that was whenever Mr. Goodman had cocked the gun
4 and he was, like, nigger, I'll kill you. And he was, like,
5 that was when Jaron was, like, nigger, you walking up on me
6 with that pistol in your hand? And next thing I know, Mr.
7 Goodman was, like, get loud with me again. And Jaron was,
8 like, you're right, and then there was the pop.

9 Q. Okay. Now, did you see the gun fired?

10 A. Yes, sir.

11 Q. All right. How far away was the gun from the deceased
12 when it went off?

13 A. Point blank.

14 Q. Now, point blank, you mean 1 foot, 2 feet, 6 feet,
15 what?

16 A. I mean, he standing directly in front of him face to
17 face and put the gun to his head.

18 Q. Okay. So, it may have been an inch or 2 from his
19 actual head, right?

20 A. No.

21 Q. Okay. I thought you said he put the gun to his head.

22 A. Yeah.

23 Q. Demonstrate.

24 A. When I say put the gun to his head, I mean put the gun
25 to his head.

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. Okay. So, it was touching him?

2 A. Yes.

3 Q. Okay. So, it actually got up to here, and it was
4 actually touching him there, right?

5 A. It was at his ear.

6 Q. It was at his ear?

7 A. Yes.

8 Q. Okay, and it was either touching his ear or an inch or
9 two away, but it was right there, or do you think it was
10 touching?

11 A. If anything, away from his ear. It was more -- it was
12 no more than a couple millimeters.

13 Q. Okay. All right. Okay. All right. Now, how far
14 were you from all this?

15 A. I was standing around in front of the china cabinet.

16 Q. How far away from the two guys were you?

17 A. As far as from where I am to, to...

18 Q. This lady here?

19 A. Yes, sir.

20 Q. Okay. Now, what, what was your reaction to this?
21 What did you do?

22 A. When it first happened, when I heard the shot, I stood
23 there. And I looked and I was thinking, okay, well --
24 Jaron told me that was his cousin. So, I mean, thinking
25 okay. Well, maybe he just fired the gun beside his head

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 and he thought he got hit. But then when I see he didn't
2 move and I heard the screen door close behind me, and I
3 turned around and I saw that Jamar was gone, I ran.

4 Q. Okay. Let me ask you this. What did you do before
5 all of this when they were arguing? What did you do?

6 A. I was saying -- me and P.I. was sitting there telling
7 them, you know, y'all boys chill out. Y'all chill out.
8 But it's like, it was such a heated argument, nobody was
9 paying nobody attention.

10 Q. Okay. Nobody ever got up to go over and break this
11 up?

12 A. Yes. Jamar was sitting over on the speaker box right
13 beside the table, and Jamar had tried to knock the gun. He
14 had tried to knock the gun down, but it was too late.

15 Q. Okay. All right, but you did see a gun on the floor.
16 Now, did the gun on the floor look anything like the .9
17 millimeter that the deceased carried?

18 A. No, sir.

19 Q. Didn't look anything like it?

20 A. No, sir.

21 Q. Completely different gun, right?

22 A. Yes, sir.

23 Q. Okay, and you don't know where that gun came from?

24 A. No, sir.

25 Q. You didn't see that gun before the argument, but you

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 saw it after the gunshot? Or, or, or did you see it before
2 the gun was fired?

3 A. I saw it before the gun was fired.

4 Q. How long before the gun was fired did you see it?

5 A. Not long before the gun was fired. Right at -- like I
6 said, right after him and Jaron and Jimmy were finished
7 talking, when Jaron started to walk back around there from
8 the doorway, and then him and Dewey had started arguing
9 when I was looking for more, but Jimmy -- swinging my head
10 back round to where they were, I saw the gun on the floor
11 out the corner of my eye. And I looked back at it when I
12 started paying back attention to them.

13 Q. Okay. All right. So, but the gun wasn't, the gun
14 wasn't -- the gun was not there before the deceased and
15 Jimmy started arguing, right, or started talking?

16 A. It's a possibility, but I didn't see it.

17 Q. You didn't see it, but you see it there after Jimmy
18 and the deceased finished talking and before the defendant
19 and the deceased started arguing, as you said?

20 A. Yes, sir.

21 Q. Is that right? Okay, you did see it there?

22 A. Yes, sir.

23 Q. You saying it was just out there on the floor open?

24 A. Yes, sir. It was just sitting on the floor beside the
25 table.

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. Beside the table, but you wouldn't have missed it
2 before, would you?

3 A. I wasn't paying attention. I wasn't looking for it.

4 Q. Well, you weren't looking for it, but you saw it the
5 next time, right? You saw it at that point?

6 A. Yes, sir.

7 Q. Okay. All right. Okay. Now, had you been drinking
8 on this day?

9 A. No, sir.

10 Q. Hadn't, hadn't had anything to drink that day?

11 A. No, sir.

12 Q. Now after all this happened, did you stay around and
13 tell law enforcement what happened?

14 A. No, sir. I, I went home back to the beach, and I
15 talked to the -- when the detective called me the next day.
16 He asked me if I would come down to the station to give
17 them my statement. I told him that I would, and that
18 Monday I went down there to give them my statement.

19 Q. Okay. Well, now what is your relationship to Jimmy?
20 How you know him?

21 A. I met Jimmy maybe two times, the two times that I went
22 down there.

23 Q. Okay, and how do you know Frederick?

24 A. That's Jaron's cousin.

25 Q. Well, how else do you know him?

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. That's how I know him is that's Jaron's cousin.

2 Q. And how many times have you met him?

3 A. A few. We went out to the club a couple times with
4 Jaron.

5 Q. Okay. You ever -- how many times you been to that
6 house, to his house?

7 A. Twice.

8 Q. Been there twice?

9 A. Yes, sir.

10 Q. Okay. Now, how well do you know his girlfriend?

11 A. I don't.

12 Q. You called her Shannon before, didn't you?

13 A. Yes, sir.

14 Q. Okay. Well, not his girlfriend, but you know -- you,
15 you knew her well enough to call her by her first name. Is
16 that ---

17 A. I know her by name because all us were in the room the
18 other day, and they called everyone's name.

19 Q. Shannon. Okay. All right. Okay. All right. Now,
20 do you have a criminal record?

21 A. Yes, sir.

22 Q. And what is that?

23 A. Lewd act on a minor.

24 Q. When was that?

25 A. In '99.

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. '99, and you're?

2 A. Twenty-five.

3 Q. Eight or nine years ago, what were you, sixteen or
4 seventeen then?

5 A. Sixteen.

6 Q. You were sixteen at that time, okay, and where all
7 other than Ryan's have you worked?

8 THE COURT: Ladies, before we proceed forward, ladies
9 and gentlemen of the jury, a person who has a past criminal
10 record is competent to testify during a trial. Past record
11 does not affect the ability of that witness to testify.
12 Past record may only be considered by you, if at all, in
13 determining the witness's believability. Remember you are
14 the sole judges of the facts in the case and the
15 believability of any and all witnesses.

16 Mr. Legrand.

17 BY MR. CARRAWAY:

18 Q. Where, where all did you work at? When you left high
19 school, how old were you?

20 A. I was sixteen.

21 Q. All right. So, that's about nine years ago?

22 A. Yes, sir.

23 Q. All right, and where all have you worked outside of
24 Ryan's since then?

25 A. I've worked at Bojangle's, Zaxby's, Pizza Inn, Sonic

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Drive-In, Wendy's.

2 Q. But before this thing happened back in May, you hadn't
3 worked for a year and half. Is that right?

4 A. Yes, sir.

5 Q. Is that what you testified to? All right, and where
6 have you been working since then?

7 A. Since then, I haven't.

8 Q. Okay. Well, that's close to another year. So, it's
9 about two and a half years you hadn't worked?

10 A. Your Honor.

11 Q. All right. Okay. Who did, who did you -- who, who
12 was driving when y'all came over?

13 A. Jaron.

14 Q. Jaron, okay, and what was it -- what did y'all come
15 over in? What kind of car?

16 A. A Toyota Avalon.

17 Q. Toyota Avalon, okay, and what year is that Avalon?

18 A. A '08.

19 Q. '08 Avalon, okay. Was it his car or somebody else's
20 car?

21 A. It was a rental.

22 Q. Rental car, okay. What other car did you have other
23 than that Cadillac you were buying?

24 A. I didn't.

25 Q. Oh, you didn't have anything?

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. No, sir.

2 Q. Okay. You rent cars, too?

3 A. My girlfriend was going out of town for a week, so she
4 had rented the car for me and Jaron to get around so that I
5 wouldn't have to sit in ---

6 Q. Did Beez have a car or not?

7 A. --- the house all, yes, sir.

8 Q. What kind of car did he have?

9 A. It was a, I think it was a '85, '85 Cutlass.

10 Q. '86, '85 Cutlass, okay.

11 MR. CARRAWAY: Court's indulgence.

12 (COUNSELOR CONFERS WITH DEFENDANT.)

13 BY MR. CARRAWAY:

14 Q. Now after this, all of y'all just get in the car and
15 go back to Myrtle Beach?

16 A. No, sir.

17 Q. What did you do?

18 A. I called my girlfriend to come get me.

19 Q. And where was she?

20 A. She was in Socastee.

21 Q. Socastee, okay. Any reason why y'all just didn't get
22 in the car and go back to the beach that you came in?

23 A. Well, like I said, whenever I noticed that Jamar was
24 gone, I ran out the door, and we ran up the road. I mean,
25 I wasn't gonna turn around and go back to the house not

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 knowing if he was still there, and I know that he had a gun
2 in his hand when I ran out the door.

3 Q. So, where'd your girlfriend come and pick you up?

4 A. Right there at, at Harry's.

5 Q. Oh, at Harry's place, okay. So, you ran down the
6 road, and you didn't come back get the car. You know they
7 just left the car, left the Avalon at the house?

8 A. Yes, sir.

9 Q. Okay. How long had you been at the house when this
10 happened?

11 A. We hadn't been there long. We probably had been there
12 maybe between seven and ten minutes.

13 Q. Okay. What condition was the house in when you were
14 there?

15 A. It was fine whenever we, we got there.

16 Q. How much of the house did you see?

17 A. Just the living room and the den area.

18 Q. Okay, any bedrooms open or anything like that? Did
19 you ever ---

20 A. I didn't go on in.

21 Q. Did you ever walk past a bedroom?

22 A. No, sir.

23 Q. But the living room and the den were in good shape?

24 A. Yes, sir.

25 Q. Everything was in place and all, right?

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. Yes, sir.

2 Q. Okay. How long it take for you, for your girlfriend
3 to get there? She came from Socastee. What was that, an
4 hour and a half?

5 A. About a -- yeah, close to cut an hour and a half.
6 Hour and fifteen, hour and a half.

7 Q. Okay. Had you ever -- who, who were you at Harry
8 Hill's with?

9 A. One of Jamar's cousins.

10 Q. Is that somebody that was with y'all?

11 A. No, sir.

12 Q. At the house, or you, you, you ran in to somebody
13 there?

14 A. I ran in to him up there.

15 Q. Just ran in to him. Did you call him on the phone or
16 not?

17 A. No. My, my phone didn't have service down there.

18 Q. You don't have service down there? Well, how, how did
19 you call your girlfriend? Used somebody else's phone?

20 A. I used Harry's phone.

21 Q. You used Harry's phone, okay. How far is Harry's from
22 this?

23 A. Like, right around the corner.

24 Q. Okay. All right. So, you went to Harry's, called
25 your girlfriend to come pick you up?

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. Yes, sir.

2 Q. All right. What did you do for the next hour and a
3 half? Tell ---

4 A. I sat up there.

5 Q. Pardon?

6 A. I sat up there at Harry's crying because I just seen
7 my homeboy get shot right in front of me.

8 Q. Okay. Did anybody else from the house go to Harry's?

9 A. Just me and Jamar.

10 Q. You and Jamar, okay and what did Jamar do? Did he
11 stay and go back with you when your girlfriend came or
12 what?

13 A. Nah. He paid someone to take him home.

14 Q. Excuse me?

15 A. He paid someone to take him home.

16 Q. He paid someone to take him home, and where did he
17 live? At the beach?

18 A. Yes, sir.

19 Q. How far did he live from you at the beach?

20 A. Like I said, I stay across the bridge. He stay close
21 to Jaron.

22 Q. Okay. You didn't think just to go with him?

23 A. My brother was still down. I wasn't leaving without
24 my brother.

25 Q. Your brother was still out there. Do you know he --

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 where was he?

2 A. Far as I knew, he was still at the house.

3 Q. Okay. Well, did, did you ever -- did you see him
4 again that night?

5 A. Yes, sir.

6 Q. Where? Where did you see him? In Kingstree or back
7 at the beach?

8 A. He came up. Someone dropped him off up at Harry's.

9 Q. Excuse me?

10 A. Someone dropped him off at Harry's.

11 Q. Okay, somebody dropped him off up there. All right,
12 but other than your brother and Jamar, you didn't see
13 anybody from the house at Harry's?

14 A. No, sir.

15 Q. Okay. Now, when you were calling your girlfriend and
16 doing all of that, did you think about calling the police,
17 sheriff's department?

18 A. The police were already on their way down there. The
19 police rolled right past me.

20 Q. They were already down there?

21 A. And they didn't show up until, what, about maybe
22 thirty, about thirty minutes after it done happened.

23 Q. Well, tell me what you told the police when you walked
24 back down to the house.

25 A. I didn't go back down to the house.

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. Why didn't you?

2 A. I mean, at the time I wasn't even in a state to even
3 talk to anyone. I didn't really want to see nobody. I
4 just wanted to be by myself.

5 Q. Well, I mean, somebody killed your best friend, or
6 whatever, and you're up there. Wouldn't you want somebody
7 to know about it?

8 A. And I did go and talk to them the next day. Whenever
9 the officer, the detective called me, I talked to him then.

10 Q. They called you then, but I'm talking about that
11 night. Why didn't you go back down there and tell them
12 what happened?

13 A. I'm not sure.

14 Q. You're not sure? Okay. Well, did your brother walk
15 back down there and talk to them?

16 A. No, sir.

17 Q. All right. Did Jamar go back down there and talk to
18 them?

19 A. No, sir.

20 Q. All right, and all of y'all are friends of the
21 deceased from the beach. Isn't that right?

22 A. Yes, sir.

23 Q. Okay. None of you went back down to the house to tell
24 what happened?

25 A. No, sir.

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. None of you? Okay. Did you spend any time at the
2 house cleaning everything and getting all -- getting
3 everything out of the drawers and doing all of that and ---

4 A. I was the ---

5 Q. --- ransacking the whole place?

6 A. --- second person out the house, sir.

7 Q. Pardon?

8 A. I was the second person out the house. Everyone else
9 was still in the house when I left.

10 Q. I know. Everybody else was still in the house. You
11 were the second person out, okay. I'm still asking did you
12 go back down and help all these guys?

13 A. No, sir.

14 Q. All right, you never went back to the house, and none
15 of you boys from the beach walked back there, but y'all
16 knew the cops were at the house, didn't you?

17 A. Yes, sir. The cops passed by while I was at Harry's.

18 Q. All right, and you don't know whether there was
19 anybody else at the house because you left, and you don't
20 know whether anybody else left after you did?

21 A. No, sir.

22 Q. You don't know whether there was anybody at the house
23 telling the cops what happened, do you?

24 A. No, sir.

25 Q. All right, but you were just going to leave and go

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 back to the beach and weren't going to say anything about
2 it, were you?

3 A. No, sir. I was coming back to come talk to them. I'm
4 not gonna let ---

5 Q. Oh, you were coming back?

6 A. I wasn't gonna just let my friend get killed like that
7 and not do nothing about it.

8 Q. Okay, but of course that's exactly what you did that
9 night is you didn't do anything about it, did you? Isn't
10 that right?

11 A. What more could I have done besides tell them the same
12 thing I told them that Monday?

13 Q. Well, why you -- wouldn't they have a better chance of
14 catching somebody if you'd told them that night?

15 A. It's a possibility.

16 Q. All right. Okay, but you didn't do that. As a matter
17 of fact, you never called them. They called you, didn't
18 they?

19 A. He called me the next morning and woke me up.

20 Q. They called you. You didn't call them. They called
21 you. Isn't that right?

22 A. That's right.

23 Q. All right. You hadn't said anything to anybody.

24 A. I talked to Jaron's baby's mother.

25 Q. Now, you didn't talk to law enforcement, though, did

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 you?

2 A. No, sir.

3 Q. All right. So, you say you weren't going to do
4 anything. So, you say that you, that -- don't think I'm
5 going to do anything after I saw all this and everything.
6 But, as a matter of fact, that's exactly what you did is
7 nothing, isn't it?

8 A. In your eyes.

9 Q. Well, you didn't tell anybody. You didn't call or do
10 anything. They had to call you. Isn't that right? You
11 were there for an hour and a half, weren't you?

12 MS. BARR: Objection. Asked, asked and answered.

13 A. Regardless of the fact ---

14 THE COURT: I'll allow ---

15 A. I still, I still ---

16 THE COURT: I'll allow him to ask, I'll allow him to
17 ask the question.

18 Go ahead, Mr. Carraway. Repeat your question.

19 BY MR. CARRAWAY:

20 Q. Go ahead.

21 A. Regardless of the facts, I still told them everything
22 that I seen and everything that I knew. I never once
23 hesitated when they called me, ask me a question, not once
24 when they asked me to come down, not once when they
25 subpoenaed me to come here. They didn't even have to

M. PHILLIPS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 subpoena me. I was going to be here regardless.

2 Q. And -- but that night, you didn't do anything that
3 night. You didn't even ---

4 A. No, sir, I didn't.

5 Q. --- tell them anything.

6 A. No, sir, I didn't.

7 Q. And none of you told them anything, right?

8 A. No, sir, we didn't.

9 Q. All right. Okay, and that's when you have a better
10 chance of catching whoever did this. Isn't that right?
11 Wouldn't you agree?

12 A. It's a possibility.

13 Q. All right, possibility, but you did nothing. Isn't
14 that right, and you were there just around the block for an
15 hour and a half when you knew the law enforcement was in
16 the house, weren't you?

17 A. Yes, sir.

18 Q. All right. You could have walked right around and
19 done that. Isn't that right?

20 A. Well, that's right, sir.

21 Q. Is that right?

22 A. Yes, sir.

23 MR. CARRAWAY: Court's indulgence..

24 (COUNSEL CONFERS WITH DEFENDANT.)

25 MR. CARRAWAY: I don't have any further questions of

M. PHILLIPS - REDIRECT EXAMINATION BY MS. BARR

158

1 Mr. Phillips.

2 THE COURT: Any redirect, Ms. Barr?

3 MS. BARR: Please, Your Honor.

4 REDIRECT EXAMINATION BY MS. BARR:

5 Q. Milton, when you were sitting there at Harry Hill's,
6 Harry's for an hour and a half, you said you were doing
7 what that whole time?

8 A. Crying.

9 Q. Crying about the loss of your friend?

10 A. Yes, ma'am.

11 Q. Now, at the time you were sitting at Harry's and you
12 were waiting for your friend to come pick you up, did you
13 know whether or not this guy got caught?

14 A. No, ma'am.

15 Q. Did you know whether or not he was in custody?

16 A. No, ma'am.

17 Q. Didn't have any idea where he was?

18 A. No, ma'am.

19 Q. Did it surprise you when he shot your friend right
20 there in front of everybody?

21 A. Yes, ma'am.

22 Q. Did you have any concern at that time for your own
23 personal safety?

24 A. Yes, ma'am.

25 Q. Now, you said that you were the second one out the

M. PHILLIPS - REDIRECT EXAMINATION BY MS. BARR

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1 house?

2 A. Yes, ma'am.

3 Q. Who was the first one?

4 A. Jamar.

5 Q. And does Jamar have a nickname?

6 A. Pipsqueak.

7 Q. Pipsqueak. Pipsqueak was the first one out the house.
8 Is that right?

9 A. Yes, ma'am.

10 Q. Okay. You said that you went down to Myrtle Beach,
11 and you talked to Jaron's baby's mother. Is that right?

12 A. Yes, ma'am.

13 Q. Is that Latonya Walker?

14 A. Yes, ma'am.

15 Q. When did you talk with her? Was it that same night or
16 the next day?

17 A. Yes, ma'am, the same night.

18 Q. You told her what happened?

19 A. Yes, ma'am.

20 Q. Told her what you saw?

21 A. Yes, ma'am.

22 Q. Now, you mentioned on cross-examination about the
23 distance that Mr. Goodman was from your friend when he shot
24 him in the head. You talked about that.

25 A. Yes, ma'am.

M. PHILLIPS - REDIRECT EXAMINATION BY MS. BARR

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1 Q. You described it as being point blank?

2 A. Yes, ma'am.

3 Q. And you demonstrated how did -- tell me. How did the
4 defendant shoot Jaron?

5 A. He just, he was, like -- they were separated for maybe
6 about a foot, foot and a half, maybe 2 feet. And he just
7 stepped in to him and just point the gun to his head and
8 pulled the trigger.

9 Q. Did he say anything before he pulled that trigger?

10 A. No, ma'am.

11 (PHOTOGRAPH MARKED AS STATE'S EXHIBIT NUMBER 28 FOR
12 IDENTIFICATION.)

13 (PHOTOGRAPH MARKED AS STATE'S EXHIBIT NUMBER 29 FOR
14 IDENTIFICATION.)

15 BY MS. BARR:

16 Q. Going to hand you what's been marked for
17 identification purposes only as State's Exhibits Number 28
18 and 29. Do you recognize what's depicted in those
19 photographs?

20 A. That's my friend Jaron.

21 Q. What does it show of your friend, Jaron?

22 A. The blood around his head, coming out of his ear.

23 Q. Is that where he was shot, in his ear?

24 A. Yes, ma'am.

25 MS. BARR: Your Honor, we would move State's Exhibits

M. PHILLIPS - REDIRECT EXAMINATION BY MS. BARR

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1 28 and 29 into evidence.

2 MR. CARRAWAY: Without objection.

3 THE COURT: State's Exhibits 28 and 29 are in to
4 evidence without objection.

5 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
6 NUMBER 28.)

7 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
8 NUMBER 29.)

9 BY MS. BARR:

10 Q. Sir, you mentioned that you had met Jimmy on a couple
11 of occasions before the shooting, right?

12 A. Yes, ma'am.

13 Q. Are you okay? How many times had you met Dewey before
14 the shooting?

15 A. That was the second time I had met Dewey.

16 Q. When you ran out the house after your friend was
17 killed, did you ever come back in that house?

18 A. No, ma'am.

19 MS. BARR: Your Honor, we would move to publish
20 State's Exhibits 28 and 29 at this time.

21 THE COURT: You may do so.

22 (A PAUSE.)

23 MS. BARR: Milton, that's all the questions I have.
24 Thank you, sir.

25 THE COURT: You may step down.

1 (THE WITNESS EXITS THE STAND.)

2 THE COURT: Ms. Barr, you may call your next witness.

3 MR. SABB: If Your Honor please, the next witness is
4 Thermaine Gourdine, Thermaine Gourdine.

5 MS. BARR: I'll go get him, Judge. I think he's on
6 the second floor.

7 MR. SABB: Judge, we would request that the witness
8 that just stepped down be excused.

9 THE COURT: All right, he is free to leave at this
10 time. Is there any objection from defense?

11 MR. CARRAWAY: None, Your Honor. None, Your Honor.

12 (A PAUSE.)

13 THE COURT: Mr. Gourdine, I'm going to ask you to come
14 forward, stand in front of the clerk and place your left
15 hand on the Bible and raise your right hand as the clerk
16 administers the oath. Left hand on the Bible, raise your
17 right hand as the clerk administers the oath.

18 THERMAINE JAMAR GOURDINE, BEING
19 DULY SWORN, TESTIFIES AS FOLLOWS:

20 THE COURT: Mr. Gourdine, I'm going to ask you to have
21 a seat in the witness chair, ask that you pull up close to
22 the microphone.

23 WITNESS: Yes, sir.

24 THE COURT: Speak loudly, clearly, and slowly so
25 everybody can hear what you've got to say. Mr. Gourdine,

T. GOURDINE - DIRECT EXAMINATION BY MR. SABB

163.

1 state your full name.

2 WITNESS: My name's Thermaine Jamar Gourdine.

3 THE COURT: Very good. Say that one more time.

4 WITNESS: Thermaine Jamar Gourdine.

5 THE COURT: All right, very good.

6 MR. SABB: Your Honor please?

7 DIRECT EXAMINATION BY MR. SABB:

8 Q. You are Thermaine Jamar Gourdine?

9 A. Yes, sir.

10 Q. All right, and what do your friends call you?

11 A. Jamar.

12 Q. Okay. Now, there's another friend of yours whose real
13 name is Jamar?

14 A. Yes, sir.

15 Q. Okay, but that Jamar has a different nickname?

16 A. Yes, sir.

17 Q. All right, what's his nickname?

18 A. I don't even remember.

19 Q. All right, is that the Pipsqueak one that ---

20 A. The Pipsqueak. I think that's it, the Pipsqueak.

21 Q. All right, Pipsqueak. All right, so we just want to
22 make sure we keep the Pipsqueak Jamar separate from the
23 Thermaine Jamar, okay, but you're Jamar, and that's what
24 your friends call you, right?

25 A. Yes, sir.

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1 Q. Now, how old are you?

2 A. Twenty-one.

3 Q. And you live here?

4 A. Blakely.

5 Q. Okay.

6 A. Blakely Road.

7 Q. All right, and the house that this incident occurred
8 in, whose house is it?

9 A. That's my auntie house.

10 Q. Okay. What's your auntie's name that actually owns
11 that house?

12 A. Libby Frazier.

13 Q. Okay. Now, what relation is Libby Frazier to
14 Frederick?

15 A. That's his auntie.

16 Q. Okay. So, you and Frederick have the same aunt?

17 A. Uh-huh.

18 Q. Got to say yes or no because the court reporter ---

19 A. Yes, sir.

20 Q. All right, and so you all are first cousins?

21 A. Yes, sir.

22 Q. All right. Now, did you know Jaron, the one they call
23 Beez?

24 A. Yeah. Yeah. Yes, sir.

25 Q. Now, how, how is it that you knew Beez before this

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1 incident in July of last year?

2 A. I knew him for a long time. And then, you know, like
3 I said, my grandma told us we was kin by his pops, you
4 know. That's, like, second cousin, something like that.

5 Q. All right. So, you're related to Beez?

6 A. Yeah.

7 Q. All right. Now, do you know this defendant that's
8 over at the table by Mr. Carraway?

9 A. Yes, sir.

10 Q. Now, how is it that you know him?

11 A. Well, I known him. Just, you know, when I was young
12 coming up, I used to hear about him and stuff, you know.

13 Q. You've known him for a while also?

14 A. Yeah.

15 Q. All right. Now, is it your understanding that he's
16 also one of your cousins?

17 A. Well, is stepdad, like, kin to my -- his stepdad kin
18 to my granddaddy.

19 Q. All right.

20 A. From Wallace there.

21 Q. Okay, but essentially you guys ---

22 A. Yeah, we were.

23 Q. --- grew up in one of the neighborhoods where it's
24 almost one of those where it's all us cousins?

25 A. Yes, sir.

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1 Q. Okay, and when Beez and some of the other guys arrived
2 over at -- we'll call it Frederick's house because that's
3 what we've been calling it earlier. I understand that your
4 aunt's actually the owner, but we'll call it Frederick's
5 house for right now, okay?

6 A. Yes, sir.

7 Q. When they arrived over at Frederick's, where were you?

8 A. I just walked from my house to over there.

9 Q. All right, and is house that you live in what we call
10 a rock-throwing distance from the house ---

11 A. Yes, sir.

12 Q. --- we're talking about?

13 A. Yeah.

14 Q. And you saw when they arrived?

15 A. Yes, sir.

16 Q. Okay, and it's my understanding that you then went
17 over to the house after they got there?

18 A. Yes, sir.

19 Q. Now, when you got there, was this gentleman there
20 already, Mr. Goodman? Was he there when you arrived, Mr.
21 Goodman?

22 A. No, sir.

23 Q. He came up shortly after you had gotten there?

24 A. Yes, sir.

25 Q. All right, and when you went in, did you speak to

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1 everybody? Kind of tell us what you did.

2 A. Just speak, you know. Sat down. Just, you know, just
3 talking, you know.

4 Q. Okay. Did there come a point in time where Mr.
5 Goodman and Jimmy arrived?

6 A. Yes, ma'am.

7 Q. Okay, and when they came in was, I mean, was
8 everything still cool and everybody ---

9 A. Yeah.

10 Q. --- still talking and everything?

11 A. Yes. Yes, sir.

12 Q. Did there come a point in time where Beez, the young
13 man who's now deceased, and Jimmy started having some
14 words?

15 A. Yes, sir.

16 Q. Okay. Can you just kind of tell the jurors about what
17 happened? Not asking you to just remember who said what to
18 who, but just kind of describe in your own words to us what
19 happened.

20 A. Well, for one it was, like, just, like -- like I said,
21 they were sitting down. And then Jimmy, he must have heard
22 when Jimmy was talking. Then he asked Jimmy, like, what I
23 done heard that you slapped Toot with a bottle in his face?
24 Then Jimmy just, like, well, he was disrespecting me, you
25 know? And the whole time, I was just -- already know where

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1 it was going to. I was, like, y'all just chill out over
2 there. Just go ahead and, you know, let that go. But then
3 it was, like, nobody didn't want, didn't, you know ---

4 Q. No one would listen to you?

5 A. --- leave it alone.

6 Q. All right. What happened next?

7 A. Then after that, everything was just getting loud and
8 stuff, you know? Beev was up talking, fussing, you know?
9 Then, you know, Dewey came in. He just said, you know,
10 have some respect and chill out. But then, you know, Beev
11 just, Beev just got down. He just, you know, like I'm
12 tired of these -- Dewey was trying to get over and stuff.

13 And, you know, I was, like, man, you know? Toot got
14 hit in the face with a bottle about a week ago by a dude
15 name Maurice, by Maurice. I mean, you know, just, you
16 know, that ain't even -- let it go.

17 And, you know, therefore they just, you know, it was
18 like just have some respect for the house. Then, you know,
19 dude, Beev got like, well, I'm tired you being there, try
20 to get over. I'm'll put one -- I'm'll put y'all in y'all
21 place, you know?

22 I was, like, chill out, you know, because it ain't
23 even like that. The next thing you know, they just was
24 arguing. Beev -- I mean, Dewey came in, you know, have
25 some respect for the house, you know? Just, like, chill

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1 out. And Beev, like, no, no. Each of them wouldn't let it
2 go. They locked up a little bit. They got in to it. I
3 broked it up. I almost got hit breaking it up. They broke
4 it up, and then it was just, Beev was backing up.

5 Somewhat, some -- I can't quite remember what Beev had
6 said or what Dewey had said, but sparked it back over.

7 And, you know, that's when they then -- like, I was about
8 to get up, you know, and that's when the gun just flew out.
9 Nigger, I'll kill you. Just bam, he shot him.

10 Q. All right, let's just back up for a minute. There was
11 some arguing back and forth?

12 A. Yes, sir.

13 Q. You tried to bring peace ---

14 A. Yeah.

15 Q. --- to that argument?

16 A. Yeah, because the whole time I was really, like, just,
17 you know, leave it alone. Don't even -- don't let that be
18 no thing, you know? Don't mess with none of that out
19 there, man. Just leave it alone.

20 Q. For a brief moment, there was a little peace?

21 A. Yes, sir.

22 Q. Then somebody said something to spark it back?

23 A. Yeah, spark it back up.

24 Q. All right, and at the point when it sparked back up,
25 where was the first time you saw this defendant pull the

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1 gun?

2 A. Like I was saying, I was sitting down right there, so.
3 I done, you know, jumped up and then tried to stop them
4 from, you know -- when he had pushed Beev, he, like, then
5 he pulled a punch on him. And that's when Beev then, you
6 know, like, backed up. Then after that, he just went
7 grabbing for the pistol, you know, and that's when Beev
8 tried to, like, you know, duck it. But then that's when I,
9 like, got up. But, you know, at least try to, you know,
10 push Dewey down. But it was just -- I couldn't -- I just
11 wasn't fast enough.

12 Q. Dewey had already shot Beez?

13 A. He already had shot him.

14 THE COURT: Counsel, approach the bench.

15 (OFF-THE-RECORD BENCH CONFERENCE.)

16 MR. SABB: Your Honor, I'd like permission for this
17 witness to come down off the witness stand.

18 THE COURT: Yes, you may do so.

19 BY MR. SABB:

20 Q. Young man, it's going to be important that you keep
21 your voice up. You and I are in close proximity to each
22 other, but it's important that the court reporter and the
23 judge and these lawyers in the back hear what we're talking
24 about as I ask you some questions, okay?

25 A. Uh-huh.

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1 Q. Now, I've got two photographs in my hand, and you're
2 going to have to say yes or no as opposed to uh-huh, uh-uh
3 because it makes it easier for the court reporter when you
4 talk yes or no, okay?

5 A. Yes, sir.

6 Q. All right. Now, I've got my hand what's in evidence
7 as State's Exhibits 25 and 26. Now, what I want to do
8 since the photographs are small is we're going to talk to
9 these folks on the jury first, and I'll ask you a few
10 questions, and then we'll move down, and we'll talk to
11 these folks so that everybody can see what we're talking
12 about, okay?

13 A. Yes, sir.

14 Q. All right. This is State's Exhibit Number 26. I need
15 you to point to the ladies and gentlemen of the jury where
16 you were while this was going on.

17 A. I was sitting on this speaker box right there.

18 Q. That's the little black ---

19 A. Yeah.

20 Q. --- thing that's right beside the table with the blue
21 cloth on it?

22 A. Yes, sir.

23 Q. That's where you were sitting?

24 A. Yes, sir.

25 Q. Now, where was this argument between the defendant,

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1 Mr. Goodman, and the victim, Breeze [sic], in this case?

2 Where were they standing at the time they were arguing?

3 A. Beev was, like, sitting over in the dining -- like, in
4 the little den over there. And Dewey was sitting right
5 there, like, where that tile at right there between that
6 little hallway right there.

7 Q. Yeah, but that's earlier when they were sitting.

8 A. Yeah, they were.

9 Q. I need you to address the issue of where they were at
10 the time they standing and arguing.

11 A. They were right there where I said. The little --
12 right.

13 Q. All right, right there beside the table?

14 A. Yes.

15 THE COURT: We're having some difficulty hearing.
16 What you're going to have to do, Mr. Gourdine, is you're
17 going to have to look towards Mr. Sabb, not towards the
18 walls, so she can hear what you've got to say. It's a big,
19 cavernous room.

20 WITNESS: Yes, sir.

21 THE COURT: And your voice tails off. So, you need to
22 speak loud.

23 WITNESS: All right.

24 MR. SABB: You've got to kind of do the way that I'm
25 doing. Notice how loud I'm talking? I'm not trying to

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1 yell at you, but you have to keep your voice up like that.

2 WITNESS: Yes. Yes.

3 BY MR. SABB:

4 Q. All right. So, that's where he was when the argument
5 and everything was going on?

6 A. Yes, sir. Yes, sir.

7 Q. All right, and you saw when the defendant shot him?

8 A. Yeah.

9 Q. Okay, and I want to hand -- well, I'm going to hold up
10 now what's in evidence as State's Exhibit Number 25. You
11 see where the body of Beez is?

12 A. Yes, sir.

13 Q. Okay, and the table that's in there, is that the table
14 that they were standing up beside?

15 A. Yes, sir.

16 Q. All right, and you can barely see, but down by the
17 fan, came you see the speaker from that angle that you were
18 sitting on?

19 A. Yeah, I can see the speaker. The same speaker is
20 right here.

21 Q. And that's the same speaker that's shown in this
22 photograph from a different angle?

23 A. Yes, sir.

24 Q. Now I'm going to talk to jurors down here. Come down
25 this way, please.

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1 THE COURT: All right, Mr. Sabb, I'm going to let you
2 stay closest to the court reporter. Let him face the court
3 reporter.

4 MR. SABB: All right, sir. Thank you, Judge.

5 THE COURT: All right, speak up.

6 MR. SABB: Got to turn around a little bit.

7 WITNESS: Yeah, like this?

8 MR. SABB: And kind of talk this way.

9 THE COURT: Talk towards Mr. Ronnie.

10 WITNESS: All right.

11 BY MR. SABB:

12 Q. All right, now this is State's Exhibit Number 26 that
13 I have in my hand, and I want you to use this photograph
14 and show the ladies and gentlemen on this end of the jury
15 box where you were sitting.

16 A. I was sitting right down on the speaker right there.

17 Q. All right. Now point to them where this defendant,
18 Mr. Goodman, and the deceased, Beez, were standing up when
19 they were fussing.

20 A. They was right there, right there in the middle right
21 there. Right there, the chair.

22 THE COURT: All right, you need to keep your voice up,
23 and don't mumble.

24 BY MR. SABB:

25 A. Right there where the chair was at.

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1 Q. Good. Keep that pitch for me.

2 A. Yeah.

3 Q. Now, this is State's Exhibit Number 25.

4 A. Yes, sir.

5 Q. Can you point to the area in this photograph where you
6 were sitting? Do you see still see the little ---

7 A. Where the fan at right there where the speaker box,
8 you see, you just see the speaker box. It's a little bit
9 over there on the table.

10 Q. All right.

11 A. With the cloth on it.

12 Q. Okay, and do you see where Beez's body is resting?

13 A. Yes, sir.

14 Q. And is that where he fell after he was shot by this
15 defendant?

16 A. Yes. He backed up, backing, and, you know, he must
17 have saw Dewey was pulling a gun out. And then when I
18 spotted him, when I saw Dewey doing like that right there,
19 he must have done see Dewey pulling it out. He was trying,
20 like, duck for cover, you know, run for cover. And he just
21 jumped over, you know, and just shot him. The gun went off
22 in my face, right beside my face.

23 Q. All right, sir, if you would have a seat back up there
24 for me.

25 Where did Dewey shoot Beez at? What part of Beez's

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1 body did he shoot?

2 A. When the gun when off, what I did, when I turned my
3 head, I saw the bullet. He tried, like -- did like that,
4 and it, like, caught him in a way that made him twist, and
5 he fell back on his back.

6 MR. SABB: Court's indulgence.

7 (A PAUSE.)

8 BY MR. SABB:

9 Q. All right, sir, a few more questions. Now after this
10 happens, after Beez is shot, tell the ladies and gentlemen
11 in the jury what happens next.

12 A. Well, like I said, it happened so fast and I was,
13 like, shocked. I didn't, like -- I really didn't thought
14 he was dead, but deep down I knew he was dead because he
15 wasn't -- he didn't even move no more after that or
16 nothing. And I just looked at Dewey, and I looked at him
17 and all. Like, I'm just, you know, I'm wondering if he was
18 going to actually try to kill me, you know, next. So, he
19 didn't. I just got out. I ran. I ran.

20 Q. Okay. So, you didn't know what he was going to do
21 next?

22 A. No, sir.

23 Q. And he still had the gun in his hand?

24 A. Yeah.

25 Q. And when you ran, do you know whether or not anybody

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1 else was running before you or anything?

2 A. I want to -- I can't quite remember who that was in
3 front of me. But it was some other guys. We was running.
4 They was running.

5 Q. Did you see anybody in the room that was in the room
6 at the time of the shooting that didn't run?

7 A. Everybody got out there and ran.

8 Q. Everybody was running?

9 A. Yeah.

10 MR. SABB: I believe those are all the questions I
11 have at this time. Please answer Mr. Carraway's questions,
12 if you would.

13 THE COURT: Cross-examination, Mr. Carraway.

14 CROSS-EXAMINATION BY MR. CARRAWAY:

15 Q. Tell the jury about the gun that Beez had.

16 A. The gun?

17 Q. Yeah.

18 A. I mean, the gun? Like, the gun he shot?

19 Q. The gun Beez had.

20 A. Beez? I, I, I don't remember Beez having no gun. I
21 mean, did I?

22 Q. I gotcha. All right. Okay.

23 A. Did I?

24 Q. You don't remember telling law enforcement ---

25 A. Yeah, yeah, yeah.

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1 Q. Oh.

2 A. Yeah, yeah, yeah, yeah, yeah. I mean, it's -- I
3 can't, you know.

4 Q. I know. I know.

5 A. Anyway.

6 Q. I know. I got your transcript.

7 A. All right.

8 Q. Okay.

9 A. He had, like ---

10 Q. You didn't, you didn't see this in my hand?

11 A. Yeah, I seen it.

12 Q. When you gave that, when you gave that answer?

13 A. Yeah.

14 Q. Okay.

15 A. I -- the gun he had, it was, like...

16 Q. Okay.

17 A. It was a chrome gun.

18 Q. Okay.

19 A. I don't know what the make, model, what, what, what
20 name whatever it was. I know it was, like, a nickel-plated
21 gun. It was chrome.

22 Q. Well, this, all this came back to you just now? I
23 mean, just a second ago you said he didn't have a gun,
24 didn't you?

25 A. He had a gun but, you know, he didn't had it like

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1 where I was seeing it visually. I didn't never saw him,
2 like, had it out his pocket till after he, you know, he
3 fell.

4 Q. But, you know, you described it just now as a
5 nickel-plated gun, right?

6 A. Yeah.

7 Q. All right.

8 A. He didn't, like, had it the whole time. I'm pretty
9 sure if he had it the whole time, like, if he could have
10 got to it, I'm pretty sure it wouldn't have ended that way.

11 Q. Oh. Well.

12 A. So, you know.

13 Q. I thought you said he had it the whole time. You
14 don't remember telling them that?

15 A. It's old now.

16 Q. Ah.

17 A. Just know this. I know who killed the man.

18 Q. All right.

19 A. The man, the killer right there in your face, right
20 there beside you, that's who killed him.

21 Q. I know, but the deceased, you just told me, didn't
22 have a gun, didn't you?

23 A. Yes, I told you that, but I forget about everything.

24 Q. Oh, you forgot about that?

25 A. Yeah, I did.

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1 Q. Okay. Now you remember, though, don't you?

2 A. Yeah. Yeah.

3 Q. Okay, and you remember telling ---

4 A. I'm not gonna lie to you. Yeah, I, I remember now. I
5 remember now. I remember now.

6 Q. Okay. I know you're not going to lie to me, okay.

7 A. But your killer is right there.

8 Q. I know.

9 A. All right.

10 Q. Okay, but the defendant -- the deceased had a gun,
11 didn't he?

12 A. But Dewey know he killed Beev. We should -- we
13 shouldn't even be in here when he just know he did that.

14 Q. Okay, but the defendant ---

15 A. I mean ---

16 Q. --- had a gun, didn't he?

17 A. He handled the gun early. He had a gun on him.

18 Q. Tell the jury ---

19 A. I refuse, man. I mean, he handled the gun but it --
20 like, far as him, like, like...

21 Q. Well, when I first asked you that, he didn't have a
22 gun.

23 MR. SABB: Judge, I'm going to object to the asking
24 the question over and over and over again. That's been
25 established. Let's move on.

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1 THE COURT: All right, it is cross-examination. There
2 seems to be some vacillation. I'm going to allow him to
3 straighten it out, but we aren't going to go over and over
4 and over again.

5 MR. CARRAWAY: Yes, sir.

6 THE COURT: You can ask him the questions. We will
7 have some clarification.

8 BY MR. CARRAWAY:

9 Q. Now, you ran out of the house right after the man was
10 shot, right?

11 A. Yes, sir.

12 Q. Okay. You got out of there real quick?

13 A. Yeah.

14 Q. Okay, but you just -- you got a good look at the gun,
15 didn't you, the deceased had, didn't you?

16 A. I saw him had that gun earlier, though.

17 Q. I know.

18 A. He had it earlier.

19 Q. Okay.

20 A. He had it earlier.

21 Q. Okay.

22 A. Before that.

23 Q. All right. You told law enforcement he had this gun
24 during the argument with Dewey, didn't you?

25 A. Yeah, I did.

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1 Q. Okay. So, earlier wasn't that much earlier. They
2 weren't argue -- they didn't argue that long, did they?

