

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

VOLUME I OF II

Appeal from Hampton County
Roger L. Couch, Circuit Court Judge

RECEIVED

SEP 26 2016

S.C. SUPREME COURT

JOSEPH DAVIS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2016-000274

APPENDIX

SUSAN B. HACKETT
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

RUSTON W. NEELY
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
APPLICANT'S EXHIBIT # 1 (CD) AND APPLICANT'S # 2 (PHOTO)**

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
 COUNTY OF HAMPTON) CASE NO.: 2008-GS-25-0588, 589, 590

STATE OF SOUTH CAROLINA,)
)
 v.) TRANSCRIPT OF RECORD
)
 JOSEPH DAVIS,)
)
 DEFENDANT.)

JUNE 27TH - 29TH, 2011
 HAMPTON, SOUTH CAROLINA
 BEFORE THE HONORABLE PERRY M. BUCKNER, III.

APPEARANCES:

DEPUTY SOLICITOR SEAN THORNTON, ESQUIRE
 ASST. SOLICITOR TAMEAKA LEGETTE, ESQUIRE
 14TH CIRCUIT SOLICITOR'S OFFICE
 POST OFFICE BOX 1725
 WALTERBORO, SOUTH CAROLINA 29488
 Attorney for the State of South Carolina

MS. STEPHANIE SMART-GITTINGS, ESQUIRE
 MS. KIMBERLY JORDAN, ESQUIRE
 PUBLIC DEFENDER'S OFFICE
 HAMPTON, SOUTH CAROLINA 29924
 Attorney for the Defendant

Rebecca H. Hill
 Official Court Reporter

Jury Selection
State v. Joseph Davis
2008-GS-25-00588, 589, 590
June 27th - 29th, 2011

Juror #	Name	Race	Gender	Jury
239	John G. Williams	B	M	1
190	Carl Ruth	B	M	2
106	Christine James	B	F	3
165	Arthur O'Banner	B	M	4
175	Jorelle Ready	B	M	5
22	Joseph Brunson	W	M	6
138	Lynne Mattie	W	F	7
118	Jessica Johnson	B	F	8
233	Patricia White	B	F	9
59	Phillip Garvin	W	M	10
237	Harden Williams	B	M	11
60	Jimmy Glass	W	M	12
128	Tim Kowalewski	W	M	Alt. 1
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1 **THE COURT:** All right. I've met with the attorneys
2 this morning. This case has been -- it's the oldest case in
3 Hampton. I attend to accomplish that case first before
4 anything else this entire week. So those of you that are
5 anxious, just bear with me. I'll get to you. But I'm going
6 to do Mr. Davis' case; that's why I'm here. I changed Civil
7 Court and moved this case up. Mr. Davis has been in custody
8 longer than any other person in Hampton jail, and I can
9 assure you that that case is going to have priority.

10 I'm particularly appreciative of the fact that I have
11 people from the Solicitor's Office who have -- Mr.
12 Thornton's here, he's been ill, and he's probably tried more
13 cases in front of me, other than Mr. Plexico, maybe, than
14 any other lawyer in my circuit. And I appreciate the fact
15 that he's here, because we had to change court schedule in
16 order to do this. I switched Civil Court in Hampton with
17 Criminal, to move it up. And I realize very often that
18 people have to adjust their schedules with doing that to
19 make sure that this case gets accomplished.

20 They have non-jury matters that I have to take up first
21 and as long as there are matters involving this case, this
22 case is going to have the right-of-way this week. So those
23 of you just sitting here wondering "Can I get my plea in?"
24 "Can I get my bond hearing?" "Can I get this?" "Judge,
25 will you look at this?" "Judge, would you mind doing that?"
26 And I don't mind at all, but not until we finish the Davis

1 case.

2 So I want everyone to understand that so that there
3 won't be any question. I will get to these; just be
4 patient. I can't promise you when, but it's going to be
5 after we finish completing the Davis case.

6 Now, I understand, Solicitor, that you have two
7 matters; is that right?

8 **DEP. SOLICITOR THORNTON:** There are, Judge.

9 **THE COURT:** And I want to thank you, because I know
10 you've been ill all weekend, and I appreciate your
11 cooperation very much. I thank you for being here, and I
12 think you for your cooperation, because, as you know, I did
13 not want to put this matter off.

14 **DEP. SOLICITOR THORNTON:** No, sir.

15 **THE COURT:** I have been concerned about this and I
16 intend to move this matter forward. Now, my understanding
17 from meeting with you and Ms. Smart-Gittings is that the two
18 matters that I need to take up first in this would be both a
19 Jackson v. Denno, which I assume will require testimony.

20 **DEP. SOLICITOR THORNTON:** Yes, sir.

21 **THE COURT:** And also a Blair hearing ---

22 **DEP. SOLICITOR THORNTON:** Yes, sir.

23 **THE COURT:** --- is that correct?

24 **DEP. SOLICITOR THORNTON:** That is correct, from the
25 State's perspective, Judge. And we'd ask to start with the

1 Blair hearing, since it can be accomplished, I believe, with
2 no testimony.

3 **THE COURT:** Very well. All right. My Clerk has asked
4 me to inquire if there are any jurors in the courtroom. If
5 you are here for jury duty this week, if you're seated out
6 in the courtroom, please stand at this time.

7 (NO RESPONSE.)

8 **THE COURT:** Let the record reflect, Becky, that no one
9 is standing. Madame Clerk, it appears that there are no
10 jurors in the courtroom.

11 **MADAME CLERK:** Thank you, Judge.

12 **THE COURT:** Let the record reflect -- I assume that
13 you've given Becky -- Solicitor, call the case, if you would
14 -- or do you already have the Indictment Number? You do?
15 Call the case.

16 **DEP. SOLICITOR THORNTON:** Yes, sir. It's 2008-GS-25-
17 588, 589 and 590, the State v. Joseph Davis, Your Honor.

18 **THE COURT:** Let the record reflect that Mr. Davis is
19 present, along with his attorneys. If you will -- each of
20 you state your names for the record, please.

21 **MS. SMART-GITTINGS:** Stephanie Smart-Gittings.

22 **MS. JORDAN:** Kimberly Jordan.

23 **THE COURT:** All right. Let the record reflect that Mr.
24 Davis is present. Let the record reflect also that pursuant
25 to South Carolina Code Section 44-23-410, whenever a Judge

1 has a reason to believe that a person on trial before the
2 judge charged with commission of a criminal offense is not
3 fit to stand trial because that person may lack the capacity
4 to understand the proceedings against him, or to assist in
5 his own defense, as a result of a lack of mental capacity,
6 the Judge has the power to order an examination of such
7 persons by two examiners designated by the Department of
8 Mental Health, or the Department of Mental Retardation, or
9 both. And order that the person, if not already be
10 committed, be committed for examination and observation to
11 an appropriate facility for such.

12 The word "shall" in the Code section 44-23-410 is
13 construed as mandatory -- and I actually had this issue come
14 up -- regardless of whether or not the parties necessarily
15 agree on a Blair hearing, I believe it is mandatory when the
16 Court requires it.

17 I also point out to you, Ms. Smart-Gittings and Ms.
18 Jordan, that there is a case, State v. Franklin, because I
19 have this come up a lot. The report for a Blair Hearing is
20 a statutory exception to the rule against hearsay.

21 Now, I understand, Solicitor, that you're ready to
22 proceed, and I'll be happy to hear from you at this time,
23 involving the Blair Hearing.

24 **DEP. SOLICITOR THORNTON:** Thank you, Your Honor. Your
25 Honor, if I may approach, I'd like to hand up to the Court

1 what's been previously marked as Court's Exhibit Number's
2 One and Two, which consists, Your Honor, of the two reports
3 given in this case by Dr. Gordon E. Brown, Jr.

4 One report, Your Honor, pursuant to your prior order
5 that you mentioned on the record, he was evaluated twice,
6 February of 2010 and March of 2010. Because of that length
7 of time, Your Honor, we also had him seen again, pursuant to
8 the statute, Friday, this past Friday, June the 24th, 2011,
9 as to his continued competence and the doctor's reports.