3 A. No.

4 Q. Okay. It really wasn't that much earlier. When they
5 were arguing, the deceased had a gun, didn't he?

6 A. Did he had it? Yeah, he a gun. He had it on him. He
7 had it on it. He had it on.

8 Q. As a matter of fact, he had it out.

9 A. He had it out. He had it on him.

10 Q. He had it, he had it out on his lap, didn't he?

11 A. The gun? Yeah. The gun, yeah, yeah, yeah.

12 Q. All right.

13 A. It was sitting on his lap, yeah.

14 Q. Because -- I only got it because that's what you told
15 ---

16 A. I mean, that's what I told, but I'm'll, I'm'll be real
17 with it. I can't quite, you know -- because this, all of
18 it is nonsense. It shouldn't even never happened from the
19 start.

20 Q. I know.

21 A. I mean, he should have just fight than, you know,
22 taken the easy way out.

23 Q. Well, the ---

24 A. I mean...

25 Q. --- decedent had a gun during this?

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1 A. But did Beev ever -- nah, Beev never did point that
2 gun at that man to shot him or nothing.

3 Q. Well, as a matter of fact, you said he had it, and
4 this man took the gun from him. Didn't you tell that?

5 A. It may had been a black gun on him. I don't know,
6 man. It hurts. I do know this right here. I can proudly
7 say to the jury and the court that's who killed Beev.

8 Q. Okay.

9 A. It ain't nobody else killed Beev. This, that one.
10 That one killed Beev. He killed Beev.

11 Q. Okay.

12 A. He killed Beev.

13 Q. Dewey actually took the gun from Beez, didn't he?

14 A. Yeah, yeah. Yeah, he did. He had did -- he walked
15 up, took the gun from him. Like, like was looking at it.
16 He took -- he didn't, like -- really, I would say he gave
17 it to him because he didn't, he ain't snatch it out his
18 hand. He just, like, let me see that. And, you know,
19 yeah. Whatever, whatever, whatever, whatever, you know?

20 Q. They were arguing at this time. I mean, they, they
21 had argued. Y'all, y'all tried to break them up before
22 this, didn't you?

23 A. Yeah. Yeah.

24 Q. And Beez had a gun in his hand, and he took the gun
25 from him, didn't he?

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1 A. Yeah.

2 Q. Okay. All right. So, I mean, he just didn't ask to
3 look at the gun. He just didn't ask to look at it.

4 A. He, he, he didn't manhandle, took the gun from out of
5 Beev hand. No, he did not.

6 Q. Well, they were arguing pretty hard, weren't they, or
7 were they not? I mean, which is it?

8 A. They were arguing.

9 Q. Pretty hard, weren't they, and y'all tried to, y'all
10 were trying to quiet them down, weren't you?

11 A. Yeah. Yeah.

12 Q. Okay, and neither one of them would let it go, would
13 they?

14 A. Neither one of them would let it go.

15 Q. Okay.

16 A. Neither one.

17 Q. And you didn't see Dewey with a gun at this point, did
18 you?

19 A. I didn't see him. However, he had the gun he had on
20 him. It was, like, probably it was up under his shirt.
21 Had to be.

22 Q. But you didn't see. Dewey did not display the gun at
23 this point, did he?

24 A. No. No, no, no.

25 Q. Beez did, though, didn't he?

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1 A. Beez had -- yeah, Beev had his gun. He, like, he
2 tooked it off, and he didn't want it to -- like, put it on
3 him to, like, shooting the man. He was taking it off and
4 was, like, it would have been head up fight. It ain't
5 because he had -- he -- it wasn't because he had the gun he
6 was going to do that right there, though. He was taking
7 the gun off of him, and then put it aside and straight up
8 fight.

9 Q. Okay. Well, he didn't say that, did he?

10 A. Who?

11 Q. Beez.

12 A. No, he didn't say that, but I know he wasn't going to
13 do that.

14 Q. All right.

15 A. I know that.

16 Q. I know, I know, but the only person that had a gun
17 during this argument that really got out of hand that
18 neither of them would stop that y'all tried to quiet down
19 was Beez. Isn't that right at this point?

20 A. He did -- that gun -- he had the gun on the -- I think
21 he set that gun on the chair or something.

22 Q. He had it in his hand, though.

23 A. In his hand, but he didn't, like, never -- he was
24 about to put the gun down, like.

25 Q. About to put it down?

T. GOURDINE - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. I don't know.

2 Q. Okay. Okay, but he had it in his hand when this man
3 took it out of his hand. Isn't that right?

4 A. Nah. Beev was sitting down, on his lap, and he ain't
5 had that gun in his hand when he was sitting.

6 Q. Oh.

7 A. Was sitting down.

8 Q. Was Beez sitting, sitting up or standing? Standing up
9 or sitting down?

10 A. He was sitting down.

11 Q. Oh, he was sitting down.

12 A. Sitting down.

13 Q. Okay. All right, and the gun was in his lap, wasn't
14 it?

15 A. Yeah.

16 Q. Okay. All right, and then he got the gun in his hand,
17 didn't he?

18 A. Well, if he was gonna reach for it to pull it out of
19 his pants, or whatever, you know he had to use his hand.

20 Q. All right. So, he picked it up, pulled it -- during
21 this argument, he pulled this gun out?

22 A. He was taking it off his side. He was not -- made --
23 putting the gun where he could of use it, bam, I'm gonna
24 shoot you because he was thinking better than that.

25 Q. Okay, but you agree that they were arguing very loud,

T. GOURDINE - CROSS-EXAMINATION BY MR. CARRAWAY

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1 both of them, and this was getting out of hand, wasn't it?

2 A. Yes, sir.

3 Q. Okay, and the deceased pulled a gun out, didn't he?

4 A. He didn't pull that gun on Dewey that day. He took

5 the gun off his side like ---

6 Q. So, he took the gun.

7 A. --- taking it.

8 Q. Okay.

9 A. Because it was going to be a fight. To me, it was
10 like they was about to fight.

11 Q. Okay. So, he took it off his side during this fight.

12 He reached in and you didn't see the gun before, did you?

13 A. No.

14 Q. But he reached in, pulled it out of his pants side --
15 inside his pants, or his pocket, or whatever.

16 A. I don't believe it was, like -- I was, like, keep an
17 eye on Dewey. Like I said, I was looking at him just,
18 like, chill out, chill out.

19 Q. Okay.

20 A. So, really I didn't, I didn't really ---

21 Q. Okay.

22 A. --- see where it came up from.

23 Q. Okay.

24 A. I know he didn't really got up. He just did like
25 there, right there.

T. GOURDINE - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. Okay, but he pulled ---

2 A. So, it had to been coming from out his pants
3 eventually.

4 Q. So, he pulled the gun out of his pants during this
5 argument?

6 A. Yes, sir.

7 Q. Right? Okay, and this man took the gun from him,
8 didn't he?

9 A. He, like, let me see that. Let me see that.

10 Q. Now, this is in the middle of a tense argument, right?

11 A. Yes, sir.

12 Q. Okay. Gun comes out in the middle of a tense
13 argument. He takes the gun out of his hand, right? Is
14 that right?

15 A. Yeah.

16 Q. Okay, and that's what you told law enforcement, isn't
17 it?

18 A. He took it off his lap, hand in his lap.

19 Q. Out of his hand, right?

20 A. Yeah.

21 Q. Okay, and then when things settled down a little,
22 Dewey gave him the gun back, didn't he?

23 A. I can't quite -- I mean, I can't quite remember that.

24 Q. All right. Did you tell law enforcement he gave it
25 back to him?

T. GOURDINE - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. I mean, it's old now. I probably did. I mean, I
2 can't quite remember; I can't remember.

3 Q. It's two questions. Did you see him give it back to
4 him is one question, and did you tell law enforcement that
5 he gave it back to him?

6 A. He, like, he's, like -- I mean, gave it back to him,
7 Beev? I think he gave it back to him.

8 Q. You think he gave it back to him?

9 A. Yes. Yeah, I think he gave it get back to him.

10 Q. Okay. All right, so Dewey took the gun from him?

11 A. Yeah.

12 Q. Then gave it gave back to him?

13 A. It was, like, really look at it. This a nice pistol
14 right here.

15 Q. Oh.

16 A. Yeah.

17 Q. And then he gave it back to him, right?

18 A. Yeah.

19 Q. And he thought things had settled down at that point,
20 didn't he?

21 A. Yeah. Yeah.

22 Q. All right. That's what happened, okay. But the
23 deceased didn't want to let it go, did he? He kept on,
24 didn't he?

25 A. Yeah. Yeah.

T. GOURDINE - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. All right. He kept on about this Dave Fluitt thing,
2 right?

3 A. Yeah.

4 Q. About that and about what he was talking about is ---

5 A. It was, like, really neither one wanted to act. When
6 it really popped out, nobody wanted the thing -- I don't
7 know would it been, like, who was around, if they didn't
8 want to look bad in front of them. You know, it was me, I
9 don't care. He wasn't looking bad in front of me.

10 Q. Sometimes nobody wants the other one to have the last
11 word.

12 A. That's what it was, the last. Yes, sir.

13 Q. All right.

14 A. Yeah.

15 Q. All right, but he did give the deceased the gun back
16 after ---

17 A. Yeah. He got it ---

18 Q. --- he took it from him, didn't he?

19 A. --- back from him. He got it back.

20 Q. Okay, he gave it back to him?

21 A. He gave it back, gave it back.

22 Q. Okay, but when he got the gun back, the arguing was
23 continuing?

24 A. It just, like, it started back up, started back up.

25 Q. Started back up.

T. GOURDINE - CROSS-EXAMINATION BY MR. CARRAWAY . 191

1 A. Started back up, but it was happening so fast. It was
2 happening fast at the same time, like, back and forth, back
3 and forth, you know? It ain't, you know.

4 Q. Okay.

5 A. It ain't no one second, one second. It just stop,
6 pause.

7 Q. Okay.

8 A. Because I'm pretty sure it wouldn't of never happened
9 if we could have just taken little -- you know, we could of
10 operate more and more.

11 Q. No question this was over nothing?

12 A. Basically over much of nothing, man.

13 Q. Nothing.

14 A. Much of, much of nothing.

15 Q. Nothing, nothing, and when it was over, it was
16 something neither one of them were even involved in.

17 A. Neither one even had nothing ---

18 Q. It was a ---

19 A. --- to do with it.

20 Q. --- fight between Jimmy?

21 A. Yeah.

22 Q. And Dave Fluitt?

23 A. Yeah.

24 Q. Or somebody else named Maurice ---

25 A. Yes.

T. GOURDINE - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. --- and Dave?

2 A. And all I was saying ---

3 Q. Who were ---

4 A. Yeah. All right.

5 Q. But Beez wasn't even there, and Dewey wasn't there.

6 A. No.

7 Q. They weren't at this fight. They weren't even
8 involved in it.

9 A. No, no.

10 Q. I mean, here they are arguing about this here.

11 (A PAUSE.)

12 Q. And after he gave him the gun back, isn't it true that
13 everything moved very fast, didn't it?

14 A. Yes, sir.

15 Q. All right, and you ain't sure what happened after that
16 argument except this man ---

17 A. All I know it was, like, it just -- when they, like,
18 locked up and they -- Dewey throwed a hit. And after that,
19 jump back. Nigger, I'll kill you. Beez, soon, he was off
20 -- brought the thing, come off the thing, pocket with his
21 little gun, you know. Beev try to duck from it, and it
22 just went off.

23 I was trying to stand up and, like, really I was
24 trying to push this man. At least I was trying to do my
25 best because I already knew. There's something -- like,

T. GOURDINE - CROSS-EXAMINATION BY MR. CARRAWAY

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1 this right here, all this here going on, I wasn't -- I
2 ain't even know this man was gonna do that, man.

3 Q. I hear you. I don't doubt it.

4 A. Trust me. I wouldn't even -- I don't even want to be
5 in no mess like this, so I don't even want this to happen.

6 And I thought he was -- all us hang together. You
7 know, we understand each other. I'm not gonna sit here and
8 say I wasn't hanging with -- me and Dewey used to ride
9 together all the time. We just, you know, we just used to
10 kick it. We used to talk and everything, but it just --
11 don't take nothing but one little second for a big thing,
12 misunderstanding to happen.

13 Q. Okay, and each person had a gun. Isn't that right,
14 because you saw ---

15 A. Yes, sir.

16 Q. --- you saw one in Beev's hand?

17 A. Yeah. Yeah.

18 Q. And you saw one in his hand.

19 A. Yeah. Yeah. Yeah.

20 Q. Is that right?

21 A. He had it the day -- like, Dewey had his gun mostly
22 lodged up under his shirt. He had, he had his gun on him,
23 but I really didn't -- you know, I really couldn't tell
24 that it was a gun right there, whatever. And when I did
25 notice it was a gun, you know, I figured this right here --

T. GOURDINE - CROSS-EXAMINATION BY MR. CARRAWAY

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1 that's when it just...

2 Q. Is it fair to say his gun came out just before the
3 shooting? Is that fair to say, just before the gun went
4 off? He didn't have it out for long, did he, Dewey?

5 A. Who, Dewey?

6 Q. Yeah.

7 A. It just, like, he was, like, backing up arguing when
8 they, like, got into it. That's when I, like, saw it up
9 under his shirt, the black, you know, the black.

10 Q. Well, when did he pull it out?

11 A. When -- that happened when they arguing, when they did
12 -- pushed off. That's when he bend, like, when Beev, like,
13 did back like that, that he was about to come in, that's
14 when Dewey did like that right there. And then that's when
15 Beev just sort of -- he try to, like, try to, like duck
16 from it, like, you know?

17 Q. But Beez had already -- he'd already given the gun
18 back to Beez, hadn't he?

19 A. He'd already ---

20 Q. Given Beez back his gun?

21 A. Yeah. Yeah. Yeah.

22 Q. When all this, when the gun got back to Beez and he
23 goes for his gun, was all that a blur? Did it all happen
24 very fast?

25 A. Happened, it happened fast, yeah.

T. GOURDINE - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. You had been there -- this happened at what time?

2 A. It just had turned dark, so I would really probably
3 say that was around, like, 8 something, if I'm mistaken.
4 Probably ---

5 Q. Now, this was during, pretty much summertime?

6 A. Yes, summertime.

7 Q. Close to ---

8 A. Because, you know, the sun was out late, you know.

9 Q. Close to summer, and you'd been there, I think, since
10 about 12:00 that day?

11 A. Yeah. I went over there, me, and my first time
12 'cooking a pot of beans and, you know, some more...

13 Q. Okay. When did the deceased get there? How long had
14 he been there?

15 A. Well, it was -- they'd been on Blakely, that I heard
16 of.

17 Q. How long was he at, at the house?

18 A. He got there round about probably, like -- they came
19 over there. It had to been around, like, 6 something, 7
20 something, something like that, 7 something almost,
21 something like that.

22 Q. Did the deceased get there before Dewey got there?

23 A. Yeah, he was there before Dewey got there.

24 Q. Before Dewey got there?

25 A. Yeah.

T. GOURDINE - REDIRECT EXAMINATION BY MR. SABB

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1 Q. All right. Was everybody drinking and having fun?

2 A. No. No.

3 Q. I, I just wondered.

4 A. Nobody was drinking.

5 Q. Was Beez drinking anything, or you don't know?

6 A. No, no, no, he was not drinking.

7 Q. All right, and you say ---

8 A. I mean, if he was drinking at the store, I don't know.

9 But he was, like, far as when he was around me, no.

10 Q. Okay. Were they in and out of the house going by back
11 and forth to the store? I mean, you said something about
12 that, or is that not right? Or was he there the whole
13 time?

14 A. I think they had went up to the store to grab
15 something, some cigarettes, if I'm mistaken. Or they went
16 to the car or something, if I'm mistaken.

17 MR. CARRAWAY: Court's indulgence?

18 (COUNSELOR CONFERS WITH DEFENDANT.)

19 MR. CARRAWAY: Thank you, Mr. Gourdine.

20 THE COURT: Redirect?

21 MR. SABB: A couple of questions.

22 REDIRECT EXAMINATION BY MR. SABB:

23 Q. Young man, you and I met when?

24 A. Sir?

25 Q. You and I met when? When did we meet?

T. GOURDINE - REDIRECT EXAMINATION BY MR. SABB

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1 A. We meet today.

2 Q. Okay.

3 A. Today.

4 Q. And the statement that Mr. Carraway was questioning
5 you about, I also have a copy of that statement. Now, what
6 I'm curious about is I want to make sure that we've got our
7 time sequence together, okay? You follow me when I say
8 time sequence?

9 A. Yes, sir.

10 Q. All right. Now, when -- there was a point in time
11 when Dewey was sitting down, wasn't there?

12 A. Excuse me, let me just say. What happened that ---

13 Q. No. I need you to ---

14 A. --- that took a lot out of me.

15 Q. --- answer, answer the question.

16 A. Yeah.

17 Q. As best you can recall ---

18 A. Say that again. Say that again.

19 Q. Was there a point in time where Dewey was sitting
20 down?

21 A. No. No. No.

22 Q. And so Dewey stood up from the moment you got there to
23 the moment you left?

24 A. Yeah. He was standing up the whole ---

25 Q. Was there a point in time where Beez was sitting down?

T. GOURDINE - REDIRECT EXAMINATION BY MR. SABB

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1 A. Yeah. Yeah. Yeah.

2 Q. Now, when Beez was sitting down or when Beez was
3 standing up, there was a gun in Beez's lap?

4 A. Yes, sir.

5 Q. Was it sitting down or standing up?

6 A. I mean ---

7 Q. It's kind of hard for a gun to be in your lap when
8 you're standing up, I guess is what ---

9 A. No, I mean, he was -- he had it, he had it. He had to
10 have the gun on his side. He had the gun on his side.

11 Q. Well, I guess I'm just a little confused. Your
12 statement said that it was in his lap. On page 5, line 7,
13 see where you say he grabbed it off of his lap?

14 A. Uh-huh.

15 Q. You see what I'm asking?

16 A. Yeah.

17 Q. Okay, and then my question, I want to make sure that
18 we've got the sequence together. At that point in time,
19 had to be sitting down.

20 A. Yeah. He was sitting down.

21 Q. Okay. All right, and so when he was sitting down, was
22 the argument heated at that time he was sitting down, or
23 did it get heated after he was standing up?

24 A. It was just mumbling about, you know, y'all, y'all
25 getting over. Y'all trying to do too much, this and that

T. GOURDINE - REDIRECT EXAMINATION BY MR. SABB

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1 and all.

2 Q. But all the escalation, the in-your-face stuff
3 happened when they were standing up?

4 A. Yeah. Yeah.

5 Q. I mean, the reality of it all is all of y'all are
6 really friends?

7 A. Yeah.

8 Q. And when you first got there, there wasn't any
9 arguing, fussing, nor was anyone there to be fighting?

10 A. No, sir.

11 Q. It wasn't until after Beez and Jimmy started?

12 A. Yeah. Yeah.

13 Q. So, everybody ---

14 A. We were ---

15 Q. --- knew everybody?

16 A. Yeah. Everybody just -- you know, they came by here
17 to bought a -- I mean, get a car and go back, you know, in
18 and out. It wasn't never no, you know.

19 Q. And I guess I want to make sure everything's in
20 context. Now, can you tell this jury whether or not at the
21 time the gun was sitting in Beez's lap, was that the time
22 where there was arguing, fussing, and fighting going on, or
23 was that a peaceful moment is what I want to make sure
24 we're clear on.

25 A. It was just little words they was saying. It wasn't

T. GOURDINE - REDIRECT EXAMINATION BY MR. SABB

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1 no arguing. It was just, like, that's messed up. That's
2 messed up, you know.

3 Q. At that point when the gun was in Beez's lap, were you
4 trying to part anybody or anything like that at that time?

5 A. I was just saying y'all just stop, just stop. Just
6 leave it alone. You know, it don't make no sense.

7 Q. Were you trying to part anybody at that time, or was
8 it not necessary to do that?

9 A. It wasn't necessary to do that because I thought they
10 really had came to a little, you know, little closure, you
11 know?

12 Q. Okay. Now, at the point where they're arguing in each
13 other's face, was either of them sitting down at that time?

14 A. No, sir.

15 Q. All right, and now Mr. Carraway had you looking at
16 page 6, or maybe he was holding up page 6, which is this
17 page right here beginning on line 6. Take a moment and
18 read this for me. Just take a moment and read that to
19 yourself just for a moment. You see line 6?

20 A. Line 6?

21 Q. Yes. Those are the lines that are in the corner.

22 A. Uh-huh.

23 Q. Just take a moment and read that for me down through
24 line 15.

25 (A PAUSE.)

T. GOURDINE - REDIRECT EXAMINATION BY MR. SABB

201.

1 Q. Yes, sir? No, no. You can't do that. The
2 instructions from the court is always ---

3 A. Okay.

4 Q. --- the lawyer has to ask the questions. The witness
5 has to answer the questions, but if I should ask you a
6 question that you don't understand, you can ask me to
7 rephrase it or repeat it, and I can do that.

8 THE COURT: He might have some difficulty reading.

9 Q. And when you do, you can let me know about that.

10 MR. CARRAWAY: Ronnie.

11 MR. SABB: Yes, sir?

12 A. I got it.

13 (COUNSELORS CONFER.)

14 Q. Are you having any trouble reading it? It's okay if
15 you are.

16 A. I got you. I got you.

17 Q. That's all right. Are you at least finished looking
18 it over?

19 A. I finished. I finished.

20 Q. All right.

21 MR. SABB: Thank you, too, Judge.

22 Q. Now, did there come a point in time where Dewey said
23 he was going to tell Beez one more time to sit ---

24 MR. CARRAWAY: I'm going to object to the leading
25 nature.

T. GOURDINE - REDIRECT EXAMINATION BY MR. SABB

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1 THE COURT: I'll sustain the objection. This is your
2 witness, and this is redirect. Ask a direct question.

3 BY MR. SABB:

4 Q. What did Dewey say to Beez at the point where I was
5 just describing, where they were arguing with each other
6 right before he shot him? What did he say to him?

7 A. I ain't gonna play around with your ass, you know?

8 Q. Let's stay away from profanity. I don't need verbatim
9 accounts, but essentially ---

10 A. Yeah. You know.

11 Q. --- paraphrase when it comes to cursing.

12 A. Yeah. He was, like ---

13 Q. What did he say to him?

14 A. He was, like, he was, like, you know, he, he ain't the
15 one to play with, you know? I'm not gonna play with you,
16 you know? That's what he said.

17 MR. SABB: I have no more questions.

18 THE COURT: All right. You may step down.

19 Any objection to this witness being excused?

20 MR. SABB: No, sir, Judge. We'd ask that he be
21 excused.

22 THE COURT: Mr. Carraway? Mr. Carraway, any
23 objection?

24 MR. CARRAWAY: I have no objection to him being
25 excused.

1 THE COURT: You are free to leave. Thank you.

2 (THE WITNESS EXITS THE STAND.)

3 THE COURT: Madame Forelady, ladies and gentlemen of
4 the jury, we're going to give you an opportunity to refresh
5 yourselves, and we will stand at ease about five minutes.

6 Everyone remain seated as the exits the courtroom.

7 (THE JURY EXITS AT 3:35 P.M.)

8 THE COURT: I want to ask the deputies. There seemed
9 to be some confusion during the testimony. Are we having
10 some difficulties with one of the spectators?

11 LIEUTENANT TIMMONS: Judge, my understanding -- I'm
12 Lieutenant Timmons from for the sheriff's office. My
13 understanding was there was someone in the audience that
14 was apparently possibly giving hand signals to a witness,
15 and Sergeant Steigers had her removed. He escorted her
16 from the courtroom.

17 THE COURT: Okay. All right, this is indeed a public
18 forum, but I was -- did not see any hand signaling, but
19 that is completely inappropriate. It's an open forum, it's
20 a public trial, but if there's anything that is a semblance
21 of a disruption or signaling or anything such as that, I'm
22 going to ask that you be removed from the courtroom. Do
23 not do that.

24 Ms. Barr, Mr. Sabb, would ask that y'all speak with
25 the witnesses that you are -- I mean, the spectators that

1 you are connected with and reinforce that.

2 And if I, could I have counsel in chambers just for a
3 moment?

4 (OFF THE RECORD.)

5 THE COURT: Please be seated. Anything from the state
6 before we bring out the jury?

7 MS. BARR: Nothing from the state, Your Honor.

8 THE COURT: Anything from defense?

9 MR. CARRAWAY: Nothing from the defense.

10 THE COURT: All right, we're ready for the jury.

11 (THE JURY ENTERS AT 3:49 P.M.)

12 THE COURT: Ms. Barr, you are recognized. You may
13 call your next witness.

14 MS. BARR: Please the court? We'd call Corey
15 Gourdine to the stand.

16 THE COURT: Mr. Gourdine, I'm going to ask you to come
17 forward, place your left hand on the Bible, and raise your
18 right as the clerk administers the oath.

19 COREY N. GOURDINE, BEING DULY
20 SWORN, TESTIFIES AS FOLLOWS:

21 THE COURT: Mr. Gourdine, have a seat in the witness
22 chair. I'm going to ask you to pull up real close to that
23 microphone. Speak loudly, clearly, and slowly in order
24 that we can hear everything you've got to say. And state
25 your full name if you could, please, sir.

C. GOURDINE - DIRECT EXAMINATION BY MS. BARR.

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1 WITNESS: Corey Nelson Gourdine.

2 THE COURT: All right now, you're going to have to
3 speak up, and don't mumble, and want you to speak loud,
4 okay?

5 WITNESS: Corey Nelson Gourdine.

6 THE COURT: Very good.

7 MS. BARR: May it please the court?

8 DIRECT EXAMINATION BY MS. BARR:

9 Q. Mr. Gourdine, how are you?

10 A. How you doing?

11 Q. Tell me where you live, sir.

12 A. In Paris Circle, Salters.

13 Q. All right, and I need to make sure ---

14 THE COURT: We're having some difficulty with the
15 court reporter hearing you.

16 A. Paris Circle, Salters.

17 Q. There you go.

18 THE COURT: Now you're talking. There we go.

19 Q. Say it just like that so she can hear you. Okay, you
20 live on Paris Circle in Salters?

21 A. Yeah.

22 Q. How old are you?

23 A. Nineteen.

24 Q. Nineteen years old. Now, who is Thermaine or Jamar
25 Gourdine to you?

C. GOURDINE - DIRECT EXAMINATION BY MS. BARR

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1 A. My brother.

2 Q. All right. Y'all stay together?

3 A. Yeah.

4 Q. Okay. All right. Now, I need to ask you some
5 questions about a shooting that happened in Williamsburg
6 County back in July of last year, okay? I need, I need you
7 to make sure you answer me yes or no. Don't nod your head,
8 or don't say uh-huh or uh-uh because the court reporter's
9 going to take down everything you say. Fair enough?

10 A. All right.

11 Q. Okay. Now, do you know that young man that's seated
12 next to Mr. Carraway?

13 A. Yes.

14 Q. How do you know him?

15 A. Friend.

16 Q. He's friend of yours?

17 A. Was.

18 Q. Was a friend of yours? How long had you known him?

19 A. I'll say about two, three months.

20 Q. Two or three?

21 A. Might be a little more than that, yeah.

22 Q. Now, you're talking awfully low. You had known him

23 ---

24 A. About two or three months.

25 Q. Okay. All right, did y'all used to hang out together?

C. GOURDINE - DIRECT EXAMINATION BY MS. BARR

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1 A. Yeah.

2 Q. Okay. Did he ever come to your house?

3 A. Yes.

4 Q. Have you ever been to his house?

5 A. One time.

6 Q. One time? Okay. Now, did you know a guy named Jaron
7 White?

8 A. Yes.

9 Q. Okay. How long have you known him?

10 A. All my life really.

11 Q. Okay. You considered -- would you have considered him
12 to be a friend of yours as well?

13 A. Yes. We was kin.

14 Q. You were related?

15 A. Uh-huh.

16 Q. How were y'all related?

17 A. He was, like, my cousin.

18 Q. All right. Now, do you know a fellow named Frederick?

19 A. Yes.

20 Q. Okay. Tell me how it is you know Frederick.

21 A. He's kin.

22 Q. Okay. Now, Corey, back on July the 18th of 2008, were
23 you at Frederick's house that day?

24 A. Yes.

25 Q. That's a mobile home?

C. GOURDINE - DIRECT EXAMINATION BY MS. BARR

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1 A. Yes.

2 Q. Now, how far do you live from where that mobile home
3 is?

4 A. Across the road.

5 Q. Across the road? And I need you to say yes or no.

6 A. Yes.

7 Q. Okay. Is it in walking distance?

8 A. Yes.

9 Q. All right, and you were at Frederick's house that day?

10 A. Yes.

11 Q. Okay. Can you tell me who else was with you at the
12 house?

13 A. It was me.

14 Q. It was who?

15 A. It was a lot of us over there.

16 Q. Tell me who you can remember.

17 A. Me, my brother, Beev, Mick, his brother Pip. It was,
18 like ---

19 Q. Is that who y'all call Pipsqueak?

20 A. Uh-huh.

21 Q. I need you to say yes or no.

22 A. Yes, ma'am.

23 Q. Okay. Okay, you were there. Pipsqueak was there, who
24 is Jamar Finklea, right?

25 A. Yes, ma'am.

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1 Q. All right. Do you remember seeing Milton Phillips
2 there?

3 A. I don't know who that name is.

4 Q. Does the name Mick ring a bell?

5 A. Yeah.

6 Q. Okay, you remember seeing Mick there. Now, you say
7 you know the defendant. Does he have a nickname?

8 A. Who?

9 Q. The defendant, Mr. Goodman.

10 A. Oh, yes.

11 Q. What's his nickname?

12 A. Dewey.

13 Q. All right. Now, was Frederick there as well? Was he
14 at home?

15 A. No, he wasn't there.

16 Q. Okay. Did he come at some point later?

17 A. Yes.

18 Q. Okay. Do you remember whether or not his girlfriend
19 at the time, Shannon Singletary, was there?

20 A. Nah. She wasn't there.

21 Q. You don't remember seeing her?

22 A. Nah. They, they came together later on.

23 Q. They came later on?

24 A. Uh-huh.

25 Q. Okay. All right. Now, you came to the house. Was

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1 Beez already there?

2 A. Yes. We was over there.

3 Q. Okay.

4 A. We was already there.

5 Q. All right. What were y'all doing? Kind of just
6 sitting around talking and playing games?

7 A. Sitting down playing a game.

8 Q. Okay.

9 A. Smoking.

10 Q. All right. Now, at some point did Dewey come to the
11 house?

12 A. Yes.

13 Q. Okay. Who came with Dewey?

14 A. Who was driving with him? I don't know who was
15 driving with him.

16 Q. Okay.

17 A. Because I was, like, around in the front room.

18 Q. Okay. All right, tell me what happened after Dewey
19 got to the house.

20 A. I mean, Beev and Jimmy, they was, like, in a little
21 argument over -- because Beev hit his -- no, because Jimmy
22 hit Beev cousin in the head with a bottle. So, Beev was,
23 like, getting to him about that. So, they was in a little
24 argument or whatever, but it ain't, ain't, it ain't
25 escalated or nothing.

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1 Q. They were just talking back and forth?

2 A. Uh-huh.

3 Q. Did they get physical or anything?

4 A. No.

5 Q. Okay. All right, then what happened?

6 A. Now, when Dewey came in, then he got in to it with
7 Beev over the argument, over that, that particular reason.

8 Q. All right, continue. Go ahead and tell me what
9 happened.

10 A. Dewey was, like, squash it like that. So, since he
11 got into that, Beev and him, they got into it. You feel
12 me?

13 Q. They started arguing?

14 A. So, they was arguing.

15 Q. Okay.

16 A. Yeah.

17 Q. Go ahead and finish telling me what happened.

18 A. So, when they was arguing, whatever, that when he --
19 you know, they was exchanging words or whatever, and he
20 grabbed the pistol off the table, whatever. So, Beev was,
21 like, oh, you gonna grab a pistol and be like that?

22 Q. Slow for a minute, Corey. Who grabbed the pistol?

23 A. Dewey.

24 Q. Dewey. That's the defendant?

25 A. Yes.

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1 Q. All right. He grabbed the pistol, and then tell me
2 what happened.

3 A. So, Beev was, like, well, you gonna go ahead and grab
4 a gun on me like that? So, he wasn't backing from it
5 neither. You feel me?

6 Q. Okay.

7 A. So, what happen was they was just arguing or whatever,
8 and I guess he said something that made him just, I guess
9 did that to him. You feel me?

10 Q. You said he's -- you --

11 A. I can't remember exactly what he said.

12 Q. That, that made him do that to him?

13 A. Yes.

14 Q. When you say do that to him, tell me what you mean.

15 A. As in shot.

16 Q. Okay, and you saw Dewey shot Beez?

17 A. Yes.

18 Q. Where did he shoot him at?

19 A. I just -- like, on the side.

20 Q. On the side of his head?

21 A. Yes.

22 Q. Okay. They were standing up at the time?

23 A. Yes.

24 Q. Did you actually see the shooting?

25 A. Yes, I seen it.

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1 Q. All right. Did you saw -- did you see when Beez fell
2 to the ground?

3 A. No. I ain't seen that.

4 Q. Okay. What happened after Beez got shot?

5 A. I mean, shoot, we left out the house. So, we came
6 back. He was still in there. So, he was on the floor.

7 Q. Okay. You left out the house. How long did you wait
8 before you came back?

9 A. Oh, we were -- we stayed out about ten, fifteen
10 minutes. It wasn't that long.

11 Q. Okay. Who did you run out with?

12 A. All of us basically ran out.

13 Q. Everybody just ran out the house?

14 A. Uh-huh. I mean, like, if anybody stayed in there, I
15 just really -- I don't even know because I left.

16 Q. Okay. You came back. Did you come back and did you
17 check on Beez to see if he was still alive?

18 A. Yes.

19 Q. What did you find?

20 A. He was on the floor; blood was on the floor.

21 Q. Blood coming out of his head?

22 A. Yes.

23 Q. Was he dead at that point? I need you to ---

24 A. Yes.

25 Q. --- say yes or no. Okay, after that day, did you see

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1 Dewey anymore?

2 A. No.

3 Q. Do you remember talking to the police about what had
4 happened?

5 A. Not that night.

6 Q. Okay. Was it the next day?

7 A. Yes. It was, like, the next day.

8 Q. Okay, and you spoke with Investigator Whack?

9 A. Yes.

10 Q. And you told him what you had observed?

11 A. Yes.

12 Q. Okay.

13 MS. BARR: Beg the court's indulgence.

14 (A PAUSE.)

15 MS. BARR: Corey, please answer any questions Mr.
16 Carraway may have for you.

17 THE COURT: Mr. Carraway, cross-examination.

18 CROSS-EXAMINATION BY MR. CARRAWAY:

19 Q. Were you there the whole time in this room? Did you
20 see the argument, all of the argument between Jimmy and the
21 deceased?

22 A. Yes, I see it.

23 Q. All right, you saw when it started?

24 A. Yes.

25 Q. Is that right? How close were you to the, to the

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1 deceased? Could you see him very well?

2 A. Who?

3 Q. The deceased.

4 A. Beev?

5 Q. That man that had -- that was killed, that was shot.

6 A. How close I was to him?

7 Q. Yeah.

8 A. Oh, I wasn't -- I was, like, standing behind.

9 Q. Excuse me?

10 A. Well, wasn't standing behind. We was, like, sitting
11 in another room, but where the room at, you could a, like,
12 see behind him. Well, we was, like, behind Dewey. Beev's
13 back was -- I'll put it like this. Where we was sitting
14 there, Beev, we could of seen the front of him, and we
15 could of seen the back of Dewey.

16 Q. Okay. Did you get a good look at the deceased the
17 whole time he was arguing with Jimmy?

18 A. Yes. I saw them argue.

19 Q. All right, you saw them arguing. Could you see every
20 -- was, was the deceased standing up or sitting down when
21 he was arguing with Jimmy?

22 A. He was standing up.

23 Q. He was standing up when he was arguing with Jimmy,
24 right?

25 A. With Jimmy? Oh, I though you was talking about with

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1 Dewey. No, with Jimmy, he didn't even -- they wasn't even
2 up on each other like that. He was, like, in the front
3 room. Jimmy, he was playing a game right about that time.

4 Q. Okay.

5 A. When Beev came.

6 Q. All right, and you saw -- when did he stand up? When
7 he started arguing with Dewey or not?

8 A. Yes, he stand up because after Jimmy and him got into
9 it, everything was all good. So, Beev and us, we went
10 round there. We was playing a game or whatever. We was
11 around in the front playing a game after Jimmy and him got
12 into arguing, but they didn't take it that far. You feel
13 me?

14 Q. Okay. So, you're saying Beez left the room and went
15 into the room -- another room with you and were playing a
16 game, or is that wrong?

17 A. No. That's right.

18 Q. Okay. So, y'all went into another room after he was
19 arguing with Jimmy, and that argument was over. Y'all
20 started playing a game?

21 A. Yes.

22 Q. Am I correct in assuming that was a video game on a
23 TV?

24 A. Video game.

25 Q. Video game on the TV?

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1 A. Yes.

2 Q. All right. So, y'all were completely in another room?

3 A. I mean, it wasn't completely in another room.

4 Q. I gotcha. It was...

5 A. It was, like, from -- you can, like, stand in the
6 kitchen and see all, all of the dining room and ---

7 Q. But it was a partition, or whatever, at least waist
8 high, or whatever, you went into, right, separating the
9 rooms. Is that it? What -- a hallway anyway?

10 A. No, it wasn't a hall.

11 Q. Door?

12 A. No, it wasn't no door. It was, like -- the house
13 fixed, it's, like, basically the living room, the kitchen
14 and all that's kind of connected.

15 Q. All right. Y'all went into another room then, you and
16 Beez?

17 A. Yeah.

18 Q. Okay. Tell me about the gun Beez had.

19 A. All I knowed, he had one, but he didn't -- I mean, I
20 don't really know nothing about it. I couldn't say nothing
21 about it, like.

22 Q. What did you see?

23 A. I just know he have it.

24 Q. My question was did you see it?

25 A. Yes, I seen it.

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1 Q. All right. Beez, and Beez had a gun?

2 A. Not when it happened.

3 Q. I'm not asking you that. Did he have a gun?

4 A. Yes, he have one.

5 Q. He had a gun, and it was not in his pant -- it was out
6 of his pants. You could see it.

7 A. It was out of his pants.

8 Q. All right, and where was the gun?

9 A. Actually, he had it and when Dewey came in, Dewey
10 asked him to see. So, when Dewey seen it or whatever, it
11 was on the table after that. I mean...

12 Q. Okay. Now, you mean before they started arguing,
13 Dewey asked if he could see the gun?

14 A. Yes.

15 Q. All right. So, they didn't start arguing right off
16 the bat?

17 A. No, they didn't started arguing right off the bat.

18 Q. Let me ask you this. Is it not true that Jimmy and
19 the deceased were discussing or arguing about ---

20 A. Yeah. They was still going at it a little bit.

21 Q. They were still going at it?

22 A. Yeah.

23 Q. All right, and then Dewey stepped in, right?

24 A. Yes.

25 Q. All right. He stepped in while they were arguing,

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1 right, and he got in to it. Isn't that right?

2 A. I mean, he ain't got straight in to it with him like
3 that. I didn't -- you know, he telling them really, like,
4 calm down. You feel me? And that's when he got in it,
5 too.

6 Q. Dew -- who was telling who to calm down?

7 A. Dewey.

8 Q. Dewey was telling Jimmy and the deceased to ---

9 A. Yeah. He was, like, just leave that alone. Leave
10 that alone. We ain't talking about that no more.

11 Q. Okay.

12 A. Like that.

13 Q. But the deceased didn't appreciate Dewey telling him
14 not to talk to Jimmy about this deal with David Fluitt?

15 A. He asked -- Dewey was, like, you don't have nothing to
16 do with it.

17 Q. And there wasn't any, there wasn't any break between
18 Jimmy and the deceased arguing and Dewey arguing with the
19 deceased. They went -- they, they, they -- Dewey got in to
20 it while they were talking, didn't he?

21 A. Yes, and that's when Jimmy, like, just left it alone.
22 You feel me?

23 Q. Jimmy left it alone?

24 A. Yes.

25 Q. You're saying?

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1 A. Uh-huh.

2 Q. But the deceased didn't like Dewey telling him not to
3 talk to Jimmy, did he?

4 A. Yeah. I don't think so.

5 Q. And it kept on from there, didn't it?

6 A. Yes.

7 Q. It never let up at all from there, did it?

8 A. No.

9 Q. Between Dewey and the deceased?

10 A. No.

11 Q. They kept going, didn't they?

12 A. Yes.

13 Q. Yeah, and it was during this time that this gun came
14 out, that Dewey looked at the gun. Isn't that right?

15 A. No. That was, like, kind of ways before that.

16 Q. All right. Well, but they ---

17 A. Long -- I mean, because that was way before then, so
18 it -- put it like this. Everything was all calm. So,
19 somehow or another, Jimmy and him, they got back in to it
20 again, but it was all right. They ain't did nothing else
21 after that.

22 Q. Okay. Well, but while they were arguing, Dewey got in
23 to it, right?

24 A. Yes, the second time.

25 Q. All right.

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1 A. The second.

2 Q. And actually what you've revealed here is that Dewey
3 was trying to calm both these guys down and the deceased
4 down by telling him that's dead. Don't bring this up with
5 Jimmy again, right?

6 A. Yeah.

7 Q. That's what he said, isn't it?

8 A. Yeah. It was kind of like that.

9 Q. But the deceased said this isn't any of your business,
10 and don't tell me what to -- what I can bring up to Jimmy
11 or not. Isn't that right?

12 A. Yes. It was ---

13 Q. That's my cousin that he hit with a bottle, right?

14 A. Yes. Something like ---

15 Q. And David Fluitt has seizures, does he not?

16 A. Yes.

17 Q. Wasn't that brought up, and that's what -- and David
18 Fluitt is the deceased's cousin, right?

19 A. Who?

20 Q. David Fluitt.

21 A. Oh, yes, yes.

22 Q. The deceased's cousin.

23 A. Yes.

24 Q. And that's what he was hot about was Jimmy had hit
25 David Fluitt with a bottle.

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1 A. Yes.

2 Q. Isn't that right?

3 A. Yes.

4 Q. And it was over a Black and Mild or whatever, a cigar
5 or whatever. Did you not understand that's what they were
6 arguing about?

7 A. Yes. I think.

8 Q. Jimmy ---

9 A. Yes.

10 Q. Jimmy and David Fluitt, something about that,
11 something stupid. Isn't that right?

12 A. Yes.

13 Q. Okay.

14 A. Basically.

15 Q. And the deceased even mentioned you hit my cousin over
16 the head with a bottle and he has seizures, didn't he?

17 A. Yes.

18 Q. He said that?

19 A. Yes.

20 Q. He said that, and he was hot about that, wasn't he?

21 A. Yes.

22 Q. The deceased, and he didn't appreciate Dewey stepping
23 in, saying man, that's dead. Leave that alone. Isn't that
24 right? Don't even talk about that anymore. Isn't that
25 right?

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1 A. Uh-huh.

2 Q. And then he got up in Dewey's face, didn't he?

3 A. No. Both of them was standing.

4 Q. Well, and -- all right. Well, both of them were
5 arguing, and it escalated and it got up to where y'all felt
6 like y'all were going to have to break them up, didn't you?

7 A. Something like that, but usually -- not really because
8 all ---

9 Q. I ---

10 A. --- us get in arguments, but we ain't never take it
11 there.

12 Q. I know, but this one did get there, didn't it?

13 A. Yes.

14 Q. This one got there. Isn't that right? This one just
15 kept on going, and neither one of them would be quiet,
16 would they? Is that fair to say?

17 A. Uh-huh.

18 Q. Is that fair to say, and it's fair to say the
19 deceased, he didn't back off either, did he?

20 A. I mean, no. He didn't back down.

21 Q. All right, okay, and neither did he back down, right?

22 A. No.

23 Q. All right, and you do say that, that, that, that the
24 deceased did have a gun?

25 A. Not on him at the time when it happened.

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- 1 Q. Well, but this man took a gun from him, didn't he?
- 2 A. Yes. It was on the table.
- 3 Q. Okay. Well, but he took it out of his hand, didn't
- 4 he?
- 5 A. I mean, he asked him to let him see.
- 6 Q. Okay.
- 7 A. But he wasn't thinking like that.
- 8 Q. I know. Okay.
- 9 A. I mean...
- 10 Q. Y'all at one time thought y'all had them broke up,
- 11 didn't you, or not? Did you ever think you had them broke
- 12 up or not?
- 13 A. Talking about them?
- 14 Q. Yeah. Or not really?
- 15 A. I mean, at -- yeah, really, yeah. We kind of thought
- 16 we had them broke up.
- 17 Q. Well, they never separated, though. They just kept
- 18 on, didn't they?
- 19 A. Yeah, from a distance.
- 20 Q. Okay. You mean that you were at a distance?
- 21 A. Huh?
- 22 Q. You were at a distance?
- 23 A. No. They was in, like, a distance.
- 24 Q. Well.
- 25 A. That is, before they got close up to each other and

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1 that happened.

2 Q. How long had you been there at the house?

3 A. We was there about -- because he had left and went to
4 the store. We was there about thirty minutes, almost an
5 hour.

6 Q. Okay. Where do you work?

7 A. I was in, like, the den area.

8 Q. Excuse me? I asked where do you, where do you work
9 now. Where do you work?

10 A. Oh. I don't work nowhere.

11 Q. All right. Where did you work then?

12 A. Oh, I didn't. I don't, I don't have a job right now.

13 Q. Where did you work then?

14 A. Nowhere.

15 Q. All right. Where were you working the year before
16 then?

17 A. Nowhere.

18 Q. All right. Okay. Now, this house is kept pretty
19 neat, isn't it?

20 A. Yes.

21 Q. Okay.

22 A. It should, yes.

23 Q. Is that right?

24 A. I mean, we try.

25 Q. Okay.

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1 A. Tried to keep it clean.

2 Q. Okay, all right, and would you agree or disagree if I
3 said there were ten or eleven guys there when this
4 happened?

5 A. Yes.

6 Q. At the house?

7 A. Yes. It was a lot of them up there, a lot of us up
8 there.

9 Q. Maybe ten or eleven guys?

10 A. Yes.

11 Q. All right. Frederick was not -- did you testify that
12 he was not there when this shot -- when this happened?

13 A. No, he, he was there but he was, like, sitting down
14 with us. We was all chillin'.

15 Q. Okay. So, Frederick was there when this happened?

16 A. Yes. He had came.

17 Q. Okay, and Shannon, was she there or was she not there
18 when this happened?

19 A. She was there. She was in the room.

20 Q. Okay. All right.

21 A. In the bedroom.

22 Q. Okay. All right.

23 (A PAUSE.)

24 Q. Now, what did you do after the shooting?

25 A. I left out.

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1 Q. You left. How did you leave?

2 A. Ran.

3 Q. All right, and where did you go?

4 A. Outside. Like, down the road a little piece.

5 Q. Okay. Did you talk to law enforcement that night?

6 A. No.

7 Q. You didn't wait around to talk to them?

8 A. No.

9 Q. Why didn't you?

10 A. I don't know. I was kind of scared. I didn't want
11 to.

12 Q. Did y'all need to straighten up this house or
13 something? Is there anything y'all needed to get out of
14 this house after this happened?

15 A. No. It wasn't nothing I had to get, no.

16 Q. Excuse me?

17 A. I didn't get anything.

18 Q. I know but, I mean, you went back to the house after
19 this, didn't you?

20 A. Yes.

21 Q. All right. How did the house get all torn up at that
22 time?

23 A. I don't know. I can't say.

24 Q. You didn't do it? You didn't help do it?

25 A. I mean, actually he had the gun, so he made us did it.

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1 You feel me?

2 Q. Excuse me?

3 A. He had the gun on us, so he made us, like, did it.

4 Q. Made you leave? I'm talking about when you came back
5 to the house.

6 A. Oh.

7 Q. Okay, did you, did you get a bunch of -- what, what --
8 didn't you help clean that house out?

9 A. No.

10 Q. You sure about that?

11 A. I mean, I didn't clean the house out, no. I didn't
12 had ---

13 Q. You didn't go ---

14 A. All my stuff ---

15 Q. --- through any drawers getting stuff out of there?

16 A. No. Everything was still in it that was in there that
17 night, everything.

18 Q. Okay.

19 A. So far as I can say.

20 Q. Well, I know it. Okay but, I mean, why des it look
21 like from these pictures everybody's gone through the
22 drawers and all of that stuff, trying to get stuff out of
23 there? Why did it look that way?

24 A. I can't tell you.

25 Q. You don't know? All right. Okay.

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1 Well, what kind of business was Fred in?

2 A. I don't know. I can't tell you that.

3 Q. Okay. This was his house, wasn't it?

4 A. Yes.

5 Q. All right. How many cars did he have?

6 A. He, he don't really have no cars. He had, like, one.

7 Q. Okay. Who does the Chrysler 300 belong to?

8 A. That's was his.

9 Q. Okay. Who does the, that Charger with those special
10 doors belong to?

11 A. That's his mom, I think.

12 Q. Oh, it's his mom's car. You mean his mom's got that
13 car with Lamborghini doors on it?

14 A. Yeah.

15 Q. Okay. All right. So, that's in her name, but whose
16 car is it?

17 A. I mean, it's, it's -- so far as I know, it's hers.

18 Q. Okay, but he drives it all the time with the
19 Lamborghini doors?

20 A. I mean, no. He doesn't really drive it like that.

21 Q. He doesn't drive it?

22 A. No.

23 Q. He doesn't use it? He doesn't have people drive him
24 around? He doesn't have all you guys driving him around?

25 A. I don't even have a license. I can't even drive

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1 nobody.

2 Q. I'm -- talk about whether you got a license and you
3 driving or anything, but I asked you if you had ever driven
4 him before.

5 A. Driven him?

6 Q. Yeah.

7 A. Yes.

8 Q. All right. Okay. That's what I asked.

9 A. Oh. All right.

10 Q. The fact that you didn't have a license, that didn't
11 slow you down from driving at all, did it?

12 A. I mean, I really didn't went anywhere, like,
13 particular out of, like, town.

14 Q. I know.

15 A. Like around the area.

16 Q. Okay.

17 A. Put it like that.

18 Q. All right. Okay. This is Fred's house, isn't it?

19 A. No. That's our auntie house.

20 Q. I know, but who lives at the -- who, who lives in the
21 house?

22 A. Oh, he was living there.

23 Q. He was living there, okay. All right, that was his
24 stuff there, right?

25 A. Uh-huh.

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1 Q. All right. How long, how long -- how much time do you
2 spend there? You got a room there at that house?

3 A. Yeah. I used to spend time there.

4 Q. All right.

5 A. A lot.

6 Q. All right. Why didn't you come back that night and
7 tell the law enforcement what had happened?

8 A. I mean, it just had me shocked that it happened. You
9 feel me? But I went the next day.

10 Q. My question was why didn't you come back that night?
11 They were there shortly after that, weren't they? Didn't
12 take long to get there, did it?

13 A. I don't think so.

14 Q. Okay, and you didn't want to tell them what you saw?

15 A. Huh?

16 Q. You weren't anxious to tell them what you saw?

17 A. I mean, not at the moment.

18 Q. Okay, you weren't anxious to tell them what you saw,
19 right?

20 A. I mean, because it just had me in shock. You feel me?

21 Q. Okay. All right.

22 A. I couldn't even talk to nobody.

23 Q. All right. How old are you?

24 A. Nineteen.

25 Q. Nineteen. How far did you go in school?

C. GOURDINE - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. Like, tenth grade.

2 Q. Tenth grade. So, when was that? You were fifteen or
3 sixteen when you quit?

4 A. Sixteen.

5 Q. All right. Have you worked anywhere in the last three
6 or four years?

7 A. No.

8 Q. Okay, and you live with your brother, who was just,
9 was just up here testifying before? Your brother's name is
10 what?

11 A. Thermaine.

12 Q. Thermaine. Do y'all live together?

13 A. Yes.

14 Q. And where do you live? Do you live with your mom or
15 what?

16 A. My grandmother.

17 Q. You live with your grandmother. How far does your
18 grandmother live from this house?

19 A. It's, like, across the street.

20 Q. It's across the street. So, you saw all this going
21 on, cops over at the house and every -- I mean, law
22 enforcement over at the house and everything, didn't you?

23 A. No. I didn't seen that.

24 Q. Well, where did you leave when you went there?

25 A. I went home.

C. GOURDINE - CROSS-EXAMINATION BY MR. CARRAWAY

233

- 1 Q. Is home across the street?
- 2 A. Yes.
- 3 Q. So, you didn't look across the street to see what was
- 4 going on?
- 5 A. No.
- 6 Q. Okay. Was something, something on television? What,
- 7 what were you watching?
- 8 A. I just in the room.
- 9 Q. What were you doing?
- 10 A. It was just me and Dominique. We was in the room.
- 11 Q. You and Dominique. What is Dominique's last name?
- 12 A. Meat's brother. He was in the room.
- 13 Q. Whose brother?
- 14 A. Meat.
- 15 Q. Okay, and that's the other boy from Myrtle Beach,
- 16 right?
- 17 A. Yes.
- 18 Q. Okay. So, y'all were, y'all were in your room, okay,
- 19 and you got windows in your room, don't you?
- 20 A. Who?
- 21 Q. You have windows in your room, don't you?
- 22 A. Yes.
- 23 Q. You, and you weren't ever curious about looking out
- 24 the window to see what was happening?
- 25 A. My window was on the back of the house.

C. GOURDINE - CROSS-EXAMINATION BY MR. CARRAWAY

234

1 Q. Okay, but some are on the front of the house, aren't
2 thy?

3 A. Yes.

4 Q. Like the living room?

5 A. Yes.

6 Q. Walk up there and you could have looked out there, but
7 you didn't think about doing that, okay, and he didn't
8 think about doing any of that either, right?

9 THE COURT: You need to answer audibly.

10 A. No.

11 Q. All right. Okay. All right.

12 (A PAUSE.)

13 Q. Where is Jimmy?

14 A. He, he should -- he isn't here right now. I mean, I
15 guess he's at home.

16 Q. Where's he live?

17 A. With his sister.

18 Q. Where's that?

19 A. On Blakely.

20 Q. Did you come down here yesterday?

21 A. No.

22 Q. You here yesterday?

23 A. No.

24 Q. When's the last time you saw him?

25 A. I seen him yesterday.

C. GOURDINE - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. Saw him yesterday, okay. He was there when this
2 happened, wasn't he?

3 A. Was he? Yeah, I think he was.

4 Q. You think he was?

5 A. Yeah, he was.

6 Q. And you say you were standing right there and saw all
7 that?

8 A. Well, I was sitting, like, sitting on the table, like,
9 behind, behind him.

10 Q. So, you were behind, and were you in this room or in
11 another room?

12 A. It was -- like, when you first walk in, it's the front
13 and it's little, a little sit -- it's a table right there
14 in the front, and back in the other part is, that's where
15 the game was.

16 Q. Was anything in between you down low between this room
17 and the other room?

18 A. It was, like, a little wall.

19 Q. A wall, okay. So, you were in one room. There's
20 wall, and then this was going on in the other room. Is
21 that right?

22 A. Yes.

23 MR. CARRAWAY: I don't have any further questions.

24 A. I mean, yeah.

25 THE COURT: Redirect?

C. GOURDINE - REDIRECT EXAMINATION BY MS. BARR

236

1 MS. BARR: Just a couple, Judge, if I may?

2 REDIRECT EXAMINATION BY MS. BARR:

3 Q. Sir, you were testifying about the defendant having a
4 gun and he made you do it, and you say how you ran out the
5 house. Is that right?

6 A. Uh-huh.

7 Q. I need you to say yes or no.

8 A. Yes, ma'am.

9 Q. Okay, and you testified on cross that you ran to your
10 house, and you stayed there for a period of time. Is that
11 right?

12 A. Yes, ma'am.

13 Q. Okay. Now, I believe that you're already stated that
14 defendant knew where you lived, right?

15 A. Yes, ma'am.

16 Q. Had been to your house, right?

17 A. Yes, ma'am.

18 Q. Now, as you're sitting at home and police officers are
19 next door, and they're at the scene of the murder, do you
20 know whether or not the defendant had been taken into
21 custody?

22 A. No, ma'am.

23 Q. Did you know whether not they had, they had any idea
24 where he was?

25 A. No, ma'am.

C. GOURDINE - REDIRECT EXAMINATION BY MS. BARR

237

1 Q. As far as you know, he was still out there with a gun?

2 A. Yes.

3 Q. But you came on your own, and you gave a statement to
4 the police. Is that right?

5 A. Me ---

6 Q. The next day?

7 A. Me, my brother, and Cleveland.

8 MS. BARR: All right, thank you, sir. That's all the
9 questions I have.

10 THE COURT: Any objection to this witness being
11 excused?

12 MR. CARRAWAY: No.

13 THE COURT: You are free to leave. Thank you.

14 (THE WITNESS EXITS THE STAND.)

15 THE COURT: You may call your next witness.

16 MS. BARR: We call Cleveland Williams.

17 THE COURT: While we're waiting for this next witness,
18 you might want to stand and stretch if you like.

19 (A PAUSE.)

20 THE COURT: Mr. Williams, I'm going to ask if you come
21 to forward. Place your left hand on the Bible and raise
22 your right hand as the clerk administers the oath.

23 CLEVELAND T. WILLIAMS, BEING DULY
24 SWORN, TESTIFIES AS FOLLOWS:

25 THE COURT: Ask you to pull up the seat in the witness

C. WILLIAMS - DIRECT EXAMINATION BY MS. BARR

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1 chair. I'm going to ask you to pull up real close to the
2 microphone. Speak loudly, clearly, and slowly in order
3 that we might hear everything that you've got to say. Mr.
4 Williams, state your full name.

5 WITNESS: Cleveland Tyrell [phonetic] Williams.

6 THE COURT: All right, now you're going to have to
7 stand up -- sit up close to the microphone. I want you to
8 speak loud, and don't mumble. We want you to talk loud,
9 okay? Give it to me one more time.

10 WITNESS: Cleveland Tyrell Williams.

11 THE COURT: One more time.

12 WITNESS: Cleveland Tyrell Williams.

13 THE COURT: Now you're talking. All right, very good.
14 Ms. Barr.

15 DIRECT EXAMINATION BY MS. BARR:

16 Q. Mr. Williams, now just as you spoke to the judge, you
17 need to make sure you speak up nice and clearly because we
18 need to hear you back here, okay?

19 A. Yes, ma'am.

20 Q. You live in Williamsburg County?

21 A. Yes, ma'am.

22 Q. How old are you?

23 A. Nineteen.

24 Q. You're nineteen years old and, sir, do you know the
25 defendant, Edmond Goodman?

C. WILLIAMS - DIRECT EXAMINATION BY MS. BARR

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1 A. Yes, ma'am.

2 Q. Okay. How long have you known him?

3 A. Since I was young young.

4 Q. All right. Now, you're young to me, so how young is
5 young young?

6 A. Since I was a baby, I reckon.

7 Q. Okay. You grew up with him?

8 A. Somewhat.

9 Q. Okay. How would you characterize your relationship
10 with him? Would you say that you all were friends,
11 acquaintances, associates, or how would you, how would
12 you ---

13 A. I mean.

14 Q. --- characterize that?

15 A. By marriage. We are cousins by marriage.

16 Q. Y'all are cousins by marriage? Okay, I need you to
17 say yes or no. Speak into the microphone.

18 A. Yes, ma'am.

19 Q. Okay, very good. Now, you know Frederick Williams?

20 A. Yes, ma'am.

21 Q. Are you related to him?

22 A. Yes, ma'am.

23 Q. How are y'all related?

24 A. First cousins.

25 Q. Y'all are first cousins, okay. Now, did you know this

C. WILLIAMS - DIRECT EXAMINATION BY MS. BARR

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1 fellow that we've called Beev or Beez?

2 A. Yes, ma'am.

3 Q. Okay. How did you know Beev?

4 A. Well, we some kind of cousins, too.

5 Q. Yeah, I was -- everybody's related down the line, I
6 suppose.

7 A. Yes, ma'am.

8 Q. Okay. All right now, sir, I'm going to take you back
9 to the night of July the 18th of 2008, okay? I'm sure you
10 remember that night, right?

11 A. Yes, ma'am.

12 Q. On that day, were you at Frederick Williams's house?

13 A. Yes, ma'am.

14 Q. Okay. Do you remember what time you got there?

15 A. No, ma'am.

16 Q. Okay. Was it still light when you got there, or was
17 it ---

18 A. Yes, ma'am. It was the daytime.

19 Q. It was during the daytime, okay. When you came to
20 Fred's house, who all was there?

21 A. We, we -- the last time I came? Because I been back
22 and forth all day.

23 Q. The last time you came before the shooting.

24 A. It was me, it was Frederick, it was Dewey, it was a
25 dude named Mick, Pipsqueak.

C. WILLIAMS - DIRECT EXAMINATION BY MS. BARR

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- 1 Q. Pipsqueak?
- 2 A. Yes, ma'am. Mick's little brother.
- 3 Q. Is that Dominique?
- 4 A. I'm not sure his name.
- 5 Q. All right.
- 6 A. And Corey.
- 7 Q. Okay.
- 8 A. Jamar.
- 9 Q. Now, Corey and Jamar, they're brothers?
- 10 A. Yes, ma'am.
- 11 Q. And when you talk about Dewey, you're talking about
- 12 this fellow here?
- 13 A. Yes, ma'am.
- 14 Q. Okay. All right. So, all of those individuals that
- 15 you've named were at Fred's house. Is that right?
- 16 A. Yes, ma'am.
- 17 Q. All right. When you got there the last time, was Beez
- 18 already there?
- 19 A. No, ma'am. He came afterward.
- 20 Q. Okay. All right. Well, at what point in time did
- 21 Dewey come?
- 22 A. Well, Beez and Mick and his -- and Pipsqueak and his
- 23 brother, they came afterwards, after I got there, too. So,
- 24 they wasn't there when I first got there.
- 25 Q. Okay. Beez came at some point later?

C. WILLIAMS - DIRECT EXAMINATION BY MS. BARR

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- 1 A. Yes, ma'am.
- 2 Q. Now, did he have some people with him when he came?
- 3 A. Mick, Pipsqueak, and Mick little brother.
- 4 Q. Okay.
- 5 A. They all came together.
- 6 Q. They all came together, and you remember that they
- 7 were driving a burgundy car?
- 8 A. Yes, ma'am.
- 9 Q. That was the Toyota Avalon that we've talked about,
- 10 and do you remember what kind of car it was?
- 11 A. I don't remember what kind of car it been.
- 12 Q. Just remembered the color?
- 13 A. Yes, ma'am.
- 14 Q. Okay. Tell me what happened after, after Beez got
- 15 there.
- 16 A. Well, when we first came in the house, I was, I was
- 17 about to put -- I just had put in a video game, and he came
- 18 at me and he asked me let him play before he go back to the
- 19 beach. He about to go back to the beach.
- 20 Q. All right, when you're saying he, tell me who you're
- 21 talking about.
- 22 A. Beez.
- 23 Q. Beez asked you to let him play video games before he
- 24 went back to the beach?
- 25 A. Yes, ma'am.

C. WILLIAMS - DIRECT EXAMINATION BY MS. BARR

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1 Q. Now, is that where he was from, the beach? He was
2 living down there?

3 A. Yes, ma'am. That was where he stay at.

4 Q. Do you know whether he was working down there?

5 A. He worked -- I'm not sure if he was still working, but
6 I know he been at Ripley's Believe It or Not.

7 Q. Okay.

8 A. And so I get off the game, and I let him played it,
9 and so he ask a dude named Jimmy why he hit Toot in the
10 face with a bottle.

11 Q. Now, you've got to help us keep up. We've got a whole
12 bunch of nicknames in this case.

13 A. Well, Toot is Dave Fluitt.

14 Q. Dave Fluitt, okay.

15 A. He asked him why he hit him upside the head with a
16 bottle.

17 Q. Now, tell me. Who is Jimmy? You know Jimmy's last
18 name?

19 A. No, ma'am. I don't know his last name.

20 Q. Do you know how Jimmy came to Frederick's house that
21 night?

22 A. If I'm not mistaken, I don't want to lie, but I think
23 him and, him and Dewey came together, if I'm not mistaken.

24 Q. Okay. All right. So, Dewey was there when Beez asked
25 him the question, asked Jimmy the question?

C. WILLIAMS - DIRECT EXAMINATION BY MS. BARR

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1 A. Yes, ma'am.

2 Q. Why he ---

3 A. Yes, ma'am. Yes, ma'am.

4 Q. Okay. All right.

5 A. And so Jimmy, when -- after Beez asked him that, he
6 tell Beez that Toot tried to heist his stuff. And Beez
7 was, like, what he try to heist from me? He was, like, my
8 Black and Mild, my blunt. He was, like, man, you hit that
9 man upside the head over a Black and Mild blunt. So, they
10 exchanged a few more words. I can't remember every word it
11 was, and then -- so, you know, he was dead. So ---

12 Q. Okay, slow down for me.

13 A. That's when ---

14 Q. Please hold on. Slow down for me, okay? At this
15 point in time, was Beez still sitting down playing the
16 video game?

17 A. When he was talking to Jimmy?

18 Q. Yes.

19 A. Yes, ma'am.

20 Q. All right. Please continue.

21 A. And so, and that's when Dewey jump in there. He was,
22 like, man, that shit dead. Man, that shit dead. So, him
23 and Beez got into a argument. They started arguing. So,
24 that's when Beez, Beez get off the chair from playing the
25 video game, and he stand up. And him and Dewey turned away

C. WILLIAMS - DIRECT EXAMINATION BY MS. BARR

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1 from each other.

2 So, they arguing, they arguing, they arguing. So,
3 that when Dewey was, like, nigger, say another word. And
4 Beez went to say another word, and by -- when he said it,
5 when he went to start to say something, Dewey, like,
6 nigger, I'll kill you and he just shot him.

7 Q. Okay. All right. So, at some point, Beez stood up.
8 Dewey came up to him and told him not to say another word.

9 A. Well, they was arguing back and forth. And then Dewey
10 just went, like, nigger, say another word and ---

11 Q. Talking to Beez?

12 A. Yes, ma'am.

13 Q. Okay.

14 A. And when Beez went to say something, Dewey, like,
15 nigger, I'll kill you. Pow. And I ran out the house, and
16 I ain't see nothing else.

17 Q. Did you, did you see when Beez fell?

18 A. Yes, ma'am.

19 Q. Where was Beez shot?

20 A. In the left ear.

21 Q. In the left ear?

22 A. Yes, ma'am.

23 Q. Okay. What did Dewey do after he shot him and Beez
24 fell to the ground?

25 A. I'm not sure. I ran out the house soon as I see Beez

C. WILLIAMS - DIRECT EXAMINATION BY MS. BARR

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1 fall.

2 Q. Okay. Where did you go?

3 A. Well, right next door to the house we'd been at is
4 Frederick father's house. So, I ran behind Frederick
5 father's house.

6 Q. Okay. How long did you stay there?

7 A. I stayed there for half a minute before I left.

8 Q. Okay. All right. Where you at the house when the
9 police came out?

10 A. No, ma'am. I hadn't -- I, I didn't went back there
11 till when I see when the police went down there, and then
12 that's when I went back down.

13 Q. Okay.

14 A. I been out there to the store.

15 Q. Which store did you go to, please?

16 A. Harry Hill's.

17 Q. Harry Hill's, okay. All right, so when the police,
18 when you saw the police were at the house, you came back?

19 A. Yes, ma'am.

20 Q. All right. Did you ever go back in the house after
21 you saw Dewey shoot Beez?

22 A. No, ma'am.

23 Q. Okay, and you remember giving a statement to the
24 police about what had happened?

25 A. Yes, ma'am. Well, not that same -- not the -- it was,

C. WILLIAMS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 like, the next day.

2 Q. Next day.

3 MS. BARR: Cleveland, I think that's all the questions
4 I have. Please answer any questions defense counsel may
5 have for you.

6 THE COURT: Mr. Carraway.

7 CROSS-EXAMINATION BY MR. CARRAWAY:

8 Q. You saw Beez with a gun, didn't you?

9 A. What happened?

10 Q. You saw Beez with a gun, didn't you?

11 A. Yeah, earlier but he, when him and, when him and Dewey
12 first started arguing, the gun was on the floor. He didn't
13 -- when Dewey first said something to him, he didn't have
14 the gun in his possession at all.

15 Q. Okay. The deceased, the guy who got killed, he was
16 sitting down when he started arguing with Dewey, wasn't he?

17 A. Yeah.

18 Q. When they started?

19 A. Yeah.

20 Q. Isn't that right, and then he got up. How long after
21 he got up when he was arguing with Dewey, how long after he
22 got up was it before he got shot?

23 A. He didn't got up till he seen when, when Dewey was
24 getting, like, a bit hostile with him. When his voice
25 went, you know, and that's when he stand up. But when he

C. WILLIAMS - CROSS-EXAMINATION BY MR. CARRAWAY

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- 1 stand up, the gun wasn't in his possession.
- 2 Q. Okay, it wasn't in his possession?
- 3 A. No.
- 4 Q. But he only stood up once, right?
- 5 A. Who, Beez?
- 6 Q. Beez.
- 7 A. Yeah.
- 8 Q. He only stood up one time, and he got short -- shot
- 9 shortly after he stood up, didn't he?
- 10 A. Well, they exchanged a few words.
- 11 Q. After they exchanged a few words, but he got up
- 12 because?
- 13 A. Dewey was getting a little hostile.
- 14 Q. Dewey was, Dewey was getting a little hostile, all
- 15 right. Wasn't, wasn't Dewey -- now, you were standing
- 16 right there, you said, right?
- 17 A. Yeah.
- 18 Q. All right. Describe the gun that the deceased had.
- 19 A. I -- no, I didn't see his gun, now.
- 20 Q. I thought you just said that he had a gun earlier.
- 21 A. He did have one.
- 22 Q. Okay. Well, tell me. I, I -- describe ---
- 23 A. I can't remember how it looked, you know.
- 24 Q. Okay.
- 25 A. Put it like that. I can't remember how it looked.

C. WILLIAMS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. Okay. Now, but you are sure that Beez was sitting
2 down throughout the whole argument with Dewey until Dewey
3 got hostile. Then Beez stood up, right?

4 A. Yeah.

5 Q. Then Beez stood up, and then shortly after that they
6 argued a little more. How many seconds after he stood up
7 was it that ---

8 A. I'm not sure. I wasn't counting.

9 Q. Was it pretty quick, though?

10 A. Somewhat.

11 Q. All right. Do you remember telling law enforcement
12 that the gun was in Beez's lap?

13 A. No, I don't.

14 Q. Okay. Do you remember telling that when law
15 enforcement said the gun was in his lap, do you remember
16 saying:

17 Yes, ma'am. When he got up, I don't know if
18 he put the gun in the chair, or on the
19 stand, or if he had the gun on his side?

20 A. No, I, don't remember.

21 Q. Okay. Well, read, read this. See if that's not what
22 you said right there. Read this sentence and the first one
23 on this section.

24 A. Okay, I can't read it if you turn the page.

25 Q. Okay. Well, read there and see if that's not what you

C. WILLIAMS - CROSS-EXAMINATION BY MR. CARRAWAY

250

1 said then.

2 MS. BARR: Your Honor, may I, just for clarification,
3 understand what the witness is reading from?

4 Q. This is page 4, line 23 where there question is: The
5 gun was on his lap? And the answer is on page ---

6 A. I don't remember saying that.

7 Q. You don't remember saying that?

8 A. No.

9 Q. But if it's on this paper and they tape-recorded your
10 ---

11 A. I, I'm, I'm, I'm not saying ---

12 Q. --- statement ---

13 A. --- I didn't say it. I'm saying that I don't remember
14 saying that.

15 Q. Okay. All right, but you don't deny that on this
16 paper it says:

17 When he got up, I don't know if he put the
18 gun in the chair, or on the stand, or if he
19 had the gun on his side. I don't know.

20 A. Oh, I know I didn't say that because I know the gun
21 was not on his possession.

22 Q. Is that in the -- on this page? Is that what's on ---

23 A. You looking at it.

24 Q. I'll let you read it.

25 A. If you looking at it, you know if it's on there or

C. WILLIAMS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 not. You looking at it.

2 Q. Well, I'm asking you to look at it.

3 A. Well, you don't need to ask me. Look at the paper.

4 Q. All right. Well, if I'm saying this, you're not
5 denying it's here?

6 THE COURT: Mr. Williams.

7 A. No.

8 THE COURT: You need to, you need to listen to the
9 question and answer it. Don't argue with him. He's asking
10 you a question; you need to answer it.

11 BY MR. CARRAWAY:

12 A. Yes, sir.

13 Q. Do you agree that that's what's on this paper?

14 A. Yeah.

15 Q. Okay, and that's what you said?

16 A. Well, suit -- yeah.

17 Q. Ah. Okay. He may have had the gun at his side is
18 what you said when he stood up?

19 A. When, when, when, when Dewey first walk in the house
20 when Beez was on the, on the -- playing the game, the gun
21 was in his left. Matter of fact, Dewey walk up to him and
22 grabbed the gun and looked at him, like, and then let down
23 the gun. Put it -- let me get it. Dewey, like, no, you
24 can't have my gun.

25 Q. Isn't that what people have told you happened? You

C. WILLIAMS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 didn't ---

2 A. No.

3 Q. --- see that?

4 A. I seen that.

5 Q. All right. Okay. Let me ask you here. On this
6 statement, you were asked: Did you see Beez with a gun.
7 One page 3, line 11 you said: No, sir.

8 A. Well, I'm telling you ---

9 Q. Wait. Let me, let me finish and then you can answer.
10 You were asked:

11 Did you see Beez with a gun? No, sir.

12 Wait. Them boys said that Dewey walked to
13 Beez and picked up his gun off his lap and
14 put it back down. They were, like, where
15 did you get this?

16 A. No. I know I, I know I didn't say that.

17 Q. Okay. All right.

18 A. I know it didn't say that.

19 Q. Look here and see if that's not what's on this page,
20 though.

21 A. Where at?

22 Q. On these four lines right here.

23 (A PAUSE.)

24 A. Yeah, that's what it said.

25 Q. Okay. That's what it says that you said, right?

C. WILLIAMS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. That's what it says.

2 Q. All right.

3 A. On the paper.

4 Q. Okay.

5 (A PAUSE.)

6 Q. How big a gun was it that Dewey had?

7 A. I can't remember.

8 Q. Okay. Do you recall what you told Officer Collins?

9 A. Officer who?

10 Q. Debra Collins, Di Collins.

11 A. No.

12 Q. Do you recall saying that it was a black, small gun,
13 or you don't know? Does that refresh your memory as to
14 what kind of gun it might have been?

15 A. I, I know it was a black gun.

16 Q. Okay.

17 A. I can recall that.

18 Q. All right.

19 A. But I probably did told her it was a black, small gun.

20 Q. Okay, but you don't deny it's on this paper that when
21 he got up, you don't know whether Beez put it on the chair,
22 on the stand, or if he had the gun on his side. I don't
23 know. You don't deny that you said that when the law
24 enforcement ---

25 A. Yeah.

C. WILLIAMS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. --- talked to you?

2 A. I do deny saying that because I know he didn't have
3 the gun on him.

4 Q. I didn't say that. I said did you say that that
5 night?

6 A. I can't remember whether I -- matter of fact, that
7 night I told them that I didn't know anything.

8 Q. Okay. Well, I mean, I'll ask you if you want to read
9 lines 24, 25 and the first line on this page again and see
10 if you didn't tell them that night that he could have had
11 the gun at his side.

12 A. Okay. So?

13 Q. Gun on his side. I don't know whether it was on the
14 table, on the table ---

15 A. I don't recall me saying that.

16 Q. Chair, the stand, or if he had it at his side, had the
17 gun on his side. I don't know.

18 A. I see that right there.

19 Q. Okay, and that's when he stood up. And shortly after
20 he stood up, he got shot, didn't he?

21 A. He didn't have the gun when he was standing up.

22 Q. I know, but shortly after he stood up, he got shot,
23 didn't he?

24 A. Shortly, yeah.

25 Q. Okay. Very shortly after he stood up, he got shot?

C. WILLIAMS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. Well, I wouldn't say ---

2 Q. Because ---

3 A. I wouldn't say very shortly but shortly.

4 Q. Okay.

5 MR. CARRAWAY: Court's indulgence?

6 (A PAUSE.)

7 BY MR. CARRAWAY:

8 Q. Now, how old are you, Mr. Williams?

9 A. Nineteen.

10 Q. Nineteen. Where do you work?

11 A. What?

12 Q. Where do you work?

13 A. I don't work.

14 Q. Okay. All right. Where were you working then?

15 A. I wasn't working.

16 Q. Okay, and you're not working now, and you weren't
17 working a year ago?

18 A. What that got to do with this?

19 THE COURT: You need, Mr. Williams, you need to --
20 simply, the rules work is he asks the questions. You
21 provide the answers. You can't ask any questions. Is that
22 fair enough?

23 WITNESS: Yes, sir.

24 BY MR. CARRAWAY:

25 Q. All right, are you working now?

C. WILLIAMS - CROSS-EXAMINATION BY MR. CARRAWAY

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- 1 A. No.
- 2 Q. Were you working back on May 17th?
- 3 A. No.
- 4 Q. Okay, and are you in school now?
- 5 A. No.
- 6 Q. Okay. When did you quit school?
- 7 A. I can't remember.
- 8 Q. Excuse me?
- 9 A. I can't remember.
- 10 Q. Okay, you can't remember when you quit school. Have
- 11 you ever had a job?
- 12 A. Yes.
- 13 Q. Okay. What have you done?
- 14 A. I used to work at McDonald's.
- 15 Q. How long did you work there?
- 16 A. I can't remember.
- 17 Q. Did you come back that night to the house and tell law
- 18 enforcement what, what you just told here today, what
- 19 happened?
- 20 A. No.
- 21 Q. Why not?
- 22 A. Because I was scared.
- 23 Q. Excuse me?
- 24 A. I, I never did it. I was scared. I ain't never saw
- 25 nothing like that. I ain't know where this man been. I'm

C. WILLIAMS - CROSS-EXAMINATION BY MR. CARRAWAY

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1 not about to tell on this man. Then they're gonna find him
2 that night. They let -- come -- then he come and find out
3 I tell them. Then he come and kill me.

4 Q. How far do you live from this house?

5 A. What house?

6 Q. The house where this happened.

7 A. Oh, walking distance.

8 Q. Walking distance, and you saw when law -- law
9 enforcement was there at the house for a long time, wasn't
10 it?

11 A. No. Soon, soon as I seen they passed the store, I
12 went back down there.

13 Q. Pardon?

14 A. Soon as the police passed the store, I went back down
15 there.

16 Q. You went back down where?

17 A. To the scene.

18 Q. To the scene, and did you tell law enforcement what
19 happened?

20 A. No.

21 Q. Okay. When did you talk to them?

22 A. The next day.

23 Q. Okay. They come to you?

24 A. No. I went to them.

25 Q. They call you?

C. WILLIAMS - REDIRECT EXAMINATION BY MS. BARR

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1 A. No.

2 Q. You rode down -- this was your idea to go down there?

3 A. I wouldn't a said my idea but ---

4 MR. CARRAWAY: Thank you, sir.

5 THE COURT: Any redirect?

6 MS. BARR: Yes, sir. A couple of questions, if I may?

7 REDIRECT EXAMINATION BY MS. BARR:

8 Q. You testified that you didn't initially go back and
9 tell the police what you saw that night because you were
10 scared. Is that right?

11 A. Yes, ma'am.

12 Q. Did the defendant do anything or say anything to you
13 or in your presence after he killed Beez that made you
14 afraid?

15 A. No, ma'am.

16 Q. Okay. When he -- when you ran out the door, to the
17 best of your knowledge, but the defendant still have the
18 gun in his possession?

19 A. I'm not sure. Soon as I seen Beev hit the floor, I
20 ran out the door.

21 Q. Okay. All right, and of course when you went and you
22 left the scene, you did not know whether or not he had been
23 captured. Is that correct?

24 A. No, ma'am.

25 Q. Okay. Now, we talked about this time frame between

C. WILLIAMS - REDIRECT EXAMINATION BY MS. BARR

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1 when Beez stood and when he was ultimately murdered. We
2 talked about that, and you talked about that on
3 cross-examination, and I need to expand on that a little
4 bit, okay?

5 You testified that shortly after Beez stood up, that
6 he was shot in the head by the defendant, right?

7 A. Yes, ma'am.

8 Q. And Mr. Carraway tried to get you to kind of narrow
9 down that time frame, like quickly. Let's pause for a
10 moment, and you tell me about how long it took. You, you
11 start talking when it started, the time that the defendant
12 then shot the victim in the head. Let's just pause for a
13 minute, and you tell me when it happened. Let's, let's use
14 this as a time reference.

15 A. I'd say probably about five, ten minutes or so.

16 Q. Five to ten minutes or so?

17 A. Yes, ma'am.

18 Q. So, there was this argument after Beez stood up,
19 right?

20 A. Yes, ma'am.

21 Q. Five or ten minutes passed by, and that's when the
22 defendant shot him ---

23 A. Shot him.

24 Q. --- in the head?

25 A. Yes, ma'am.

C. WILLIAMS - REDIRECT EXAMINATION BY MS. BARR

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1 Q. And you are absolutely certain that Beez did not have
2 a gun on him at that time?

3 A. Yes, ma'am.

4 MS. BARR: That's my last question, Judge.

5 THE COURT: All right, you may step down.

6 (THE WITNESS EXITS THE STAND.)

7 MS. BARR: Your Honor, may we approach?

8 THE COURT: Yes.

9 (OFF-THE-RECORD BENCH CONFERENCE.)

10 THE COURT: Madame Forelady, ladies and gentlemen of
11 the jury, we're going to recess for the afternoon. There
12 were some legal matters that we had to tend to this
13 morning. But I assure you if it hairlips the whole world,
14 we're starting 9:30 in morning. Thank you for being here,
15 and thank you for being patient, and thank you for your
16 attention.

17 Once again, do not discuss the case with anyone. Do
18 not do any independent investigation with regard to the
19 scene. Don't allow anybody to talk to you about it. Don't
20 discuss it with your family members.

21 Madame Forelady, I'm going to ask that you enforce the
22 rule in the jury room: nobody is to discuss anything about
23 this case. Y'all can talk about Kingstree. You can talk
24 about the weather. You can talk about springtime, anything
25 you want to, but don't talk about the case.

1 Everybody bring your badges and proudly display those
2 badges as you come in the courtroom. Don't dillydally
3 around the courthouse. Come directly to the courtroom. If
4 anyone does try to contact you, we know what the plan is.
5 You identify who it is as best you can and report it to me.

6 Everyone remain seated as the juror exits the
7 courtroom.

8 (THE JURY EXITS AT 4:49 P.M.)

9 THE COURT: Anything from the state before we adjourn
10 for the evening?

11 MS. BARR: Nothing from the state, Your Honor.

12 THE COURT: Anything from defense?

13 MR. CARRAWAY: Nothing, Your Honor.

14 THE COURT: All right, we'll stand adjourned until
15 9:30 tomorrow morning.

16 (WHEREUPON, THE CASE IS AT EASE.)

17
18 THURSDAY, MARCH 18, 2009

19 (COURT RESUMES AT 9:38 A.M.)

20 THE COURT: All right, we're ready for the jury?

21 MS. BARR: State's ready, Your Honor.

22 THE COURT: We're ready for the jury.

23 (THE JURY ENTERS AT 9:40 A.M.)

24 THE COURT: Madame Forelady, ladies and gentlemen,
25 good morning. Y'all look all rested and ready to proceed

J. WHACK - DIRECT EXAMINATION BY MS. BARR

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1 forward with the trial in this matter.

2 Ms. Barr, you are recognized. You may call your next
3 witness.

4 MS. BARR: Please the court? We'd call Investigator
5 Justin Whack.

6 THE COURT: Investigator Whack, please come forward if
7 you could, please, sir. I'm going to ask you if you can
8 place your left hand on the Bible and raise your right hand
9 as the clerk administers the oath.

10 JUSTIN WHACK, BEING DULY SWORN,
11 TESTIFIES AS FOLLOWS:

12 THE COURT: Have a seat in that witness chair. I ask
13 you to pull up close to that microphone. Speak loudly,
14 clearly, and slowly. Thank you, sir, and state your full
15 name.

16 WITNESS: Justin Whack.

17 THE COURT: Very good, Mr. Whack, Officer Whack.

18 DIRECT EXAMINATION MS. BARR:

19 Q. Investigator Whack, how are you doing this morning?

20 A. Good. How are you?

21 Q. Doing good. Doing good, sir. Tell the ladies and
22 gentlemen of the jury where you're employed.

23 A. Williamsburg County Sheriff's Office.

24 Q. Okay, and tell us what it is that you do for the
25 sheriff's office.

J. WHACK - DIRECT EXAMINATION BY MS. BARR

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1 A. I'm an investigator, criminal investigator.

2 Q. All right. Now, give us a little bit of information,
3 if you will, about your background, your experience in law
4 enforcement with the sheriff's department.

5 A. I started at the sheriff's department in 2002 as a
6 deputy. Got promoted to corporal in 2004. 2005, got
7 promoted again the sergeant, shift supervisor, and in 2006,
8 ending in 2006, beginning 2007 was moved to criminal
9 investigations.

10 Q. All right. Now, we all have heard of South Carolina
11 Law Enforcement, and we've heard of the Criminal Justice
12 Academy. Did you graduate from the Criminal Justice
13 Academy?

14 A. Yes, ma'am. I graduated from the Criminal Justice
15 Academy in May of 2002.

16 Q. All right. So, you are a certified police officer.
17 Is that correct?

18 A. That's correct.

19 Q. All right. Now, sir, give us an idea, if you will,
20 what your day-to-day responsibilities are as a criminal
21 investigator in the sheriff's department.

22 A. What I do is when the patrol deputies go out and
23 respond to initial complaints, they work as far as they
24 can. And they don't come up with a suspect, or they can't
25 close a case, they pass it on to Investigation.

J. WHACK - DIRECT EXAMINATION BY MS. BARR

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1 Our lieutenant, then she gives us the complaint. We
2 then go out, follow up on what deputies couldn't do at the
3 time. Make contact with the victims and the possible
4 suspects, witnesses. We go and collect or try to collect
5 evidence and get enough to build a case to possibly make an
6 arrest and/or close out the incident.

7 Q. Prior to July of 2008, had you worked any murder cases
8 in Williamsburg County?

9 A. Yes, ma'am, I have.

10 Q. All right and, sir, were you working on the night of
11 July the 18th of 2008?

12 A. Actually, I was off that night, and I was on call.
13 Each investigator had pulled a week of call during the
14 month.

15 Q. Yes, sir.

16 A. Happened to be my week.

17 Q. Okay.

18 A. And when the incident happened, I was called out to
19 work.

20 Q. All right, tell the ladies and gentlemen of the jury,
21 if you will, get us familiar with the area and the location
22 where the shooting occurred.

23 A. It's, it's -- the area is Blakely. It's about, I'd
24 say probably about ten to fifteen miles from here, maybe
25 more. It's in the Salters area, rural area.

J. WHACK - DIRECT EXAMINATION BY MS. BARR

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1 Q. Okay.

2 A. The actual incident location happened on a dirt road
3 off of Blakely Road, which is over in the Salters area.
4 The dirt road is called Paris Circle, which is once you
5 turn on Blakely Road -- well, say you leave the courthouse.
6 Get on 377. Go towards Salters. Once you get to the new
7 stop -- intersection where they just put there, you're
8 making a left. You're going to travel down probably about
9 five miles or so. Blakely Road will be to your right.
10 Make a right on Blakely Road, go down about a mile and a
11 half, maybe two miles, and Paris Circle will be on your
12 left, and that's where the incident took place.