10 Your Honor, both indicates Court's Exhibit Number One,
11 which is the June report of just this past Friday. Court's
12 Exhibit Number Two is the report of the Evals done in
13 February and March of 2010. Both of them concur, Your
14 Honor, that Mr. Davis is competent to stand trial. The
15 State would rely on the doctor's report, pursuant to an
16 agreement with counsel that she would not require the doctor
17 to be present to testify.

18 **THE COURT:** Ms. Smart-Gittings, any objection to my
19 making Court's Exhibit Number One and Court's Exhibit Number
20 Two an exhibit, for purposes of this Blair Hearing?

21 **MS. SMART-GITTINGS:** No objection, Your Honor.

22 **THE COURT:** Very well. Give me a moment, because I
23 have not seen, obviously, Court's Exhibit Number One which
24 is the report of June the 24th, 2011. So, give me a moment
25 to review it.

1 (Off the record, briefly.)

2 **THE COURT:** All right, Counsel. I think I've had a
3 chance now to review in its entirety Court's Exhibit Number
4 One, which was admitted without objection. I have also re-
5 viewed Court's Exhibit Number Two, which is the
6 evaluations that were conducted on February 25th, 2010 and
7 March 24th, 2010, and that's Court's Exhibit Two. And
8 Court's Exhibit One was, of course, June 24th, 2011, just
9 this past week. Does the State intend to introduce any
10 further evidence for purpose of the Blair Hearing?

11 **DEP. SOLICITOR THORNTON:** No, sir. The State would ask
12 the Court to accept the two reports given.

13 **THE COURT:** Does the defendant intend to introduce any
14 evidence for purposes of the Blair Hearing?

15 **MS. SMART-GITTINGS:** No, sir, Your Honor.

16 **THE COURT:** All right. I want the record to note a
17 couple of things. In my review, I am very much aware in
18 this case, I'm aware of Mr. Davis' history of mental health
19 treatment. I note from Exhibit Number One that there is no
20 indication of serious mental illness.

21 I also note, although I'm aware, as Ms. Smart-Gittings
22 is, Ms. Jordan has not been with us, and I've had a number
23 of hearings and meetings, administrative hearings or
24 meetings and hearing about this case, I am aware that the
25 Court's Exhibit One says that it is unclear whether or not

1 he meets the standards of diagnosis for mental retardation.
2 That would require, according to the examiners, further
3 evaluation.

4 It is clear to the Court that the examiners tell me
5 that he understands the charges, that he understands the
6 legal proceedings, that he understands the consequences, he
7 has the ability to cooperate with his attorney. And I will
8 ensure, since the defense does not intend to introduce any
9 further evidence, nor does the State, I will ensure that he
10 has a complete understanding, as I did before in the last
11 hearing that he had back in October in which he was present,
12 that he has an understanding of any decisions that might be
13 made during the course of this trial and attempt to make a
14 record, in light of the Court's Exhibit Number One.

15 I believe from reviewing these exhibits, that the test
16 of competency to stand trial, or to continue with a trial,
17 whether the defendant has the sufficient present ability to
18 consult with his lawyer with a reasonable degree of rational
19 understanding, which is covered in Court's Exhibit Number
20 One and Two, and whether he has a rational, as well as a
21 factual, understanding of the proceedings against him, which
22 is also covered in Court's Exhibits One and Two.

23 It is true, as Ms. Smart-Gittings knows, that the
24 defendant bears the burden of proving incompetence by a
25 preponderance of the evidence, that is the Nance case, and I

1 believe based on what's been presented to this Court, that
2 the defendant is competent to stand trial. But I am aware
3 of the limitations that the examiner has given me in Court's
4 Exhibit Number One, to ensure that because the defendant's
5 level of intellectual functioning being borderline, it is
6 this Court's job to ensure that if he is required to make a
7 decision during this trial, that he understands all the
8 consequences of the decision. And I will endeavor to do so,
9 in light of the Court's Exhibit Number One.

10 Anything further from the State, insofar as the Blair
11 Hearing is concerned?

12 **DEP. SOLICITOR THORNTON:** No, sir.

13 **THE COURT:** Anything further from the defendant,
14 insofar as the Blair Hearing is concerned?

15 **MS. SMART-GITTINGS:** Nothing, Your Honor.

16 **THE COURT:** Very well. I'll give to the court reporter
17 Court's Exhibits One and Two. Thank you.

18 (Court Exhibit One, Mental Health Evaluation dated
19 6/24/11, received into evidence.)

20 (Court Exhibit Two, Mental Health Evaluations dated
21 2/25/10 and 3/24/10, received into evidence.)

22 **THE COURT:** Mylinda?

23 **CLERK OF COURT:** Yes, sir.

24 **THE COURT:** You still down there with me?

25 **CLERK OF COURT:** Yes, sir.

1 **THE COURT:** Because I can't tell if you're there or
2 not. I want to make sure.

3 **CLERK OF COURT:** Yes, sir.

4 **THE COURT:** All right, Solicitor, we now turn -- I
5 understand that there is a Jackson Denno Hearing from the
6 defense attorney that needs to be conducted in connection
7 with this case; is that correct?

8 **DEP. SOLICITOR THORNTON:** That is correct, Your Honor.

9 **THE COURT:** Is the State prepared to go forward?

10 **DEP. SOLICITOR THORNTON:** Yes, sir. I just need to
11 grab my witnesses. They are back in the back.

12 **THE COURT:** Is the defendant prepared to go forward on
13 the Jackson Denno?

14 **MS. SMART-GITTINGS:** Yes, sir, Your Honor. But we
15 would ask that the witnesses be sequestered from the Jackson
16 Denno Hearing, as well as the rest of the trial.

17 **THE COURT:** All right. Any objection to sequestration,
18 Solicitor?

19 **DEP. SOLICITOR THORNTON:** No, sir.

20 **THE COURT:** All right. Do you have any witnesses in
21 the courtroom at this time?

22 **DEP. SOLICITOR THORNTON:** Yes, sir. I have Mr.
23 Freeman.

24 **THE COURT:** Who's my case officer?

25 **DEP. SOLICITOR THORNTON:** Case officer is probably

1 going to be Teddy Cone.

2 **THE COURT:** Who?

3 **DEP. SOLICITOR THORNTON:** Teddy Cone, Your Honor, with
4 SLED. Actually, it could be Anthony Russell. I really
5 hadn't made that decision yet, Judge. They can all stay
6 back in the back for now.

7 **THE COURT:** Well, everybody's getting up and moving
8 now, so let me make sure. Now, if I'm going to grant
9 sequestration, I will allow the family to be present.

10 **DEP. SOLICITOR THORNTON:** Yes, sir.

11 **THE COURT:** The victim's family to be present, under
12 the Victim's Bill of Rights. I will allow, obviously, the
13 defendant is going to be present; he has a constitutional
14 right. I will also allow the case officer to be present. I
15 will expect the defense counsel -- because it's going to
16 work both ways. You're going to have to instruct your
17 witnesses ---

18 **MS. SMART-GITTINGS:** I have, Your Honor. They've
19 already left.

20 **THE COURT:** All right. And, Solicitor, you will have
21 to instruct your witnesses, and I'll give you time to do so.
22 Now, I realize your witnesses aren't present. I'm granting
23 sequestration as to the Jackson Denno Hearing and as to the
24 trial of this case. And I'll give you the opportunity to
25 step out and meet with your witnesses right now, so you can

1 inform them. And also, designate a room that they're going
2 to be in, so we don't have to go on a Easter Egg Hunt during
3 the trial to locate witnesses, so it won't unnecessarily
4 delay the trial, because I've got lawyers that are waiting
5 on other business.

6 **DEP. SOLICITOR THORNTON:** Yes, sir, Judge. And I will
7 designate Captain Anthony Russell as the case officer in
8 this case.

9 **THE COURT:** All right. And if you'll get Captain
10 Russell. Is he here?

11 **DEP. SOLICITOR THORNTON:** All of them are in the same
12 room, Judge. I'm going to go instruct them on
13 sequestration.

14 (Solicitor leaves the courtroom.)

15 (Off the record, briefly.)

16 **THE COURT:** You ready?

17 **DEP. SOLICITOR THORNTON:** Your Honor, I just want to
18 let the Court know, I submitted a witness list, or Ms.
19 Legette did on my behalf. We're going to have to add three
20 names to it. I will include the hometowns, and you'll have
21 that before you start with the jury, Judge.