13 Q. Okay. Now, the Blakely area of Williamsburg County,
14 Blakely area, is that located in Williamsburg County?

15 A. Yes, ma'am.

16 Q. Okay. What time did you become aware that a murder
17 had taken place?

18 A. I received a call shortly right after it happened. It
19 was around right -- I'd say somewhere around 10:00.

20 Q. At night?

21 A. Yes, ma'am, 10 p.m.

22 Q. What time does your record reflect the call came in to
23 dispatch to report the shooting?

24 A. The call came in at 9:40 p.m.

25 Q. 9:40?

J. WHACK - DIRECT EXAMINATION BY MS. BARR

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1 A. Yes, ma'am.

2 Q. How long did it take the first responding officers to
3 arrive at the scene?

4 A. They got there within minutes because there was an
5 officer close by.

6 Q. Okay. All right. Now, sir, when you arrived at the
7 scene, did you or someone acting on behalf of the sheriff's
8 department contact the State Law Enforcement Division, what
9 we commonly know as SLED, to come and assist in the
10 investigation?

11 A. Yes, ma'am.

12 Q. All right, and a couple of SLED officers were out
13 there on the scene as well?

14 A. That's correct.

15 Q. Okay. Now, tell me. How did y'all go about
16 determining the identity of the victim?

17 A. The incident happened at -- where, where the incident
18 happened at, the owner or the person that was staying in
19 the house ID'd the subject as, as his cousin and gave us ID
20 on him.

21 Q. Okay. All right, and that young man's name was Jaron
22 White. Is that correct?

23 A. That's correct.

24 Q. All right. Now, did you take any part in interviewing
25 any witnesses who may have seen the shooting?

J. WHACK - DIRECT EXAMINATION BY MS. BARR

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1 A. Yes, ma'am.

2 Q. Okay. How many folks did you interview?

3 A. I interviewed Mr. Thermaine Gourdine, Corey Gourdine,
4 Frederick Williams, and Shannon Singletary.

5 Q. Did you ever have a conversation with a fellow we call
6 Mick?

7 A. Yeah.

8 Q. Milton Phillips?

9 A. Yes, ma'am. I interviewed him also, so.

10 Q. All right. Now, as a part of what you do when you
11 come in and there is a shooting victim who is deceased,
12 does the sheriff's department also get in touch with that
13 person's last kin, or next of kin, I should say.

14 A. Yes, ma'am.

15 Q. All right. Did you have a conversation with a young
16 lady named Latonya Walker.

17 A. Yes, ma'am, I did.

18 Q. And don't tell me about the substance of the
19 conversation, obviously, but did you understand her to be
20 the victim's live-in girlfriend?

21 A. Yes, ma'am.

22 Q. All right, and the victim was living where at the time
23 of the shooting?

24 A. In Myrtle Beach.

25 Q. Living down in Myrtle Beach?

J. WHACK - DIRECT EXAMINATION BY MS. BARR

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1 A. Yes, ma'am.

2 Q. Okay. Now, as part of your investigation, did you
3 ever talk with the defendant, Mr. Goodman?

4 A. No, ma'am.

5 Q. Tell me what actions, if any, that you undertake to
6 try to find the defendant.

7 A. Well, after we got a name for a possible suspect,
8 attempted to make contact with family members in that area,
9 in the Blakely area.

10 Q. Now, wait a minute. You said you attempted to make
11 contact with family members in the Blakely area. The
12 family members of the defendant?

13 A. Yes, ma'am.

14 Q. So, the defendant was from the Blakely area?

15 A. Yes, ma'am. We know, we know him to be from that area
16 or have contacts or ties in that area.

17 Q. All right. Any success when getting in touch with his
18 family members?

19 A. No, ma'am.

20 Q. Did you go to his last known address in Blakely?

21 A. Yes, ma'am.

22 Q. No, no luck there?

23 A. No luck.

24 Q. Did you try to get ahold of his momma?

25 A. I didn't. I don't know if any other officer did. I

J. WHACK - DIRECT EXAMINATION BY MS. BARR

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1 tried to make contact with his sister, which she lives in
2 the upper part of the state.

3 COURT REPORTER: Excuse me, Judge. He's on my mic.

4 THE COURT: Okay. Very good. Thank you.

5 BY MS. BARR:

6 Q. No luck getting ahold of any of his family members.

7 Is that correct?

8 A. No, ma'am. Even -- we found out who is, who his dad
9 was, and we were told that he was residing in Florida. We
10 tried to make contact there, too, with no luck.

11 Q. All right.

12 A. Had officers in the -- in Greensboro and try to make
13 contact with the sister, or in the county that she lived
14 in. Tried to make contact with her, but they had no luck
15 there either.

16 Q. What about his job? Did you try to contact his job?

17 A. Far as we know, he didn't have a job.

18 Q. Okay. All right, were you able to find him anywhere
19 in Williamsburg County?

20 A. No, ma'am.

21 Q. Were you able to find him anywhere, anywhere in the
22 state of South Carolina?

23 A. No, ma'am.

24 Q. All right. What efforts did you take at that point to
25 try to locate the defendant?

J. WHACK - DIRECT EXAMINATION BY MS. BARR

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1 A. We entered him into NCIC, which is a national computer
2 data base, as wanted. Entered him in as wanted. We did a
3 BOLO, which is a be on the lookout for the car that he was
4 driving, which we were told he stole from the crime scene
5 or from the house where they were at.

6 Q. Yes, sir.

7 A. We put it out to other counties, surrounding counties,
8 to everyone in the United State be on the lookout for him.
9 Gave a description of him. We did *America's Most Wanted*.
10 Put pictures of him on TV and did newspapers and things
11 like that.

12 Q. Ultimately, did your agency eventually find Mr.
13 Goodman?

14 A. Yes, ma'am.

15 Q. All right, and tell me the date on which Mr. Goodman
16 was ultimately found and placed under arrest for this
17 charge.

18 A. I think he was picked up on October the 17th.

19 Q. And where was he located?

20 A. He was located in Ohio.

21 Q. In the state of Ohio?

22 A. Yes, ma'am.

23 MS. BARR: Beg the court's indulgence.

24 (COUNSELORS CONFER.)

25 BY MS. BARR:

J. WHACK - DIRECT EXAMINATION BY MS. BARR.

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1 Q. You mentioned something about a car being taken from
2 one of the owners at the residence. Is that correct?

3 A. That's correct.

4 Q. All right. Who did that car belong to?

5 A. Frederick Williams.

6 Q. All right. Did you ultimately recover that car?

7 A. That's correct. The car was recovered in Baltimore.

8 Q. Car was in Baltimore, the defendant was in Ohio?

9 A. Yes, ma'am.

10 Q. Okay. Now, at some point did you also request that
11 GSR kits be taken from the victim, from Mr. Williams, and
12 from Ms. Singletary?

13 A. Yes, ma'am.

14 Q. All right, and tell me or tell the ladies and
15 gentlemen of the jury what a GSR kit is.

16 A. It's a, GSR kit is a Gunshot Residue Kit. Whenever a
17 weapon is fired, it discharges gunshot residue.

18 Q. Yes.

19 A. And what this kit is, is, it's a kit that you use, you
20 know, to swab the hand. It have different kinds you can
21 swab. It's a little vile with a tab in it you can pat
22 across their hand.

23 Q. Okay.

24 A. And what it does, it picks up any gunpowder is what it
25 does. They take it, send it off, and it get analyzed, and

J. WHACK - CROSS-EXAMINATION BY MR. CARRAWAY

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1 it determines whether or not that person fired a firearm or
2 not.

3 Q. Okay. Who was the person at the sheriff's department
4 who would have actually taken the samples from Frederick
5 Williams, Shannon Singletary, and the deceased victim, Mr.
6 White?

7 A. Those subjects would be Investigator Brown or
8 Lieutenant Scott, Jeffrey Scott.

9 Q. Lieutenant Jeffrey Scott.

10 MS. BARR: All right, thank you, sir. That's all the
11 questions I have. Please answer any questions that defense
12 counsel may have for you.

13 THE COURT: Mr. Carraway, cross-examination.

14 CROSS-EXAMINATION BY MR. CARRAWAY:

15 Q. All right, what time did you say you got to the scene?

16 A. It was, it was -- it wasn't that long afterwards. It
17 was -- the shooting happened at -- what it -- the call came
18 in at 9:40 p.m., so I got there shortly after that.

19 Q. Well, what time is that?

20 A. I'll say about 10:30 or so.

21 Q. You got there about 10:30?

22 A. Let me make sure. I'll say yeah, about 10:30 or so.

23 Q. You got there around 10:30. You are the chief
24 investigating officer for this crime, are you not?

25 A. Yes, sir.

J. WHACK - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. Do you have a copy of the two warrants for Mr.
2 Goodman?

3 A. For Dewey?

4 Q. Yeah.

5 A. Let's see if I've got them in here.

6 (A PAUSE.)

7 A. Yes, sir.

8 Q. May I look at them? Now, you wrote those warrants,
9 didn't you?

10 A. Yes, sir.

11 Q. Now, did you say you got there shortly after the
12 shooting?

13 A. After the call came in.

14 Q. Okay, after the call, but you got there, you got there
15 two hours after the shooting, didn't you?

16 A. According to the time frame that we were given that
17 incident happened, yes, sir.

18 Q. That's right. These guys didn't even call for an hour
19 after the incident occurred, did they?

20 A. Yes, sir.

21 Q. They waited an hour to call, didn't they? Okay, and
22 you're the one that got all the witnesses, got all the
23 names and everything. You provided this to the solicitor's
24 office, didn't you?

25 A. Yes, sir.

J. WHACK - CROSS-EXAMINATION BY MR. CARRAWAY

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- 1 Q. You got all of this. Now, this is Frederick Williams,
2 this is his house, isn't it?
- 3 A. Yes, sir.
- 4 Q. He made the phone call, didn't he?
- 5 A. Yes, sir.
- 6 Q. Okay. Is he here today? Is he, is he here today?
- 7 A. I'm not sure. I hadn't seen him.
- 8 Q. You hadn't seen him here? You saw him yesterday,
9 didn't you?
- 10 A. Yes, sir.
- 11 Q. But you ain't seen him today, have you?
- 12 A. I haven't seen him today.
- 13 Q. All right. Now, Jamar Finklea was also at the house,
14 wasn't he?
- 15 A. Yes, sir.
- 16 Q. Okay, and he saw what happened there, didn't he?
- 17 A. Yes, sir.
- 18 Q. Frederick Williams saw what happened there, didn't he?
- 19 A. Yes, sir.
- 20 Q. Is Finklea here today?
- 21 A. I haven't seen him either.
- 22 Q. You hadn't seen him. You saw him yesterday, didn't
23 you?
- 24 A. Yes, sir.
- 25 Q. All right, but he's not here today either, is he?

J. WHACK - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. Well, I mean, I don't know if he's here or not.

2 Q. Okay. You don't know whether he's here or not, but
3 you would admit Frederick Williams is one of the most
4 important witnesses as to what happened, isn't he?

5 A. Well, well, any witness is. All the witnesses that
6 were there were.

7 Q. Okay. It's his home?

8 A. Yeah.

9 Q. He called?

10 A. Uh-huh.

11 Q. All right.

12 A. Yes, sir.

13 Q. And he had told you at first that he didn't know
14 anything. He ---

15 MS. BARR: Objection to hearsay, Your Honor.

16 THE COURT: I'll sustain the objection.

17 MR. CARRAWAY: Okay.

18 BY MR. CARRAWAY:

19 Q. Were you told at first who the perpetrator was of
20 this?

21 A. I didn't receive that information until later on.

22 Q. Later on?

23 A. Later on.

24 Q. Next day, wasn't it?

25 A. I think it was actually the next day, I think.

J. WHACK - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. Well.

2 A. Well, it, it would have been the next day, the 19th.

3 Q. It would have been the next day.

4 A. Yeah.

5 Q. All right, after the first round of interviews. Isn't
6 that right?

7 A. Yes, sir.

8 Q. After the first round. All right, do you have -- was
9 Frederick Williams, was a statement taken from Frederick
10 Williams?

11 A. Yes, sir.

12 Q. All right, do you have that statement?

13 A. Yes, sir.

14 Q. You got a copy of it?

15 A. Yes, sir.

16 Q. All right, can I see it?

17 A. Sure.

18 (A PAUSE.)

19 MR. CARRAWAY: The court's indulgence? Court's
20 indulgence?

21 THE COURT: Certainly. Take your time.

22 (A PAUSE.)

23 THE COURT: Madame Forelady, ladies and gentlemen of
24 the jury, I'm going to allow y'all to go back to the jury
25 room momentarily. Do not discuss the case.

J. WHACK - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Everyone remain seated as the jury exits the
2 courtroom.

3 (THE JURY EXITS AT 9:59 A.M.)

4 MR. CARRAWAY: May we approach, Your Honor? I know
5 the jury's not here, but may we approach?

6 (OFF-THE-RECORD BENCH CONFERENCE.)

7 THE COURT: We'll stand at ease for about ten minutes.

8 (OFF THE RECORD.)

9 THE COURT: We're ready for the jury?

10 MS. BARR: State's ready, Your Honor.

11 THE COURT: Defense, you ready for the jury?

12 MR. CARRAWAY: Defense is ready.

13 THE COURT: We're ready for the jury.

14 (THE JURY ENTERS AT 10:38 A.M.)

15 THE COURT: Mr. Carraway, you are recognized,
16 cross-examination.

17 BY MR. CARRAWAY:

18 Q. Now, you conducted this interview with Frederick
19 Williams, didn't you?

20 A. Yes, sir.

21 Q. Okay. Tell the court. Now, he calls that night.
22 He's the one that called in at 10:40 that night. Is that
23 right?

24 A. Yes, sir. I think it was 9:40.

25 Q. No. Look at, look at the incident report there. What

J. WHACK - CROSS-EXAMINATION BY MR. CARRAWAY

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1 time did Officer Hyman say this came in? All right ---

2 A. Twenty minutes to 10.

3 Q. --- at 9, 9:40, but it happened, the incident happened
4 at 8:30, did it not?

5 A. Yes, sir.

6 Q. All right. You got there at 10:30, right?

7 A. Yes, sir.

8 Q. So, you didn't really get there shortly after the
9 incident. You got there almost two hours after the
10 incident, didn't you?

11 A. I got there, yeah. Yes, sir.

12 Q. Almost two hours after the incident. Now, let me ask
13 you this. You, are you related to Frederick Williams?

14 A. I don't even know how to answer that. I -- if, if I
15 am, it's a distant relative.

16 Q. Okay. Well, are you or not?

17 A. I really don't know, to tell you the truth.

18 Q. Well, so you think you might be?

19 A. It's a possibility.

20 Q. All right. Okay, and you and Willie Brown were there,
21 but it says here you chose, you chose -- you're the one
22 that did the interviewing. Isn't there right?

23 A. Me and Investigator Brown.

24 Q. Does it say here: From this point forward, questions
25 will be posed by Investigator Whack?

J. WHACK - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. Unless otherwise noted.

2 Q. Yeah. You got there at 10:40 that night?

3 A. Yes, sir.

4 Q. Can you explain why you didn't do this interview with
5 Frederick Williams until 1:05 the next day, the next
6 afternoon?

7 A. Well, Investigator Brown did a interview with him
8 actually the same -- or right after the ---

9 Q. Have you got it?

10 A. --- when we got there.

11 Q. Have you got that interview?

12 A. Yes, sir.

13 Q. All right.

14 MR. CARRAWAY: May we approach?

15 THE COURT: Sure.

16 (OFF-THE-RECORD BENCH CONFERENCE.)

17 THE COURT: Madame Forelady, ladies and gentlemen of
18 the jury, once again we're going to take a brief recess.
19 Thank you for your time and your patience. Sometimes the
20 wheels of justice grind kind of slow. Thank you very much.
21 I'm going to ask you to return to the jury room, and do not
22 discuss the case.

23 Everyone remain seated.

24 (THE JURY EXITS AT 10:44 A.M.)

25 THE COURT: We will stand at ease for five minutes.

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1 (OFF THE RECORD.)

2 (THREE GSR KITS MARKED AS STATE'S EXHIBIT NUMBER 30
3 FOR IDENTIFICATION.)

4 THE COURT: We're ready for the jury.

5 (THE JURY ENTERS AT 10:53 A.M.)

6 THE COURT: Mr. Carraway, you are recognized.

7 MR. CARRAWAY: Okay.

8 BY MR. CARRAWAY:

9 Q. But you conducted this investigation the next day.
10 You conduct, conducted the interview pretty much with
11 Officer Brown. Is that right?

12 A. That's correct.

13 Q. All right, but you were the main one on it. Is that
14 right?

15 A. On the second interview, yes.

16 Q. On the second interview?

17 A. Yes, sir.

18 Q. Okay, and you believe these guys are drug dealers at
19 this house. That's a drug house ---

20 MS. BARR: Objection, Your Honor.

21 Q. --- isn't it?

22 MS. BARR: That's an improper question. Calls for
23 speculation, and it's irrelevant.

24 THE COURT: Might counsel approach the bench?

25 (OFF-THE-RECORD BENCH CONFERENCE.)

J. WHACK - CROSS-EXAMINATION BY MR. CARRAWAY

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1 THE COURT: You may proceed, Mr. Carraway.

2 BY MR. CARRAWAY:

3 Q. Now, these were pretty much Frederick Wilson's boys,
4 were they not?

5 A. You're referring to?

6 Q. All the guys there at the house.

7 A. As far as I know, they're all friends and family.

8 Q. That's right, all friends and family at his house, and
9 -- but they do what he tells them to do. Didn't he tell
10 you that?

11 MS. BARR: Objection. Calls for hearsay and
12 speculation, Your Honor.

13 THE COURT: I'm going to allow him to ask the
14 question.

15 BY MR. CARRAWAY:

16 Q. Did he tell you these guys do what he tells them to
17 do?

18 MS. BARR: Same objection to hearsay, Your Honor.

19 THE COURT: All right, same ruling: overruled.

20 BY MR. CARRAWAY:

21 Q. Did he tell you in this interview these guys do what
22 he tells them to do?

23 A. Seem like I remember him saying something along the
24 lines of whenever, you know, they're having a argument or
25 disagreement and he tell them to stop, they usually stop.

J. WHACK - CROSS-EXAMINATION BY MR. CARRAWAY

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- 1 Q. And y'all have -- you understood they have this
2 gunpowder residue test they take on people, don't they?
3 A. Gunshot residue.
4 Q. Okay. Now, you have -- this test was taken of who,
5 which people?
6 A. I think one was taken of the, the victim, Frederick
7 Williams, Shannon Singletary.
8 Q. Okay. Would you like to have given Jimmy Wilson a
9 GPS, GPS test -- GPR test?
10 A. Yes, sir.
11 Q. All right, Jimmy Wilson. I think I may have said
12 Jimmy Williams, but Jimmy Wilson. You know who we're
13 talking about, don't you?
14 A. You're talking about the person that came there with
15 Mr. Goodman?
16 Q. No. You, you've been sitting here, haven't you?
17 A. Yes, sir.
18 Q. I'm talking about the guy that he was fighting with,
19 that he was initially arguing with about the guy that hit
20 David Fluitt over the head.
21 A. Okay. Yes, sir.
22 Q. That's Jimmy Wilson, isn't it?
23 A. Yes, sir.
24 Q. Well, were you here yesterday?
25 A. I was here.

J. WHACK - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. You didn't know who I was talking about?

2 A. Yeah. It's the same guy I was talking about.

3 Q. Jimmy Wilson?

4 A. Yeah.

5 Q. All right, that's the guy who initially was in the
6 argument with the victim. Isn't that right?

7 A. Yes, sir.

8 Q. About -- the victim was arguing with him about hitting
9 the guy over the head with the bottle.

10 A. With the bottle.

11 Q. And he was cut a week earlier, right?

12 A. Yes, sir.

13 Q. That's who I'm talking about.

14 A. Same guy I was talking about.

15 Q. Okay. Anyway.

16 THE COURT: Let's more on. Let's move on.

17 BY MR. CARRAWAY:

18 Q. We don't have a GPR test on him, do we?

19 A. No, sir.

20 Q. Okay.

21 MR. CARRAWAY: Court's indulgence.

22 THE COURT: Certainly.

23 (A PAUSE.)

24 BY MR. CARRAWAY:

25 Q. You have an interview with Jimmy Wilson in there?

J. WHACK - CROSS-EXAMINATION BY MR. CARRAWAY

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1 A. No, sir.

2 Q. You ever talked to Jimmy Wilson about this?

3 A. No, sir.

4 Q. You've never seen him since this accident, since this
5 incident, have you?

6 A. No, sir.

7 Q. Tried to find him?

8 A. We did try to locate him, but we had no success.

9 Q. Had no success?

10 THE COURT: You need to keep up your voice, if you
11 could.

12 WITNESS: Yes, sir.

13 THE COURT: Officer Whack.

14 BY MR. CARRAWAY:

15 Q. Had no success?

16 A. That's correct.

17 Q. All right. So, he's not here today, and he was, he
18 was right there, wasn't he, when this happened? As far as
19 from your investigation, he saw what happened, didn't he?

20 A. Yes, sir.

21 Q. Okay. Frederick Wilson was right there, saw what
22 happened. Isn't that right?

23 A. Yes, sir.

24 Q. And he's not here today, is he?

25 A. Like I say, I haven't seen him.

J. WHACK - CROSS-EXAMINATION BY MR. CARRAWAY

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1 Q. Okay. You saw him yesterday, didn't you?

2 A. Yes, sir.

3 Q. Okay.

4 MR. CARRAWAY: Court's indulgence?

5 THE COURT: Yes, sir.

6 (A PAUSE.)

7 MR. CARRAWAY: Thank you, Officer Whack.

8 MS. BARR: Judge, I don't have any further questions
9 of the officer.

10 THE COURT: Officer Whack, you may step down.

11 (THE WITNESS EXITS THE STAND.)

12 THE COURT: You may call your next witness.

13 MS. BARR: Your Honor, may we approach the bench very
14 briefly?

15 THE COURT: Certainly.

16 (OFF-THE-RECORD BENCH CONFERENCE.)

17 MS. BARR: Your Honor, we call Kathleen Amick.

18 THE COURT: Captain Amick?

19 WITNESS: I'm sorry?

20 THE COURT: Captain Amick?

21 WITNESS: Yes, I am.

22 THE COURT: Very good. If you could come forward and
23 place your left hand on the Bible and raise your right hand
24 as the clerk administers the oath.

25 WITNESS: Thank you.

K. AMICK - VOIR DIRE EXAMINATION BY MS. BARR

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1 THE COURT: Captain Amick, I was expecting some burly
2 fellow from the Williamsburg County Sheriff's Department.
3 I didn't realize you were Captain Amick. Sounds like a big
4 title.

5 MS. BARR: Kathleen.

6 WITNESS: Kathleen Amick.

7 THE COURT: Very good.

8 KATHLEEN AMICK, BEING DULY SWORN,
9 TESTIFIES AS FOLLOWS:

10 THE COURT: Kathleen Amick, if you could come forward
11 and have a seat in the witness chair. I'm going to ask if
12 you could to speak -- have a seat. Speak loudly, clearly,
13 and slowly in order that we can hear everything that you've
14 got to say. And could you state your full name, please,
15 ma'am?

16 WITNESS: Kathleen Amick, A-m-i-c-k.

17 THE COURT: Very good.

18 MS. BARR: Please the court, Your Honor?

19 THE COURT: Certainly.

20 VOIR DIRE EXAMINATION BY MS. BARR:

21 Q. Ms. Amick, if you will, please introduce yourself to
22 the ladies and gentlemen of the jury, and tell us, tell us
23 what it is that you do.

24 A. Well, my name to Kathleen Amick. I work for the South
25 Carolina Law Enforcement Division in the area of trace

K. AMICK - VOIR DIRE EXAMINATION BY MS. BARR

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1 evidence. And my duties include analyzing evidence that is
2 gathered at crime scenes. I analyze that evidence, I issue
3 a report, and I testify in court.

4 Q. All right. Now, tell us a little bit about your
5 educational background and your training.

6 A. I graduated from Converse College in Spartanburg,
7 South Carolina, with a Bachelor of Science degree in
8 chemistry.

9 Q. Yes, ma'am.

10 A. And I started working with the trace lab in May of
11 2006, so I've been there about two and a half years. I
12 have had extensive in-house training in the trace lab and
13 have also been to various outside training courses.

14 Q. All right. Now, ma'am, you have indicated that as
15 part of your responsibilities with SLED, that you have
16 testified in court on previous occasions.

17 A. Yes, ma'am.

18 Q. Now, have you ever been declared an expert witness in
19 the field of trace analysis in the past?

20 A. Yes, ma'am.

21 Q. And the times that you have been declared an expert
22 witnesses -- an expert witness, it would have been in
23 courts in the state of South Carolina. Is that correct?

24 A. Yes.

25 MS. BARR: All right, Your Honor, at this time we

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1 would tender Ms. Amick as an expert in the field of trace
2 analysis.

3 THE COURT: Any questions with regard to her
4 qualifications, Mr. Carraway?

5 MR. CARRAWAY: No questions.

6 THE COURT: All right. Madame Forelady, ladies and
7 gentlemen of the jury, normally a witness can only testify
8 as to things they hear, see, and feel. There's an
9 exception to that rule when that person is qualified as an
10 expert because of their education or experience in some
11 field of science or study. And not only are they allowed
12 to testify as to what they hear, see, and feel, they can
13 render opinions within that field of study. This witness
14 has been qualified, and I'm going to qualify her as an
15 expert in the area of trace analysis.

16 And just by virtue of the fact that the person is an
17 expert doesn't mean that you have to believe what they say,
18 even if it's uncontradicted. You, as the ultimate triers
19 of the facts, are to determine what weight to give all
20 evidence, expert witness and lay-witness testimony.

21 Ms. Barr, you are recognized.

22 MS. BARR: Thank you, Your Honor.

23 DIRECT EXAMINATION MS. BARR:

24 Q. Ms. Amick, I'm going to show you what has been marked
25 for identification purposes as State's Exhibit Number 30.

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1 Ask you if you recognize this particular exhibit.

2 A. Yes, I do.

3 Q. Okay, tell me how it is that you recognize the
4 exhibit.

5 A. On the back of the envelope, it has my initials where
6 I sealed it and the date that I sealed it after I analyzed
7 it.

8 Q. Okay, and what was -- what is the date that's listed
9 on that particular exhibit?

10 A. 8/11/08.

11 Q. And tell the jurors what that particular exhibit is.

12 A. It is three GRS kits.

13 Q. Tell me, if you will -- and you may refer to your
14 report if you need to -- when you received information and
15 a request by our agency to perform analysis in connection
16 with this case.

17 (A PAUSE.)

18 A. Okay, it doesn't look like I have the actual log-in
19 date.

20 Q. Okay.

21 A. The analysis started on July 25th of 2008.

22 Q. All right. Tell me as far as the analysis is
23 concerned, what specifically were you asked to analyze?

24 A. A GSR kit is comprised of particle lifts and swabs
25 that look similar to a Q-Tip. And those swabs were

K. AMICK - DIRECT EXAMINATION BY MS. BARR

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1 analyzed for the presence of gunshot residue.

2 Q. All right. Were there three individuals whose samples
3 were given to you?

4 A. Yes.

5 Q. All right. Will you tell me the names of those
6 individuals?

7 A. Yes: Shannon Singletary, Frederick William [sic], and
8 Jason White [sic].

9 Q. And you understood Jason White to be the deceased. Is
10 that correct, or as the victim, as we would call him?

11 A. Yes.

12 Q. All right. So, you received a GSR kit on those three
13 individuals?

14 A. Yes.

15 Q. All right, tell the jury how you went about conducting
16 your analysis.

17 A. The swabs are analyzed using five percent nitric acid
18 to extract the metals from the swabs. And then that is run
19 on instrumentation that will tell us whether the three
20 components of GSR are present, which are barium, antimony,
21 and lead.

22 Q. Okay. All right, and you conducted the analysis on
23 both -- on all three samples, correct?

24 A. Yes, ma'am.

25 Q. And what did your analysis reveal as it relates to

K. AMICK - DIRECT EXAMINATION BY MS. BARR

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1 Shannon Singletary?

2 A. That analysis showed that she did not -- it did not
3 indicate the presence of gunshot residue on her hands.

4 Q. What about the analysis that was performed on samples
5 provided by Frederick Williams?

6 A. Those also did not show the presence of gunshot
7 residue on his hands.

8 Q. All right, and as it relates to the victim, Mr. White,
9 what did his analysis show?

10 A. Again, it did not indicate the presence of gunshot
11 residue on his hands.

12 Q. All right. Now, ma'am, once you completed the
13 analysis, what did you do with the kits?

14 A. When the analysis is complete, the kits are sealed
15 back up, and they were put in this envelope. I initialed
16 -- I put evidence tape on, initialed and dated that
17 evidence tape to show that I sealed it. And it was
18 returned to the agency.

19 Q. Okay, and, of course, the agency would be Williamsburg
20 County Sheriff's Department?

21 A. Yes.

22 Q. Okay. Now, ma'am, the exhibit that I handed to you,
23 does it appear that it has been tampered with in any
24 fashion after you last had possession of it?

25 A. No, I don't think so.

K. AMICK - DIRECT EXAMINATION BY MS. BARR

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1 Q. Appears to be in order?

2 A. Uh-huh.

3 Q. All right.

4 MS. BARR: Your Honor, we would move to admit State's
5 Exhibit Number 30.

6 THE COURT: Any objection from defense?

7 MR. CARRAWAY: Without objection.

8 THE COURT: State's Exhibit Number 30 is in to
9 evidence without objection from defense.

10 (THREE GSR KITS MARKED INTO EVIDENCE AS STATE'S
11 EXHIBIT NUMBER 30.)

12 MS. BARR: Ms. Amick, thank you so much for answering
13 my questions. If you will, please answer any questions
14 that defense counsel may have for you.

15 THE COURT: Cross-examination?

16 MR. CARRAWAY: No questions.

17 THE COURT: Very good. You may step down, and you are
18 free to leave. Thank you, ma'am.

19 WITNESS: Thank you.

20 (THE WITNESS EXITS THE STAND.)

21 MS. BARR: Your Honor, we anticipate that the state's
22 last witness will be Dr. Schandl, the forensic pathologist
23 from the Medical University of South Carolina, and I
24 understood her to have a conflict this morning. She was
25 leaving Charleston between 10 and 10:15. So, I'm expecting

1 'that she'll be here any moment now.

2 THE COURT: Okay. Very good.

3 Madame Forelady, ladies and gentlemen of the jury, I'm
4 going to ask that you recess to the jury room. Do not
5 discuss the case. I know that many of you probably -- how
6 many of you have not served on a jury before? Well, as you
7 see, one of the things that's very -- these are important
8 matters. We need to proceed forward with a serious mind.

9 But one of the most difficult things about preparing a
10 case is the coordination of it, and sometimes it doesn't
11 flow as smoothly as we could. That's just the nature of
12 the beast, and thank you for your patience.

13 We would ask that you retire to the jury room. Do not
14 discuss the case. Those of you who would wish to smoke,
15 ask the bailiff to accompany you down, but do not discuss
16 the case with anyone.

17 Everyone remain seated as the jury exits the
18 courtroom.

19 (THE JURY EXITS AT 11:13 A.M.)

20 THE COURT: We will stand at ease.

21 MS. BARR: Thank you, Your Honor.

22 THE COURT: Ms. Barr, if you'll just let me know when
23 she shows up.

24 MS. BARR: Absolutely, Your Honor. Thank you very
25 much.

1 (OFF THE RECORD.)

2 THE COURT: Anything from the state before we proceed?

3 MS. BARR: State's ready to proceed, Your Honor.

4 THE COURT: Anything from defense?

5 MR. CARRAWAY: Defense is ready, Your Honor.

6 THE COURT: We're ready for the jury.

7 (THE JURY ENTERS AT 11:46 A.M.)

8 THE COURT: Solicitor.

9 MS. BARR: Your Honor, at this time the state calls
10 Dr. Cynthia Schandl.

11 THE COURT: Dr. Schandl, I'm going to ask you to come
12 forward and place your left hand on the Bible. Raise your
13 right hand as the clerk administers the oath.

14 CYNTHIA A. SCHANDL, BEING DULY
15 SWORN, TESTIFIES AS FOLLOWS:

16 THE COURT: Yes, ma'am, I'm going to ask you to come
17 forward and have a seat in the witness chair. I'm going to
18 ask you if you could to pull up real close to that
19 microphone. Speak loudly, clearly, and slowly in order
20 that we can hear everything that you've got to say. And
21 I'm going to ask you to start by stating your full name,
22 please, ma'am.

23 WITNESS: Yes, sir. Cynthia Anna Schandl,
24 S-c-h-a-n-d-l.

25 THE COURT: Yes, ma'am. This is an awfully big

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1 courtroom and kind of, noise kind of gets swallowed up.

2 So, I'm going to ask you to speak real loudly, if you
3 could. Thank you, ma'am.

4 WITNESS: Yes, sir.

5 THE COURT: Ms. Barr.

6 MS. BARR: Thank you, Your Honor.

7 VOIR DIRE EXAMINATION BY MS. BARR:

8 Q. Dr. Schandl, if you will, please introduce yourself to
9 the ladies and gentlemen of our jury.

10 A. My name is Cynthia Anna Schandl, and I am a forensic
11 pathologist and assistant professor at the Medical
12 University of South Carolina in Charleston, South Carolina.
13 I am there employed as a forensic pathologist, as well as
14 other duties I have. My background includes, in order to
15 become a forensic pathologist, includes a bachelor's degree
16 in biology which I obtained from California State
17 University in San Bernardino.

18 Then after bachelor's degree, I went to medical
19 school. Forensic pathologists are medical doctors, and I
20 went to medical school at the Medical University of South
21 Carolina. During that time, I also obtained my doctoral
22 degree, so I also went to graduate school. And having
23 completed medical school, did become, did, did pass the
24 board examinations to become a medical doctor, and I am
25 licensed to practice medicine in the state of South

1 Carolina.

2 And after medical school, in order then to become
3 trained as a forensic pathologist rather than just a
4 medical doctor, one must then also go into another training
5 program. So, that's a four-year training program in the
6 field of pathology.

7 Following the training in pathology, which is the
8 study of disease, then one further gets an additional year
9 of training which is called a fellowship-training year,
10 specifically in the study of disease as it relates to
11 forensics where we're more concerned with such things, not
12 so much natural disease, although we certainly also look at
13 that. But more things concerned with accidents, homicides,
14 suicides. So, more concerned with traumatic forms of death
15 and things that result from that. So, that's my
16 background.

17 And after that training, there are also board
18 examinations, as you might imagine, for pathology. And I
19 am board certified in anatomic pathology, clinical
20 pathology, and forensic pathology. And at this point, I've
21 been on faculty at the Medical University as a forensic
22 pathologist for about five years.

23 Q. All right. Now, ma'am, during your career as a
24 pathologist, particularly during your appointment with MUSC
25 in Charleston, have you had occasion to testify in courts

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1 of this state or in any other state as an expert witness?

2 A. Yes, ma'am, I have.

3 Q. Okay. Approximately how many times?

4 A. Approximately fifty times.

5 Q. And you've been qualified as an expert in the field of
6 forensic pathology?

7 A. Yes, ma'am, I have.

8 MS. BARR: Your Honor, at this time we would tender
9 Dr. Schandl as an expert in the field of forensic
10 pathology.

11 THE COURT: Any query with regard to qualifications,
12 Mr. Carraway?

13 MR. CARRAWAY: None, Your Honor.

14 THE COURT: All right. Madame Forelady, ladies and
15 gentlemen of the jury, once again normally a person cannot
16 give opinion testimony. Normally when a person testifies,
17 they must testify as to what they either saw, heard, or
18 sensed by smell. However, there is an exception. When
19 someone is qualified because their education or experience,
20 they are permitted to give opinion in certain areas that
21 the court qualifies in that way.

22 This witness will be qualified in the area of forensic
23 pathology to give opinion testimony in that area. That
24 does not mean that you must accept the opinion, but it is
25 evidence for you to use in any way you see fit.

C. SCHANDL - DIRECT EXAMINATION BY MS. BARR

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1 Ms. Barr.

2 MS. BARR: Thank you, Your Honor.

3 DIRECT EXAMINATION BY MS. BARR:

4 Q. Dr. Schandl, how many autopsies have you performed in
5 your career?

6 A. I've performed over a thousand autopsies.

7 Q. All right, and I'm sure we have an idea of what that
8 means from a lay person's standpoint. But for the record,
9 explain to us what an autopsy is.

10 A. An autopsy is an examination of an individual who has
11 died. That's the short version.

12 So, basically what we do is we receive a decedent, a
13 dead individual, and first we begin with an examination of
14 the external parts of the individual. It's what we call an
15 external examination. So, the individual is brought up and
16 placed on an examination table, and we document both
17 photographically and by writing diagrams and taking notes
18 of things that we see on the outside of the body. These
19 may be things that are identifying, such as hair color, eye
20 color, height and weight, scars, tattoos, that sort of
21 thing. Or there may be signs of injuries, such as gunshot
22 wounds or scrapes or cuts or things like that. So, that's
23 all encompassed in the external examination.

24 Following that, we then go to the internal
25 examination, which is often thought of as the autopsy,

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1 where the incision is made. And then we look at the organs
2 and the body cavities, again for any natural disease
3 processes and anything that may have occurred as a result
4 of trauma. So, that -- we look at each body cavity, the
5 chest cavity, the abdominal cavity, and the brain, for
6 those things as part of the examination.

7 In the field of forensic pathology, when we're
8 performing a forensic examination, we then also take body
9 fluids, which is blood and urine, for toxicology testing
10 routinely in our cases.

11 Q. All right. Now, ma'am, you were called upon, were you
12 not, by law enforcement or the coroner in Williamsburg
13 County to perform an autopsy on the body of Jaron White.
14 Is that correct?

15 A. Yes, ma'am, that is correct.

16 Q. All right. Tell me when Mr. White's body was brought
17 to the Medical University of South Carolina.

18 A. Yes. May I refer to my report?

19 Q. Absolutely.

20 A. We received the body of Mr. White on July 19, 2008,
21 and our examination began that day at 1:00 p.m.

22 Q. All right. As part of your examination, did you
23 measure the deceased's height and weight?

24 A. Yes, ma'am, we did.

25 Q. All right. What did you record as height and weight?

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1 A. Mr. White weighed approximately 242 pounds. Now,
2 that's with clothing on, and was approximately 73.5 inches
3 in length. So, that's about 5 foot 11 and a half
4 thereabouts.

5 Q. All right. Now, tell me. Was there anything
6 significant on your physical examination of Mr. White,
7 anything that was obvious and significant to you when you
8 performed your autopsy?

9 A. Yes, certainly. There was a gunshot wound to Mr.
10 White, to the left side of his head. The -- it was an
11 entrance wound that penetrated through the left ear. So,
12 on external examination, that was evident. There was a
13 defect to the left ear.

14 Q. Okay. All right, tell us how you began your autopsy,
15 and tell us what your findings were.

16 A. Yes, ma'am. So, after we documented externally those
17 measurements and characteristics of that gunshot wound,
18 when we got to the portion of the autopsy where we examined
19 the head, I found that part of the bullet had sheared off
20 at the skull where the entrance wound was. So, it was
21 below the scalp on the left side of the head. And the
22 remainder of the bullet went all the way through the brain
23 and out the other side of the skull, but then remained
24 embedded under the skull on the right side of the head.

25 So, basically the bullet went in through the left side

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1 of the head and out the back, the right side of the head
2 through the brain. And pieces of the bullet were recovered
3 at both the entrance site and the exit site.

4 Q. Okay. All right, and you talked about how you
5 conducted examinations of the deceased person's organs, I
6 guess to eliminate other possible causes of death?

7 A. Yes, to document any natural disease processes.

8 Q. Were any noted?

9 A. Mr. White did have what is called cardiomegaly, which
10 is an enlarged heart which may have put him at risk for
11 death in the future.

12 Q. Okay. All right, any other abnormalities noted to the
13 deceased?

14 A. Let me double check.

15 (A PAUSE.)

16 A. He also had signs in his lungs that he was most likely
17 a smoker, and he had a small amount of inflammation in his
18 liver, which is very usual for people. It's not an unusual
19 finding. So, no other signs of, of any disease, no.

20 Q. Now, ma'am, as a pathologist, do you all have certain
21 classifications of death?

22 A. We have what they call manners of death. So, we
23 determine the cause of death, which in this case is clearly
24 the gunshot wound to the head since it did pass through the
25 brain. But then we have what is -- what are called manners

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1 of death, and these are classified. They're given to us.
2 We have choices. For example, we can choose homicide,
3 suicide, natural, accident, or undetermined. So, those are
4 the five choices that we are offered. And from those, a
5 case in which one individual dies at the other's hand, that
6 would be considered a homicide and was most appropriate for
7 this case.

8 Q. Okay, and, and that is how you classified Mr. White's
9 death. Is that correct?

10 A. Yes, that's correct.

11 Q. Now, based on the type of injury that Mr. White
12 suffered, do you have an opinion to a reasonable degree of
13 medical certainty as to how long he survived following the
14 gunshot to his head?

15 A. I do have an opinion. It likely Mr. White died at, at
16 that time, at that moment within seconds. There are always
17 those instances where severe non-survivable brain injury
18 people do survive for longer than that. But I think it is
19 most likely that this individual died right at that moment.

20 Q. Does the gunshot wound itself, the entrance wound as
21 well the side of the victim's head in which the bullet was
22 found, does that indicate to you at all the angle of the
23 firearm at the time it was shot?

24 A. What, what, what Ms. Barr is suggesting, I believe,
25 and please correct me if I'm wrong, we, what we can measure

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1 is simply from where the entrance wound is to where either
2 an exit, or in this case the fragments of the bullet, were.
3 And that can give us an angle simply from the point of
4 entrance to there. That's all.

5 So, in that case this bullet was going up and back and
6 to the right. However, not knowing where two people are in
7 the room, I cannot tell you where the gun was in the room
8 or how -- you know, I cannot tell you anything about the
9 relationship between Mr. White and whoever the shooter was.
10 That I cannot tell you.

11 Q. I understand. Fair enough. Now, you indicate that
12 you all have what you call manner of death, and you've
13 listed five classes. Is that correct?

14 A. Yes.

15 Q. All right. Now, you mentioned also that the deceased
16 had an enlarged heart?

17 A. Yes.

18 Q. Did that condition play any role at all into his death
19 that day?

20 A. No, ma'am.

21 Q. And, and for the record, I need you to tell me your
22 opinion as to the cause of death of Mr. White on July the
23 18th, 2008.

24 A. The cause of death is cerebral and cerebellar
25 disruption due to a penetrating gunshot wound to the head.

C. SCHANDL - CROSS-EXAMINATION BY MR. CARRAWAY

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1 And cerebral and cerebella, those are parts of the brain,
2 the cerebrum and the cerebellum.

3 MS. BARR: Beg the court's indulgence one moment.

4 (A PAUSE.)

5 MS. BARR: Dr. Schandl, thank you so much. Please
6 answer any questions counsel may have for you.

7 WITNESS: Yes, ma'am.

8 THE COURT: Mr. Carraway, cross-examination.

9 CROSS-EXAMINATION BY MR. CARRAWAY:

10 Q. Was any drugs found in the body of the deceased?

11 A. Well, like I mentioned before, we do collect blood and
12 urine if it's available and send it for toxicological
13 examination, and I will review that report.

14 (A PAUSE.)

15 A. The blood was positive for Delta 9
16 tetrahydrocannabinol. That's THC, which is found in
17 marijuana, at a level of 9.8 nanograms per milliliter.
18 Also found in his blood was a metabolite. So, a breakdown
19 product of the THC, which is the active, active part of, of
20 marijuana. And additionally, a level of alcohol of zero
21 point -- excuse me, 0.054 percent. So, a low level of
22 alcohol was also in his blood.

23 Q. You said 0.054?

24 A. Percent, yes, sir.

25 Q. Okay, good.

C. SCHANDL - REDIRECT EXAMINATION BY MS. BARR

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1 MR. CARRAWAY: All right, I don't have any further
2 questions.

3 THE COURT: Redirect?

4 REDIRECT EXAMINATION BY MS. BARR:

5 Q. Other than the marijuana substance that was found in
6 the deceased's blood, there, were there any other illegal
7 substances found in his blood?

8 A. No, ma'am.

9 MS. BARR: Thank you.

10 THE COURT: You may ---

11 MS. BARR: Judge, that's all the questions I have for
12 Dr. Schandl. We would ask that she be excused.

13 THE COURT: You may step down, and you are free to go
14 back to Charleston.

15 WITNESS: Thank you, sir.

16 THE COURT: Thank you so much.

17 (THE WITNESS EXITS THE STAND.)

18 THE COURT: Ms. Barr, you may call your next witness.

19 MS. BARR: Your Honor, at this time the state would
20 rest.

21 THE COURT: Very good.

22 Madame Forelady, ladies and gentlemen of the jury, the
23 state has completed the presentation of the evidence in
24 this case. Requires that we at this time take up matters
25 of law. I'm going to ask, if we could, for y'all to be

1 back at 2:15, 2:15 sharp. Do did not discuss the case with
2 anyone else. 2:15.

3 (THE JURY EXITS AT 12:03 P.M.)

4 THE COURT: Be glad to entertain motions at this time.

5 MR. CARRAWAY: I'd like to make a motion for directed
6 verdict at this point, Your Honor. I think based on the
7 insufficiency of the evidence, I don't feel like, I, I
8 don't feel that the evidence is sufficient to where a jury

9 ---

10 THE COURT: You need to speak up. Why don't you come
11 up, come up a little up here? Why don't you start over.

12 MR. CARRAWAY: All right. I'm going to make a motion
13 for a directed verdict based on the insufficiency of the
14 evidence. We feel like the evidence is insufficient to
15 where a jury can find, a reasonable jury could find the
16 defendant guilty in this case.

17 THE COURT: Be glad to hear from the defense -- I
18 mean, from the state. I'm sorry, Ms. Barr.

19 MS. BARR: That's okay, Your Honor. Please the court,
20 Judge? We would respectfully request that the motion be
21 denied. Defendant has two charges pending, one being of
22 murder, the other being possession of a weapon during the
23 commission of a violent crime. The undisputed facts,
24 according to the witnesses who testified, was that
25 defendant armed himself with a firearm, made threatening

1 remarks to the victim, saying that I'm going to kill you,
2 and then proceeded to shoot him in the head. And that
3 shooting resulted in the victim's death.

4 Malice aforethought can be either expressed or
5 implied. Malice may be implied by the use of deadly
6 weapon, and obviously a firearm, gun, would be considered a
7 deadly weapon. In addition, we take the position that
8 malice was expressed by his use of words I'm going to shoot
9 you.

10 So, we would submit that there has been substantial
11 evidence from which this jury can conclude the defendant is
12 guilty of both crimes, and we respectfully request that the
13 motion be denied.

14 THE COURT: I think there is a substantial question
15 of fact, and the motion for directed verdict is indeed
16 denied.

17 MR. CARRAWAY: Your Honor, what we intend to do now is
18 the defense is going to rest, Your Honor. And if the court
19 would like to query the defendant as to his right to
20 testify?

21 THE COURT: I'll do that.

22 If you could stand and raise your right hand so the
23 clerk of court can administer the oath, Mr. Goodman?

24 EDMOND LOUIS GOODMAN, BEING DULY
25 SWORN, TESTIFIES AS FOLLOWS:

1 EXAMINATION BY THE COURT:

2 THE COURT: Mr. Goodman, are you under the influence
3 of any drugs or alcohol here today?

4 DEFENDANT: No, sir.

5 THE COURT: Are you experiencing any kind of physical
6 or mental problem that could prevent you from understanding
7 what we're doing here today?

8 DEFENDANT: No, sir.

9 THE COURT: All right, we have reached the stage in
10 this trial where the state has rested. This is the
11 opportunity that you have to present any evidence that you
12 might have in support of any defense that you might have.
13 What I need to do at this time is I need for you to make
14 sure that you understand what your constitutional rights
15 are, specifically those in the Fifth Amendment of the
16 United States Constitution which provide in relevant part
17 that no person shall be compelled in any criminal case to
18 be a witness against himself.

19 What that essentially means, and I know you've talked
20 with your lawyer about it, what that means is Ms. Barr, Mr.
21 Sabb can't call you to the witness stand. They can't make
22 you take the witness stand. You have an absolute right to
23 rely on the state's -- the requirement that the state prove
24 you guilty beyond a reasonable doubt. However, on the
25 other hand, if you want to take the witness stand, you can.

1 This is your trial. These are fundamental rights that
2 belong to you, Mr. Goodman. They don't belong to your
3 lawyer. I see your mother sitting there beside you. They
4 don't belong to her. Because, after all, at the end of the
5 day, if you are convicted of any criminal offense, guess
6 who goes to jail? Who would that be?

7 DEFENDANT: Me.

8 THE COURT: That would be you. It wouldn't be your
9 lawyer, and it wouldn't be your momma. So, this is a
10 fundamental right that belongs to Mr. Goodman and nobody
11 else.

12 One of the things you need to realize. If you take
13 the witness stand, there are certain rules that apply.
14 You've seen witnesses testify in this trial, and you've
15 seen Ms. Barr call witnesses up to the witness stand, and
16 she asked them what I call friendly questions, direct
17 questions. Who, where, what, when, and if you were to take
18 the witness stand or to subpoena witnesses on your own
19 behalf, your lawyer would ask those type questions of you
20 and your witnesses, and I call those softball questions.

21 But you, like the other witnesses who have testified
22 in this trial, would be subject to cross-examination. They
23 are more directed questions, more difficult to answer from
24 your point of view.

25 In addition to that, you need to be made aware that if

1 you have a conviction, a criminal record within the past
2 ten years, and the crime is within the category of crimes
3 that involve moral turpitude or a sentence greater than one
4 year, and if I make the independent determination that the
5 probative value outweighs the prejudicial value, your
6 criminal record could come into play. Do you understand
7 that?

8 DEFENDANT: Yes, sir.

9 THE COURT: If you decide to testify, it must be your
10 decision to testify. It must be done freely, voluntarily,
11 and intelligently with the knowledge of your Fifth
12 Amendment rights. Do you understand your Fifth Amendment
13 rights?

14 DEFENDANT: Yes, sir.

15 THE COURT: Have you talked with your lawyer about
16 your Fifth Amendment rights?

17 DEFENDANT: I understand them.

18 THE COURT: All right. Have you talked with him about
19 it?

20 DEFENDANT: No, sir.

21 THE COURT: All right, do you want to talk with him
22 any further?

23 DEFENDANT: I understand them.

24 THE COURT: All right. Have you understood all your
25 conversations with your lawyer?

1 DEFENDANT: Yes, sir.

2 THE COURT: Do you need any additional time to confer
3 with him?

4 DEFENDANT: No.

5 THE COURT: All right. Do you want to ask me any
6 questions about your Fifth Amendment right?

7 DEFENDANT: No.

8 THE COURT: All right. Do you know that if you do not
9 take the witness stand, I will instruct the jury, unless
10 your lawyer tells me not to, I will instruct them that not
11 only can they not take into consideration the fact that you
12 did not take the witness stand. I will instruct them that
13 they can't even talk about that in the jury room. Do you
14 understand that?

15 DEFENDANT: I understand.

16 THE COURT: All right. Do you understand your rights,
17 Mr. Goodman?

18 DEFENDANT: Uh-huh.

19 THE COURT: You need answer up.

20 DEFENDANT: Yes.

21 THE COURT: All right. Do you have any questions, Mr.
22 Goodman?

23 DEFENDANT: Nah.

24 THE COURT: All right.

25 DEFENDANT: No, sir.

1 THE COURT: Do you wish to testify?

2 DEFENDANT: No, sir.

3 THE COURT: All right. Very good.

4 Any, any further questions, motion to compel?

5 MR. CARRAWAY: No, Your Honor.

6 THE COURT: All right, before we break for lunch, I
7 want to go over, have a jury charge conference, if we
8 could. And I think it's fairly clear what we're going to
9 charge, and let's go over that if we could.

10 First of all, I'm going to charge the general law that
11 the indictment is not evidence. I'm going to charge the
12 fact that he's being charged with multiple charges, more
13 than one, and that each are separate and distinct offenses
14 and the law that pertains to that. I'm going to charge in
15 great detail the presumption of innocence.

16 I'm going to charge reasonable doubt. I'm going to
17 charge that reasonable doubt is the kind of doubt that
18 would cause a reasonable person to hesitate to act. I'm
19 going to go on and explain it in further details, kind of
20 juxtapose it to the civil cases and explain it in some
21 detail about what reasonable doubt is.

22 I'm going to explain to them the law, what their
23 obligations as a jury is and how it's different than that
24 of a trial judge.

25 I'm going to charge them the law about direct and

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1 circumstantial evidence. I'm going to charge them the law
2 concerning the credibility of witnesses. I'm going to
3 charge them how to evaluate expert witnesses.

4 Will charge the failure of defendant to testify unless
5 I hear otherwise from Mr. Carraway. Do you wish that I
6 charge the failure of the defendant to testify?

7 MR. CARRAWAY: I would ask that you charge it.

8 THE COURT: Very good. I'm going to charge the law
9 about how to evaluate prior inconsistent statements. There
10 were a number of instances where the testimony here in this
11 courtroom differed from that of prior statements. I'm
12 going charge the law in that regard. I'm going to charge
13 the law about how to evaluate the prior record of a
14 witness.

15 I'm going to charge the law concerning murder,
16 voluntary manslaughter, self-defense, which encompasses
17 must be without fault. I'm going to define imminent
18 danger. And within that, I'm going to charge the right to
19 act on appearances, words accompanied by hostile acts.

20 MR. SABB: I'm sorry, what was that last one, Judge,
21 please?

22 THE COURT: Words accompanied by hostile acts. The
23 size and age of the defendant and the victim, alleged
24 victim. I'm going to charge intoxication and how that can
25 be considered in determining whether the defendant's fear

1 of death or bodily harm was reasonable.

2 I'm going to charge the third and final element of
3 self-defense: no other way to avoid the danger, the final
4 element. I'm going to charge the law about how there's not
5 a duty to retreat if doing so would increase your risk of
6 harm. I'm going to charge the law about the degree of
7 force.

8 Charge possession of weapon during the commission of a
9 violent crime.

10 And once again, I've made some -- given the counsel
11 opportunity to review the verdict form and have made some
12 corrections pursuant to counsel's request, and ask that the
13 lawyers review the verdict form.

14 But before we do that, is there any -- of course after
15 I charge the law, I'm going to give each side the
16 opportunity to except to the charge.

17 Is there anything at first glance that sticks out in
18 your mind, Ms. Barr?

19 MS. BARR: Your Honor, may I just ask the court the
20 specific instructions that you will give as it relates to
21 voluntary manslaughter?

22 THE COURT: I will, if I can find it. Hang on. It's
23 coming. All right, it says if you find that the state has
24 failed to prove beyond a reasonable doubt that the
25 defendant committed murder, you may consider whether the

1 state has proved beyond a reasonable doubt the defendant
2 committed voluntary manslaughter.

3 To prove voluntary manslaughter, the state must prove
4 beyond a reasonable doubt the defendant took the life of
5 another in the sudden heat of passion based on sufficient
6 legal provocation. Both heat of passion and sufficient
7 legal provocation must be present at the time of the
8 killing to constitute voluntary manslaughter.

9 Sudden heat of passion may for a time affect the
10 person's self control and temporarily disturb person's
11 reason. Sudden heat of passion must be the type that would
12 make an ordinary person unable to coolly reflect on his
13 actions, would produce an uncontrollable impulse to do
14 violence.

15 Sufficient legal provocation must be the type that
16 would make a person of ordinary reason and caution become
17 enraged, to lose temporarily. Provocation needed for
18 voluntary manslaughter must come from some act or related
19 to the victim. Words alone, however vulgar or insulting,
20 are not enough to be legal provocation. Where death is
21 caused by the use of a deadly weapon, the words must be
22 accompanied by some overt, threatening act which could have
23 produced the heat of passion. The exercise of a legal
24 right, no matter how offensive it is to another, is never
25 sufficient legal provocation for voluntary manslaughter.

1 If the heat of passion had cooled, or if there was
2 enough time between the provocation, if any, and the
3 killing for the passion of a reasonable person to cool,
4 killing would not be voluntary manslaughter.

5 In deciding whether a reasonable person had had enough
6 time to cool off, he should consider all of the
7 circumstances surrounding the killing. They may consider
8 the nature of the provocation, if any; the defendant's
9 mental and physical state; and the circumstances of
10 relationship between the parties.

11 That will be what I will charge, although it will be a
12 little bit slower.

13 MS. BARR: Yes, sir.

14 THE COURT: A little bit more thought provoking, but
15 is that more than you wanted to hear?

16 MS. BARR: No, no, Judge. I wanted to hear
17 everything.

18 Your Honor, we would also request and propose that
19 Your Honor instruct the jury that the heat of passion and
20 sufficient legal provocation must exist at the same time.
21 And even if a crime is committed in the heat of passion, if
22 sufficient legal provocation does not exist, then it would
23 be murder as opposed to manslaughter. And the same thing.
24 If legal provocation existed but malice also existed, it
25 would be murder and not manslaughter.

1 THE COURT: If you take this in conjunction with my
2 murder charge, I think that's logically deduced from that.

3 MS. BARR: Your Honor, we would also go on record as
4 excepting to the charge of self-defense. We believe that
5 there is insufficient evidence in the record for which the
6 jury could conclude that the four factors necessary to
7 establish a valid self-defense claim is present here. And
8 so we would object to that particular charge going before
9 the jury.

10 THE COURT: All right, be glad to hear from defense
11 with regard to the self-defense charge.

12 MR. CARRAWAY: Well, we think all the elements are
13 certainly here. If the jury believed everything that was
14 said, could deduce from this that he was defending himself.

15 THE COURT: Would you like to put more on the record
16 in that regard, Ms. Barr?

17 MS. BARR: Yes, sir. Your Honor, the first element of
18 self-defense requires that the defendant be without
19 difficulty in bringing on the action. All of the testimony
20 here, it is undisputed that the defendant interjected
21 himself in a conversation between the victim and the
22 third-party. So, we would take the position that given
23 that, there is no evidence that the defendant acted without
24 fault in bringing on the difficulty.

25 THE COURT: Wasn't there plenty of testimony they were

1 going back and forth? There was conversation. They were
2 arguing. There was going back and forth.

3 MS. BARR: There was, after the defendant injected
4 himself in the conversation between Jimmy and the deceased.

5 THE COURT: Right. Well, there's nothing wrong,
6 there's nothing illegal about interrupting a conversation
7 or injecting yourself in to a conversation. And there was
8 testimony that the defendant had a gun.

9 MS. BARR: Not at the time of the shooting, Your
10 Honor, and there was ---

11 THE COURT: Well, there is, there is testimony. As a
12 matter of fact, one of your witnesses said he had the gun
13 the entire time.

14 MS. BARR: And, Your Honor, I certainly ---

15 THE COURT: Do you recall, do you recall that?

16 MS. BARR: I don't recall there being testimony that
17 at the time of the shooting, the victim was armed with a
18 gun. My understanding and my memory of the testimony was
19 that at some point, the victim had a firearm. The
20 defendant said, you know, let me see it. Even commented
21 about how nice it was, and then the firearm was laid to the
22 side was my recollection of the testimony.

23 THE COURT: Well, I think Mr. Carraway specifically
24 asked him. I think his statement says that he had the gun
25 the entire time. Some people said he left it in the car.

1 Some people said he put it down. Some people said they saw
2 it on the floor. But I think a reasonable juror could,
3 reasonable juror and jury could conclude that he had a gun
4 at that time.

5 MS. BARR: And, Your Honor, also for the record ---

6 THE COURT: But there is -- if there ever is a
7 question about where the gun, the question of fact is,
8 where the gun was and what he was doing with it is
9 certainly a question of fact.

10 MS. BARR: I agree with that.

11 THE COURT: Right.

12 MS. BARR: Also, Judge, we would submit that the last
13 prong of the self-defense requirement that he would have no
14 other probable means of avoiding the danger posed to his
15 life or to his safety than to act as he did, we would
16 submit that there was ---

17 THE COURT: Now, wouldn't you think that that, by its
18 very nature, is a question of fact? You got a person with
19 a gun and you've got a gun, and if you turn to run, isn't
20 that a question of fact?

21 MS. BARR: Well, Judge, I believe that there has to be
22 some evidence that the defendant attempted to avoid danger.

23 THE COURT: I don't think so if by doing so it would
24 increase his risk.

25 MS. BARR: But there's been no evidence that was the

1 case, Your Honor.

2 THE COURT: Well, if he's got a gun and they're
3 fussing at one another, maybe so. But it's a question of
4 fact, I believe.

5 Mr. Carraway, would you...

6 MR. CARRAWAY: Well, the victim, one of the witnesses
7 said he had the gun in his lap, and he stood up. He said I
8 don't know whether he put the gun on the table, on the
9 counter, or whether he had it at his side.

10 THE COURT: That was exactly the testimony.

11 MR. CARRAWAY: Yeah.

12 THE COURT: And that was the same witness who
13 categorically said he had the gun the whole time.

14 MR. CARRAWAY: Yes.

15 THE COURT: Ms. Barr.

16 MS. BARR: Your Honor, I just wanted to make, note my
17 objection for the record.

18 THE COURT: All right. Well, I understand your
19 position, but I think your -- and there is some merit to,
20 what you're saying, but I think it's a factual question.
21 And if I did not charge self-defense, I do believe, I have
22 the sneaking suspicion this might be a preliminary hearing.
23 What do you think about that, Ms. Barr?

24 MS. BARR: I understand Your Honor's concern.

25 THE COURT: Okay. Very good. All right, any, any

1 other objections with regard to my charge and something
2 that you think I have omitted, or something that's in there
3 that shouldn't be in there, Ms. Barr?

4 MS. BARR: Your Honor, we have a question regarding
5 the intoxication of the victim instruction. May I ask Your
6 Honor which -- what specifically the court would charge the
7 jury as relates to that particular ---

8 THE COURT: I'll certainly tell you that.

9 MS. BARR: Yes, sir. Thank you.

10 THE COURT: If I can locate it. Give me one second.

11 (A PAUSE.)

12 THE COURT: This will simply be it. It says: The
13 intoxication of the victim may be considered in deciding
14 whether the defendant's fear of death or bodily harm was
15 reasonable.

16 I think your witness said he had marijuana in his
17 system.

18 MR. CARRAWAY: And alcohol.

19 MR. SABB: Judge, there's no evidence in the record
20 that would suggest the defendant knew about anything in his
21 system.

22 THE COURT: Well, one could argue that if he, if his
23 actions were such that he had a gun, they were fussing and
24 carrying on, and of course that's a factual issue. You can
25 say that he wasn't acting intoxicated. And you can also

1 argue that marijuana doesn't make you, make you mean or
2 violent. As a matter of fact, I don't believe I've ever
3 seen anybody in my years practicing law or as a judge who
4 has smoked a whole bunch of marijuana and gone to a pool
5 hall and beat somebody up. Generally, it doesn't do that.

6 But those are factual issues. I think alcohol has a
7 tendency to rile people up and quite often make them mean,
8 but marijuana does not. That's a factual issue.

9 But the issue -- the law is, allows the jury to take
10 into consideration intoxication, and that is indeed an
11 illegal substance. Came out on the toxicology report. I
12 think we've got ample evidence to present that to the jury.
13 I don't think the results of this case are going to hinge
14 on that.

15 But I did not recall there being any alcohol. Did,
16 did ---

17 MR. CARRAWAY: Yes.

18 THE COURT: --- she testify? How much was that?

19 MR. CARRAWAY: .54. Point ---

20 THE COURT: Zero five ---

21 MR. CARRAWAY: 0.054.

22 THE COURT: Which might be the indigenous level,
23 whatever that might be.

24 MS. BARR: It's under the legal limit, Your Honor.

25 THE COURT: 0.0, is that like a .05 on the

1 breathalyzer?

2 MS. BARR: Yes, sir.

3 MR. SABB: Yes, sir.

4 THE COURT: Oh, okay. So, yeah, it wasn't 005?

5 MR. CARRAWAY: No.

6 THE COURT: Is that correct?

7 MR. SABB: No.

8 THE COURT: Okay.

9 MR. CARRAWAY: 054.

10 THE COURT: Very good, so that's about 3, 3/100 of a
11 percent below the inference level.

12 MS. BARR: Yes, sir.

13 THE COURT: Well, certainly that, that's -- I mean,
14 both of those are matters -- I don't think that the facts
15 indicated that he was acting in an intoxicating manner, but
16 the law is clear that they can take that into
17 consideration.

18 Anything further?

19 MS. BARR: Nothing further regarding jury
20 instructions, Your Honor.

21 THE COURT: Anything from defense?

22 MR. CARRAWAY: Nothing, Your Honor.

23 THE COURT: All right, we'll see y'all back at 2:15.

24 (OFF THE RECORD.)

25 THE COURT: We're ready for the jury?

1 MS. BARR: State's ready, Your Honor.

2 MR. CARRAWAY: Defense is ready.

3 (THE JURY ENTERS AT 2:13 P.M.)

4 THE COURT: Good afternoon.

5 FOREPERSON: Good afternoon.

6 THE COURT: Mr. Carraway, you are recognized.

7 MR. CARRAWAY: Defense rests, Your Honor.

8 THE COURT: Very good.

9 Madame Forelady, ladies and gentlemen of the jury, you
10 have concluded the portion of the trial where you receive
11 evidence. And as I mentioned to you in the very beginning
12 of the trial, you know, we started with opening statements,
13 then the taking of evidence. The next stage is closing
14 arguments. They are very similar in form to the opening
15 statements, but they are truly argumentative in form
16 because the evidence has been presented, and each lawyer is
17 going to have an opportunity to point to the evidence that
18 supports their relative positions.

19 It's very important for you to pay close attention to
20 these arguments. They will aid you immensely in your
21 deliberation process. So, I know it's in the afternoon.
22 We've all had lunch. I want you to perk up and pay very
23 close attention.

24 Ms. Kimberly Barr, you are recognized.

25 MS. BARR: Thank you, Your Honor. May it please the

1 court?

2 THE COURT: Yes, ma'am.

3 MS. BARR: Mr. Carraway, Madame Forelady, members of
4 the jury, good afternoon. I want to begin today as I began
5 yesterday by thanking you all for your jury service this
6 week in this very, very, very important case. I told you
7 all yesterday that we appreciate your time here, but that
8 most the important thing that you could give us would be
9 your attention.

10 And I've tried several cases, and during the course of
11 my trial on certain cases, I periodically like to look over
12 there to you guys during the course of the trial. I first
13 of all want to make sure that we're not boring you all to
14 death. But want to sure that you're paying, all of the
15 jurors are paying close attention. And I'm satisfied that
16 we have a very attentive jury, and I want to thank you all
17 for that. That means a lot to the state of South Carolina.
18 And I'm sure that Mr. Carraway will agree with me on that.

19 You all have something very difficult to do this
20 afternoon. You are being asked to judge the conduct of a
21 fellow citizen, and that's a grave responsibility. I know
22 that you all take that very seriously.

23 The defendant is charged with murder and possession of
24 a weapon during a violent crime. You know, I recognize
25 that there has been testimony presented during the course

1 of this trial that kind of makes, I think, the average
2 person go, you know, we're here because of what? You know,
3 a lot of people, when they're hearing the testimony in a
4 case, the natural inclination and my natural inclination as
5 a prosecutor is to try to figure out why. Why did this
6 young man get killed?

7 And I've said this before, and I believe it
8 wholeheartedly. I always try to rationalize in my mind why
9 something happened. For example, I've prosecuted a number
10 of cases where people were killed during an armed robbery.
11 And every murder case is tragic, obviously, but in my mind
12 I say, well, this person died. This person died because
13 some person came in and committed an armed robbery. The
14 armed robbery went bad, and this person is now deceased.
15 So, you kind of wrap your mind around it. It's still wrong
16 to try to kind of -- try to wrap your mind around it.

17 When you prosecute a case where somebody, a husband
18 and wife get into an argument, argument goes too far, the
19 wife is murdered, you say okay, this happened because they
20 got into an argument that went too far.

21 But, you know, folks, I -- it's kind of almost
22 impossible to wrap my mind around why we have the dead
23 person in this case. You hear about cases every day. We
24 call them senseless shootings or senseless killings. It
25 doesn't make any sense why a person was killed. I remember

1 in the early nineties hearing about this case that made
2 national news about this woman hiring somebody to kill her
3 daughter's cheerleading rival, or the cheerleading rival's
4 mother. There was something like that, some case out of
5 Texas where the mother was mad because her daughter might
6 not make the cheerleading squad. So, she hired somebody to
7 kill her rival's mother. And, you know, you sit there and
8 you listen to things like that and it's, like, somebody
9 almost died because of cheerleading. Are you kidding me?

10 But, folks, I'm going to tell you all that's -- this
11 -- that's the real world. That's the world that we live
12 in. People die every day over nothing, over absolutely
13 nothing. It happens every day in this state, every day in
14 this country. And, folks, I would submit to you that that
15 is, quite honestly, why you all are here today.

16 In our system of justice, in a criminal case like
17 this, the prosecution gets to go first, and the defense
18 gets to go last. Now, of course if I had my way, I'd want
19 to be the last voice that you hear, and I'm not
20 complaining. This is the best system in the world, but Mr.
21 Carraway gets to come after me. And so I would suspect
22 that once he sits down and he begins his closing, that's
23 he's going to tell you basically -- discredit everything
24 I've just said. Here's all the reasons why this guy is not
25 guilty. And so I'm in a position now where I've got to

1 kind of anticipate what he might say and try to respond
2 appropriately. So, I'll do the best that I can while I'm
3 here with you and your attention and you are my captive
4 audience.

5 There is a culture in our community that is different
6 from what I would imagine most of you all are accustomed
7 to, or most of you have ever been part of. There is a
8 culture of young folks and guns and violence that I hope
9 that you all never in your life have to deal with outside
10 the trial of this case. But there are some people who,
11 when they have a gun in their hands, they have the greatest
12 power in the world.

13 You know, we just had an election. We elected a new
14 president. We have what we believe in the office of the
15 presidency, of course as far as Americans are concerned,
16 that's the most powerful office in the land. Back on July
17 the 18th of 2008, the defendant, Edmond Goodman, was the
18 most powerful person in the world because in his hand he
19 had the ability to take life, and he did over absolutely
20 nothing.

21 You see, this defendant is charged with murder.
22 That's the first count of the indictment. Murder is the
23 unlawful killing of another human being with what we call
24 malice aforethought. Now, the judge is going to tell you
25 what all of these legal words mean. Malice is ill will,

1 hatred, the intent to do what the law says you shouldn't
2 do.

3 Malice comes in two forms, and neither one of them is
4 more important than the other, but malice comes in two
5 forms. There's what we call expressed malice, and there's
6 what we call implied malice.

7 Now, when we talk about implied malice, implied malice
8 means that it's not necessarily what you see, what you
9 hear, but it is inferred from all of the circumstances of
10 the crime. If you have a deadly weapon -- and a gun,
11 pistol, firearm is considered a deadly weapon -- and you
12 use that during the commission of a crime, of a shooting,
13 that considered implied malice.

14 There's also what we call expressed malice. Expressed
15 malice is something that somebody shows, somebody says,
16 somebody does. And, ladies and gentlemen, I would submit
17 to you that the evidence in this case shows expressed
18 malice because there was testimony that the defendant,
19 prior to taking the life of Jaron White, said, and I'm
20 sorry to say it, but I have to say it. We're all grown.
21 It came out. He said nigger, I'm gonna kill you. That
22 shows premeditation and intent and malice in his heart, and
23 that's exactly what he did.

24 Now, the judge is also going to charge you on what
25 they call a lesser-included offense. There is the most

1 .serous crime of murder, and then you have what is called a
2 lesser crime, and that crime is called voluntary
3 manslaughter.

4 Now, that is obviously something for each of you all
5 to decide, whether or not this case is a murder case,
6 whether it's a manslaughter case, or whether it's simply a
7 case of a justifiable shooting. But let's talk about
8 manslaughter.

9 Manslaughter is the unlawful killing of another human
10 being, but there's no malice present. If you find that the
11 defendant did shoot the victim, if you find that there
12 wasn't premeditation, there wasn't hatred or ill will in
13 his heart, then you can consider the charge of voluntary
14 manslaughter. But here's the two things that are important
15 about voluntary manslaughter, and here's why I submit to
16 you that this is a case of murder and not manslaughter.

17 What the judge is going to tell you is that a couple
18 of things have to be present in order for you to say well,
19 this isn't murder. This is something less than murder.
20 You have to have legal provocation, okay? Legal
21 provocation means that, I would submit to you legal
22 provocation means that the victim did something that
23 doesn't justify the shooting, but he did something in terms
24 of an argument or presenting a weapon or something along
25 those lines that reduced this from murder to manslaughter.

1 Secondly, you've got to find that the killing, the
2 shooting itself occurred in the heat of passion, in the
3 heat of the moment. The best example that I've usually
4 used when I'm doing closing arguments for cases is a
5 situation. Say, for example, somebody found out this
6 person was -- had, has molested their child, and they
7 became so enraged and so upset and so hurt, and they just
8 had -- they were filled with so much vengeance, vengeance
9 at that instant, they took the law into their own hands.
10 And they killed the person who had committed the crime
11 against their child. Or, for example, husband comes home
12 in the middle of the night unexpectedly, finds his wife in
13 bed with another man. He then becomes so overcome with
14 emotion and rage. Not having time to think about it and
15 cool off, he then shoots the person. Those are situations
16 that would justify the charge being reduced from murder to
17 voluntary manslaughter. I would submit to you that neither
18 one of those instances is applicable here.

19 Now, the judge is also going to tell you about the
20 second charge under the indictment, and that charge is
21 possession of a weapon during the commission of a violent
22 crime. If you find that the defendant is guilty of either
23 murder or manslaughter, then you should also find that he
24 is guilty of possession of a weapon because the weapon
25 would be the firearm, and both murder and manslaughter are

1 considered violent crimes under our law.

2 Now, it's difficult sometimes to kind of imagine what
3 the defense is going to be. That's why I stated to you
4 earlier, kind of always like to go last. But you kind of
5 have some idea as to where they're headed based upon some
6 questions that the lawyer asks the witness during the
7 course of the trial. At this point, I don't know whether
8 the defense is it wasn't me. I don't know whether the
9 defense was I wasn't there. I don't know whether the
10 defense was it's not murder. It's manslaughter. I don't
11 know if the defense was, well, I did shoot him but I was --
12 it was self-defense.

13 Unfortunately, folks, you all are going to have to be
14 the ones to have to sort all that out. The judge is going
15 to instruct you on the law. And so you will have to
16 consider whether the defendant, if he in fact shot the
17 victim, whether he acted in self-defense, and let me tell
18 you. Self-defense is a complete defense. It's not a
19 lesser-included charge. It's a complete defense. It makes
20 the killing of Jaron White lawful. Defendant goes home.
21 That's the end of the case; it's over.

22 Here's why it's not self-defense. In order for
23 self-defense to apply, you basically have to find four
24 things. You first of all have to find out, find as jurors
25 that the defendant was without difficulty in bringing --

1 was without fault in bringing on the difficulty, which
2 means he didn't start anything. He became involved in some
3 conflict through no fault of his own. We would submit that
4 that's not the case here.

5 Secondly, when you're looking at the notion about
6 self-defense, you have to ask yourself a question. And you
7 have to find as jurors that at the time the defendant
8 pulled the trigger, he was is in imminent danger, meaning
9 it was going to happen right then and there. He was in
10 imminent danger of losing his life or sustaining serious
11 bodily injury. Not something that could happen a week
12 later, but right then and there when he pulled that trigger
13 and he shot Jaron White in the head, he had to be in
14 imminent danger of losing his own life.

15 Third of all, with self-defense you have to establish
16 that that -- his belief has to be reasonable. In other
17 words, if you look back at -- and you put somebody else in
18 that similar situation, your, your question to yourself has
19 to be is it reasonable for him to have thought that he was
20 in imminent danger of losing his own life or sustaining
21 serious bodily injury.

22 The last element, and this is the most important one.
23 This is why the state believes that this is not a case of
24 self-defense. You have to show, and you have to be
25 satisfied in your own minds that the defendant, when he

1 took the life of Jaron White, that he had no other
2 reasonable, safe alternatives than to shoot.

3 You see, the law places on a defendant the obligation,
4 the duty, what we call the duty to retreat. Now, the only
5 time that that duty does not apply is when you're in your
6 own home. If you come into your home and someone attacks
7 you inside y'all's home, you have the absolute right to
8 defend yourself. When you're not at home, you have the
9 obligation to leave unless you believe by leaving, you're
10 going to be in greater danger.

11 That's where his problem is because he had the
12 opportunity and the obligation to leave. Every witness
13 that testified confirmed that at the time Jaron was shot,
14 he was unarmed. This defendant took the life of an unarmed
15 man.

16 MR. CARRAWAY: I would object, Your Honor. That's not
17 true.

18 THE COURT: All right.

19 MR. CARRAWAY: That, that's just not true.

20 THE COURT: Might counsel approach the bench for a
21 moment?

22 (OFF-THE-RECORD BENCH CONFERENCE:)

23 MS. BARR: When you talk about the people who are
24 here, you're talking about eye witnesses. Everybody who
25 testified in this courtroom yesterday saw exactly what

1 happened.

2 Now, let's talk about these witnesses because I can
3 promise you when I sit down, the defense is going to talk
4 about them. And, you know, what I would probably submit to
5 you that they're going to say, oh, you know, none of these
6 people are be -- are to be believed. You've got some
7 witnesses that didn't come forward right away. You've got
8 some witnesses said that they weren't there when it
9 happened. You've got some witnesses who -- one guy got
10 convicted of a crime ten years ago when he was sixteen
11 years old. And so they're going to hammer this whole
12 point. Well, you know, some, some, some of the witnesses
13 wasn't even working, and some of them didn't finish school.

14 Let me tell you about how trials go and how cases go.
15 I don't find witnesses. Mr. Sabb and I, we don't go out
16 and we don't look for witnesses. We don't create
17 witnesses, in other words. The witnesses are who they are.
18 And I can tell you whether it is a situation whether you
19 are prosecuting a case, whether you are defending the case,
20 whether it's a criminal case or a civil case, you take your
21 witnesses as you find them.

22 Now, sure, I would have loved if the deacon in the
23 church just came and happened to see the defendant kill
24 somebody. Oh, he'd be an excellent witness. Or if, say,
25 an off-duty trooper happened to go by and happened to see

1 the defendant shoot somebody, oh, he'd be an excellent
2 witness. I'd love for him -- for that to be the case.

3 But, you know, if they want to sit there and they want
4 to attack the credibility of these witnesses and they want
5 to discredit them, I would ask you all to consider one
6 thing. These aren't witnesses that I chose. You see, the
7 defendant didn't come and choose me to be an eyewitness.
8 These are his witnesses. These are the folks that he chose
9 to witness his crime; these are the folks that he
10 threatened. So, if he wants to get up and make it look
11 like these folks are bad people, then my question would be
12 what does that say about him. But these are the folks who
13 witnessed this murder.

14 Now, one of the things that you all may not have been
15 aware of, these witnesses during the course of this trial
16 were sequestered. And that just means that, you know, they
17 were separated during the trial. You may recall that as I
18 was calling some of the witnesses to the stand, you all had
19 to sit and wait. Folks had to go get them and bring them
20 to the courtroom. You all remember that?

21 Well, there's a reason why that was done. And the
22 reason why that was done was because we didn't want
23 witnesses sitting in the courtroom hearing other witnesses
24 and saying to themselves okay. Well, person A said this,
25 so I need to make sure that my testimony corroborates what

1 person A says.

2 All of these folks came in, and they testified from
3 memory. And, folks, we can beat them up all day long. We
4 can talk about how they didn't go to the police. We can
5 talk about how they didn't say anything when it happened.
6 I'm going to ask you all. Are we really surprised that
7 somebody may not come to the police right away when you've
8 got a defendant on the loose with a gun, just shot somebody
9 in cold blood in your presence? Are we really surprised
10 somebody would not come to the police right away? Are we
11 really surprised that somebody is so scared, that somebody
12 is so shocked that they would witness this, and they just
13 wouldn't immediately go to the police?

14 I remember that young lady testified, Shannon
15 Singletary, and, you know, she came over here and she was
16 sworn in, and then she got on the witness stand. That girl
17 was just shaking like a leaf. Never wanted to be part of
18 this, and she told you I didn't want to be a part of this.
19 I was scared.

20 One of the things that stood out to me in her
21 testimony, she was saying that after he shot Beez, what
22 they called the victim, he stood over. This guy is laying
23 down, bullet wound to the head, bleeding on the floor.
24 Y'all saw the pictures. He's waving his hand over there to
25 make sure he's dead. And he sees the girl with the gun,

1 smoking gun still in his hand. Now, you didn't see
2 nothing, did you? You don't know me. You've got a
3 two-year-old son, right? But the defense, I can promise
4 you, is going to jump up and down about that.

5 You know, the reality is this young man, Jaron White,
6 his family is here with us. He came from Myrtle Beach to
7 help his friend buy a car, and we know that's the case. We
8 can prove it. The title is in the photographs. His only
9 reason for coming to Williamsburg County that day was so
10 that his friend Milton could buy a car.

11 Now, I don't care what the defendant's going to say
12 about oh, you know, these persons are working for somebody,
13 and all these young kids didn't have a job, and they were
14 all hanging around the house. I don't have anything to do
15 with that. But the reality is that man came for one
16 reason, and his intent was to go back home to his
17 girlfriend and his son. He never made it. He never made
18 it back home.

19 And, you know, they can jump up and down and scream,
20 and they can talk about him having this much alcohol in his
21 system and this much marijuana in his system all they want
22 to. It doesn't change the fact that that kid did not
23 deserve to die. The only crime that he committed was to
24 have the audacity to speak when this defendant told him he
25 better not say another word.

1 You see, I would submit to you Jaron was a big fellow.
2 This guy knew he couldn't beat him man on man because
3 people don't fight like that any more. I remember twenty
4 or thirty years ago -- I may tell my age when I'm telling
5 you that. I remember a long time ago when people go in to
6 a fight, it was a fight. It was a fist fight and somebody
7 -- everybody went home. You had some bruises, your ego was
8 hurt, but you went home. They don't do that anymore.

9 You see, this defendant, he surrounds himself by
10 people who create controversy. You remember testimony, how
11 all this stuff started? The guy who came with him, Jimmy?
12 You remember everybody saying about how this whole argument
13 started? Because Jaron said man, you know that was messed
14 up, how you did my cousin last week. You got mad because,
15 because my cousin took a blunt or something from him, and
16 you hit him in the head with a bottle. That -- man, that
17 was just wrong. You shouldn't have done that.

18 Well, see, when he's hanging around this guy, that's
19 how he resolves conflict. When I get mad at you, the
20 acceptable thing for his peers in his group is when I get
21 mad at you, I don't just have an argument with you, a fair
22 fight. I use a weapon and I try to hurt you. So, when he
23 comes into that house and he tells Beez, man, cut all that
24 noise out, I don't want to hear about that anymore. Beez
25 has the audacity: Don't tell me what to do; I'm a grown

1 man; I can talk. He gets his gun, and he said man, I told
2 you to shut up. Don't you say another word. So, Beez: Oh,
3 you gonna pull a pistol on me?

4 Mind, now, no evidence whatsoever that when Beez stood
5 up, he had any type of gun with him. He stood up. He was
6 going to fight him. Man, what you say about you gonna pull
7 a pistol on me? See, the guy knew. His, his group, his
8 homies, his posse. Wait a minute now. In his mind, he's
9 thinking if I stand up in front of my boys, especially the
10 one that just had hit the guy in the face with a bottle,
11 but if I stand in front of my boys with a gun, I got to be
12 ready to use it because if I, I don't use it, then they
13 might look at me like I'm a punk or I'm weak. So, he pulls
14 the gun out, cocks the gun. Everybody was talking about
15 how they heard the gun cock.

16 When he said I'm going to kill you, that's
17 premeditation. That's malice. When he fired that gun and
18 he shot that kid, that's murder. Folks, there's no if,
19 ands, but about it. It's murder over nothing because he
20 had to be the big man. He had to be the bad one. He had
21 to be the one to have the final word. He guaranteed that
22 he was the one to have the final word.

23 And, you know, when you start considering whether or
24 not this is self-defense or whether or not, you know, he
25 did it or whatever, what does he do when it's all over? If

1 it's self-defense and this is somebody you done just
2 killed, somebody whose baby you have held in your arms,
3 surely you're going to be down on the floor. Man, are you
4 okay? I'm sorry, I'm sorry, man. I didn't mean to do
5 that. Surely you're going to be the one who calls 9-1-1
6 because you're going to try to get help for your friend
7 that you just, you know, had to shoot in self-defense. No.
8 He gets in a car, and he hightails it up North, and he's
9 gone for three months.

10 Are those the acts of an innocent man? Ask yourself.
11 Are those the acts of an innocent man? I would submit to
12 you that they are not.

13 We always, always view life as the most precious gift
14 that God could ever give us; it is the most precious gift.
15 The law recognizes that. That's why there is added burden
16 on somebody with a gun to do everything possible to avoid
17 taking a life.

18 Somebody, somebody please tell me. What did the
19 defendant do to avoid taking a life? You heard no evidence
20 that when the defendant pulled his gun, he said anything
21 about, oh, Beez, you got a gun? Oh, you gonna try to hurt
22 me with a gun? There's no evidence that he had a gun,
23 pointed it, presented it to him or anything.

24 When all this argument was on and Beez stood up, did
25 he have the opportunity to say you know what, man? I'm not

1 going even going to hear this. I'm gonna get in my car and
2 go. Did he have the opportunity to do that? Yeah. Did he
3 do that? No.

4 This case is just wrong and senseless and violent and
5 cruel on so many different levels. I know he doesn't look
6 like a murderer; I get that. He's got a nice suit on.
7 He's got his mom sitting at the counsel table. He's clean
8 cut. He doesn't look like somebody that could do that.
9 Guess what? He is.

10 We want to thank you all so much again for your time
11 and your attention. When I finish talking, Mr. Carraway
12 will talk and when we finish talking, the last voice you
13 will hear will be that of Your Honor's. He's going to give
14 you all a verdict form, and the great thing about our
15 justice system in this courtroom, we don't need weapons to
16 carry out justice. We don't need guns to carry out
17 justice. We need this pen.

18 The pen that you will receive, Madame Forelady, will
19 be the greatest weapon in the fight for justice that
20 anybody will ever have. On that verdict form, you will
21 have the option to find the defendant guilty or not guilty
22 of murder. If you don't believe that we've proved murder,
23 you can consider manslaughter; you'll have that option.
24 You will also have the option to find the defendant guilty
25 or not guilty of the weapons charge. Or you can find him

1 straight out not guilty.

2 Folks, the pen is mightier than the sword. If this
3 case does not cry out for justice, I don't know what does.
4 Take your weapon. Please consider and deliberate when you
5 adjourn: justice. We would submit and we would ask that
6 you all find justice in this case by returning a verdict of
7 guilty as to murder and possession of a weapon. Thank you
8 all so much.

9 THE COURT: Mr. Carraway, you are recognized.

10 MR. CARRAWAY: Please the court, Your Honor? Ms.
11 Barr.

12 I didn't hear that the victim had a gun in his lap,
13 stood up, and either set the gun in the chair, set it on
14 the counter, or had the gun in his hand when he stood up.
15 I didn't just hear that. There's a reason you didn't hear
16 it.

17 Now, you've heard that -- now, this is funny. These
18 are all the state's witnesses, every single one of them and
19 every single one you know came in here. Not only when this
20 first happened they lied, but they came in here and lied up
21 there on that stand, every single one of them. Oh, no,
22 they couldn't have all lied. Well, they did. Everyone
23 lied.