22 **THE COURT:** All right. I do have your list. It has 16
23 witnesses on it. Her list has nine. Those of you that are
24 waiting, there's a potential of 25 witnesses in the trial of
25 this case. So, I want everybody to be aware; but this case

1 is going to have the right-of-way. All right. Is it
2 updated now, Stephanie?

3 **MS. SMART-GITTINGS:** Yes, sir, Your Honor.

4 **THE COURT:** All right, Solicitor. I would expect you
5 to update yours and give me hometowns, if you would.

6 **DEP. SOLICITOR THORNTON:** Yes, sir.

7 **THE COURT:** All right. Now, the Sheriff has come in
8 the courtroom; he's present. He tells me that the people he
9 has in the back -- and my bailiffs, none of these people are
10 witnesses. I noticed that -- have you listed any law
11 enforcement officers as a witness for the defendant?

12 **MS. SMART-GITTINGS:** Yes, sir, I have.

13 **THE COURT:** What I thought. I want to make sure
14 they're not present in the courtroom, since you've asked for
15 sequestration both during the Jackson Denno and during the
16 trial, Ms. Smart-Gittings. Is any of your witnesses in the
17 courtroom?

18 **MS. SMART-GITTINGS:** They are not, Your Honor.

19 **THE COURT:** You've looked?

20 **MS. SMART-GITTINGS:** Yes, sir, Your Honor.

21 **THE COURT:** You're satisfied?

22 **MS. SMART-GITTINGS:** Yes, sir, Your Honor.

23 **THE COURT:** All right, Solicitor. I'll let you look
24 now. Any of your witnesses that you've listed on your list,
25 including your updated list that I don't have, any of your

1 witnesses in the courtroom, before we start the Jackson
2 Denno Hearing?

3 **DEP. SOLICITOR THORNTON:** Your Honor, I believe there
4 may be one. I'm checking on that right now. It's not a law
5 enforcement witness.

6 **THE COURT:** All right. Give you a moment.

7 (Off the record, briefly.)

8 **DEP. SOLICITOR THORNTON:** I apologize, Judge. Just
9 checked two people. And if I could, I'll just go ahead and
10 announce it, Judge, just to make sure, if it's all right
11 with you.

12 **THE COURT:** You checking to make sure?

13 **DEP. SOLICITOR THORNTON:** Yes, sir.

14 **THE COURT:** All right.

15 (Off the record, briefly.)

16 **DEP. SOLICITOR THORNTON:** Ladies and gentlemen, are
17 there any other witnesses that have been subpoenaed by the
18 State or by the defense in the case involving Joseph Davis?

19 (NO RESPONSE.)

20 **DEP. SOLICITOR THORNTON:** Your Honor, other than one
21 family member who's a potential witness, that you indicated
22 could stay, there are no other witnesses that I see.

23 **THE COURT:** For the record, Ms. Smart-Gittings, you
24 agree that under the Victim's Bill of Rights, members of the
25 family can remain, despite my granting your request for

1 sequestration during the Jackson v. Denno, as well as the
2 trial; is that correct?

3 **MS. SMART-GITTINGS:** That is correct, Your Honor.

4 **THE COURT:** Very well. All right, the Solicitor tells
5 me that he has looked through the courtroom and made an
6 announcement, all of his witnesses are outside the
7 courtroom. And he's going to update his list, but the three
8 that I don't have that he's going to update, he's included
9 checking for those witnesses; is that right?

10 **DEP. SOLICITOR THORNTON:** Yes, sir.

11 **THE COURT:** All right. And I understand from defense
12 counsel that she has also perused the courtroom. She's
13 satisfied that including her two updated witnesses that were
14 just given to the Court about ten minutes ago, that she's
15 satisfied that none of her witnesses are in the courtroom.
16 And I believe we are now ready to proceed, in light of my
17 granting sequestration, with the Jackson v. Denno Hearing.

18 Are you satisfied now, Ms. Smart-Gittings, that you
19 have complied with my mutual order of sequestration?

20 **MS. SMART-GITTINGS:** Yes, sir, Your Honor.

21 **THE COURT:** All right. Solicitor, let's proceed now
22 with the Jackson v. Denno Hearing. You may call your first
23 witness.

24 **DEP. SOLICITOR THORNTON:** Chauncey Solomon.

25 WHEREUPON, CHAUNCEY SOLOMON IS DULY SWORN.

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Direct examination of Chauncey Solomon by Dep. Sol. Thornton

23

1 **THE COURT:** Chauncey, have a seat; make yourself
2 comfortable. Pull that microphone down. State your full
3 name and spell your last name for my court reporter.

4 **MR. SOLOMON:** My name is Chauncey Demetrius Solomon.
5 Last name is Solomon, S-O-L-O-M-O-N.

6 **THE COURT:** Your witness, Counsel.

7 **DEP. SOLICITOR THORNTON:** Thank you, Your Honor. May I
8 approach?

9 **THE COURT:** You may.

10 **DIRECT EXAMINATION**

11 **BY DEP. SOLICITOR THORNTON:**

12 **Q** Mr. Solomon, I want to hand to you what has been marked
13 as a Court's exhibit for identification, Three, Four, and
14 Five. Would you please, starting with Document Three, sir,
15 can you identify that document?

16 **A** Yes, sir.

17 **Q** What is Court's Exhibit Three, for identification, sir?

18 **A** Court Exhibit Three is the standard Miranda warnings
19 that the Hampton County Sheriff's Office gives to potential
20 suspects.

21 **Q** All right. And I'm sorry. I'm trying to speed this
22 along. Let me ask you a quick question: Mr. Solomon, who
23 do you work for, sir?

24 **A** The Hampton County Sheriff's Office.

25 **Q** And in what capacity?

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24

1 A As a detective.

2 Q All right, sir. And is part of your job as a detective
3 to talk to people who are suspects in crimes?

4 A Yes, it is.

5 Q All right. And can you, sir, tell me, is that a blank
6 form, Court's Exhibit Number Three, or is it filled out?

7 A It's -- it's actually, it's filled out.

8 Q All right. And what case does that pertain to, sir?

9 A This particular case, the Ronnie Wooten murder case.

10 Q All right. And is that a Miranda Rights form that you
11 witnessed?

12 A Yes, sir. I witnessed it.

13 Q All right, sir, what's the purpose of the Miranda
14 Rights form?

15 A The Miranda Rights forms is just a form the person, the
16 interviewee who we talking to, just to advise him of his or
17 her rights, explain to them they have the right to remain
18 silent, you know, you don't have to talk to us if you don't
19 want to.

20 Q All right. And did you go over the rights that are on
21 Page 3? Did you use that form?

22 A Yes.

23 Q And what's the date on that, sir?

24 A The date is August 22nd, 2008.

25 Q All right. And who was it that you read that form to?

Jackson v. Denno Hearing
Direct examination of Chauncey Solomon by Dep. Sol. Thornton

25

1 A To Joseph Davis.

2 Q All right. And do you see Joseph Davis in the
3 courtroom?

4 A Yes, sir. He's sitting over there in the green shirt.

5 Q All right. And when you went over that form with him,
6 can you indicate what the form says?

7 A Yes. I actually -- I read it to him.

8 Q All right, sir. And would you read it now to the
9 Court?

10 A Sure. It's dated August the 22nd, 2008; the time being
11 7:55 p.m. I explained to him, read it to him. "Before we
12 ask you any questions, you must understand what your rights
13 are. You have the right to remain silent. Anything you say
14 can and will be used against you in a court of law. You
15 have the right to talk to a lawyer for advice before we ask
16 you any questions, and to have him or her with you, present
17 with you during questioning. If you have no money for
18 lawyer fees, the Court will appoint one to represent with
19 you, with no cost to you. If you decide to answer questions
20 now, without a lawyer present, you still have the right to
21 stop answering questions at any time. You also have the
22 right to stop answering questions at any time, until you
23 talk with your lawyer."

24 The last sentence is: "I have read this statement of
25 my rights and I understand what my rights are." And it has

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1 a signature where Joseph Davis signed. And on the bottom,
2 it says, "Waiver of rights." Says, "I'm willing to make a
3 statement and answer questions. I do not want a lawyer
4 present at this time. I understand. I know what I'm doing.
5 No promises nor threats have been made. No pressure or
6 coercion of any kind has been used against me."

7 And it has another signature signed where the
8 interviewee signs again. And therefore it's witnessed by me
9 and another witness and date and time again.

10 Q All right, sir. And who is the other witness?

11 A Captain Anthony Russell.

12 Q All right, sir. Is that this gentleman seated here to
13 my right?

14 A Yes. Yes, sir.

15 Q Are those the rights that you read on August 22nd of
16 2008 to Joseph Davis?

17 A Yes, sir.

18 Q All right. And did you read each one of those, just as
19 you did in here today?

20 A I read each one of them, had him initial each paragraph
21 to the fact that he understood everything what I was telling
22 him.

23 Q All right, sir. And did he indicate to you that he had
24 any trouble knowing what you were talking about?

25 A No, sir. He said he understood. He knowed what he --

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1 he was doing. He wasn't under the influence of no kind of
2 drugs or alcohol at a particular time. And he was willing
3 to talk to me.

4 Q All right, sir. Did you threaten him in any way?

5 A No, sir.

6 Q Did you offer him any promise of reward?

7 A No, sir.

8 Q Did anybody else threaten him while he was in your
9 presence?

10 A No, sir.

11 Q As to Court's Exhibit Number Four for identification,
12 can you identify that document?

13 A Yes, sir, I can. It's Hampton County Sheriff's Office
14 voluntary statement form that is a document that we use to
15 actually take a written statement.

16 Q All right, sir. Is that basically a separate Miranda
17 form?

18 A Exactly. It's separate from actually the Miranda form.

19 Q All right.

20 **DEP. SOLICITOR THORNTON:** If I can approach?

21 **THE COURT:** Yes, you may.

22 Q I want you to look again and tell me -- you just looked
23 at Exhibit Three. Would you look at Court's Exhibit Number
24 Four?

25 A Number Four, I'm sorry. It's the Miranda form.

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1 Q All right. So the document you represented earlier,
2 which I'll get to in a moment, was a voluntary statement
3 form. That is actually been marked as Court's Exhibit Five
4 for identification; is that correct?

5 A Yes, sir, it is.

6 Q All right. Going back to what I asked you about
7 Court's Exhibit Number Four, can you identify that document?

8 A Yes, sir. It's a standard Hampton County Sheriff's
9 Office Miranda form.

10 Q All right. To save a little bit of time, is that the
11 exact same type of form that you just discussed as Court's
12 Exhibit Number Three?

13 A The exact same; the standard.

14 Q And did you go over -- and when is that dated, by the
15 way?

16 A It is actually dated the same date, on the 22nd of
17 2008, August.

18 Q At what time, sir?

19 A This one here is at 10:17 p.m.

20 Q All right. So would it be fair to say that you went
21 over his right -- excuse me -- that you went over Joseph
22 Davis' rights with him twice?

23 A Yes, sir, we did.

24 Q All right. On the same day.

25 A The same day.

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Direct examination of Chauncey Solomon by Dep. Sol. Thornton

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1 Q And is that prior to taking any statement, you do
2 another Miranda?

3 A Well, anytime we talk to him -- every time we talk to
4 him, it's -- it's -- it's standard procedure through the
5 sheriff's office that you give Miranda -- Miranda warning
6 again.

7 Q All right. And did you do that in this case?

8 A Yes, we did.

9 Q And without having you read every one again, is Court's
10 Exhibit Number Four identical to Court's Exhibit Number
11 Three, other than the time?

12 A Yes, sir. The exact same.

13 Q And did you go over each of his rights that you've
14 already talked about here today?

15 A Read it to him verbatim, every sentence by sentence.

16 Q You didn't just skip over it and say "Well, I already
17 read these to you. Just sign it again"?

18 A No, sir.

19 Q All right, sir. So you went over each and every one of
20 his rights as to both Three and Four?

21 A Yes, sir.

22 Q Did he initial everything on Court's Exhibit Three and
23 Court's Exhibit Four?

24 A He initialed each one of them and signed it.

25 Q All right. Did he seem to have any trouble initialing

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1 or signing his name?

2 A No, sir.

3 Q And again, as to the time when you talked to him, both

4 as to Court's Exhibit Number Three and Court's Exhibit

5 Number Four, did you make any threats against him?

6 A No, sir.

7 Q Did anybody else make any threats against him?

8 A No, sir.

9 Q Did you try to coerce him to give you a statement?

10 A No, sir.

11 Q Did you make him any promises of any reward?

12 A No, sir.

13 Q All right. As to now Court's Exhibit Number Five, can
14 you identify that document?

15 A Yes, sir. It's the voluntary statement that is the
16 standard paperwork from the Hampton County Sheriff's Office
17 for the purpose of getting a written statement from the
18 interviewee.

19 Q All right, sir. And did you do this before or after
20 you read him his Miranda Rights?

21 A It would have been after.

22 Q All right. And would this have been on August the 22nd
23 of 2008?

24 A August the 22nd.

25 Q All right, sir. Would you review that document?

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1 A Yes, sir.

2 (The witness reviews the document.)

3 A Yes, sir.

4 Q All right. You reviewed it?

5 A Uh-huh.

6 Q What is that document? And let me rephrase. Is it

7 filled out?

8 A Yes, sir, it is filled out.

9 Q All right. Does it contain a statement?

10 A It does contain a statement.

11 Q Whose statement is it?

12 A It's a statement from Joseph Davis.

13 Q Now, did you write that statement for him or did he

14 write it himself?

15 A He wrote it himself.

16 Q Did he seem to have any trouble, to your recollection,

17 of writing?

18 A No, sir.

19 Q Did he have any trouble communicating with him in any

20 way?

21 A No, sir. Had no problem with that.

22 Q Did he seem to understand what he was doing?

23 A Yes, sir, he did.

24 **DEP. SOLICITOR THORNTON:** Your Honor, at this time, I'd

25 ask that the witness be allowed to publish what is in that

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1 statement. I'd ask that each of those be admitted for
2 Court's exhibit purposes in this hearing, Three, Four and
3 Five.

4 **THE COURT:** Three, Four and Five?

5 **DEP. SOLICITOR THORNTON:** Yes, sir.

6 **THE COURT:** Ms. Smart-Gittings, I know you have copies,
7 but if you don't, I'll be glad to have him provide them to
8 you. You have copies, right?

9 **MS. SMART-GITTINGS:** I do.

10 **THE COURT:** Any objection as to the proposed Court's
11 Exhibits Three, Four and Five, for purpose of the Jackson
12 Denno Hearing?

13 **MS. SMART-GITTINGS:** No, sir, Your Honor.

14 **THE COURT:** Without objection, you may publish.

15 **DEP. SOLICITOR THORNTON:** Thank you.

16 (Court Exhibit Three, Miranda Rights Form, received
17 into evidence.)

18 (Court Exhibit Four, Miranda Rights Form, received into
19 evidence.)

20 (Court Exhibit Five, voluntary statement, received into
21 evidence.)

22 **THE COURT:** Three, Four and Five will be admitted,
23 Becky, without objection, for purposes of this hearing.

24 **DEP. SOLICITOR THORNTON:** Thank you, Your Honor.

25 **THE COURT:** Proceed.

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1 Q Detective Solomon, would you please read what is in
2 Court's Exhibit, now into evidence as Court's Exhibit Number
3 Five?

4 A Read the entire statement?

5 Q Read the statement.

6 A Yes, sir. It's a voluntary statement from the Hampton
7 County Sheriff's Office. "The statement I am about -- what
8 I'm about to give to Detective Solomon, Russell. I am 27
9 years of age. Date of birth is [REDACTED], and I live in
10 [REDACTED]. On the night that
11 Joseph Davis was at the store, which was at Knickelpumpers,
12 it was a lot of people out there. So, I, Joseph Davis, came
13 out of the store. When I saw -- when I saw Tiny, which is
14 Jeffrey Warren, stopped and asked me, 'What's up "OG"? You
15 want -- you want -- I want to holla at you.'