24 Shannon Singletary, she admitted that she said she
25 wasn't there at all when this happened. When this happened

1 at first, she said I told them it didn't happen at all.
2 And she came in crying on this day when she got up on the
3 stand and said gee whiz, you know, I, I'm just all broken
4 up. But it was revealed in her prior statement that they
5 had to tell her this isn't any joke here, what we're
6 talking about here. You're not telling the truth here, and
7 isn't a joke about what you're saying. So, she lied.

8 Frederick, they waited an hour before they called law
9 enforcement. Now, what they're telling here, if what
10 they're -- ask yourself this. If what they are telling you
11 here is the truth, why didn't they just come in? Why
12 didn't they wait right there for law enforcement, call law
13 enforcement and tell them what happened? Why did they that
14 night -- why did they wait an hour, for one thing, and then
15 why when law enforcement got there did Frederick Williams
16 and Shannon Singletary say we just came up and found this
17 guy here and found the house ransacked?

18 Why did they -- now, if they -- if the truth was what
19 they're trying to put forward here, and the state's got to
20 prove to you all of this beyond a reasonable doubt here.
21 He comes in here and, and it's them to prove this. Ask
22 yourself. If that's the case, why didn't they just tell
23 that there that night? Why didn't they tell that? They
24 waited an hour, and they lied that night and said they
25 weren't even there is what they said.

1 Now, you got -- well, you say, well, gee, how about
2 these other guys are lying. Well, you got Thermaine
3 Gourdine, little guy that -- both - two, two little guys.
4 Both of them got up there and I said, well, tell me about
5 the gun that the deceased had. Oh, he didn't have no gun.
6 Well, you told law enforcement the next day he had a gun.
7 Well, I didn't tell them that. I didn't tell them he had a
8 gun.

9 Well, look right here, what you said right here. You
10 said he had a gun. You said he had it on a, on his lap.
11 You said that the defendant took the gun from him and gave
12 it back to him or whatever. Said they were arguing or
13 whatever. Oh, well, I -- let me see that. Well, I, I just
14 didn't say that. I don't know. I didn't say it. Well,
15 it's on this paper, isn't it? Yeah, well. So, that's one
16 liar right there.

17 The other guy got up and basically said the same
18 thing. He didn't have no gun. I didn't -- no, he, he
19 ain't had no gun. He ain't had no gun. Well, you told law
20 enforcement that night that he had a gun, or the next day.
21 He said, well, let me see it. Well, I -- you know, I, I
22 guess so. I guess he did. And not only that, but you
23 told, you told law enforcement that.

24 This is their witnesses. Now, now, you think this is
25 the whole truth, what they told that night? You think

1 that's the whole truth, what they told, what they told that
2 night? You know which way -- who they're trying to help
3 here. You think they told the straight truth, the whole
4 truth that night?

5 But what he did say is he did say I told them that the
6 argument escalated, if you remember this, the argument
7 escalated, and what did they say that he kept telling the
8 deceased? Don't yell at me. Stop yelling at me. Stop
9 yelling at me. And he said the deceased had the gun in his
10 lap. Said he had a .9 mm in his lap is what he said.

11 And he said the argument got even more intense or
12 whatever. Basically, he was telling him not to yell at
13 him, and this guy was saying I'll say what I want to say.
14 That's basically it. You don't have anything to do with
15 this argument. I'm arguing with this other fellow over
16 this. I'm arguing with this other fellow over hitting my
17 cousin with a bottle who has seizures or whatever. I don't
18 appreciate you stepping in here. And he's yelling at him
19 and he's telling him, from the evidence there, stop yelling
20 at me about this. And this guy said I -- basically you
21 could pick up from what they said -- I'll say what I want
22 to say, and it just went on from there, whatever.

23 And it got to the point to where they went on, and
24 notice nobody -- remember what the guy said? He said I
25 don't know where it come from. He just pulled a gun out

1 and shot him. Remember that? He didn't say. That's --
2 this is where you get -- now, these are people, this is how
3 you get at the truth of something. When you've got people
4 who are trying to help the other side, coming in here lying
5 about there wasn't any gun or anything, not remembering or
6 not thinking.

7 I said what do you think this is? It's a transcript
8 of what you said before. Oh, no. And then they still,
9 even when they read it on the paper, they tried to lie
10 about it. So, this is when people -- you, you get at the
11 truth or towards the truth somehow when someone who is
12 trying to help somebody else and trying to help the
13 deceased here, or whatever, trying to say he didn't bring
14 any of this on, you know when he says he had the gun on his
15 lap and he stood up and he either put it in the chair, put
16 it on the counter, or had it at his side, had it on his
17 side, you know, that's how you get the seed of what truth
18 there, or whatever.

19 If I tell you something bad about me, or whatever,
20 well, you've got to believe it's the truth. Why would I
21 tell you something bad about me? If I'm telling you
22 something good about me, well, that may not be true at all.
23 But if I tell you something bad that I did, you're gonna
24 feel like, you know, that must have happened because he
25 wouldn't say that if it wasn't true, you know. So, but

1 that's what came out from their witnesses here.

2 Now, if I had not had these statements right here, you
3 know what? We wouldn't ever known that they had told law
4 enforcement that there was a gun because they weren't going
5 to admit it here. They didn't want to admit it when I
6 showed them what they said the next day. So, we would have
7 never known that. But their statements, statements were
8 taken, or whatever, and they had statements there.

9 And the guy, now do you think that that boy would say
10 -- you could tell what his attitude was. He wanted to help
11 the deceased. He wanted to help him. Do you think he
12 would have that night, if it wasn't true, told that he had
13 got in his -- on his lap, and he stood up and he either set
14 it down, put it on the counter, or had it on his side when
15 he got up? Do you think he would have said that if that
16 wasn't true? At least that far wasn't true? You think so?

17 Now, do you think even more is true there? But that's
18 as much as he admitted that night, or whatever. You know
19 it's no less than that. I would suggest to you it's even
20 more than that as to what happened. But that's what he
21 told that night.

22 And the other boy, Thermaine Gourdine, told the same
23 thing: that he, he said over and over he had a gun. He
24 said that he had a gun. Now, he tried to deny that he had
25 gun right there. He said he didn't know what happened to

1 the gun or something. Somebody tried to say the gun was on
2 the floor, or whatever.

3 Well, I know how the gun got on the floor. You can
4 put together how the gun got on the floor. The gun got on
5 the floor after he stood up and had the gun at his side, or
6 whatever, and had it in his hand and he shot. That's how
7 it ended up back on the floor. That's how it happened
8 because one of their own witnesses told you that he had it
9 in his lap. He stood up, and I don't know what happened.
10 He either set it -- but what he, what he would have to do
11 to set it in the chair or to set it on the counter is he'd
12 have to have it in his hand. He'd have to stand up with it
13 and have it in his hand. You don't put it any other way on
14 the counter or in the chair except with your hand. So,
15 when he gets -- went to stand up, he had the gun in his
16 hand.

17 That figures. That's what their witness says here.
18 That's what he said that night. He wouldn't have said
19 anything like that if I hadn't had this statement here. He
20 wouldn't have admitted to any of that. He wouldn't have
21 admitted to one thing.

22 Now, I don't know where this came from about, nobody
23 said it, that he had a gun in his hand. I don't know where
24 in the world that came from. But we would have never had
25 that, we would have never known that if it weren't in that

1 witness's own words that he told that next day that when he
2 stood up: in the chair, on the counter, or at his side.
3 Now, how is he going to get it there except to stand up?
4 He's going -- the gun in his hand. And they talked of how
5 the argument had escalated at this point, and that's when
6 he stands up.

7 Now, this is another silly thing about this. This
8 defendant is 73 -- the decedent is 73 and a half inches
9 tall, which is 6 feet 1 and a half. It's not 5 foot, 11
10 and a half like the witness said. 6 foot, 1 inches, 1 and
11 a half inches. He's that tall. He weighs 242 pounds.
12 Now, and he's sitting there. They have -- is there is any
13 doubt in anybody's mind that he didn't have the gun in his
14 lap? You have their reluctant witness tell you that, that,
15 say that, say the next day he told law enforcement he had
16 that gun in his lap just before he stood up. Now, do we
17 have any question about that?

18 I want to ask you. Remember how they talked about him
19 having -- and remember he said how I don't know where the
20 gun came from? It just came out, or whatever, there that
21 this guy had it. Well, let me ask you this. Do you really
22 think that this guy would threaten this fellow with this
23 guy sitting there with a gun on his lap? Do you think he
24 would threaten to kill him when that guy's sitting there
25 with a gun on his lap? And this guy is mad. The guy who's

1 maddest is seated. He's the maddest. He -- they are
2 telling you that this man was telling him stop yelling at
3 me. Stop yelling, but he felt like I'm right in this, and
4 you don't have any right to tell me not to say anything. I
5 can say what I want here, which is all fine, or whatever.

6 He is hot, and it was a silly argument. Obviously, we
7 can admit this is a silly argument over someone hitting
8 someone over the head with a bottle a week before, and just
9 keeps going on and on. But this is what happens when you
10 mix alcohol, marijuana, and a gun, and tempers flaring
11 here, or whatever. And you've got a gun sitting on your
12 lap, or whatever, here and you go on and on and on. Do you
13 really think that this man -- now, keep in mind they don't
14 know whether he pulled it out of his pants, or whatever.
15 They didn't see what kind it was.

16 Now, you got some people trying to help here and help
17 on this, and they tried to say, oh, he's waving the gun
18 around. Well, but you had another guy say, no, he wasn't
19 waving it around. It just came out. But that guy is
20 setting at that chair, and he goes to stand up.

21 Now, I would suggest to you this to you. He has a
22 right to act on appearances here. I don't know what this
23 guy intended to do. Maybe when he went to stand up, he
24 realized the gun's in my lap, and I don't want it just to
25 fall on the floor, or whatever. I don't know what he did.

1 But we do know from -- that's the witness that got on
2 the stand and what he said the next day was he got up, and
3 I don't whether he put it on the seat, on the counter, or
4 whether he had it at his side. But we can suggest -- but,
5 you know, he said, he, whatever he intended to do with it,
6 he had it in his hand when he stood up because he didn't
7 want it to drop on the floor. I don't know what, but this
8 was when the argument got more and more heated here, or
9 whatever. I don't know whether that's what he intended to
10 do or whether this had gone on and on and on when it
11 happened. But then this man stood up, or whatever, here
12 and I would suggest when he stood up he, he had that gun in
13 his lap, and he had it in his hand when he stood up. I
14 don't know, and -- but he was very angry, or whatever, at
15 this guy. Keep in mind they all said he continued to say
16 stop yelling at me. Stop yelling at me is what he told
17 him.

18 You know, that's at best what happened there. I don't
19 even know whether that's what happened. We don't know what
20 happened there. We don't know.

21 Now, what about this Jimmy Wilson guy? There's no --
22 he was the guy who was originally involved in this argument
23 here. I don't know about him. Frederick Wilson -- Jimmy
24 Wilson, they don't know where he. Now, ask yourself beyond
25 a reasonable doubt, what does that mean, or whatever?

1 Where is he? Why is he -- why has no one seen him since
2 May 18th? Law enforcement said they haven't been able to
3 find him, and they've been looking for him. Well, why are
4 they looking for him? But they haven't been able to find
5 him.

6 He didn't take one of these paraffin tests here. I
7 don't know what the truth is, but do you really think if
8 the truth is what they're trying to tell you it is here,
9 that if their theory of the case is true, then why did
10 anybody lie to begin with? Why did anybody -- why didn't
11 somebody just stay there that night and tell what happened?

12 Now, this is, this is, this is really, this is --
13 really defies logic here. This guy had a gun. Jesus
14 Christ, do you think that -- how many other guns you think
15 -- you think these other guys had guns? You think these,
16 these are -- you know what these guys were doing. You know
17 what this whole deal was. None of them had a real job.
18 You know what the deal was.

19 Eleven guys meeting in a single-wide trailer. All of
20 them seem to be living good, and they ain't none of them
21 got a job. There was one of these guys, he didn't even
22 understand what a job was, but none of them had one. They
23 was talking about I ain't had none. I ain't had none, you
24 known and, you know, but none of them are doing anything
25 very well, and that's what's going on.

1 You know, I didn't hear from Dominique Sessions.
2 Y'all remember him? He was the guy that come over from
3 Myrtle Beach. I didn't hear from Jamar Finklea; he's
4 another guy. I didn't see him, but these are, these are,
5 are arguably peripheral players, but where's Frederick
6 Wilson? He was here yesterday, and why isn't he here to
7 tell what he saw? Why isn't he here? If what they say is
8 true, forget about this about everybody being scared. They
9 were -- all of them got guns. They all got guns. If they
10 didn't have them on them right there, I'll guarantee you
11 within thirty seconds when they left out of the house and
12 those guys went to that house across the street, or
13 whatever, you think there was a gun in that house? I think
14 there probably was. You think there were guns out at the
15 cars and all of that stuff? I think there probably was.
16 So, I don't think anybody is scared of anything over there.
17 If they were so scared, why did they wait an hour to
18 call law enforcement? What was that about, if that's what
19 they were? Wouldn't you want law enforcement out there
20 quickly, or whatever? And then they all lied about what
21 happened then, and every single one of them.
22 You've got Milton Phillips. He's sitting right back
23 there right now. He got up there and said that guy didn't
24 have a gun. He said the gun stayed in the car. I don't
25 know what he had, but the gun stayed in the car, or

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1 whatever. Well, that ain't -- the other two witnesses said
2 no. Two witnesses said he had a gun. They talked about it
3 being on his lap, and about him taking it from him, putting
4 it -- taking it from him, giving it back to him, or
5 whatever, throughout the course of all this. One of them
6 talked about him standing up, having it in his lap, or
7 whatever it is, just before he was shot, or whatever.

8 Now, I'm telling you what. You know, is y'all are
9 gonna -- if anybody is gonna tell me that this bunch that
10 came in here and testified -- it's different if law
11 enforcement said we went out there that night and everybody
12 waited out there, and they told us look, this is exactly
13 what happened, that's a different -- that, that's, that's
14 one thing, and told it straight. But they didn't tell it
15 straight that night. The next day, some of them told it
16 straight. But then the same ones that told it straight the
17 next day about him having the gun came in here, got up on
18 the stand, and both of them tried to lie about it. But the
19 three of them tried to lie about it. But it came back to,
20 well, I guess we did see him with a gun. But all of them
21 had that same story here, or whatever.

22 Where is everybody? Where's Frederick Wilson?
23 Where's Frederick Wilson? Where's Jimmy Wilson, or
24 whatever? What really -- does anybody doubt that -- this
25 is one of these things where we don't know what happened

1 there that night, but I can tell you one thing. Whatever
2 happened there that night was not what we heard from these
3 guys here. I can tell you that. It was something other
4 than that, but I don't know what it was.

5 Now, why is Jimmy Wilson still on the run? Why has
6 nobody found him? Now, what does he -- and they want to
7 talk to you about this guy going up to Ohio, or whatever.
8 Well, where's this other guy? What is it -- now, what is
9 he going anywhere for? If he did do this, perhaps these
10 guys from Myrtle Beach, or whatever, may not like this, or
11 whatever. You know, perhaps that's the case. I don't know
12 what the deal is here. I don't know what that might be.

13 Car found in Baltimore, him found in Ohio, Jimmy
14 Wilson not here equals Jimmy Wilson in Baltimore? I don't
15 know. Frederick Wilson's car was found in Baltimore.
16 Jimmy Wilson, he hasn't been found, or whatever. What does
17 he know? What does, what does he play in this?

18 We do know one thing. We know about the closeness of
19 the relationship between Frederick Wilson and Jimmy Wilson
20 because the girl -- of course, she lied about this, too,
21 because they lied about every single thing. I had to pull
22 this out of her. How close were they? I don't know.
23 Well, didn't Jimmy Wilson -- didn't you tell law
24 enforcement that Jimmy Wilson told you that -- you had
25 heard Beez were -- that this was a guy who hurt people.

1 Well, I did tell them that. And didn't you tell law
2 enforcement also that Jimmy Wilson told you that I'll kill
3 you if you hurt Freddie? Now, that indicates to me -- she
4 said, well, yeah. I told them. That indicates to me sort
5 of a close bond between two people.

6 I don't know what that means. All I'm saying here is
7 I'm not sure, but I don't think we're heard -- all I'm
8 saying is we don't know beyond a reasonable doubt what
9 happened there, not from this bunch that's come in here.
10 We haven't heard that. And certainly giving them the best
11 of it, we've certainly got a guy saying that he stood up,
12 he had a gun on his lap, and he stood up. I suggest to you
13 in his hand because I don't know where it went. It didn't
14 go to the floor, or whatever, at that point. But he stood
15 up and shortly thereafter, he had it in his hand. Then the
16 shots rang out, and he was very angry. They were both
17 angry, or whatever, at that point.

18 So, he's got a right to defend him -- and they also
19 said, and this guy also said I didn't see him with a, with
20 a gun. I saw him pull it out. I don't know where it came
21 from. It just came out. That's what their witness said,
22 or whatever. Now, that's not something that -- see, once
23 you get things like that, what he'd rather say is, oh, he
24 was waving the gun around doing all this kind of stuff.
25 And that's what they try to say, but then it goes back to

1 what did you tell them that night? What I told them that
2 night in December, it just sort of came out. I don't know
3 where it came from. It just sort of came out sort of fast.
4 I suggest to you that's what happened.

5 He also said, after he got up there and lied over and
6 over again, gun was on his lap. He stood up, and then
7 shortly after that -- and they were mad, or whatever. Gun
8 in his lap, or whatever. And then two other guys. Oh,
9 didn't have a gun. Oh, well. Well, you told them that
10 night he had one. Well, okay, he had a gun. All right, I
11 saw a gun.

12 So, my only point here is this is not the state's
13 fault or anything we come in here with this, or whatever,
14 even as far as their witnesses have gone. You don't have
15 to go any further into what they've said and it being
16 self-defense even at the best for the state, or whatever.

17 These are their witnesses have gone the next day, told
18 you what, what is a self-defense, what, what are all the
19 elements of self-defense. Standing up during an argument,
20 having a gun in your lap, standing up. And, well, I don't
21 know what happened to it then. He, he could have set it
22 down. But he had it in his hand when he stood up, I would
23 suggest to you. He didn't say it fell to the ground; he
24 didn't say that. He says he's there and saw it. And the
25 other guy said over and over again -- oh, no, not on the

1 stand -- that he had a gun. He knew he had a gun, and they
2 described it as a .9 millimeter. He said he had one.

3 I don't see any reason to hide from -- their story, if
4 the theory of the state is true, there wasn't any reason
5 for anybody to lie or try to hide things or to come in here
6 and try to lie or do anything. There wasn't any reason.
7 If that were true, why didn't they just tell them? Why did
8 everyone lie about it? Frederick and the girl lied about
9 it at the very first. We weren't there at all. Now, if
10 it's true what -- if, if what they say they saw and the
11 theory of the state's case, why would that be something
12 you'd lie about? I mean, why? That, that's not anything
13 to lie about, or whatever. You just tell it, you know?

14 If that were true, if what were true, they would have
15 called law enforcement that night. They'd call them right
16 then. They wouldn't have waited an hour. They would have
17 called them right then. They would have come out, and
18 they'd have told them that story if that were true, and
19 everybody else would have told the same thing if that were
20 true. But no, and I guarantee if we didn't have these
21 statements, we wouldn't hear -- we wouldn't have that gun
22 stuff there. They didn't, they didn't want to believe when
23 they read it. They tried to lie even when they got up
24 there, and that is the crucial issue.

25 When this 6 foot 1 and a half inch, 240 pound guy goes

1 to stand up, whatever he -- the gun was, is in his lap.
2 They -- now, you gotta have -- they gotta prove to you
3 beyond a reasonable doubt this was not a self-defense. I
4 mean, that's what they gotta do. The judge will tell you
5 that. The burden on them, on them is to show that.

6 Now, it's not gonna be self-defense, you've got to
7 have no doubt that, that those three guys would get up the
8 next day, told law enforcement that the guy had a gun. Two
9 of them said it was on his lap. One of them said when he
10 went to stand up before that, just before he got shot that
11 he had it in his lap, stood up. And I don't know what
12 happened, whether he put it in the chair, put it on the
13 counter, or had it at his side.

14 Now, if y'all believe beyond a reasonable doubt that
15 that man ain't got a gun, well, that's different. But if
16 y'all believe that he's got a right to act on the
17 appearance here when they're arguing like that, and they
18 didn't think that -- everybody has said here that things
19 got higher and higher here over nothing. But when this
20 guy, after sitting down all the time, stood up, or
21 whatever, with that gun in his hand, did this guy have to
22 wait and see, well, I wonder what this guy is going to do
23 with his gun? I mean, he's real mad here, or whatever.
24 He's got the gun in his hand here. Let me wait and see
25 what he's gonna do with this. But does he have a right to

1 act on appearance here and say if this is even -- if even
2 that much is true. That's at the best for the state. We
3 don't know if any of that from these people -- something is
4 not right here. But that's if at -- the very best for the
5 state right there. Wouldn't he have a right at that point
6 to act on appearances and to fire?

7 And the judge will tell you in a situation like this,
8 you have a right to use deadly force, and you can act on
9 appearances here. A reasonable person would have thought
10 that his life is in danger here, or whatever.

11 During this argument, this man that stands up. Don't
12 ever forget that these guys did finally admit I don't know
13 where that gun came from. It just came out right there,
14 and he did say that man had that gun in his lap just before
15 the fatal confrontation when he stood up there, or
16 whatever, and they had got hotter and hotter about this, or
17 whatever. Something was going to happen there, or
18 whatever. And do you really believe when these guys said
19 that this gun was on the decedent's lap, do you really
20 believe that he would have been threatening his life,
21 saying all that stuff? You think that man, that big man
22 sitting over there with that gun on his lap, or whatever,
23 which these guys -- three guys said that gun had been on
24 his lap, or whatever. Do you think that this guy would
25 have threatened his life, this man and his alcohol?

1 I don't know how alcohol or marijuana, I don't know
2 how this combination fits in, or whatever. I know how much
3 it is when you do an -- I don't know how much later this
4 autopsy was, or whatever, but we do know it was .54 -- .054
5 of alcohol. I don't understand. She talked about .9 of
6 marijuana. I don't know what that means. And I, I don't
7 know what that means, but we know that. Did that have
8 something to do with his state of mind, or whatever?

9 But this argument had gone on for, I would guess, a
10 long time, or whatever, here. But it seemed like it was a
11 couple of minutes, which seems like longer than something
12 like this would go on, and these guys had tried to tamp it
13 down or whatever, but it just worse and worse and worse. I
14 didn't hear anybody say that he was drinking anything or
15 doing anything, or whatever.

16 I really, I -- we know what I've just told you is the
17 best for the state anyway because their own witnesses have
18 taken us up to that point, at least to there, and they were
19 reluctant. Who knows if they went even -- if, if they went
20 -- that's how far they went in telling law enforcement the
21 next day about him having a gun, having him standing up
22 there or whatever, pulling that gun out or whatever.
23 That's -- they, they wanted to help the deceased or
24 whatever here.

25 Now, I don't know how much else it is, but if you

1 don't even go any further than what they have admitted
2 here, and reluctantly admitted, it is self-defense. Thank
3 you.

4 THE COURT: Mr. Carraway.

5 Madame Forelady, ladies and gentlemen of the jury, we
6 have heard all the evidence. You have heard closing
7 arguments. Y'all have been sitting here about an hour and
8 twenty minutes. That's longer than preaching, so we're
9 going to allow y'all to go back to the jury room.

10 Do not discuss the case amongst yourselves. We're
11 going to come back for a charge on the law. Do not discuss
12 the case.

13 Everyone remain seated while the jury exits the
14 courtroom.

15 (THE JURY EXITS AT 3:17 P.M.)

16 THE COURT: Anything from the state before we recess
17 for a moment?

18 MS. BARR: No, Your Honor. We would just of course
19 renew our exceptions to proposed charges, but nothing else
20 from the state.

21 MR. CARRAWAY: Nothing, Your Honor.

22 THE COURT: All right, very good. Before I forget,
23 what is the state's pleasure with regard to the disposition
24 of these jurors after the conclusion of this case?

25 MS. BARR: We were just talking about that, Judge.

1 MR. SABB: We're studying, Judge. It may be that we
2 might have a short trial that we want to do. We were
3 talking with Mr. Carraway. One of the things that we have
4 -- last week we did a murder trial, and that's about all we
5 did.

6 MR. CARRAWAY: Then Thursday ---

7 MR. SABB: Yeah, this week we're doing the same
8 thing. So, the other question is whether or not there's
9 some cases around that we might be able to move to get some
10 numbers done. So, we'll be evaluating that, Judge, and
11 we'll let you know in short order.

12 THE COURT: Very good. All right, we will stand at
13 ease about five minutes. We'll come back and have the
14 charge.

15 MR. SABB: Yes, sir.

16 (OFF THE RECORD.)

17 THE COURT: Ready for the jury.

18 MR. SABB: Judge, one thing we were curious about.
19 Did the defendant actually say he wasn't going to testify?

20 THE COURT: Yes, he did. I asked him that.

21 (THE JURY ENTERS AT 3:17 P.M.)

22 THE COURT: Madame Forelady, ladies and gentlemen of
23 the jury, at the beginning of the trial, we went over the
24 duties of the jury as being the sole and exclusive judges
25 of the facts. You, I've watch of y'all throughout the

1 trial of this case, and y'all have paid very close
2 attention. And you've taken a solemn oath that you'll
3 listen to the facts and determine what the truth is. But
4 that's only half of your duty. And other half is to apply
5 it to the law, and that's going to be my job is to explain
6 what the law is that governs this type dispute.

7 There's, to be quite honest with you, no easy way to
8 do it. It's almost like taking medicine. You're going to
9 have to -- this is an important matter. I can't emphasize
10 how important it is. It's important to the state of South
11 Carolina; it's important to the defendant. We need to
12 proceed forward with series minds. Pay very close
13 attention.

14 Madame Forelady, ladies and gentlemen of the jury, the
15 indictment charges the defendant with murder and possession
16 of a weapon while in the commission of a violent crime. I
17 remind you that the fact the defendant was arrested,
18 charged, and indicted is not evidence. It cannot be
19 considered by you as evidence of guilt in this case. Nor
20 does it create any presumption or inference of guilt. This
21 document is simply the formal written instrument which
22 contains the charges made against the defendant. It is the
23 formal document by which this case is brought in to this
24 courtroom.

25 The indictment alleges several different offenses:

1 murder, and as I will explain to you later the lesser-
2 included offense of voluntary manslaughter; and possession
3 of a weapon while in the commission of a violent crime.
4 Each charge, each indictment charges a separate and
5 distinct offense. You must decide each indictment
6 separately on the evidence and the law applicable to it,
7 uninfluenced by your decision as to any other indictment.
8 The defendant may be convicted or acquitted on any or all
9 of the offenses charged. You will be asked to write a
10 separate verdict of guilty or not guilty for each
11 indictment.

12 Madame Forelady, ladies and gentlemen of the jury, the
13 defendant has pled not guilty to this indictment, and that
14 plea puts the burden on the state to prove the defendant
15 guilty. A person charged with committing a criminal
16 offense in South Carolina is never required to prove
17 himself innocent. I charge that it is an important rule of
18 law that the defendant in a criminal trial, no matter what
19 the seriousness of the charge may be, will always be
20 presumed to be innocent of the crime for which the
21 indictment was issued unless guilt has been proven by
22 evidence satisfying you of that guilt beyond a reasonable
23 doubt.

24 This presumption of innocence does not end when you
25 begin your deliberations. But it accompanies the defendant

1 throughout the trial until you reach a verdict of guilt
2 based on the evidence satisfying you of that guilt beyond a
3 reasonable doubt. The presumption of innocence is like a
4 robe of righteousness placed about the shoulders of the
5 defendant which remains with the defendant until it has
6 been stripped from the defendant by evidence satisfying you
7 of the defendant's guilt beyond a reasonable doubt.

8 Presumption of innocence is not a mere legal theory;
9 it's not just a legal phrase. It's a substantial right to
10 which every defendant is entitled unless you, the jury, are
11 satisfied from the evidence of the defendant's guilt beyond
12 a reasonable doubt.

13 Ladies and gentlemen of the jury, what is reasonable
14 doubt? Reasonable doubt is the kind of doubt that will
15 cause a reasonable person to hesitate to act. State has
16 the burden of proving the defendant beyond -- guilty beyond
17 a reasonable doubt. Some of you may have served on juries
18 in civil cases where you were told that it's only necessary
19 to prove that a fact is more likely true than not true,
20 such as by the greater weight or the preponderance of the
21 evidence.

22 In criminal cases, the state's proof must be more
23 powerful than that. Must be beyond a reasonable doubt.
24 Proof beyond a reasonable doubt is proof that leaves you
25 firmly convinced of the defendant's guilt. There are very

1 few things in this world that we know with absolute
2 certainty. And in criminal cases, the law does not require
3 proof that overcomes every possible doubt.

4 If, based on your consideration of the evidence, you
5 are firmly convinced the defendant is guilty of the crime
6 charged, you must find the defendant guilty. If, on the
7 other hand, you think there's a real possibility that the
8 defendant is not guilty, you must give the defendant the
9 benefit of the doubt and find him not guilty.

10 I remind you that during this trial, you and I have
11 certain duties to perform. As the trial judge, it is my
12 responsibility to preside over the trial of this case. I
13 also have the duty to rule on the admissibility of evidence
14 offered during this trial.

15 You are to consider only the competent evidence before
16 you. You are to consider only the testimony which has been
17 presented from this witness stand, any exhibits which have
18 been made a part of this record in this case, and any
19 stipulations of counsel.

20 I have the additional duty to charge you the law
21 applicable to this case. As the presiding judge, I'm the
22 sole judge of the law of this case. It is your duty as
23 jurors to accept and apply the law as I now state it to
24 you. If you already have an idea as to what it is or what
25 the law ought to be and does not agree with what I now tell

1 you the law is, you must abandon this idea because you are
2 sworn to accept the law and apply the law exactly as I
3 state it to you.

4 In every case tried in this court before a jury, the
5 jury becomes the sole and exclusive judge of the facts in
6 the case. The trial judge cannot intimate, state, comment
7 on, or make any statement to the trial jury about the facts
8 in the cases. Since you, the jury, are the sole judge of
9 the facts in this case, you are not to infer from what I
10 have said during the progress of this trial in ruling upon
11 the admissibility of evidence or otherwise, or anything
12 that I say now during the course of this instruction to you
13 I have any opinion about the facts in this case.

14 The law does not allow me to have an opinion about the
15 facts in this case. This is a matter solely for you, the
16 jury, to determine. As jurors, it is your duty to
17 determine the effect, value, weight, and truth of the
18 evidence presented during this trial.

19 There are two types of evidence which are generally
20 presented during a trial: direct evidence and
21 circumstantial evidence. Direct evidence is the testimony
22 of a person who claims to have actual knowledge of a fact,
23 such as an eyewitness. It is evidence which immediately
24 establishes the main fact to be proved.

25 Circumstantial evidence is proof of a chain of facts

1 and circumstances indicating the existence of a fact. It
2 is evidence which immediately establishes collateral facts
3 from which the main fact may be inferred. Circumstantial
4 evidence is based on inference and not on personal
5 knowledge or observation.

6 The law makes absolutely no distinction between the
7 weight or value to be given to either direct or
8 circumstantial evidence, nor is a greater degree of
9 certainty required of circumstantial evidence than of
10 direct evidence. You should weigh all the evidence in the
11 case. After weighing all the evidence, if you are not
12 convinced of the guilt of the defendant beyond a reasonable
13 doubt, you must find the defendant not guilty.

14 Madame Forelady, ladies and gentlemen of the jury,
15 necessarily you must determine the credibility of witnesses
16 who have testified in this case. Credibility simply means
17 believability. It becomes your duty as jurors to analyze
18 and evaluate the evidence, determine which evidence
19 convinces you of its truth. In determining the
20 believability of witnesses who have testified in this case,
21 you may believe one witness over several witnesses, or
22 several witnesses over one witness. You may believe a part
23 of the testimony of a witness and reject the remaining part
24 of the testimony of that same witness. You may believe the
25 testimony of a witness in its entirety, or reject the

1 testimony of a witness in its entirety. You may consider
2 whether any witness has exhibited to you any interest,
3 bias, prejudice, or other motive in this case. You may
4 also consider the appearance and manner of a witness while
5 on the witness stand.

6 Ladies and gentlemen of the jury, a person who has a
7 past criminal record is competent to testify during a
8 trial. A past record does not affect the ability of that
9 witness to testify. Past record may only be considered by
10 you, if at all, in determining the witness's believability.
11 Remember, you are the sole judges to the facts in the case
12 and of the believability of any and all the witnesses.

13 There's been evidence presented that witnesses have
14 made prior statements which are not consistent with the
15 witness's present testimony. You may use this evidence to
16 decide whether to believe the witness. You may also use
17 evidence of earlier contradictory statements to determine
18 the truth of those statements. It is up to you to decide
19 whether to believe the earlier statements, or the testimony
20 given at trial. If a witness is shown to have knowingly
21 testified untruthfully concerning material matter, you may
22 consider this in determining whether to trust the witness's
23 testimony as to other matters. You may reject all
24 testimony of that witness, or give all or part of the
25 testimony the weight you think it deserves.

1 Ladies and gentlemen of the jury, the rules of
2 evidence ordinarily do not permit witnesses to testify to
3 opinions or conclusions. An exception to this rule exists
4 for witnesses we call expert witnesses. A witness who by
5 education and experience has become expert in some art,
6 science, or profession might give an opinion as to the
7 subject the witness claims to be an expert in, and may also
8 give the reason for the opinion. You should consider any
9 expert opinion given by a witness like any other evidence:
10 give it the weight you think it deserves. If you decide
11 that an expert witness's opinion is not based on sufficient
12 education and experience, if you decide that the reasons
13 given in support of the opinion are not sound, or that the
14 opinion is outweighed by other evidence, you may disregard
15 the opinion entirely.

16 An expert witness's testimony is to be given no
17 greater weight than that of other witnesses simply because
18 a witness is an expert. You do not, and you do not have to
19 accept an expert's opinion even though it is
20 uncontradicted.

21 Ladies and gentlemen of the jury, I instruct you and
22 emphasize that the fact the defendant did not testify is
23 not a factor to be considered by you in any way in your
24 deliberations and in your consideration on the question of
25 the guilt or innocence of the defendant. It must not be

1 considered by you in any manner whatsoever. A defendant
2 has a constitutional right to remain silent, and the
3 assertion of this right must not be considered by you in
4 your deliberations.

5 I repeat. Under your oath, you are to draw no
6 conclusions whatsoever from the fact that the defendant in
7 this case did not testify. The fact that he did not
8 testify should not even be discussed in the jury room.

9 Madame Forelady, I'm going to ask that you enforce
10 that rule there be no discussion or consideration with
11 regard to the defendant not taking the witness stand. The
12 burden of proof, as I stated to you, is on the state. The
13 defendant is not required to prove his innocence. The
14 burden of proof remains on the state to prove guilt beyond
15 a reasonable doubt.

16 Ladies and gentlemen of the jury, I'm going to charge
17 you that the substance of the law pertaining to the offense
18 of murder. The defendant is charged with murder. The
19 state must prove beyond a reasonable doubt that the
20 defendant killed another person with malice aforethought.

21 Malice is hatred, ill will, or hostility towards
22 another person. It is the intensional doing of a wrongful
23 act without just cause or excuse, with an intent of
24 inflicting injury, or under circumstances the law will
25 infer a very evil intent.

1 Malice aforethought does not require that malice exist
2 for any particular time before the act is committed. But
3 malice must be -- exist in the mind of defendant just
4 before and at the time of the act, at the time that the act
5 was committed. Therefore, there must be a combination of
6 the previous evil intent and the act.

7 Malice aforethought may be expressed or inferred. The
8 terms expressed and inferred do not mean different kinds of
9 malice, but simply mean the manner in which malice may be
10 shown to exist. That is either by direct or by inference
11 from the facts and circumstances which are proved.

12 Expressed is shown by a person -- shown when a person
13 speaks words which express hatred or ill will for another,
14 and when the person prepared beforehand to do the act which
15 was later accomplished. For example, lying in wait for a
16 person or any other act of preparation going to show that
17 the deed was within the defendant's mind would be expressed
18 malice.

19 Malice may be inferred from conduct showing a total
20 disregard for human life. Inferred malice may also arise
21 when the deed is done with a deadly weapon. A deadly
22 weapon is any article, instrument, or substance which is
23 likely to cause death or great bodily harm. Whether an
24 instrument has been used depends on the facts and
25 circumstances of the case. The following are examples of

1 instruments which may be deadly weapons: a pistol, a
2 shotgun, a rifle, dirk, dagger, knife, slingshot, metal
3 knuckles, razor, gasoline, fire bomb, Molotov cocktail, and
4 lighter fluid. A gun may be a deadly weapon even if it is
5 not operating.

6 Ladies and gentlemen of the jury, if you find that the
7 state has failed to prove beyond a reasonable doubt that
8 the defendant committed murder, you may consider whether
9 the state has proved beyond a reasonable doubt that the
10 defendant committed voluntary manslaughter. To prove
11 voluntary manslaughter, the state must prove beyond a
12 reasonable doubt that the defendant took the life of
13 another in the sudden heat of passion based on sufficient
14 legal provocation. Both heat of passion and sufficient
15 legal provocation must be present at the time of the
16 killing to constitute voluntary manslaughter.

17 Sudden heat of passion may for a time affect a
18 person's self-control and temporarily disturb a person's
19 reason. The sudden heat of passion must be the type that
20 would make an ordinary person unable to coolly reflect on
21 his actions and would produce an controllable impulse to do
22 violence.

23 Sufficient legal provocation must be the type that
24 would make a person of ordinary reason and caution become
25 enraged and to lose control temporarily. Provocation

1 needed for voluntary manslaughter must come from some act
2 of or related to the victim. Words alone, however vulgar
3 or insulting, are not enough to be legal provocation.
4 Where death is caused by the use of a deadly weapon, the
5 words must be accompanied by some overt act, threatening
6 act which could have produced the heat of passion. The
7 exercise of a legal right, no matter how offensive it is to
8 another, is never sufficient legal provocation for
9 voluntary manslaughter.

10 In the heat of passion -- if the heat of passion had
11 cooled, or if there was enough time between the
12 provocation, if any, and the killing for the passion of a
13 reasonable person to cool, the killing would not be
14 voluntary manslaughter. In deciding whether a reasonable
15 person had enough time to cool off, you should consider all
16 the circumstances surrounding the killing. You may
17 consider the nature of the provocation, if any; the
18 defendant's mental and physical state; and the
19 circumstances and relationship between the parties.

20 Ladies and gentlemen, I'm going to charge you the law
21 with regard to self-defense. The defendant has raised the
22 defense of self-defense. Self-defense is a complete
23 defense and if it is established, you must find the
24 defendant not guilty. The state has the burden of
25 disproving self-defense by proof beyond a reasonable doubt.

1 If you have a reasonable doubt of the defendant's
2 guilt after considering all of the evidence, including the
3 evidence of self-defense, then you must find the defendant
4 not guilty. On the other hand, if you have no reasonable
5 doubt of the defendant's guilt after considering all of the
6 evidence, including the evidence of self-defense, then you
7 must find the defendant guilty.

8 The following elements are required to establish
9 self-defense. First, the defendant must be without fault
10 in bringing on the difficulty. If defendant's conduct was
11 the type which was reasonably calculated to and did provoke
12 a deadly assault, the defendant would be at fault in
13 bringing on the difficulty and would not be entitled to
14 acquittal based on self-defense.

15 The second element of self-defense is that the
16 defendant was actually in imminent danger of death or
17 serious bodily, or that the defendant actually believed he
18 was in imminent danger of death or serious bodily injury.
19 If the defendant was actually in imminent danger, it must
20 be shown that the circumstances would have warranted a
21 person of ordinary firmness and courage to strike the fatal
22 blow or to prevent death or serious bodily injury. If the
23 defendant believed he was in imminent danger of death or
24 serious bodily injury, it must be shown that a reasonably
25 prudent person of ordinary firmness and courage would have

1 had the same belief.

2 In deciding whether the defendant actually was or
3 believed he was in imminent danger of death or serious
4 bodily injury, you should consider all of the facts and
5 circumstances surrounding the crime, including the physical
6 condition and characteristics of the defendant and the
7 victim.

8 The defendant does not have to show that he was
9 actually in danger. It is enough that if the defendant
10 believed he was in imminent danger, and a reasonably
11 prudent person of ordinary firmness and courage would have
12 had the same belief. The defendant has the right to act,
13 even though the defendant's belief may have been mistaken.

14 It is for you to decide whether defendant's fear of
15 imminent danger of death or serious bodily injury was
16 reasonable, and would have been felt by an ordinary person
17 in the same situation. Words accompanied by hostile acts
18 may, depending upon the circumstances, establish
19 self-defense.

20 The relative sizes, age, and weights of the defendant
21 and the victim may be considered in deciding the apparent
22 or actual need for force in self-defense and the amount of
23 force needed. Intoxication of the victim may be considered
24 in deciding whether the defendant's fear of death or bodily
25 harm was reasonable.

1 The final element of self-defense is that the
2 defendant had no other probable way to avoid the danger of
3 death or serious bodily injury than to act as the defendant
4 did in this particular instance. The defendant had no duty
5 to retreat if, by doing so, the danger of being killed or
6 suffering great bodily injury would increase by the
7 retreat.

8 A person cannot be required to make an exact
9 calculation as to degree or amount of force which may be
10 needed to avoid death or serious bodily harm. Therefore,
11 in self-defense the defendant has the right to use force
12 needed to avoid death or serious bodily injury. Force used
13 in self-defense does not have to be limited to the degree
14 or amount of force used by the victim. The defendant has
15 the right to use so much force as appeared to be necessary
16 for complete self-protection which a person of ordinary
17 reason and firmness would have believed to be needed to
18 prevent death or serious bodily harm.

19 Ladies and gentlemen of the jury, I'm going to charge
20 you the law with regard to possession of a weapon during
21 the commission of or attempt to commit a violent crime.
22 The defendant is charged with possession of a weapon during
23 the commission of or attempt to commit a violent crime.
24 The state must prove beyond a reasonable doubt the
25 defendant was in possession of a firearm or visibly

1 displayed what appeared to be a firearm during the
2 commission of a violent crime.

3 A firearm means any machine gun, automatic rifle,
4 revolver, pistol, or any weapon which will -- or any weapon
5 which will and should be designed, and may readily be
6 converted to expel a projectile.

7 In order to find the defendant guilty of possession
8 of a weapon during the commission of a violent crime, you
9 must first find the defendant guilty of either committing a
10 violent crime or attempting to commit a violent crime. For
11 purposes of this statute, murder and voluntary manslaughter
12 are violent crimes.

13 Ladies and gentlemen of the jury, I've charged you the
14 law. I'm going to come forward and explain to you the
15 verdict form. This document is entitled Verdict Form.
16 It's got the *State of South Carolina vs. Edmond Louis*
17 *Goodman*. It's in the third circuit, which is the circuit
18 we're in, and it's got the case number and county and the
19 State of South Carolina, County of Williamsburg.

20 Of course we've already been through this in great
21 detail with regard to what the charges are in the
22 indictment, the first of which for your consideration is
23 murder. I've defined that for you, and you will see two
24 different verdicts with regard to murder. It says:

25 We, the jury, by unanimous consent find that

1 the state has failed to prove beyond a
2 reasonable doubt that the defendant, Edmond
3 Louis Goodman, is guilty of murder and,
4 therefore, we find the defendant, Edmond
5 Louis Goodman, not guilty.

6 If you find the defendant, Edmond Louis Goodman, not
7 guilty of murder, you must consider Roman numeral two,
8 voluntary manslaughter. It goes on, number two:

9 We, the jury, by unanimous consent find the
10 state has proven beyond a reasonable doubt
11 the defendant, Edmond Louis Goodman, is
12 guilty of murder and, therefore, we find the
13 defendant, Edmond Louis Goodman, guilty.

14 If you find the defendant, Edmond Louis Goodman, is
15 guilty of murder, do not consider manslaughter. Obviously,
16 manslaughter is the lesser-included offense of murder. You
17 can't be guilty of both. It's either one or the other,
18 either murder or the lesser-included offense of voluntary
19 manslaughter. And I've explained the terms of that in
20 great detail.