16 So, I, Joseph Davis, asked Jeffery Warren where he is.
17 Jeffery Warren point towards the flower shop. I, Joseph
18 Davis, and Jeffrey Warren walked on the corner of the flower
19 shop. Myron Mitchell saw me and said, 'You need to complete
20 a five point star.' So I, Joseph Davis, was like, 'Well,
21 where at?' Joseph Warren started talking about Lena's
22 store. So, while he was walking along in the dark around
23 the top road, I told Joseph Mitchell that I can't go in the
24 store because I ain't dressed right. That's the rule.
25 Myron Mitchell was like, 'Fuck it. You be a watch dog.'

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Direct examination of Chauncey Solomon by Dep. Sol. Thornton

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1 As we got to the bridge, we stopped. Jeffrey Warren
2 started telling Joseph Davis, Myron Mitchell, 'Mr. Ronnie
3 always keep money in his sock and pocket.' So, we started
4 walking again and end up at Ronnie Wooten's old car and
5 truck. I, Joseph Davis, Myron Mitchell, and Jeffrey Warren
6 saw Monty walking to his truck. We wait till Monty went in
7 the house. I, Joseph Davis, look at the car, then I, Joseph
8 Davis, just ran across the road and hide behind the old big
9 truck that was in front of the store. Two police cars
10 passed by. I, Joseph Davis, tell Jeffrey Warren and Myron
11 Mitchell 'it was clear' by throwing a sign of the blood
12 codes.

13 Jeffrey Warren and Myron Mitchell went to the step and
14 back up. Called Mr. Ronnie Wooten and he came to the door.
15 They wait about five -- three to five minutes, then Myron
16 Mitchell went inside of the store, along with Jeffrey
17 Warren. Jeffrey Warren went towards the cash register and
18 Myron Mitchell was standing up, pointing the 22 Revolver at
19 Mr. Ronnie. Mr. Ronnie started moving towards Myron
20 Mitchell. So I, Joseph Davis, saw Myron Mitchell shot the
21 gun. Mr. Ronnie fell back. Then Jeffrey Warren ran and
22 closed the door and cut the lights off.

23 Before 31 seconds was up, I, Joseph Davis, let Myron
24 Mitchell and Jeffrey Warren know that the streets was clear,
25 through the same blood code. Myron Mitchell and Jeffrey

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1 Warren ran out of the store into the woods. I, Joseph
2 Davis, chilled back because two cars was coming. Then, it
3 was clear. I moved fast through the woods to my brother's
4 house, which is where we was raised." And it's signed by
5 Joseph Davis, witnessed by myself.

6 Q All right. There's a couple of people in this case.
7 Who is the victim in this case?

8 A Mr. Ronnie Wooten.

9 Q Is that the Ronnie he refers to in his statement?

10 A Yes, sir.

11 Q He also referred to "Monty". Is Monty Wooten in the
12 courtroom?

13 A Yes, sir, he is.

14 Q All right, sir. And is he related in any way to the
15 victim in this case, Ronnie Wooten?

16 A He's the victim's brother.

17 Q All right, sir. There's a reference to a five pointed
18 star and star and blood codes. Do you know what that is?

19 A Yes, sir.

20 Q All right. Can you explain what that is, please?

21 A A five pointed star and blood code, meaning that
22 basically you join a five pointed star and you had to do
23 certain particular crimes to complete the star.

24 Q All right. What is the purpose of it?

25 A Initiation into a blood gang.

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1 Q Okay. So that's gang terminology; is that fair to say?

2 A Yes.

3 Q And is that the contents of that statement, sir?

4 A Yes, sir.

5 Q All right. And once again, did you make any threats or
6 promises to Joseph Davis to get him to write that statement?

7 A No, sir.

8 Q All right. He wrote that on his own?

9 A Yes, sir.

10 Q All right. And did anybody else in your presence
11 promise him anything, coerce him, or threaten him to get him
12 to write that statement?

13 A No, sir.

14 Q You're absolutely positive you went over each one of
15 those rights, both at, I believe 7:55 p.m. and then again at
16 10:17 p.m.?

17 A Yes, sir. Absolutely positive.

18 Q I have nothing further at this time for this witness.
19 Please answer any questions Ms. Smart-Gittings has for you.

20 THE COURT: Ms. Smart-Gittings, cross-examination.

21 MS. SMART-GITTINGS: May it please the Court, Your
22 Honor?

23 THE COURT: Yes, ma'am.

24 CROSS-EXAMINATION

25 BY MS. SMART-GITTINGS:

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Cross-Examination of Chauncey Solomon by Ms. Smart-Gittings

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1 Q Detective Solomon, did you instruct Joseph Davis to
2 write his full name in his confession?

3 A Yes. I explained to him to write his name, yes.

4 Q So you told him to write "I, Joseph Davis," correct?

5 A Well, what I do -- what I try to explain to not only
6 him but everybody who we talk to, you try to do -- when
7 you're interviewing someone and you want them to write a
8 statement, you want it so a third party can read that and
9 understand that. That's what I explained to him.

10 Q Did he explain to you what a third party reading and
11 understanding meant?

12 A Yes.

13 Q So you feel sure that he understood you when you told
14 him to write as a third party?

15 A I -- I feel so, yes.

16 Q Did he write "I, Joseph Davis"? Or did you tell him to
17 write "I, Joseph Davis"?

18 A He wrote "I, Joseph Davis."

19 Q Is that how he refers to himself, "I, Joseph Davis"?

20 A I assume. That's what he wrote. I -- I can't -- go
21 ahead.

22 Q He refers to himself as "Joe"?

23 A I'm not sure what he refers to himself. I know him as
24 Joseph Davis and I explained to him what I was looking for,
25 and that's what he wrote.

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Cross-Examination of Chauncey Solomon by Ms. Smart-Gittings

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1 Q What did you tell him you were looking for?

2 A I was -- I just -- I wanted him to write a statement to
3 the fact that what happened on June the 23rd, 2007.

4 Q Did you already have an idea of what you wanted him to
5 say?

6 A Well, I wanted him to tell the truth, I mean.

7 Q And did you tell him to write Jeffrey Warren's full
8 name?

9 A No.

10 Q So he wrote Jeffrey Warren's name without you
11 instructing him to do that?

12 A Well, I guess it would -- he would go back to exactly
13 what I explained to him from the beginning. You know, I --
14 I needed him to be detailed, call names. Don't say "I" or
15 "she." I need names.

16 Q And what about where he struck out the word. He put
17 "J.D." and put a circle around it? Did you instruct him to
18 do that as well?

19 A Well, commonly, when someone make a mistake, he scratch
20 something out. Apparently, he was scratching out himself.
21 I had him put his initial above it, to indicate that he made
22 the mistake and he put his signature above it.

23 Q But he didn't know to do that without you telling him
24 to do that, correct?

25 A Well, after he finished the statement, I actually went

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1 over the mistakes that he made where he scratched it out. I
2 explained to him, "just put your initials. And the reason
3 why you put your initials, because when you make a mistake,
4 you have to put your initials above that."

5 Q But you didn't do that on the last line where he struck
6 through the word -- you didn't have him initial and circle
7 it then; did you?

8 A Well, if -- if I didn't, it had to been because I
9 didn't see it, you know.

10 Q But you read this statement?

11 A Yes.

12 Q Did you agree with the contents of the statement?

13 A It's not whether I agree or not. It's the statement
14 that he gave.

15 Q Did you tell him that you believed him?

16 A I don't know. I can't remember whether I told him I
17 believed or not. But I was -- my job is -- is evidence, to
18 take a statement. It's not whether what I believe.

19 Q Did you know that he had a learning deficit?

20 A No. I mean -- no, I didn't.

21 Q Do you know his family?

22 A Yes.

23 Q And you didn't know that he had a learning deficit
24 prior to taking this voluntary statement?

25 A Well, no, I didn't. He wrote a nice statement. I gave

Cross-Examination of Chauncey Solomon by Ms. Smart-Gittings
Redirect Examination of Chauncey Solomon by Dep. Sol. Thornton

1 him his Miranda Warnings and asked him whether he
2 understood, twice, and he said he understood. And that he
3 could read and write, and he did a real good job. He can
4 actually write better than I can.