21 Voluntary manslaughter, it says:

22 We, the jury, by unanimous consent find the
23 state has failed to prove beyond a
24 reasonable doubt the defendant, Edmond Louis
25 Goodman, is guilty of voluntary

1 manslaughter. Therefore, we find the
2 defendant, Edmond Louis Goodman, not guilty.

3 If you find the defendant, Edmond Louis Goodman, not
4 guilty of voluntary manslaughter, you need to end your
5 deliberations because as I explained at the very conclusion
6 with regard to the weapons charge, in order to be convicted
7 of a weapons charge, you number one have to be convicted of
8 a violent crime. Certainly if in your deliberations you
9 were to find him not guilty of murder, not guilty of
10 voluntary manslaughter, certainly you can end your
11 deliberations at that point in time because you can't be
12 guilty of the weapon offense.

13 And as you go through in logical progression, you can
14 see how that, how that applies. If, however, you find him
15 guilty of either murder or voluntary manslaughter, it's
16 going to call upon you to address Roman number three that
17 deals with the weapons charge.

18 I will leave this verdict form with you and ask you to
19 have a seat. I've got a few more comments.

20 Mr. McKenzie, I'm going to ask that you stay with us
21 here in the courtroom. Do not go back to the jury room.
22 You and I will have a discussion here momentarily.

23 One of the things that y'all need to be made aware of
24 is the verdict has to be unanimous. It can't be eleven to
25 one, can't be six to six, eight to four. It has to be

1 unanimous.

2 Madame Forelady, you are the foreman of this jury.
3 That essentially is you are to preside over the
4 deliberation process, and that essentially means that you
5 ensure that everybody's voice is heard.

6 There could very well could be questions that come up
7 during the -- during your deliberation process, and I'll
8 tell you from the very outset the very difficult questions
9 in this case, I can't help you with, the factual questions.
10 You saw how I explained to you that your job is to
11 determine what the truth is from the witnesses who
12 testified. Questions about factual matters, I can't
13 answer. However, if there is a question with regard to the
14 law, I can help you. If there's a question, whatever it
15 is, y'all relay it to the foreman. She can write it down
16 on a piece of paper and date it and give it to the bailiff.
17 And if it's something I can address, I'll be happy to do
18 so. I've noticed that y'all paid attention during the
19 trial of this case, during the charge. I don't anticipate
20 there are going to be any questions. But if there are,
21 submit them to the foreman and we'll deal with that.

22 Madame Forelady, the other thing is if anyone gets up
23 during the deliberation process to use the restroom, or for
24 whatever reason if someone were to have to leave the jury
25 room being escorted by the bailiff for whatever reason, you

1 are to stop deliberations because everybody has to take
2 part in all the deliberative process. And when you've
3 reached a verdict, I want you to knock on the door and
4 notify the bailiff, and we'll bring you back in.

5 Throughout the trial of this case, I have repeatedly
6 told you not to begin deliberations. And once again I'm
7 going to send you back to the jury room, and I'm going to
8 ask you not to begin deliberations. The reason for that is
9 I have to talk with these very fine lawyers about my jury
10 charge. If there's an exception or something I've left
11 out, or if I've made a mistake, I'll bring you back in.
12 We'll address those issues. So, do not begin
13 deliberations.

14 In addition to that, during this time we're going to
15 gather up all the documentary evidence. And once we've
16 done that, if there's no need for us to address the issue
17 of the jury charge, I'm going to gather up all this
18 documentary evidence. We're going to give it to the
19 bailiff. He's going to provide to you a pad and pencil for
20 whatever reason that you might need that. And then he can
21 tell you when to begin the deliberations. Until the
22 bailiff gives you that instruction, do not discuss the case
23 in any way, shape, or form.

24 I'm going to ask if you could to take the jurors to
25 the jury room. Thank you.

1 (THE JURY EXITS AT 3:52 P.M.)

2 THE COURT: Mr. McKenzie, I want to thank you for your
3 service. In the short period of time I've been on the
4 bench, there have been numerous occasions where we've had
5 to activate an alternate. As a matter of fact, in this
6 case we were -- we did have to do that. There's a lot at
7 stake in this case with regard to financial resources and
8 time and the angst of the state, the victim's family, the
9 defendant's family. And if we were to have problems
10 develop with the jury and we didn't have twelve, we would
11 have to start all over again. So, you've been sort of like
12 our insurance policy, like our spare tire.

13 I know you feel like you've been invited to a dance
14 and didn't get to dance. But I want to thank you on behalf
15 of the state of South Carolina for your service. I notice
16 you paid very close attention. I wish I could tell you we
17 aren't going to have to have you back, but I'm going to ask
18 that you call back this afternoon after 6. We'll make a
19 determination as to whether or not we'll have another
20 matter to try for the balance of the week.

21 But until then, thank you and you are free to leave at
22 this time. You're welcome to stay if you'd like. You're
23 free to leave if you'd like to at this time.

24 (A PAUSE.)

25 THE COURT: Mr. McKenzie, you has a doctor's excuse.

1 You are excused for the balance of the week, and you have
2 earned a three-your exception. You've done all that you
3 need to do. You're free to lave.

4 (THE ALTERNATE EXITS THE COURTROOM.)

5 THE COURT: All right, with regard -- any exceptions
6 from the state with regard to the jury charge?

7 MS. BARR: None other than previously noted,
8 previously noted, Your Honor.

9 THE COURT: And you are protected on the record in
10 that regard.

11 Mr. Carraway?

12 MR. CARRAWAY: None, Your Honor.

13 THE COURT: All right, I want everybody to come -- not
14 everybody, but I would like Ms. Barr and Mr. Sabb and Mr.
15 Carraway to come forward, and I'm going to ask everybody to
16 look at the pile of evidence that's in front of the court
17 reporter. I'm going to ask each of you, and I'll start
18 with you, Ms. Barr. Is everything in that pile in
19 evidence?

20 (A PAUSE.)

21 MS. BARR: Yes.

22 THE COURT: Is there anything in that pile that is not
23 in evidence?

24 (A PAUSE.)

25 MS. BARR: No, sir.

1 THE COURT: Mr. Carraway, is everything in that pile
2 in to evidence?

3 (A PAUSE.)

4 MR. CARRAWAY: May we approach, Your Honor?

5 THE COURT: Yes.

6 (OFF-THE-RECORD BENCH CONFERENCE.)

7 THE COURT: Ms. Barr, I'll be glad to hear from you.

8 MS. BARR: Your Honor, nothing could be farther from
9 the truth, this assertion that I did not show those
10 pictures to him.

11 Those pictures came in during my redirect of Milton
12 Phillips. And there came a point in his cross-examination
13 where he started talking about how he was crying at Harry
14 Hill's after the shooting, and I went and got those two
15 pictures. I walked to the defense table. I asked defense
16 attorney do you have any objection? He said no. I walked
17 to the witness and I asked the witness who is that? What
18 does the picture show? He said those are the pictures of
19 my friend who was shot in the head.

20 THE COURT: Yes, I specifically remember that.

21 MS. BARR: Yes, sir.

22 THE COURT: As a matter of fact, I thought that there
23 -- I kind of contemplated that there might be some
24 discussion about stipulating to various things. And I
25 specifically remember you not objecting to it.

1 MR. CARRAWAY: Let me tell you. Let's get one thing
2 straight. I have never seen either one of those pictures,
3 and there's another picture that I was shown the foot up.

4 Now, you go through it. Now, how would I know about
5 this other foot? Now, you go through these other pictures
6 here and let them show all the pictures they have, and they
7 won't have a picture of this guy lying with his foot up on
8 the sofa. There's not any -- that's not in these, and
9 that's the only one. And I told her, I said I don't have
10 any problem with these pictures.

11 I didn't know these pictures existed. I would have
12 never agreed to those. She never showed me those pictures.
13 And if she walked over here, I was anticipating what she
14 had already -- because she'd asked ahead of time you got
15 any problem with this. I showed them to him. We looked
16 through them, and there's a picture with a guy's foot up
17 there. That's the only one she showed me like that. And
18 if she'd walked over in my direction, I was assuming it was
19 that picture, and that's why I didn't look at it or
20 whatever.

21 MS. BARR: And, Judge, let me please put on the record
22 I'm not the type lawyer that plays those games. I don't go
23 and show defense lawyers one set of pictures and then try
24 to introduce another. I am saying absolutely certain as an
25 officer of the court that I showed those pictures to Mr.

1 Carraway.

2 MR. CARRAWAY: I am saying ---

3 THE COURT: I specifically, I specifically recall her
4 walking over there and showing you two pictures.

5 MR. CARRAWAY: She ---

6 THE COURT: And, as a matter of fact, I had seen them
7 prior to them, them being shown to you, and I was a little
8 bit anticipating some motion.

9 MR. CARRAWAY: I have already said what the fact is.
10 If she'd walked over towards me, I assumed it was the
11 pictures she had shown me before because she had talked to
12 me about that. And when is that picture -- and I'm not
13 suggesting -- I've dealt with these people for a long time.
14 This is not intentional. But there is another picture that
15 he and I looked through, he and I looked through, and
16 there's a picture of the guy's foot up on the sofa. Now,
17 how would, how would I have seen that if it's, it's not in
18 here? How would I have seen that?

19 Now, I guarantee you there's one in there with that
20 guy's foot up on the sofa. There was nothing like either
21 of those because she asked me, and she will tell you that I
22 replied to her I don't have any problem with any, any, any
23 of these because these aren't anything like we had last
24 week. Those are horrible pictures there.

25 And this is a mistake is what it is. She did not

1 intentionally do that or whatever, and I will guarantee you
2 there's a picture somewhere in there with that guy's foot
3 up on the sofa. That's what it was. I have never in my
4 life laid eyes on those two pictures.

5 THE COURT: These have already been published to the
6 jury, haven't they, Ms. Barr?

7 MS. BARR: They have.

8 MR. CARRAWAY: I would certainly -- and that -- and I,
9 and I -- and in the future, I will have to look more
10 carefully because -- and I know it's a mistake. I know
11 they didn't -- she didn't intentionally do that. I've
12 dealt with her too many times. But I have never in my life
13 laid eyes on those two pictures ever. And I would have
14 never agreed for those two pictures to go in.

15 I can show you last week how we -- how I argued the
16 same thing, and I want to know -- and I'm not suggesting
17 anything. But there is a picture in there of that guy's
18 foot up on the sofa, whatever, laying back. That's the one
19 picture she showed me of that guy dead, one picture, and
20 that's the only one I saw. And that's what I thought she
21 was showing me when she walked over because we'd already
22 talked about that.

23 And I'll guarantee you there's a picture in that pile
24 of that guy's foot up on that sofa, or whatever. It's just
25 all sort of odd. But anyway, his foot, he's got his left

1 foot, I think, up on the sofa and he's lying there, and
2 that's what I saw. I would have never in a million years
3 not objected to those two pictures, ever. And when I just
4 saw them right there, I said where in the world did this
5 come from?

6 THE COURT: All right.

7 MR. CARRAWAY: And it is -- this is just a innocent
8 mistake by the solicitor. I know that's true. I am not
9 suggesting anything else.

10 And she will tell you that I told her that. I said I
11 don't have any problem with those pictures. Those aren't
12 anything like what we had last week. And there's one
13 picture of that boy's foot up on that sofa, or whatever,
14 and that's not in any of these.

15 THE COURT: My question is posed to the state. What
16 is the state's position with regard to these going back to
17 the jury?

18 (A PAUSE.)

19 MR. CARRAWAY: There is a picture from another angle,
20 a closer picture. I think what we can see is his left foot
21 somewhere up here. But this picture wasn't even shown to
22 me, but I know there's a closer one, or whatever, with his,
23 I think his left foot up on a sofa.

24 THE COURT: All right, my question is posed to the
25 state. With regard to State's Exhibit 28 and 29, what's

1 the state's position with regard to these?

2 MS. BARR: Your Honor, clearly there is a mistake
3 here, and I take defense counsel at his word. Your Honor,
4 of course as he's indicated, the horse is out of the bag at
5 this point. The photographs have not only been admitted.
6 They have been published.

7 And, Your Honor, we would take the position even had
8 there been an exception or an objection to the photographs,
9 that they are proper because it shows the location of the
10 injury to the victim, and describes and depicts how the
11 victim was positioned, and how his wound appeared at the
12 time of the killing. So, we would take the position that
13 they were admissible because it shows the scene, and the
14 victim's position, and the nature of the injury.

15 And, Judge, I don't know at this point if there is
16 anything that can be done. Mr. Carraway is absolutely
17 right: he saw several photographs. There are probably a
18 hundred photographs in connection with this case. Several
19 photographs depicted the victim with his foot in, in the
20 chair. He is absolutely a hundred percent right about
21 that. There were several photographs. There was one
22 photograph that had an up-close view of just the victim's
23 face with not any pictures about the injury. And, Judge,
24 obviously we didn't want to put in a hundred photographs.
25 So, we, we had to pick and choose which ones we wanted to

1 enter ---

2 MR. CARRAWAY: And that's the one I saw because you
3 could even see he had some gold teeth or something.

4 MS. BARR: That's right.

5 MR. CARRAWAY: That's, that's -- and that's not in
6 these. That picture's not in here. The two pictures I was
7 shown are not here. I've never laid eyes on those two
8 pictures. And they had a closeup picture pretty much
9 close, but -- and it seemed like it was from the left side
10 also because it should have shown something, but that was
11 not as grotesque as those or whatever there. And then
12 there was another one where -- from a different angle. Not
13 that one from there, but with the foot up there on a sofa
14 or a chair. Those were the two that I agreed to, and those
15 are the only two that I was ever shown. I was never shown
16 those.

17 THE COURT: This is the predicament that we find
18 ourselves in as -- I can have a recollection of asking you
19 specifically if there was an objection. At that time, I
20 had seen the photographs because I was, I was -- you know,
21 the thought had crossed my mind that there were going to be
22 some arguments with regard to that. There would probably
23 have been some discussion about stipulation he was shot in
24 the ear and those type things which I would have
25 entertained.

1 MR. CARRAWAY: But that's how that came about. There
2 were two others, and she will find ---

3 THE COURT: But ---

4 MR. CARRAWAY: --- that close picture of the head
5 where I saw his teeth and he, he was lying there or
6 whatever. That's the one I saw. And the one somewhat of
7 -- not too much of this because it didn't show a whole lot
8 of blood on the floor of him with his foot up, and those
9 were the only two that I was shown.

10 THE COURT: Well, I know that you might have waved her
11 off, but I know that you specifically said that there's no
12 objection to these.

13 MR. CARRAWAY: I said that because I thought those
14 were the two she'd shown me.

15 THE COURT: Right. Well, there does appear to be a
16 mistake. But I think that with regard to the admissibility
17 of these, I think that's within the broad discretion of a
18 trial judge. And I do believe that it would not be
19 reversible error had I ruled that they were in because they
20 are somewhat probative as far as what the cross-examination
21 was, where the, where he was shot and those type things.
22 And if I were to keep these, because of the mistake, keep
23 the photographs out of evidence, it's -- the error is still
24 there.

25 MR. CARRAWAY: I don't mind -- I would ask that those

1 other two be substituted, that -- the ones that I saw.

2 THE COURT: And we aren't doing that.

3 MR. CARRAWAY: The ones that I agreed to.

4 THE COURT: I'm not going to do that.

5 MR. CARRAWAY: Well, I would certainly ask that those
6 be kept out.

7 THE COURT: Well, the problem is still existent with
8 regard to whether or not -- and I'm not going to say in a
9 vacuum as to what my ruling would have been.

10 MR. CARRAWAY: Well, I would say if you'd seen the
11 other, if you've seen these others or whatever, then you
12 would have -- I, I -- my argument would have been that
13 these would be -- would show something without being quite
14 as gruesome.

15 THE COURT: All right.

16 MR. CARRAWAY: And those other two pictures are in
17 there. They -- I, I, I can guarantee you they're in there,
18 the ones that I was shown.

19 THE COURT: All right. Well, let's just think out
20 loud here for a moment. Let's suppose that the jurors -- I
21 know the jury's already seen them because they've been
22 published, and I was aware of that when it was being done.
23 And if we don't send it back, and then the jury comes back
24 and wants to see what's already been introduced in to
25 evidence, that presents a whole different problem because

1 it's going to require that we either show them the pictures
2 after the fact, or explain why they aren't in the evidence,
3 which could cause some problems.

4 I think although there could have been some arguments
5 made, I think that it would be within the sound discretion
6 of the trial judge to let these in. There have been a lot
7 worse pictures than this introduced into evidence that was
8 not reversible error.

9 Would you agree with me in that regard, Ms. Barr?

10 MS. BARR: I would, Your Honor.

11 MR. CARRAWAY: Well, what do you expect her to say? I
12 mean, I'm just saying. I'm not trying ---

13 THE COURT: I was, I was asking ---

14 MR. CARRAWAY: --- to embarrass you, but that was kind
15 of a softball question. I'm not, I'm not being funny with
16 you.

17 THE COURT: Well, I was specifically asking ---

18 MR. CARRAWAY: Yes.

19 THE COURT: --- for instance, like, I think, like, the
20 Larry Gene Bell photographs were probably the worse that's
21 ever been introduced in a, in a courtroom, and it was
22 allowed.

23 MR. CARRAWAY: Is that the question, though? Isn't
24 the question if you'd seen all these other pictures, seen
25 the other pictures that were the alternates, is that what

1 you would have done or whatever, and that -- we didn't have
2 a hearing on that or whatever.

3 THE COURT: Right.

4 MR. CARRAWAY: And that's the problem.

5 THE COURT: Right.

6 MR. CARRAWAY: And I sure, I can tell you I would have
7 never in -- because I, because I objected to pictures like
8 that last week or whatever. Those weren't what were shown
9 to me, and I told her. I said these, what you're showing
10 me, are not nearly as bad as last week.

11 THE COURT: All right.

12 MR. CARRAWAY: And she sort of laughed or whatever.
13 And I know it's, it's absolutely, positively an innocent
14 mistake. I know it is.

15 THE COURT: All right. Well, I think in view of the
16 fact, and of course the record's replete with regard to the
17 objections after the fact with regard to these, and I'm
18 going to allow them to go back in to the jury room. I
19 think it's the only thing I can do this at time.

20 All right, with those exceptions, is there anything
21 that's in evidence that's not in that pile?

22 MR. CARRAWAY: Let me, let me go through it.

23 (A PAUSE.)

24 THE COURT: All right. All right, we've had so much
25 discussion, Ms. Kimberly Barr, is everything that's in this

1 pile into evidence?

2 MS. BARR: Yes, sir.

3 THE COURT: Is anything in there that's not in
4 evidence?

5 MS. BARR: No, sir.

6 THE COURT: All right, Mr. Carraway, is this pile, is
7 there anything in that pile that's not in evidence, other
8 than the two that we've already discussed, 28 and 29?

9 MR. CARRAWAY: No.

10 THE COURT: All right. Everything that's in that pile
11 is into evidence with the exception of those two?

12 MR. CARRAWAY: Yes.

13 THE COURT: Is there anything that is not into
14 evidence that's in that pile?

15 MR. CARRAWAY: No.

16 THE COURT: All right, very good. We can carry the
17 documentary evidence back to the jury room and tell them to
18 begin deliberations. Here's a pad that has nothing on it.
19 We will stand at ease.

20 (JURY DELIBERATIONS BEGIN AT 4:17 P.M.)

21 (OFF THE RECORD.)

22 THE COURT: All right, we're ready for the jury.

23 (THE JURY ENTERS AT 4:51 p.m.)

24 CLERK OF COURT: Madame Forelady, have you reached a
25 verdict?

1 FOREPERSON: Yes, we have.

2 CLERK OF COURT: Is it unanimous?

3 FOREPERSON: Yes, it is.

4 THE COURT: Before I publish the verdict, I want
5 everybody to be made aware of the fact that these -- we all
6 know it's a very emotional matter. It's emotional for the
7 victim's family; it's emotional to defendant's family.

8 My job is to ensure that the state of South Carolina
9 and the defendant get a fair and impartial trial. In
10 addition to that, it's my job and my responsibility to
11 maintain order in this court. If there's anyone who feels
12 as though they can't maintain that order and without any
13 response whatsoever, feel like you can't contain yourself,
14 I'm going to ask that you leave at this time. But we
15 cannot have any disruptions. This is not the place for it.

16 And I'm going to instruct the law enforcement officers
17 who are here if there is any disruption, I'm going to ask
18 that they take you in to custody. So, bear that in mind.
19 We cannot have, nor can we tolerate, any disruptions
20 whatsoever.

21 You may publish the verdict.

22 CLERK OF COURT: Will the defendant please stand?
23 State vs. Edmond Louis Goodman, we, the jury, by unanimous
24 consent find that the state has proven beyond a reasonable
25 doubt that the defendant, Edmond Louis Goodman, is guilty

1 of murder. And, therefore, we find the defendant, Edmond
2 Louis Goodman, guilty.

3 We, the jury, by unanimous consent, find that the
4 state has proven beyond a reasonable doubt that the
5 defendant, Edmond Louis Goodman, is guilty of possession of
6 a weapon during the commission of a violent crime. And,
7 therefore, we find the defendant, Edmond Louis Goodman,
8 guilty.

9 If these are your verdicts, so say you all, please let
10 it be known by raising your hands.

11 (THE JURY COMPLIES.)

12 THE COURT: Thank you, Madame Clerk.

13 Are there any additional request with regard to
14 polling, Mr. Carraway?

15 MR. CARRAWAY: Yes, Your Honor.

16 THE COURT: Madame Clerk, would you please poll the
17 jury?

18 CLERK OF COURT: Gordon Morris, were those your
19 verdicts, and are those still your verdicts?

20 JUROR: Yes, ma'am.

21 CLERK OF COURT: Mildred Nelson, were those your
22 verdicts, and are those still your verdicts?

23 JUROR: Yes.

24 CLERK OF COURT: Jenny McKenzie, were those your
25 verdicts, and are those still your verdicts?

1 JUROR: Yes.

2 CLERK OF COURT: Margaret Shaw, were those your
3 verdicts, and are those still your verdicts?

4 JUROR: Yes.

5 CLERK OF COURT: Patricia McGill, were those your
6 verdicts, and are those still your verdicts?

7 JUROR: Yes.

8 CLERK OF COURT: Harry Dukes, were those your
9 verdicts, and are those still your verdicts?

10 JUROR: Yes, ma'am.

11 CLERK OF COURT: Terry Green, were those your
12 verdicts, and are those still your verdicts?

13 JUROR: Yes, ma'am.

14 CLERK OF COURT: Lois Mitchem, were those your
15 verdicts, and are those still your verdicts?

16 JUROR: Yes, ma'am.

17 CLERK OF COURT: Sheronda Blandland, were those your
18 verdicts, and are those still your verdicts?

19 JUROR: Yes, ma'am.

20 CLERK OF COURT: Courtney Wooley, were those your
21 verdicts, and are those still your verdicts?

22 JUROR: Yes, ma'am.

23 CLERK OF COURT: Towanda Ard, were those your
24 verdicts, and are those still your verdicts?

25 JUROR: Yes, ma'am.

1 CLERK OF COURT: Thomasena Shaw, were those your
2 verdicts, and are those still your verdicts?

3 JUROR: Yes, ma'am.

4 THE COURT: Madame Forelady, ladies and gentlemen of
5 the jury, I want to thank you for your time and your
6 service. I know that y'all have spent a good bit of time
7 away from your work and your family, and for that I'm
8 grateful on half of the state of South Carolina.

9 Over the years practicing law, I saw a lot of judges
10 comment on the particular verdict. You know, in my time on
11 the bench, I really don't think that's an appropriate thing
12 to do. Y'all have heard the evidence; you have applied the
13 law, and you've rendered your decision. What I need to do
14 is to thank you for your time and your service because
15 you've been able to do what nobody else in this courtroom
16 has been able to do.

17 I know when many of you came here Monday, y'all
18 weren't really excited to be here. Y'all had other things
19 that you would rather do, and that's natural. Let's think
20 about that. It's a very important civic duty for you to
21 perform. And the other alternative would be if we were to
22 get the clerk to go out and find twelve people who had
23 absolutely nothing better to do. I don't think we would
24 get the same wisdom that we have brought to this matter
25 here today. Y'all have done a very fine job, and I want to

1 thank you for that.

2 You know, we live in a great country, and every time I
3 lay my head down on the pillow at night, I thank the Lord
4 in heaven that we have our judicial system because if you
5 think about it, we're only a breath away from litigation
6 ourselves, whether it be a criminal charge levied against us,
7 or a civil action. And I think it's reassuring to know
8 that it's not some governmental official who makes a
9 decision in that regard, no professional jurors. But
10 people in the community who hear the case and render a
11 verdict they think is fair as they apply it to the law.
12 For that, I'm immensely grateful, and I want to thank you
13 for being here.

14 I've got some good news for you. First of all, you
15 will receive a check, which is really a nominal
16 appreciation of -- nominal token of appreciation for your
17 service. But in addition to that, you will have earned a
18 three-year exemption. If you are subpoenaed to serve in
19 this courtroom within the next three years, notify the
20 clerk that you served this week, and you will not be
21 required to serve again. Doesn't apply to federal court;
22 doesn't apply to magistrate's court or municipal court.
23 But if you're subpoenaed to this court within the next
24 three years, you've earned an exception. So many people
25 were on the jury pool, and they have gotten an exemption,

1 but y'all have earned an exemption.

2 Thank you so much for your time. I told you at the
3 very outset if there were any questions, I'd be happy to
4 answer those. Be happy to answer those now or at a later
5 date and time. Are there any questions at this time from
6 anybody in the jury?

7 (THERE IS NO RESPONSE FROM JURORS.)

8 THE COURT: All right, this is a public forum, and one
9 of my responsibilities is to sentence the defendant. Your
10 job is done here today; you're free to leave if you'd like
11 to leave. However, this is indeed a public forum. If
12 you'd like to see the sentencing procedure, you are welcome
13 to do so. But at this time, you're free to leave. Thank
14 you so much for your service.

15 CLERK OF COURT: On behalf of the clerk's office,
16 those of you who work and need certificates for your
17 employer, if you'll just meet Reverend Brown in the petit
18 jury room, they'll be ready for you. And again, thank you
19 for your service.

20 THE COURT: And I'm not real sure whether I made it
21 immanently clear, but you do not need to come back this
22 week or within the next three years. Very good. Very
23 good. You're free to leave at this time.

24 (A PAUSE.)

25 MS. BARR: Your Honor, please the court? I'm handing

1 up the sentencing sheet.

2 THE COURT: Anything from the state with regard to
3 sentencing?

4 MS. BARR: Your Honor, no, Your Honor.

5 THE COURT: Be glad to hear from the defense at this
6 time.

7 MR. CARRAWAY: I think he might would like to have
8 something to say, Your Honor.

9 THE COURT: Mr. Goodman, be glad to hear from you.

10 DEFENDANT: You know, I'm reading a book called *The*
11 *Audacity of Hope* and, and it talks about self-evident that
12 all men are created equal. It's just so difficult; it's
13 real difficult. And then in this book, it talks about the
14 Constitution, the United States Constitution and our
15 amendments and our rights as people, and how that
16 Constitution applies to us.

17 And I did some good and got out of -- got out on the
18 right track. Did everything right. I love my momma, love
19 my sister, my family, my dad. They were so proud of me.
20 They still are proud of me. This here is my fight now, you
21 know?

22 The court feel as though it's just. I don't -- we
23 don't disrespect it, but the jurors made a decision.
24 State, I mean, the state put, put a case together. I'm
25 still stand strong. Still stand strong.

1 THE COURT: Anything further, Mr. Carraway?

2 MR. CARRAWAY: Nothing, Your Honor.

3 MS. BARR: Judge, I neglected to place on record that
4 the defendant is currently on probation for aggravated
5 assault, burglary third degree, and I think this conviction
6 of course would serve as a violation of that probation.
7 Mr. Adam is there, his probation officer is here, and we'd
8 ask that that matter be held at the same time.

9 THE COURT: Very good. All right, I'll be glad to
10 hear from you with regard to the violation.

11 PROBATION AGENT: Yes, Your Honor. Mr. Goodman was
12 actually placed on violation right when this happened. He
13 was doing all right up until that time. He did abscond
14 supervision. Of course that did led to the violation as
15 far as him being located on Ohio as leaving the state
16 without permission, possessing a weapon, and of course the
17 new conviction is a violation as well. He's actually on
18 community supervision rather than probation, so it's up to
19 one year for the revocation.

20 THE COURT: Very good.

21 MS. BARR: And, Your Honor, it's -- for the record,
22 it's ABHAN, possession of a weapon, burglary third degree,
23 and a first offense attempted armed robbery.

24 THE COURT: Very good.

25 Mr. Goodman, I'm going to ask you to place your left

1 hand on the Bible and raise your right hand as the clerk
2 administers the oath.

3 EDMOND GOODMAN, BEING DULY SWORN,
4 TESTIFIES AS FOLLOWS:

5 EXAMINATION BY THE COURT:

6 THE COURT: Mr. Goodman, are you under the influence
7 of any drugs or alcohol here today?

8 DEFENDANT: No, sir.

9 THE COURT: Are you experiencing any kind of physical
10 or mental problem that could prevent you from understanding
11 what we're doing here today?

12 DEFENDANT: No, sir.

13 THE COURT: All right, and you've heard the
14 allegations you hadn't done what you were supposed to on
15 probation. Are those allegations true?

16 DEFENDANT: Yes.

17 THE COURT: All right, based on that, I do indeed find
18 there is a substantial and wilful violation of the terms
19 and conditions of probation. I'll take that into
20 consideration.

21 Be glad to hear from you and your lawyer with regard
22 to any mitigation with regard to the probation violation.

23 MR. CARRAWAY: None, Your Honor.

24 THE COURT: Mr. Carraway?

25 MR. CARRAWAY: None.

1 THE COURT: All right, Mr. Goodman?

2 DEFENDANT: No, sir.

3 THE COURT: Very good.

4 (A PAUSE.)

5 PROBATION AGENT: Your Honor, may we take a moment to
6 serve Mr. Goodman? We have to serve the paperwork on him.

7 THE COURT: Yes, you may.

8 And, Ms. Barr, you need to sign this sentencing sheet.

9 Mr. Carraway, I'm going to ask you, I'm not really
10 sure it's necessary, but I'm going to ask you to sign these
11 for them.

12 (A PAUSE.)

13 THE COURT: Mr. Goodman, you've discussed these
14 matters with your lawyer, but you are aware that murder
15 falls within a very special category of crimes that are
16 most serious, and you understand the ramifications of that,
17 and it falls within the two-strike rule. If you get two
18 most serious offenses thereafter, you'd be sentenced to
19 life in jail. Do you understand that?

20 DEFENDANT: Yes, sir.

21 THE COURT: You also understand that this is a violent
22 offense. It would adversely affect your custody status.
23 Do you understand that?

24 DEFENDANT: Yes, sir.

25 THE COURT: You know that this murder, along with

1 other crimes of this nature, are non-parole offenses, which
2 means that you will serve whatever I sentence you day for
3 day. You understand that?

4 DEFENDANT: Yes, sir.

5 THE COURT: It falls within the special category of
6 crimes known as eighty-five percent rule. It's within the
7 realm of possibility that you would only serve eighty-five
8 percent of what I sentence you to here today. But for all
9 practical purposes, you need to understand that you're
10 going to serve it day for day. Do you understand that?

11 DEFENDANT: Yes, sir.

12 SENTENCE OF THE COURT:

13 THE COURT: Mr. Goodman, on indictment 2008-GS-45-0253
14 on the offense of murder, the sentence of the court is you
15 be committed to the State Department of Corrections for a
16 period of thirty years. The sentence is to run concurrent
17 in all respects with other sentences rendered here today.

18 With regard to indictment to 2008-GS-45-0253,
19 possession of a weapon during the commission of the violent
20 crime, the sentence of the court is that you be committed
21 to the State Department of Corrections for a period of five
22 years, sentences to run concurrent. Good luck to you.

23 DEFENDANT: Yes, sir.

24 THE COURT: With regard to the probation violation,
25 I'm going to revoke one year and it will run concurrent.

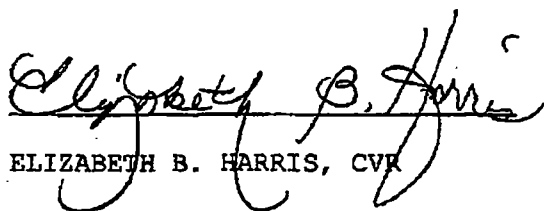
1 So, any, any fees or funds cannot be waived or reduced to a
2 civil judgement. We'll stand adjourned.

3 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED
VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH
JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO
HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE
AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING
OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE
CIRCUIT COURT FOR WILLIAMSBURG COUNTY, SOUTH CAROLINA,
ON THE 17TH AND 18TH DAYS OF MARCH, 2009.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST IN ANY PARTY HERETO.


ELIZABETH B. HARRIS, CVR

COLUMBIA, SOUTH CAROLINA

MARCH 10TH, 2010

12 CP45 29 6

STATE OF SOUTH CAROLINA)

In the Court of Common Pleas

County of Williamsburg)Edmond L. Goodman 271444

Full name and prison number, if any, of applicant.)

v.)

STATE OF SOUTH CAROLINA)

Name of Respondent)

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
 12 JUN -8 AM 10:47
 CAROLYN F. WILLIAMS
 CLERK OF COURT
 KINGSTREE, S.C.

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly, handwritten, or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make it clear to which question any such continued answer refers.

Since every application must be sworn to under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicant should, therefore, exercise care to assure that all answers are true and correct.

If the applicant is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which applicant was convicted.

1. Place of detention PERRY CORRECTION INSTITUTION
2. Name and location of Court which imposed sentence WILLIAMSBURG COUNTY COURT HOUSE
SE KINGSTREE J.C.
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 2008-G.S. 45-0253
 - (b) _____
 - (c) _____
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) MARCH 18, 2009
 - (b) THIRTY YEARS / FIVE YEARS CONCURRENT
 - (c) _____

A CERTIFIED TRUE COPY

Sharon W. Staggers

SHARON W. STAGGERS
 CLERK OF COURT
 WILLIAMSBURG COUNTY

5. Check whether a finding of guilty was made
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ✓ _____
- (c) after a plea of nolo contendere _____
6. Did you appeal from the judgment of conviction or the imposition of sentence? YES _____
7. If you answered "yes" to (6), list
- (a) the name of each Court to which you appealed:
- i. SOUTH CAROLINA COURT OF APPEALS _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. AFFIRMED _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. DECEMBER FIFTH 2011 _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. UNPUBLISHED OPINION _____
- ii. _____
- iii. _____
8. If you answered "no" to (6), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL _____
- (b) INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL _____
- (c) DEA PROCESS VIOLATION _____

10. State concisely and in the same order the facts which support each of the grounds set out in (9)

(a) See Attached Memorandum

(b) _____

(c) _____

11. Prior to this application have you filed with respect to this conviction

(a) any petition in a State Court under South Carolina Law ?

N/A

(b) any petitions in State or Federal Courts for habeas corpus or post-conviction relief?

N/A

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7) _____

(d) any other petitions, motions or applications in this or any other Court? _____

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed? NONE

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

- (a) _____
- (b) _____
- (c) _____

16. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? NO
- (b) your trial, if any? YES
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence?
YES
- (e) preparation, presentation or consideration of any petitions, motions, or application with respect to this conviction, which you filed? _____

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

- i. LA GRAD CARRAWAY ESQUIRE P.O. BOX 819 KINGJIREE
- ii. SOUTH CAROLINA 29556 / ELIZABETH A. FRANKLIN - BEST
- iii. APPELLATE DEFENDER DIVISION OF APPELLATE DEFENSE 1380 LANTANA, SUITE
401 COLUMBIA, SOUTH CAROLINA 29201

(b) the proceedings at which each such attorney represented you:

- i. TRIAL
- ii. DIRECT APPEAL
- iii. _____

18. State clearly the relief you seek in filing this application.

A NEW TRIAL

19. Are you now under sentence from any other court that you have not challenged?

NONE

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)

VERIFICATION

I, Edmond Goodman, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Edmond Goodman

Sworn to and subscribed before me

This 30th day of May, 2022

Stuart M. Mulcahy L.S.

Notary Public for South Carolina

My Commission Expires January 7, 2016

FILED
12 JUN -8 AM 10:48
CAROLYN F. WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.

APPLICATION TO PROCEED WITHOUT PREPAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, Edmond Goodman, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty or perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of proceeding or give security therefor.

Edmond Goodman
Applicant

Sworn to and subscribed before me

This 30th day of May, 2022

Stuart M. Mulcahy L.S.

Notary Public for South Carolina

My Commission Expires January 7, 2016

418

ATTACHMENT FOR
POST-CONVICTION APPLICATION

FILED

APPLICATION FOR POST-
CONVICTION RELIEF

12 JUN -8 AM 10:48

CAROLYN F. WIL
CLERK OF COURT
KINGSTREE, S.C.

EDMOND GOODMAN #271444

VS

THE STATE OF SOUTH CAROLINA

I. INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL,

IN THAT, A) COUNSEL FAILED TO PROPERLY INVESTIGATE AND
PREPARE FOR TRIAL, B) COUNSEL FAILED TO CALL WITNESSES RELEVANT
TO THE DEFENSE THEORY OF THE CASE, C) COUNSEL FAILED TO
PROPERLY INVESTIGATE PRESENT EVIDENCE, CROSS EXAMINATION
TO MAKE MOTIONS TO SUPPRESS EVIDENCE, D) COUNSEL
FAILED TO MAKE OBJECTIONS DURING CRITICAL POINTS OF TRIAL,
THEREBY ALLOWING HARMFUL, PREJUDICIAL EVIDENCE TO GO
UNCHALLENGED BEFORE THE JURY E) COUNSEL FAILED TO ARGUE
AND PRESERVE LEGAL ISSUES FOR APPELLATE REVIEW

COUNSEL FAILED TO PROPERLY CONDUCT DISCOVERY AND
OBTAIN INFORMATION RELEVANT TO THE DEFENSE OF THE CASE

INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL,

IN THAT; A) APPELLATE COUNSEL FAILED TO PROPERLY

' RESEARCH CASE AND PRESENT PROPER ISSUES INCLUDING,
BUT NOT LIMITED TO, THE DENIAL OF PRESENTING A
COGNIZABLE APPEAL ISSUE THAT COULD HAVE ONLY
BEEN RAISED ON DIRECT REVIEW

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

2012-CP-45-296

Edmund Goodman, #271444,

Applicant,

v.

State of South Carolina,

Respondent.

RETURN

The Respondent, making its Return to the application for post-conviction relief filed June 8, 2012, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Williamsburg County Clerk of Court. The Applicant was true billed indicted at the December 2008 term of the Williamsburg County Grand Jury for Murder and Possession of a Weapon during a Violent Crime (08-GS-45-253). William LaGrand Carraway, Esquire, represented him. Applicant proceeded to a jury trial before the Honorable Michael G. Nettles. On March 18, 2009, Judge Nettles sentenced Applicant to thirty years for Murder and five years for Possession of a Weapon during a Violent Crime with all sentences to run concurrent.

A timely Notice of Appeal was filed on Applicant's behalf by Elizabeth A. Franklin-Best, Esquire. The South Carolina Court of Appeals affirmed Applicant's conviction. State v. Goodman, Op. No. 2011-UP-541 (Ct. App. filed December 5, 2011). The Remittitur was issued on May 7, 2012.

Attached herewith and incorporated herein by reference are the records of the Williamsburg County Clerk of Court regarding the subject convictions, records from the South Carolina Department of Corrections, appellate records, and the transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel.
 - a. "Counsel failed to properly investigate and prepare for trial."
 - b. "Counsel Failed to call witnesses relevant to the defense theory of the case."
 - c. "Counsel failed to properly investigate present evidence, cross examination and make motions to suppress evidence."
 - d. "Counsel failed to make objections during critical points of trial."
 - e. "Counsel failed to argue and preserve legal issues for appellate review."
 - f. "Counsel failed to properly conduct discovery and obtain information relevant to the defense of the case."
2. Ineffective assistance of appellate counsel
 - a. "Appellate counsel failed to properly research case and present proper issues including, but not limited to, the denial of presenting a cognizable appeal issue that could have only been raised on direct review."
3. Due Process Violation

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCP.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must

prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The allegation that appellate counsel was ineffective is without merit. Respondent contends that the Applicant's appellate counsel rendered adequate assistance and provided

representation within the range of competence required by appellate attorneys. A defendant is constitutionally entitled to the effective assistance of appellate counsel. Evitts v. Lucey, 469 U.S. 387, 105 S.Ct. 830 (1985). Where ineffective assistance of appellate counsel is alleged, the Applicant must show that appellate counsel's performance was (1) deficient; and (2) that there was prejudice from the appellate counsel's deficiency. Southerland v. State, 337 S.C. 610, 524 S.E.2d 833 (1999). To be effective, appellate counsel must give assistance of such quality as to make appellate proceedings fair. *Id.* Appellate counsel must provide effective assistance but need not raise every non-frivolous issue presented by the record. *Id.* Appellate counsel has a professional duty to choose among potential issues according to their merit. Jones v. Barnes, 463 U.S. 745, 103 S.Ct. 3308 (1983). Where the strategic decision to exclude certain issues on appeal is based on reasonable professional judgment, the failure to appeal all trial errors is not ineffective assistance of counsel. Griffin v. Aiken, 775 F.2d 1226 (4th Cir. 1985).

When a claim of ineffective assistance of appellate counsel is based upon failure to raise viable issues, the court must examine the record to determine "whether appellate counsel failed to present significant and obvious issues on appeal." Gray v. Greer, 800 F.2d 644, 646 (7th Cir. 1986). Generally, the presumption of effective assistance of counsel will be overcome only when the alleged ignored issues are clearly stronger than those actually raised on appeal. *Id.* The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland v. Washington test with regard to the ineffectiveness claims against appellate counsel. However, the allegation of ineffective assistance of appellate counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

The Applicant further alleges that he was denied due process of law. The Applicant's allegation claims infringement of his rights under certain amendments to the United States Constitution. However, the Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must "... specifically set forth the grounds upon which the application is based." Section 17-27-50 of the Code of Laws of South Carolina (1976). In an application for post-conviction relief, it is incumbent upon the Applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Since the Applicant has failed to make even a prima facie showing, the Respondent would submit that this allegation should be dismissed for failing to meet the requirements of the Uniform Post-Conviction Procedures Act. This allegation is so vague that it is impossible for the State to respond.

VI.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

[signature block on following page]

VII.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Deputy Attorney General

DANIEL GOURLEY
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

June 27, 2013.

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

EDMOND GOODMAN, #271444,

Applicant,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

2012-CP-45-296

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**E. Hood Temple, Esquire
Hyman Law Firm
PO Box 1770
Florence, SC 29503**

DATED this 27th day of June, 2013.



Caroline Kaiser, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

COURT OF GENERAL SESSIONS

Edmond Goodman,

PLAINTIFF,

v.

State of South Carolina,

DEFENDANT.

TRANSCRIPT OF PCR

C/A No. 2012-CP-15-0298

2014-CP-45-198

Williamsburg County Courthouse
December 16, 2013

BEFORE:

HONORABLE R. FERRELL COTHRAN, PRESIDING JUDGE

APPEARANCES:

Assistant Attorney General Daniel Gourley
Attorney for State of South Carolina

David Esquire
Attorney for Edmond Goodman

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

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(There were no exhibits marked during this PCR)

1 Mr. Gourley: May it please the Court?

2 The Court: Yes, sir.

3 Mr. Gourley: This is Edmond Goodman vs. The State of
4 South Carolina. Indictment number 2014-CP-45-198. The
5 applicant is confined at the South Carolina Department of
6 Corrections in Williamsburg County, Clerk of Court. It
7 was true bill and indicted by the Williamsburg County
8 grand jury for murder, possession of a weapon during a
9 violent crime. Mr. Carraway represented him. He
10 proceeded with a jury trial in front of the Honorable
11 Michael Nettles in July. Judge Nettles sentenced him to
12 30 years for murder, five years for possession of a
13 weapon during a violent crime. He filed a notice of
14 appeal. The convictions were affirmed. Subsequently he
15 filed a post conviction relief application on June 8,
16 2012 alleging ineffective assistance of counsel, failing
17 to properly prepare for trial. Failing to call relevant
18 witnesses. Failing to reserve legal issues for appellant
19 review. Ineffective assistance of appellant counsel and
20 due process violation. He subsequently amended his
21 application on July 8, 2013 alleging ineffective
22 assistance of trial counsel for failing to object to jury
23 instruction, for failing to object to state's exhibits 28
24 and 29 because of due process violation.