5 Q You didn't make any promises to him to get him to write
6 this statement; did you?

7 A No, sir -- no, ma'am. I'm sorry; please forgive me.

8 MS. SMART-GITTINGS: I don't have any other questions,
9 Your Honor.

10 THE COURT: Redirect?

11 REDIRECT EXAMINATION

12 BY DEP. SOLICITOR THORNTON:

13 Q Quick question, Detective Solomon. Earlier, just so we
14 get this clear for the record, Ms. Smart-Gittings asked you
15 about where mistakes had been made or crosses had -- did you
16 instruct him to cross certain things out? Or did you ---

17 A No.

18 Q --- just instruct him to initial where he had himself
19 crossed something out?

20 A Exactly that. After he wrote this statement, this is a
21 common practice, not only myself, but any investigator, if
22 they made a mistake, you go back over it and say "You made a
23 mistake right here. So will you please initial it, so to
24 indicate that I made the mistake."

25 Q Meaning, where he's crossed something out?

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1 A Exactly.

2 Q Okay.

3 **DEP. SOLICITOR THORNTON:** I have nothing further for
4 this witness. Ask that he be allowed to step down and go
5 back.

6 **THE COURT:** Just one moment.

7 **DEP. SOLICITOR THORNTON:** Yes, sir.

8 **THE COURT:** Re-cross, limited to redirect.

9 **MS. SMART-GITTINGS:** Nothing, Your Honor.

10 **THE COURT:** Any objection to this witness being
11 excused, Ms. Smart-Gittings?

12 **MS. SMART-GITTINGS:** No, sir, Your Honor.

13 **THE COURT:** Now, this witness is subject to my -- this
14 witness is subject to my sequestration order, and you've had
15 the opportunity to advise him; is that correct, Solicitor?

16 **DEP. SOLICITOR THORNTON:** I have, Your Honor.

17 **THE COURT:** Because he's on your witness list.

18 **DEP. SOLICITOR THORNTON:** Yes, sir. And I'd ask that
19 he have a seat back in the room where we have them
20 sequestered.

21 **THE COURT:** You understand you can't discuss your
22 testimony back there.

23 **DETECTIVE SOLOMON:** Yes, sir.

24 **THE COURT:** Very well. You may step down and you're
25 excused to go back outside the courtroom. Thank you, sir.

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Direct Examination of Capt. Anthony Russell by Dep. Sol. Thornton

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1 **DETECTIVE SOLOMON:** Thank you.

2 **THE COURT:** Call your next witness.

3 **DEP. SOLICITOR THORNTON:** Captain Anthony Russell.

4 **THE COURT:** Come around, please, to be sworn by the
5 clerk.

6 WHEREUPON, CAPTAIN ANTHONY RUSSELL WAS DULY SWORN.

7 **THE COURT:** You know what to do.

8 **CAPTAIN RUSSELL:** Name is Anthony Russell. Spelling my
9 last name, R-U-S-S-E-L-L.

10 **THE COURT:** Your witness, Solicitor.

11 **DEP. SOLICITOR THORNTON:** You know, may I approach and
12 retrieve from the Court the Court's Three, Four and Five?

13 **THE COURT:** Yes, sir, you may. But I thought you were
14 going to give me a chance to look at them. But I'll let you
15 go ahead ---

16 **DEP. SOLICITOR THORNTON:** Judge, I apologize.

17 **THE COURT:** --- if you need them for the witness.

18 **DIRECT EXAMINATION**

19 **BY DEP. SOLICITOR THORNTON:**

20 Q Can you identify Court's Exhibit Three, Four and Five,
21 Captain?

22 A Yes, sir, I can.

23 Q All right, sir. And for the record, I've called you
24 "Captain" now, twice. Who do you work for, sir?

25 A Hampton County Sheriff's Office, Sheriff T.C. Smalls.

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1 Q All right. And did you work for Sheriff Smalls in the
2 same capacity when those documents were filled out?

3 A Yes, sir. That's correct.

4 Q All right, sir. And what are those documents?

5 A In -- in Court's Exhibit Three is the standard Miranda
6 form for Hampton County Sheriff's Office.

7 Q All right. And what about Exhibit -- what about
8 Court's Four?

9 A Court's Exhibit Number Four is also a standard Miranda
10 form for Hampton County Sheriff's Office.

11 Q And what is Court's Five?

12 A Court's Exhibit Number Five is a statement, a standard
13 statement form, for Hampton County.

14 Q All right. Captain Russell, were you present, and did
15 you sign as a witness as to the Miranda forms, Court's
16 Exhibit Number Three and Four?

17 A Yes, sir, I did.

18 Q All right. And did you sign both of them, as a
19 witness?

20 A Yes, sir, I did.

21 Q And when I say "both of them," I'm referring to Court's
22 Exhibits Three and Four.

23 A Yes, sir.

24 Q Were you present when -- hang on. Let me stop for a
25 minute.

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- 1 **DEP. SOLICITOR THORNTON:** I apologize, Judge.
- 2 **Q** You were here during the testimony, of course, of case
- 3 officer Detective Solomon; is that correct?
- 4 **A** Yes, sir.
- 5 **Q** All right. And are those the same documents that he
- 6 testified to that both Court's Three, Four and Five all
- 7 relate to the case of State v. Joseph Davis; is that
- 8 correct?
- 9 **A** Yes. Exhibit Three, Four and Five is.
- 10 **Q** Were you present when these Miranda Warnings were given
- 11 to Joseph Davis?
- 12 **A** Yes, sir, I was.
- 13 **Q** Was each of the warnings read to him?
- 14 **A** Yes, sir.
- 15 **Q** As to both Court's Three and Court's Four.
- 16 **A** Yes, sir.
- 17 **Q** All right. Did anybody threaten Mr. Davis in your
- 18 presence?
- 19 **A** No, sir.
- 20 **Q** Did you threaten Mr. Davis?
- 21 **A** No, sir.
- 22 **Q** Did you coerce him in any way?
- 23 **A** No, sir.
- 24 **Q** Did you promise him anything to get him to talk to you?
- 25 **A** No, I didn't.

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- 1 Q Did Detective Solomon or anybody else?
- 2 A No one did.
- 3 Q All right, sir. And did he sign -- did Mr. Davis sign
- 4 both Court's Three and Four?
- 5 A Yes, sir. On Court's Exhibit Three, he signed it.
- 6 Q Did he make ---
- 7 A And also initialed it ---
- 8 Q I'm sorry, sir. And I was going to ask you, did he
- 9 initial next to each right?
- 10 A Yes. On Three, Four and Five.
- 11 Q All right, sir. And were each of those rights read to
- 12 him in your presence?
- 13 A Yes, sir, they were.
- 14 Q Did he seem to have any problem comprehending or
- 15 understanding what you were talking about?
- 16 A No, sir.
- 17 Q Did he seem to have any problem understanding how to
- 18 write or how to write his statement out?
- 19 A No, sir, he didn't.
- 20 Q And did he write that statement himself?
- 21 A Yes, sir, he did.
- 22 Q And when I say "that statement," I'm referring to
- 23 Court's Exhibit Number Five.
- 24 A Yes, sir, he did.
- 25 Q All right. And once again, as to Three and Four, you

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1 were present when each of the rights on both of those
2 documents were read to him; is that right?

3 A That's correct.

4 Q He initialed by each line.

5 A Yes, sir.

6 Q He signed it.

7 A Yes, sir.

8 Q Nobody promised him anything?

9 A No promises, no threats, or anything was made to Joseph
10 Davis.

11 Q And all this occurred in your presence; is that
12 correct?

13 A That's correct.

14 Q All right, sir.

15 **DEP. SOLICITOR THORNTON:** May I approach, Judge?

16 **THE COURT:** You may.

17 Q As to Court's Exhibit Number Five, how many pages is
18 that document?

19 A It's a two-page document.

20 Q All right. And is that a two-page statement?

21 A Yes, sir.

22 Q Did you sign anywhere on the back page?

23 A Yes. On the back of it, I witnessed it.

24 Q So you were a witness to both Court's Exhibit Three,
25 Four and also Court's Exhibit Five; is that correct, sir?

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1 A Yes, sir.. That's correct.

2 Q I have no further questions at this time. Please
3 answer any questions Ms. Smart-Gittings has for you.

4 THE COURT: Cross-examination?

5 MS. SMART-GITTINGS: I don't have any questions for the
6 witness, Your Honor

7 THE COURT: Hand those exhibits to me, please.

8 CAPTAIN RUSSELL: Yes, sir.

9 THE COURT: Thank you, sir. You may step down.

10 DEP. SOLICITOR THORNTON: Your Honor, if I could, I'd
11 ask the witness remain on the stand. I'm going to get with
12 him on the next set of documents, with the Court's
13 permission. I apologize.

14 THE COURT: Stay on up there.

15 DIRECT EXAMINATION CONTINUES:

16 Q Mr. Russell, I'm going to hand you what's been marked
17 for identification as Court's Exhibits Six and Seven. As to
18 Court's Exhibit Six, sir, do you recognize that?

19 A Yes, sir. Court's Exhibit Six is a South Carolina Law
20 Enforcement, which is commonly referred to as SLED, a
21 standard Miranda form.

22 Q All right, sir. And has that Miranda form been filled
23 out?

24 A Yes, sir, it has.

25 Q And was that Miranda form filled out in your presence?

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1 A Yes, sir, it was.

2 Q And when was it filled out, sir?

3 A It is dated 9/4/2008 at 10:07 a.m.

4 Q All right, sir. And did you sign -- and did you sign
5 Court's Exhibit Number Six, as a witness?

6 A Yes, sir. In Court's Exhibit Number Six, I did sign
7 the bottom as a witness.

8 Q All right. And who did you interview on that Miranda
9 Rights form, sir?

10 A The defendant sitting over there in the green, sir,
11 Joseph Davis.

12 Q So this is a new round?

13 A Yes, sir.

14 Q All right. Could you read what you -- how did you take
15 care of advising him of his rights, if you did?

16 A I pretty much just read the Miranda form to him, and
17 also had him to initial it.

18 Q All right.

19 A This also was done in the Varnville Substation.

20 Q All right. And would you -- as to Court's Exhibit
21 Number Six, would you please read that document, as you read
22 it to Joseph Davis?

23 A Yes, sir. In Court's Exhibit Number Six, the place was
24 the Varnville Annex and the date 9/4/08; time was 10:07 a.m.
25 "Before we ask you any questions, understand your rights.

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1 You have the right to remain silent. Do you understand that
2 right? And anything you say can and will be used against
3 you in a court of law. Anything that you say can use in
4 Court as evidence against you. You're entitled to talk to a
5 lawyer now and have him present with you during questioning.
6 If you cannot afford an attorney, one will be appointed to
7 you without cost. If you decide to answer questions, now,
8 without a lawyer present, you still have the right to stop
9 answering questions at any time. You also have the right to
10 stop answering, until you talk to a lawyer. You understand
11 these rights? Do you wish to talk with us, that is fine."

12 And he also initialed on the left side, "JD," standing for
13 "Joseph Davis."

14 Q All right. And did you read him those rights that way
15 on 9/4 of 2008?

16 A Yes, sir. On 9/4/2008 at 10:07 a.m.

17 Q All right. And you said he initialed next to each
18 line?

19 A Yes, sir, he did.

20 Q Did he also sign that document?

21 A Yes, sir, he did.

22 Q When you talked to him, did he seem to have any problem
23 understanding you?

24 A No, sir, he didn't.

25 Q Did he seem to have any problem understanding his

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1 rights?

2 A No, sir.

3 Q Did he indicate to you he didn't understand something
4 and he needed further explanation?

5 A He never did.

6 Q All right. And when you talked -- did he talk to you
7 that day? Did he give you a statement later?

8 A Yes, he did.

9 Q All right. And when he gave you that statement, did he
10 seem to have trouble communicating or did he do okay?

11 A He did a good job.

12 Q All right, sir. And as to Court's Exhibit Number
13 Seven, can you identify that document, please?

14 A Yes, sir. Court's Exhibit Number Seven, also a SLED
15 Miranda standard form, the South Carolina Law Enforcement
16 Division.

17 Q All right. And does it contain the same warnings and
18 advisement of rights that Court's Exhibit Six does?

19 A Yes, sir.

20 Q Is it an identical -- is the form itself identical?

21 A Yes, sir, it is.

22 Q All right. Now, at the top of Court's Exhibit Seven
23 where the date is, did you make an error, or did someone
24 make an error, when that document was being filled out on
25 the date and the time?

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- 1 A Yes, sir.
- 2 Q After reviewing it, was that done the same day at a
- 3 later time as Court's Exhibit Number Six?
- 4 A Yes, sir. It was done the same day.
- 5 Q Okay. And would that be 9/4 of 2008?
- 6 A Yes, sir. Correct.
- 7 Q All right. And on 9/4 of 2008, did you also read
- 8 Joseph Davis the rights in Court's Exhibit Number Seven?
- 9 A Yes, sir, I did.
- 10 Q Did you go over each of the same rights that you've
- 11 already testified to from Court's Exhibit Six?
- 12 A Yes.
- 13 Q All right. So you basically re-read him the same
- 14 document.
- 15 A That's correct.
- 16 Q All right, sir. And did he give a statement after
- 17 that?
- 18 A Yes, sir, he did.
- 19 Q And is that statement videotaped?
- 20 A Yes, sir, it is.
- 21 Q All right. At my request, did you review a videotape
- 22 this morning, which along with a Power Point transcription
- 23 of that interview?
- 24 A Yes, sir, I have.
- 25 Q All right. And is that video that you viewed this

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1 morning an accurate depiction of Joseph Davis' statement on
2 9/4 of '08?

3 A That's correct.

4 Q Did you promise Joseph Davis anything to get him to
5 talk to you on this day, 9/4/08?

6 A No, sir.

7 Q Did you read him each one of those rights twice?

8 A Yes, sir.

9 Q Did he initial each one of them twice?

10 A Yes, sir, he did.

11 Q And is that represented on Court's Exhibit Six and
12 Seven?

13 A Yes, sir. On both Six and Seven.

14 Q So you advised him of his Miranda Rights on more than
15 one occasion.

16 A That's correct.

17 Q So now would it be fair to say that at this point in
18 this case, we're talking about he's been advised of his
19 Miranda Rights four times; is that right?

20 A That would be correct.

21 Q That you participated in; is that correct?

22 A That's correct.

23 Q At each of these times, did anyone -- you or anybody
24 else in your presence make any threats or promises to get
25 Mr. Davis to give you any statements?

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- 1 A No, sir.
- 2 Q Do you recall, were any members of SLED with you when
3 this occurred?
- 4 A Yes, sir. On both interviews, Special Agent J.J. Evans
5 and Special Agent Teddy Cone were present with me.
- 6 Q All right. And again, there is a videotaped statement
7 that you reviewed at my request this morning, along with a
8 transcription of it, and you have testified that is accurate
9 as to what the interview was on 9/4/08; is that correct?
- 10 A That's correct, sir.
- 11 Q And on the interview, do you actually see you advising
12 Mr. Davis of his rights?
- 13 A Yes, sir.
- 14 Q All right. As to at least the second document, I
15 believe Court's Exhibit Number Seven; is that correct?
- 16 A That's correct.
- 17 Q And do you go over the rights with him?
- 18 A Yes, sir.
- 19 Q As a matter of fact, after you read each rights and he
20 says "Yes, sir, I understand it," don't you also say, "Are
21 you sure"?
- 22 A Yes, sir, I did.
- 23 Q And does he indicate he's sure?
- 24 A He did.
- 25 Q And did he talk to you?

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1 A Yes, sir, he did.

2 Q Now, when he gave you the second statement, was it a
3 little bit different than that first statement he gave you?

4 A Yes, sir, it was.

5 Q In the first statement, I believe it was read to by
6 Chauncey Solomon, the first statement he basically said he
7 was there when Ronnie was shot, but he was the lookout man.

8 A That's correct.

9 Q I mean, I'm paraphrasing, but is that a fair
10 assessment?

11 A Yes, sir.

12 Q In the second statement, does he give a little bit more
13 detail?

14 A Yes, sir, he did.

15 Q And who does he say was involved in the second
16 statement?

17 A His brother, Shawn ---

18 **THE COURT:** Is there any objection to Court's Exhibit
19 Six and Seven?

20 **MS. SMART-GITTINGS:** No, Your Honor.

21 **THE COURT:** Very well. Court's Exhibit Six and Seven
22 will be admitted into evidence, without objection, for the
23 purpose of this hearing. You may proceed.

24 (Court Exhibit Number Six, State Law Enforcement
25 Division Miranda Form, is received into evidence.)