25 The state made its amended return on August 1st,

Edmond Goodman vs. State of South Carolina

4

1 2013. He's represented here today by David Caraker.

2 The Court: Okay. Yes, sir.

3 Mr. Caraker: Thank you, Your Honor. David Caraker
4 here on behalf of Mr. Temple representing Mr. Goodman in
5 this matter. We waive any openings and proceed to
6 witnesses.

7 The Court: Okay.

8 Mr. Caraker: If it please the Court, Your Honor.

9 The Court: Yes, sir.

10 Mr. Caraker: Your Honor, we'd like to call Attorney
11 Legrand Carraway.

12 The Court: Mr. Carraway, if you'd come around and be
13 sworn.

14 Bailiff: Raise your right hand, state your name,
15 please.

16 Mr. Carraway: Legrand Carraway.

17 Bailiff: You solemnly swear or affirm the testimony
18 you give will be the truth, the whole truth and nothing
19 but the truth, so help you God?

20 Mr. Carraway: I do.

21 Bailiff: Thank you. Have a seat. State your full
22 name, spell your last name for the record.

23 Mr. Carraway: William Legrand Carraway. C-A-R-R-A-
24 W-A-Y.

25 Mr. Caraker: Please the Court, Your Honor.

Mr. Carraway - Examination by Mr. Caraker

5

1 The Court: Yes, sir.

2 Mr. Carraway - Examination by Mr. Caraker:

3 Q: Good-morning, Mr. Carraway.

4 A: Good-morning.

5 Q: Mr. Carraway, with whom are you employed at this
6 time?

7 A: Self employed.

8 Q: With whom were you employed on March 17, 2009?

9 A: I was Public Defender for Williamsburg County.

10 Q: Yes, sir. How long had you held that position as of
11 that time?

12 A: About 18 years.

13 Q: At some point, Mr. Carraway, were you appointed to
14 represent Mr. Goodman?

15 A: Yes, I was.

16 Q: Do you recall how many times you had met with Mr.
17 Goodman prior to his trial in March of 2009?

18 A: No, I do not.

19 Q: Have you had a chance to review the transcript of
20 the case?

21 A: Yes, I have.

22 Q: Did you guys present any witnesses at trial?

23 A: I think ... no we did not.

24 Q: That you recall, Mr. Carraway, did you interview any
25 witnesses prior to trial?

Mr. Carraway - Examination by Mr. Caraker

6

1 A: Yes, I did.

2 Q: Who were those witnesses, if you recall?

3 A: They were a couple of the guys who were present
4 there at the time of the shooting.

5 Q: Do you recall their names?

6 A: Not right now.

7 Q: But you didn't call these gentlemen as witnesses at
8 the trial of the case?

9 A: No, the State called them.

10 Q: Do you remember if Mr. Goodman asked you to call any
11 particular witnesses in this case?

12 A: I do not recall that.

13 Q: Now, as far as the trial issues themselves, was
14 there any question during the course of this trial
15 as to whether Mr. Jerome White was deceased? Mr.
16 White was the victim of the crime.

17 A: There was no question.

18 Q: Was there any question that you recall as to whether
19 Mr. White had been shot?

20 A: There was no question.

21 Q: Is it fair to say that the main issues in the trial
22 were who shot Mr. White under what circumstances?

23 A: I don't think, I don't think who shot him was the
24 question, just under the circumstances.

25 Q: Fair enough. During it's case and chief, did the

Mr. Carraway - Examination by Mr. Caraker

7

1 State introduce several photographs into evidence?

2 A: Yes, they did.

3 Q: Do you recall the introduction of State's Exhibits
4 numbers 28 and 29, particularly?

5 A: Yes, I do.

6 Q: And they came in on the redirect of Mr. Melton
7 Phillips, did they not?

8 A: Yes, sir.

9 Q: At the time that those photographs were introduced
10 into evidence, did you raise an objection?

11 A: No, I did not.

12 Q: Do you recall why you didn't raise an objection at
13 that time to the introduction to State's 28 and 29?

14 A: I'd look at the pictures or whatever, I'd look
15 through the stack and I don't know how those got
16 back in, but you, you know, we had gone over all the
17 evidence before and I had looked through those or
18 whatever, and then, of course, I noticed those at
19 the end that those had gone in and I had objected
20 that those, I had objected to those when I was
21 talking to the solicitor and I said no, we're not
22 going to allow those but somehow those got back into
23 the stack.

24 Q: The end result was they weren't objected to at
25 trial?

1 A: That's correct.

2 : When did you become aware of their admission that
3 they were going to come back to the jury room. When
4 did you become aware of that?

5 A: Some how before they went back.

6 Q: Was that during the conference with His Honor and
7 the solicitor as to what, in fact, was evidence at
8 that trial?

9 A: Yes, that's correct.

10 Q: Did you assume that that was part of the evidence
11 that you had already stipulated to? You had assumed
12 that you had seen them at some time prior to their
13 introduction?

14 A: Yes.

15 Q: Were these particular photographs, State's 28 and 29
16 were they particularly graphic photographs?

17 A: They were more graphic then the others.

18 Q: Do you recall what they showed?

19 A: Just the victim, close ups of the victim. A lot of
20 blood.

21 Q: At some point during the conference with the Judge
22 and the Solicitor, did you voice an opinion that you
23 had made a mistake letting those in without
24 objection?

25 A: Yes.

Mr. Carraway - Examination by Mr. Caraker

9

1 Q: During the trial itself was there sufficient
2 evidence presented to allow the judge to instruct
3 the jury on manslaughter and self defense?

4 A: Yes.

5 Q: Did they judge do that, instruct the jury on
6 manslaughter and self defense?

7 A: I believe he did, yes.

8 Q: And do you recall what the jury charge was with
9 regards to implied malice, use of a deadly weapon?

10 A: I do not recall.

11 Mr. Caraker: Court's indulgence one moment, Your
12 Honor.

13 The Court: Okay.

14 Q: Mr. Carraway, if you could refer to the transcript,
15 would that help you in your testimony?

16 A: Yes.

17 Mr. Caraker: May I approach, Your Honor?

18 The Court: Yes, sir.

19 Q: Mr. Carraway, I've handed you a transcript from the
20 trial specifically referring to page 374, line 19.
21 Could you read the highlighted portion, please?

22 A: Malice may be inferred from conduct showing a total
23 disregard for human life. Inferred malice may also
24 arise when the deed is done with a deadly weapon. A
25 deadly weapon is any article, instrument or

1 substance which is likely to cause death or great
2 bodily harm. Whether a instrument has been used
3 depends on the facts and circumstances of the case.
4 The following are examples of instruments which may
5 be dangerous weapons. A pistol, a shotgun, a rifle,
6 it says a DIRK, dagger, knife, slingshot, metal
7 knuckles, razor, gasoline, firebomb, Molotov
8 cocktail, and lighter fluid. A gun may be a deadly
9 weapon even if it is not ...

10 Q: Thank you, sir. Mr. Carraway in a criminal case, of
11 course, the burden of proof that the State has to
12 make is beyond a reasonable doubt, correct?

13 A: That's correct.

14 Q: Does that, in fact, apply to every element of a
15 crime?

16 A: Yes, it does.

17 Q: In the jury instruction that you just read, was
18 there anything in there regarding the fact that the
19 state still had to proof malice beyond a reasonable
20 doubt?

21 A: No, there's not. It's not stated in there.

22 Q: Was there anything in the jury charge that you just
23 read that told the jury that even if the state had
24 proved malice, enough to raise a inference of malice
25 that that fact was simply an evidentiary fact that

Mr. Carraway - Cross Examination by Mr. Gourley

11

1 should be given every weight the jury thought it
2 deserved?

3 A: That was not given that way.

4 Q: Mr. Carraway, did you raise any objection to the
5 jury charge regarding the inference of malice?

6 A: No.

7 Mr. Caraker: Thank you, Mr. Carraway, please answer
8 any questions that Mr. Gourley may have.

9 Mr. Carraway - Examination by Mr. Gourley:

10 Q: Mr. Carraway, did you file any Rule 5 or Brady
11 motions in this case?

12 A: Yes, I did.

13 Q: Did you review the discovery with the applicant
14 prior to his trial?

15 A: Yes.

16 Q: Did you discuss his version of the facts?

17 A: Yes, I did.

18 Q: Did you discuss any possible defenses with him?

19 A: Yes, I did.

20 Q: What were those defenses?

21 A: Self-defense.

22 Q: Did he give you any leads to investigate?

23 A: No, just the guys that were there. I think three or
24 four guys were present.

25 Q: Did you follow up with those men?

1 A: Yes. I did talk to all of those because they were
2 witnesses for the solicitor.

3 Q: Can you briefly characterize the State's evidence
4 against the applicant in this case?

5 A: Basically that --- Somewhat of an argument broke out
6 between, there were three or four guys in a room and
7 maybe a disagreement or a argument broke out or
8 whatever and Mr. Goodman shot Mr. Stevenson.

9 Q: It was kind of disputed throughout the trial that
10 the deceased also processed a weapon, correct? That
11 came in as a self defense?

12 A: Well, I guess they disputed it ...

13 Q: Right.

14 A: ... but I think it's a fact he did it.

15 Q: There were several witnesses who id'ed the applicant
16 shooting the victim, correct?

17 A: Correct.

18 Q: Would you characterize the evidence as overwhelming?

19 A: Well, the victim had a gun in his hand.

20 Q: Right.

21 A: You know, you know. The question was they said he
22 just happened to have a gun in his hand that he was
23 not threatening Mr. Goodman or whatever and he just
24 shot him.

25 Q: Right.

Mr. Carraway - Cross Examination by Mr. Gourley

13

1 A: That's what these guns said. These guys were all
2 guys, sort of friends or whatever and that's the way
3 they viewed it as that this guy was not threatening
4 Mr. Goodman and he was just sort of showing him the
5 gun. Showing the gun to the guys or whatever and at
6 this point Mr. Goodman shot him.

7 Q: Did you have a particular trial strategy in this
8 case?

9 A: The way Mr. Goodman saw it, they were arguing and
10 this guy had a gun and he thought he was going to
11 shoot him. He was defending himself.

12 Q: There were a few witnesses during the trial that
13 discussed the fact that the victim had a gun,
14 correct?

15 A: Yes. At least one had mentioned before ...

16 Q: Right.

17 A: ... that the victim had a gun.

18 Q: Right. Did you feel you had time to prepare for
19 this trial?

20 A: Yes.

21 Q: Regarding the jury charge for implied malice, this
22 case was tried March 17 and 18, 2009, is that
23 correct?

24 A: Yes.

25 Q: Are you familiar with the Belcher decision.

1 A: No.

2 Q: Well, did you feel there was an objection needed to
3 be made to the jury charge as instructed?

4 A: No.

5 Q: Regarding the photos introduced into evidence, it's
6 within the discretion of the judge to allow those
7 photos in, correct?

8 A: Yes.

9 Q: Do you recall the statement that the trial judge
10 felt it would not have been a reversible error to
11 allow those photos into evidence had you objected?

12 A: I recall him saying that.

13 Q: And you recall that he thought the prohibitive value
14 outweighed the prejudicial effect even if you would
15 have objected?

16 A: I recall him saying that.

17 Q: You've been a practicing criminal defense attorney
18 for 18 years, correct?

19 A: I had been at that time, yes, sir.

20 Q: Have you had more gruesome pictures introduced into
21 evidence over your objection?

22 A: Probably or perhaps. I'll put it that way.

23 Q: All right.

24 Mr. Gourley: No further questions, Your Honor.

25 The Court: Anything further?

Mr. Goodman - Examination by Mr. Caraker

15

1 Mr. Caraker: Nothing further.

2 The Court: you can step down. Thank you. Yes, sir.

3 Mr. Caraker: If it please the Court, Your Honor, we
4 can Edmond Goodman.

5 The Court: Yes, sir.

6 Bailiff: Place your left hand on the Bible, raise
7 your right hand, state your name?

8 Mr. Goodman: Edmond Goodman.

9 Bailiff: Do you solemnly swear or affirm your
10 testimony to the court shall be the truth, the whole
11 truth and nothing but the truth, so help you God?

12 Mr. Goodman: Yes, sir.

13 Bailiff: All right. Please state your full name and
14 spell your last name for the record.

15 Mr. Goodman: Edmond Goodman, G-O-O-D-M-A-N.

16 Mr. Caraker: Please the Court, Your Honor.

17 The Court: Yes, sir.

18 Mr. Goodman - Examination by Mr. Caraker:

19 Q: Good-morning, Mr. Goodman.

20 A: Good-morning.

21 Q: Mr. Carraway represented in your charge of murder
22 back in 2009, did he not?

23 A: Yes, sir.

24 Q: And do you recall the date that trial started?

25 A: March 16, 2009.

1 Q: When was the first time you had any contact with Mr.
2 Carraway?

3 A: I met Mr. Carraway at the Williamsburg County
4 Courthouse that morning at 10:00. That was my first
5 time ever seeing or meeting with Mr. Carraway.

6 Q: What did you guys discuss with regard to your case?

7 A: We didn't discuss nothing. He told me we were
8 fixing to pick a jury.

9 Q: Okay. Did you pick a jury?

10 A: We picked a jury that day.

11 Q: When did your trial start?

12 A: My trial started March 17 at 9:00 that morning.

13 Q: Did you ever have a opportunity to discuss with Mr.
14 Carraway any trial strategy?

15 A: No, sir.

16 Q: Did you ever have a chance to discuss with Mr.
17 Carraway any witnesses that you would like to have
18 called on your behalf?

19 A: No, sir.

20 Q: Did there come a time either prior to or during your
21 trial that you sought to have Mr. Carraway removed
22 as your counsel?

23 A: On March 17 after one of the jurors, we had a
24 problem with one the jurors and I disrupted court
25 and I introduced a motion to withdraw to the judge.

Mr. Goodman - Examination by Mr. Caraker

17

1 And I had explained to the judge that Mr. Carraway
2 should be relieved off my case because he had not
3 confidence to go forward with my trial. He had held
4 back pertinent information from me. Not once had he
5 came to see me and he only had provided maybe about
6 11 ½ minutes of conversation and I had, I told the
7 judge, I was like I only had 15 hours to go over the
8 documents that the state's introducing into court.
9 We weren't prepared. The judge asked me a little bit
10 about did I know any rules of court so on and so on
11 and then he put Mr. Carraway on the stand and Mr.
12 Carraway went over with the judge his, his
13 preparation that he had done, went over the case
14 with him, but he hadn't. He hadn't talk to me at
15 all about the case.

16 Q: Did you feel like you were prepared to go forward
17 with your case?

18 A: Well, I wanted to go over all the witnesses
19 testimony. I didn't get to review all of the
20 testimony that each witness was saying in the case
21 nor did we go over the pictures, the evidence that
22 the prosecution was going to introduce in trial.

23 Q: Did Mr. Carraway go over any defenses that you might
24 have in this case?

25 A: None. I didn't know what ... he never discussed no

1 defense. I didn't even know nothing about self
2 defense until we had a jury conference and that was
3 at the end of my trial.

4 Q: Mr. Goodman, what do you hope to achieve by the
5 filing of your post conviction relief application?

6 A: Well, I hope, His Honor, will grant me relief and
7 grant me a new trial.

8 Mr. Caraker: Thank you, sir. Please answer any
9 questions that Mr. Gourley might have.

10 Mr. Goodman - Cross-Examination by Mr. Gourley:

11 Q: Good-morning Mr. Goodman.

12 A: How are you doing?

13 Q: Doing well. How are you?

14 A: Doing fine.

15 Q: So you're saying that you only met with your counsel
16 one time?

17 A: One time.

18 Q: The morning of picking the jury?

19 A: Picking of the jury.

20 Q: Did you ever go over any type of evidence or
21 anything whatsoever?

22 A: None whatsoever. I even have a letter right here
23 that I presented to the judge.

24 Q: And you presented that to the judge and the judge

25 ...

Mr. Goodman - Cross Examination by Mr. Gourley

19

1 A: Yes, sir. I got a transcript where he made his
2 ruling on my letter.

3 Q: And after questioning you and questioning Mr.
4 Carraway, he denied your motion, right?

5 A: Well, he said jeopardy had already attached. He
6 asked me, you can go to ...

7 Q: Mr. Goodman, let me ask you something else real
8 quick. You had an appeal in your case, right?

9 A: Right.

10 Q: And you appealed the fact that the judge denied your
11 motion to relieve counsel, right? Are you familiar
12 with your appeal?

13 A: Could you say that again.

14 Q: They appealed the fact that the judge denied your
15 motion to relief counsel?

16 A: That was me going pro se. I didn't ... I didn't
17 want to go pro se. That was wrong.

18 Q: Okay. You didn't discuss any possible defenses?

19 A: None at all with Mr. Carraway. Me and Mr. Carraway
20 never talked at all. He never knew what was going on
21 with me prior to that trial. He never did talk to
22 me.

23 Q: Did you give him any leads, any witnesses, anybody
24 to talk to?

25 A: No, I didn't because I was mad. I was like how you

1 going to get on my case and take it to trial this
2 day right here and we ain't even talked.

3 Q: Right.

4 A: He didn't ask me my side of the story, what
5 happened.

6 Q: Do you recall the judge giving you the opportunity
7 to take the stand?

8 A: Yes, I did.

9 Q: And you waived your right to tell your side of the
10 story?

11 A: Well, he asked me, if you go ... In the transcript
12 he asked me did Mr. Carraway talk to me about me
13 testifying and I specifically told him no. He never
14 talked to me about that.

15 Q: But the judge discussed it with you, right?

16 A: He did but I didn't understand what he meant by that
17 I was just going along with the proceeding.

18 Q: You didn't ask the judge any questions about it
19 since you didn't understand it?

20 A: No, I didn't.

21 Mr. Gourley: No further questions, Your Honor.

22 Mr. Caraker: Nothing on redirect, Your Honor.

23 The Court: Okay. You can step down. Thank you,
24 anything else?

25 Mr. Caraker: Nothing further, Your Honor.

Closing by Attorneys

21

1 Mr. Gourley: Nothing from the State, Your Honor.

2 The Court: All right. Do you all want to argue
3 anything?

4 Mr. Caraker: Yes, sir. If it please the Court, Your
5 Honor, just a brief closing.

6 The Court: Okay.

7 Mr. Caraker.: Your Honor, Mr. Goodman realizes that
8 the purpose of this proceeding is not to determine his
9 guilt or innocence. This case is just as to whether or
10 not he is entitled to a new trial based upon the evidence
11 we've presented. A PCR application alleging ineffective
12 assistance of counsel and a fourteen amendment due
13 process violation.

14 With regard to ineffective assistance of counsel, we
15 know that state's exhibits 28 and 29 were particularly
16 graphic photographs and Mr. Carraway, you know, admitted
17 it was a mistake to let them in. There was no objection
18 raised to their introduction on the redirect from Mr.
19 Milton Phillips, who was one of the state's witnesses.
20 And we're not talking about any other photographs that
21 might have been admitted in any other case but these two
22 in particular. Had they been objected to the court could
23 have undergone a 403 analysis and determined the purpose
24 for the photographs which speaks to my question earlier.
25 There was never any issue as to whether Mr. White was

Closing by Attorneys

22

1 deceased or whether he had been shot in the head, merely
2 the circumstances under which he had been killed. These
3 photographs don't speak to that at all. Therefore, their
4 probative value, Your Honor, is zero. The photos don't
5 prove or disprove anything other than the fact that Mr.
6 White was deceased. They don't speak to any of the
7 circumstances under which he became deceased or that
8 someone shot him.

9 And, Your Honor, for ineffective assistance of
10 counsel argument, it's our burden to show two things.
11 One, that defense counsels conduct fell below the norm
12 and that two, Mr. Goodman was prejudiced thereby. Your
13 Honor, Mr. Carraway admits to not raising an objection
14 and he admits that that was a mistake at that time.
15 That's prong number one. Prong number two, how was Mr.
16 Goodman prejudiced by the admission of the photographs.
17 Your Honor, and this sort of ties into the fourth
18 amendment due process argument. The judge gave the jury
19 a charge on murder, on voluntary manslaughter and on self
20 defense. The jury returned a conviction on murder in
21 thirty-four minutes, Your Honor. That's not really even
22 enough time to consider one issue must less three which
23 leads directly into the due process violation.

24 Your Honor, the Supreme Court has stated, you know,
25 because the burden of proof is a reasonable doubt. You

Closing by Attorneys

23

1 must proof all elements of the crime beyond a reasonable
2 doubt. If you give the jury malice, that's an element of
3 murder. You've given them the malice, that takes
4 voluntarily manslaughter off the table, it takes self
5 defense off the table. That's all, that's the only thing
6 they have left to consider is murder because of the
7 malice of forethought. Because the jury instruction
8 wasn't objected to, it wasn't properly preserved for
9 appeal. And, Your Honor, later on that same year and Mr.
10 Gourley made reference to the Belcher decision. Later on
11 that same year, when Belcher came out the State Supreme
12 Court says this is no longer good law. This jury
13 instruction is not good law where evidence has been
14 presented that would excuse, mitigate or justify the
15 homicide. In this case, evidence had been presented that
16 would excuse, mitigate or justify the homicide. It puts
17 this case squarely within the purview of Belcher, Your
18 Honor. Had the issue been properly preserved it would
19 have been eligible for appeal and looked at under the
20 Belcher decision. And given the facts of the case in
21 Belcher and the ruling by the State Supreme Court and
22 given the facts in this case it would certainly would
23 have been overturned and Mr. Goodman would have been
24 given a new trial.

25 For these reasons, Your Honor, we ask respectfully

Closing by Attorneys

24

1 that you grant Mr. Goodman a new trial. Thank you, sir.

2 The Court: Let me ask you. In the Belcher decision,
3 the last line of that decision and Belcher came out in
4 October and this occurred in March, it is my
5 understanding that it does not apply to convictions
6 challenged from post conviction relief.

7 Mr. Caraker: Our stance on that, Your Honor, had it
8 been preserved we wouldn't be here on PCR today, had it
9 been preserved the alternate route would have applied
10 through the normal channels of appeal and Belcher would
11 have applied at that time. Thank you, Your Honor.

12 The Court: Is there any where in the record copies
13 of these photographs of 28 and 29?

14 Mr. Caraker: None that I received, Your Honor. I
15 asked the State if we could have a copy. He said he
16 didn't have a copy as well. We only have a description
17 of the graphic nature of the photographs in the
18 transcript.

19 The Court: Okay. Yes, sir.

20 Mr. Gourley: For clarification, the Clerk of Court,
21 does have copies of them. You can get copies if you'd
22 like. Your Honor, in regards to the introduction of the
23 photographs on page 394, Your Honor, lines 15-21, the
24 judge goes into a discussion about the photographs and
25 determines they have been objected to. That there were

Closing by Attorneys

25

1 somewhat probative as far as the cross examination was
2 where he was shot and those type of things, Your Honor, I
3 think that speaks to the state of mind of the judge.
4 Again, the photographs haven't been introduced here
5 today. It would be speculation at best. As, Your Honor,
6 pointed out the Belcher issue. This case was tried March
7 17, 2009 and Belcher came out October 12th 2009. Mr.
8 Carraway can't be consider clairvoyant, he didn't know
9 that this case was going to be decided this way. He
10 shouldn't have made the objection the court ruled the way
11 they ruled. So, with regards to that issue, Your Honor,
12 we would argue clairvoyance. That would be the State's
13 case, Your Honor.

14 The Court: Okay. I will read the record and let you
15 all know.

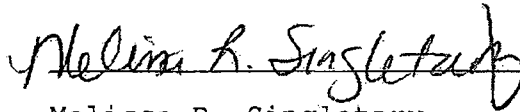
16 (End of PCR Hearing)
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CERTIFICATE

This is to certify that the plea transcript in the matter of Edmond Goodman vs. State of South Carolina, consisting of Twenty-five (25) pages is a true and correct transcript; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 27thth day of May, 2015.



Melissa R. Singletary
Certified Court Reporter

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

COURT OF COMMON PLEAS

EDMOND GOODMAN)
271444

PETITIONER,)

v.)

TRANSCRIPT OF RECORD
14-CP-45-198

STATE OF SOUTH CAROLINA,)

RESPONDENT.)

October 2, 2014
Sumter, South Carolina

BEFORE :

THE HONORABLE CLIFTON B. NEWMAN, JUDGE

APPEARANCES:

CHARLES T. BROOKS, III, ESQ.
Attorney for the Petitioner

DANIEL GOURLEY, ESQ.
Attorney for Respondent

FRANCES BAKIS-RAY, RPR
Circuit Court Reporter

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(There were no exhibits submitted.)

1 MR. GOURLEY: This is Edmond Goodman
2 versus the State of South Carolina, indictment
3 number 2014-CP-45-198. Mr. Goodman is presently
4 confined in the South Carolina Department of
5 Corrections pursuant to orders of commitment of the
6 Williamsburg County Clerk of Court. He was true
7 bill indicted at the December 2008 term of the
8 Williamsburg County grand jury for murder and
9 possession of a weapon during a violent crime. Mr.
10 Legrand Carraway represented him. Applicant
11 proceeded to a jury trial before the Honorable
12 Michael G. Nettles, March 18th, 2009. Judge Nettles
13 sentenced the applicant to 30 years for murder and 5
14 years for possession of a weapon during a violent
15 crime. Those sentences were to run concurrently.

16 Notice of appeal was filed and appeal was
17 perfected. The South Carolina Court of Appeals
18 affirmed the applicant's conviction. Remittitur was
19 issued on May 7th, 2012. Subsequently filed a
20 timely application for post-conviction relief on
21 June 8th, 2012, and amended application for
22 post-conviction relief on July 8th, 2013. In his
23 application the applicant asserted claims of
24 ineffective assistance of counsel, ineffective
25 assistance of appellate counsel, and a due process

1 violation. Evidentiary hearing was convened on
2 December 16th, 2013 at the Sumter County courthouse
3 before the Honorable R. Ferrell Cothran, Jr.
4 Applicant was present at the hearing and was
5 represented by Mr. David Carriker. By written order
6 filed January 21st, 2014, Judge Cothran denied and
7 dismissed the Applicant's post-conviction relief.
8 He subsequently filed a second application for
9 post-conviction relief on April 21st, 2014, alleging
10 ineffective assistance of PCR counsel for failing to
11 file an appeal. Your Honor, the State made its
12 return and motion to dismiss all claims except for
13 the, beyond the Austin review, on September 25th,
14 2014.

15 He's represented here today by Mr. Brooks.
16 Your Honor, the State is consenting to the Austin
17 review. What occurred in this situation was Mr.
18 Carriker was Mr. Goodman's PCR counsel. In between
19 the time that the order of dismissal was filed Mr.
20 Carriker took a job with the, I believe the
21 Fifteenth Circuit Solicitor's Office, and deemed
22 that he had a conflict of interest and did not feel
23 comfortable filing the notice of appeal on
24 Mr. Goodman's behalf. I consulted with Mr. Carriker
25 and explained to him that — or excuse me, at that

1 point in time he filed a motion for appointment of
2 new counsel on behalf of Mr. Goodman, reviewed the
3 order and to file a notice of appeal. He also filed
4 a motion to stay the time limits for the notice of
5 appeal. Your Honor, that's not a proper procedure;
6 you can't stay the time limits to file notice of
7 appeal. Therefore, Mr. Goodman's, time limits to
8 file his notice of appeal of his denial of his PCR
9 ran. At that point in time I told Mr. Carriker to
10 please get in contact with Mr. Goodman to have Mr.
11 Goodman file a second PCR application expressing
12 that he would like a appeal of his denial of his
13 first PCR application, and the State would consent
14 given the circumstances that arose out of Mr.
15 Carriker's new job. So that's what we're here on
16 today.

17 We certainly believe that Mr. Goodman
18 requested Mr. Carriker file an appeal on his behalf
19 and we believe that he is entitled to it.

20 THE COURT: All right, Mr. Brooks.

21 MR. BROOKS: Judge, I explained that to
22 Mr. Goodman, and he indicates he understands that;
23 but he has some other things that he would like to
24 say the Court.

25 PETITIONER GOODMAN: Well, not only had I,

1 in the motion, Your Honor, I asked Mr. Carriker
2 prior to the hearing to file a 59(e) to oppose any
3 omissions that was left out the order of dismissal.
4 When he sent me this back, when he sent the order of
5 dismissal it was the letterhead from the Attorney
6 General's Office. We didn't get the actual
7 dismissal till like 17 days later. And in the order
8 of dismissal it has several inaccuracies, Your
9 Honor. I never pled guilty; I had a trial. It
10 said plea counsel so it's — the dismissal is
11 inadequate, Your Honor.

12 (Mr. Brooks confers with petitioner Goodman.)

13 PETITIONER GOODMAN: It's just on the face
14 of it it's just, I was just...

15 MR. BROOKS: I see what he's saying.
16 Judge, the actual order, page 3.

17 MR. GOURLEY: I don't have a copy.

18 MR. BROOKS: Page 3 of the order of
19 dismissal, it has in there this court, also have
20 before the court a copy of the guilty plea hearing.
21 And I think what it was is just a —

22 MR. GOURLEY: It would be a scrivener's
23 error, Your Honor.

24 MR. BROOKS: Scrivener's error.

25 MR. GOURLEY: Obviously he had a trial and

1 the Court had a copy of the trial transcript before
2 him, and that was the basis of his PCR. If there
3 was any type of error in the order of dismissal it
4 was most certainly a scrivener's error.

5 MR. BROOKS: And that's what he's talking
6 about, the order of dismissal he handed me, Judge.

7 (Mr. Brooks confers with petitioner Goodman.)

8 PETITIONER GOODMAN: That's all.

9 MR. BROOKS: And he says that's all he
10 wanted to put on the record, Judge. That's all
11 he — those things.

12 THE COURT: So the State does not object
13 to relief sought by the Applicant in this case?

14 MR. GOURLEY: Not at all, Your Honor. He
15 has most certainly requested it from his prior PCR
16 counsel and PCR counsel determined that he had a
17 conflict. We were in discussions throughout the
18 entire time. I was just waiting for Mr. Goodman to
19 file his second application so we could rush it and
20 get it in front of the next available judge, and you
21 happened to be it and so we're here today on that
22 trying to take care of it to the best of my
23 abilities.

24 THE COURT: All right, that will be the
25 order of court.

1 **C E R T I F I C A T E O F R E P O R T E R**

2
3 STATE OF SOUTH CAROLINA)
4)
5 COUNTY OF FLORENCE)

6 I, FRANCES BAKIS-RAY, Registered
7 Professional Reporter (RPR), court reporter for the
8 State of South Carolina, Third Judicial Circuit, do
9 hereby certify that the foregoing proceeding is a
10 stenographic report and was transcribed through
11 computer-aided transcription; that the foregoing
12 transcript contains a true record of the
13 proceedings.

14 I further certify that I am neither
15 counsel for, nor related to nor employed by any of
16 the parties connected to the action, nor am I
17 financially interested in the action.

18 Witness my hand at Florence, South
19 Carolina, this 18th day of February, 2015.

20
21 *Frances B. Ray*

22 _____
23 FRANCES B. RAY, RPR
24
25

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

Edmond Goodman, #271444,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Case No. 2012-CP-45-0296

ORDER OF DISMISSAL

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on June 8, 2012 and amended on July 8, 2013. Respondent made its amended return on August 1, 2013. An evidentiary hearing into the matter was convened on December 16, 2013, at the Sumter County Courthouse. Applicant was present at the hearing and was represented by David P. Caraker, Esquire. Respondent was represented by Assistant Attorney General Daniel Gourley of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The records before this Court indicate the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Williamsburg County Clerk of Court. The Applicant was true billed indicted at the December 2008 term of the Williamsburg County Grand Jury for Murder and Possession of a Weapon during a Violent Crime (08-GS-45-253). William LeGrand Carraway, Esquire, represented him. Applicant proceeded to a jury trial before the Honorable Michael G. Nettles. On March 18, 2009, Judge Nettles sentenced Applicant to thirty years for Murder and five years for Possession of a Weapon during a Violent Crime with all sentences to run concurrent.

A timely Notice of Appeal was filed on Applicant's behalf by Elizabeth A. Franklin-Best, Esquire. The South Carolina Court of Appeals affirmed Applicant's conviction. State v. Goodman, Op. No. 2011-UP-541 (Ct. App. filed December 5, 2011). The Remittitur was issued on May 7, 2012.

ALLEGATIONS

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on the following allegations:

1. Ineffective assistance of trial counsel.
 - a. "Counsel failed to properly investigate and prepare for trial."
 - b. "Counsel Failed to call witnesses relevant to the defense theory of the case."
 - c. "Counsel failed to properly investigate present evidence, cross examination and make motions to suppress evidence."
 - d. "Counsel failed to make objections during critical points of trial."
 - e. "Counsel failed to argue and preserve legal issues for appellate review."
 - f. "Counsel failed to properly conduct discovery and obtain information relevant to the defense of the case."
2. Ineffective assistance of appellate counsel
 - a. "Appellate counsel failed to properly research case and present proper issues including, but not limited to, the denial of presenting a cognizable appeal issue that could have only been raised on direct review."
3. Due Process Violation

Applicant filed an Amended Post-Conviction Relief Application on July 8, 2013 alleging he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel.
 - a. "Defense counsel failed to object to a faulty jury instruction, thus failing to preserve the matter for appeal."
 - b. "Defense counsel failed to object to State's exhibits 28 and 29. These are two graphic and unfairly prejudicial photographs which depict the deceased, with blood around his head, and coming out of his ear."
2. Due Process Violation
 - a. "Applicant's right to due process was violated when the trial court charged the jury on the permissive inference of malice, as this shifted the burden to

the applicant to prove that his actions reduced the alleged crime from murder to manslaughter."

At the start of the hearing, Applicant indicated to the Court that he would be proceeding solely on the allegations raised in his amended PCR application.

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant presented testimony from plea counsel, William LeGrand Carraway, Esquire (Counsel). Additionally, Applicant testified on his own behalf. This Court also had before it a copy of guilty plea hearing, the Williamsburg County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, and the return.

Applicant called Counsel to testify. Counsel stated he was a public defender in Williamsburg County for approximately 18 years at the time of Applicant's trial. Counsel stated he was appointed in the case. Counsel could not recall the number of times he met with Applicant, but felt he was fully prepared for trial. Counsel stated he filed for and reviewed the discovery material with Applicant prior to his trial. Counsel stated he reviewed Applicant's version of the facts. Counsel further stated Applicant gave him no witnesses or leads to investigate. However, Counsel stated he interviewed several witnesses who were present the night of the incident. Counsel stated those witnesses were called by the State during their case in chief. Counsel stated the case dealt with who shot Jerome White (Victim) and under what circumstances. Counsel testified it was his strategy to argue self-defense because Victim possessed a gun at the time of the shooting. Counsel stated an argument occurred between Applicant and Victim and multiple witnesses claimed Applicant pulled out a gun and shot

Victim. Counsel stated that he did not object to several different photo's being introduced at trial because he viewed the photos prior to the start of trial. Counsel stated he objected to the States exhibits 28 and 29 being introduced prior to the start of the trial. Counsel stated he was under the impression that the solicitor was not introducing the states exhibit 28 and 29. Counsel stated he was unaware at the time of trial that states exhibits 28 and 29 were being moved into evidence and would have objected to their introduction had he realized it. Counsel stated that although he would have objected, it was within the discretion of the trial judge to admit the photo's into evidence. Counsel further stated the trial judge commented that he felt the photo's probative value outweighed their prejudicial value. Counsel stated he has had more gruesome photos introduced into evidence over his objection in previous cases. Counsel stated he did not see any reason to object to the inference of malice charge given by the trial judge during jury instruction.

Following Counsel's testimony, Applicant testified on his own behalf. Applicant stated he met with Counsel one time. Specifically, Applicant testified he met Counsel for the first time the morning of his trial. Applicant stated they picked a jury and recessed for the day. Applicant stated the following morning he moved to have counsel relieved. Applicant stated his motion was denied. Applicant stated he did not discuss the evidence or view the photos with Counsel prior to his trial. Applicant stated he did not go over any type of defense with Counsel.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Specifically, this Court finds that Counsel's testimony is very credible

while Applicant's testimony is less credible. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

INEFFECTIVE ASSISTANCE OF COUNSEL

Counsel was ineffective for failing to object to a faulty jury instruction regarding the implied inference of malice.

This Court finds Applicant's allegation that he was denied effective assistance of counsel for failing to object to a faulty jury instruction is without merit. This Court finds Counsel testified he did not feel there was any reason to object to the jury charge as given by the trial judge. Applicant argued Counsel should have objected to the implied inference of malice charge given by the trial court. See State v. Belcher, 385 S.C. 597, 685 S.E.2d 802 (2009) (holding jury charge instructing that malice may be inferred from the use of a deadly weapon is no longer good law in South Carolina where evidence is presented that would reduce, mitigate, excuse or justify the homicide). The court held that the ruling in Belcher would not apply to convictions challenged on post-conviction relief. Id. at 810. Additionally, Applicant was found guilty of his charges on March 18, 2009, some seven months prior to the Belcher decision. Counsel cannot be "clairvoyant or anticipate changes in the laws which were not existent at the time of trial." See Gilmore v. State, 314 S.C. 453, 445 S.E.2d 454 (1994). Therefore, this Court finds this allegation should be denied and dismissed with prejudice.

Counsel failed to object to the introduction of state exhibit's 28 and 29.

This Court finds Applicant's allegation that he was denied effective assistance of counsel for failing to object to state's exhibit's 28 and 29 is without merit. Counsel stated that he did not object to several different photo's being introduced at trial because he viewed the photos prior to the start of trial. Counsel stated he objected to the states exhibits 28 and 29 being introduced prior to the start of the trial. Counsel stated he was under the impression that the solicitor would not be moving to introduce states exhibit 28 and 29 during trial. Counsel stated he was unaware

at the time of trial that the states exhibits 28 and 29 were being moved into evidence and would have objected to their introduction had he realized it. Counsel stated that although he would have objected, it was within the discretion of the trial judge to admit the photo's into evidence. Counsel further stated the trial judge commented that he felt the photo's probative value outweighed their prejudicial value. Counsel stated he has had more gruesome photos introduced into evidence over his objection in previous cases. This Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific evidence and compelling evidence that Counsel committed either errors or omissions to prove the second prong of Strickland – that he was prejudiced by Counsel's performance. Any prejudice Applicant suffered due to Counsel's alleged deficiency is merely speculative because Applicant failed to introduce into evidence states exhibit 28 or 29 during the PCR hearing. See Dempsey v. State, 363 S.C. 365, 610 S.E.2d 182 (2005) (finding any prejudice defendant suffered due to his counsel's failure to subpoena victim's grandfather to testify at trial was merely speculative due to the fact that grandfather did not testify at defendant's post-conviction relief hearing). Therefore, this Court finds this allegation should be denied and dismissed with prejudice.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he

was prejudiced by plea counsel's performance.

The Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance.

ALL OTHER ALLEGATIONS

Except as discussed above, this Court finds that the Applicant affirmatively waived the remaining allegations set forth in his application at the hearing. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

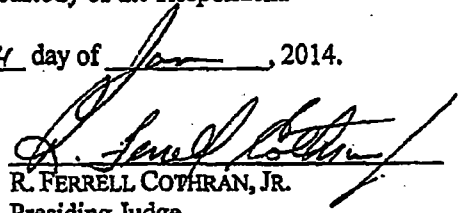
This Court notes that that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-

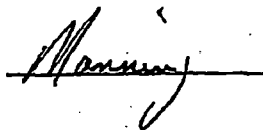
conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 14 day of Jan, 2014.


R. FERRELL COTHAN, JR.
Presiding Judge
Third Judicial Circuit

 , South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF WILLIAMSBURG	)	THIRD JUDICIAL CIRCUIT
EDMOND GOODMAN, 271444	)	2014-CP-45-198
Applicant,	)	
vs.	)	ORDER FOR AUSTIN REVIEW
STATE OF SOUTH CAROLINA,	)	
Defendant.	)	

This matter comes before the Court by way of an Application for Post-Conviction Relief dated April 21, 2014. The Court is advised that the Respondent has waived its right to file a Return in this matter. The sole relief sought by the Applicant in this current Application is an AUSTIN REVIEW of his previously filed Post-Conviction Relief filed on June 8, 2012 and amended on July 8, 2013 (docketed at 2012-CP-45-296). The Applicant's substituted counsel, Charles T. Brooks, III, advises this Court that due to the Applicant's misinterpretation of Rule 227(C) SCRAP, he did not file a Notice of Appeal for the Order of Dismissal filed in this case on January 21, 2014.

Counsel advises this Court that he has now discussed this matter with the Clerk of Court for the Supreme Court of South Carolina and is advised that the Court does wish for counsel to file a Notice of Appeal where the dismissal was issued due to either the successive nature of the Application or the Applicant's failure to comply with the statute of limitations found in S. C. Code Ann. 17-27-45 (A). Counsel will file a new Application for Post-Conviction Relief on behalf of this client in order to secure a belated PCR appeal through the guidelines and procedures set forth by the Supreme Court in

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Austin v. State, 305 S. C. 453 (1991). Counsel for the Respondent has consented to the sole relief sought in the current Application for Post Conviction Relief and it is noted on record at this hearing.

Accordingly, this Application for Post-Conviction Relief is granted. The Applicant is hereby afforded the opportunity to appeal the Order of Dismissal issued in his previous Post-Conviction Relief case docketed at 2012-CP-45-296 by filing a Notice of Appeal from this Order.

AND IT IS SO ORDERED.



Clifton B. Newman
Circuit Court Judge

This 1st day of November, 2014

WITNESSES

SHERIFF'S OFFICE

Justin Whack

ARREST WARRANT NUMBER

J 991042 & J 991043

D/A: 10/20/08

ACTION OF GRAND JURY

True Bill

Ch. Callaway
Foreperson of Grand Jury

Date: 12/4/08

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-45- 253

The State of South Carolina

County of WILLIAMSBURG

COURT OF GENERAL SESSIONS

DECEMBER TERM 2008

**THE STATE
vs.**

EDMOND LOUIS GOODMAN

Indictment for

**MURDER AND POSSESSION OF A
WEAPON DURING VIOLENT CRIME**

C. KELLY JACKSON, SOLICITOR

FILED

08 DEC -4 PM 1:13

CALY. CLERK
WILLIAMSBURG, S.C.

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG) **INDICTMENT FOR**
MURDER AND POSSESSION OF A WEAPON
DURING VIOLENT CRIME

At a Court of General Sessions, convened on December 8, 2008, the Grand Jurors of WILLIAMSBURG County present upon their oath:

COUNT ONE - MURDER

That **EDMOND LOUIS GOODMAN** did in Williamsburg County on or about July 18, 2008, feloniously, wilfully and with malice aforethought, kill one **Jason Lamont White** by means of shooting the head, and that the said victim did die as a proximate result thereof, in violation of Code Section 16-3-10, Code of Laws of South Carolina (1976), as amended.

COUNT TWO - POSSESSION OF A WEAPON DURING VIOLENT CRIME

That **EDMOND LOUIS GOODMAN** did in Williamsburg County on or about July 18, 2008, possess or visibly display a firearm during the commission or attempted commission of a violent crime, in violation of Code Section 16-23-490, Code of Laws of South Carolina (1976), as amended.

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

A CERTIFIED TRUE COPIE

Sharon W. Staggers
SHARON W. STAGGERS
CLERK OF COURT
WILLIAMSBURG COUNTY

C. Kelly Jackson
SOLICITOR