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1 (Court Exhibit Number Seven, State Law Enforcement
2 Division Miranda Form, is received into evidence.)

3 **DEP. SOLICITOR THORNTON:** Thank you, Your Honor. And,
4 Your Honor, I informed defense counsel as well, I will be
5 placing this tape for Your Honor shortly. I just wanted to
6 get the basics out of the way.

7 **THE COURT:** All right.

8 **DIRECT EXAMINATION CONTINUES:**

9 Q Captain Russell, when Joseph Davis gave you a statement
10 on that day, who did he say was involved in the murder of
11 Ronnie Wooten?

12 A His brother, Shawn Davis, a cousin of his, Derrick
13 Adkins, and another cousin of his, Marquis Bryant.

14 Q And what did he indicate about Marquis?

15 A Marquis was the driver of the vehicle and Marquis is
16 the one that dropped them off at the store.

17 Q Okay. And again, I'll play this for the Court
18 momentarily. But in the prior statement, Mr. Davis
19 indicated other individuals and he was basically the lookout
20 man. Did he admit to more involvement in this videotaped
21 statement?

22 A Yes, sir, he did.

23 Q In fact, doesn't he claim that he's the trigger man, in
24 this statement?

25 A Yes, sir, he did.

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- 1 Q The one that murdered Ronnie Wooten?
- 2 A Yes, sir, he did.
- 3 Q And that's been videotaped?
- 4 A That's correct.
- 5 Q Now, prior to the videotaping or after the videotaping,
- 6 did anybody threaten him in any way?
- 7 A No, sir.
- 8 Q Coerce him in any way?
- 9 A No, sir.
- 10 Q Make him any promises of leniency?
- 11 A None at all.
- 12 Q And I'm sorry, I know you probably did testify to this,
- 13 but who were the -- were there any SLED agents in the room?
- 14 A Yes, sir. Special Agent J.J. Evans and Special Agent
- 15 Teddy Cone.
- 16 Q All right.
- 17 **DEP. SOLICITOR THORNTON:** Your Honor, with the Court's
- 18 permission, I'd like to go ahead and play this. Or I can
- 19 wait till the rest of the witnesses are done, so we can get
- 20 the screen down and all that.
- 21 **THE COURT:** Which one would you prefer?
- 22 **DEP. SOLICITOR THORNTON:** I tell you, Judge, if it's
- 23 all right with you, I'll go ahead and put the other two
- 24 witnesses up, and then I'll play this at the end.
- 25 **THE COURT:** All right. Let's let her cross-examine ---

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1 **DEP. SOLICITOR THORNTON:** Yes, sir.

2 **THE COURT:** --- this witness. And I thought you were
3 finished with him.

4 **DEP. SOLICITOR THORNTON:** I am finished with him on
5 this matter, Judge. Thank you.

6 **THE COURT:** Cross-examination?

7 **MS. SMART-GITTINGS:** May it please the Court, Your
8 Honor?

9 **CROSS-EXAMINATION**

10 **BY MS. SMART-GITTINGS:**

11 Q Captain Russell, did you take notes of the interview
12 that you had at 10:07 a.m. with Joseph Davis?

13 A No, ma'am.

14 Q And you were present on the interview of August 28th,
15 correct?

16 A Yes, ma'am. That's correct.

17 Q And you signed as a witness to that, correct?

18 A That's correct.

19 Q Did you do any subsequent investigation after August
20 22nd on the Ronnie Wooten case?

21 A I think I had.

22 Q Did you make any notes to that subsequent
23 investigation?

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

25 Q Did you interview any suspects after August 28th? I'm

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1 sorry, after August 22nd?

2 A I'm not sure if I did or not. I'd have to look at the
3 case file.

4 Q But you don't recall doing any subsequent interviews
5 after August 22nd, correct?

6 A I don't recall.

7 Q And Joseph didn't send you a note stating that he
8 wouldn't talk to you; did he?

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

10 Q So you initiated the September 4th meeting with Joseph;
11 didn't you?

12 A September the ---

13 **THE COURT:** Counsel, bring your file and come up to the
14 podium and use the microphone, because if you're going to
15 look down and talk, I want my witnesses to be able to hear
16 you, and I want to be able to hear you. Go ahead. It's on;
17 isn't it? Tap it for me.

18 Q So you initiated the meeting on September the 4th,
19 correct?

20 A I'm not sure how the meeting was -- it wasn't a
21 meeting; it was an interview.

22 Q You initiated the interview?

23 A Yes, I did.

24 Q And how did he get from the jail to the sheriff's
25 office?

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- 1 A Apparently one of our deputies transported him there.
- 2 Q But you don't recall how he got there.
- 3 A No, ma'am.
- 4 Q What time did he arrive at the sheriff's office?
- 5 A It had to have been shortly before the interview
- 6 started.
- 7 Q And the interview started at 10:07?
- 8 A That's correct.
- 9 Q But that interview was not recorded, correct?
- 10 A No, ma'am, it wasn't.
- 11 Q And how long did that interview last?
- 12 A Maybe an hour, an hour and a half.
- 13 Q Did you have audio available during that interview?
- 14 A We had audio and the video available during the
- 15 interview.
- 16 Q But you decided not to record the interrogation; didn't
- 17 you?
- 18 A Well, I think during that time, it was against SLED
- 19 policy to interview. And during the second interview,
- 20 that's when I contacted the Solicitor's Office and they
- 21 strongly recommended us to use audio and video, and that's
- 22 why we did that one. It was all done during the same day.
- 23 Q So did you take a break from ten to two?
- 24 A Yes.
- 25 Q And you took Joseph back to the jail?

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- 1 A Yes.
- 2 Q And he was able to eat, drink, and all that stuff?
- 3 A Yes, ma'am, he was. I'm not sure he did, but he was
- 4 able to do that.
- 5 Q You told Joseph that you didn't believe his August 22nd
- 6 statement; didn't you?
- 7 A I don't recall telling him whether I believed it or
- 8 not. But we took a statement from him, just based on the
- 9 facts that he knew.
- 10 Q So Joseph didn't initiate it. You don't have any notes
- 11 of any subsequent investigation, but you initiated another
- 12 meeting with him on September the 4th?
- 13 A That's correct.
- 14 Q And you didn't tell him that you didn't believe his
- 15 first statement.
- 16 A No, I'd never tell him that.
- 17 Q So what made you think he would give a different
- 18 statement?
- 19 A Just the facts that he give in the first statement just
- 20 wasn't adding up.
- 21 Q But the second ---
- 22 A We went back the second time to interview him and
- 23 that's when your client decided to tell the truth.
- 24 Q Okay. Your version of the truth?
- 25 A The facts that he gave.

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- 1 Q You didn't tell him he was lying on the first
2 statement?
- 3 A I don't ever recall telling him that, no, ma'am.
- 4 Q You didn't tell him you already knew what happened and
5 you wanted him to cooperate with you?
- 6 A No.
- 7 Q You didn't tell him that you wanted him to tell you the
8 truth?
- 9 A That's always the case when we interview somebody;
10 that's all we want is the truth.
- 11 Q Now, he had a written statement in front of him on the
12 video. What was that?
- 13 A Joseph had a written statement?
- 14 Q Yes. There's a notepad in front of him that has
15 writing on it; what is that?
- 16 A I -- I have no idea.
- 17 Q You can't recall. You know Joseph's family; don't you?
- 18 A Yes, ma'am, I do.
- 19 Q You knew his mother, Phoebe?
- 20 A Yes.
- 21 Q And you knew his grandmother, Julia Davis?
- 22 A Yes, ma'am. Know them well.
- 23 Q And his aunt, Vermill Morris?
- 24 A Vermill, yes.
- 25 Q And Pearlle Mae Mitchell, you know them as well?

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- 1 A Yes, ma'am, I do.
- 2 Q Didn't you promise Joseph that you would reopen his
3 mother's murder investigation if he told you what happened?
- 4 A No, ma'am. No promises were made.
- 5 Q So you didn't promise Joseph that if he told you that
6 he shot Ronnie Wooten, that you would reopen his mother's
7 murder?
- 8 A No, ma'am. No.
- 9 Q Did you call Pearlle Mae Mitchell that day?
- 10 A I don't see why would I call her that day.
- 11 Q What about ---
- 12 A On which day are you referring to, though?
- 13 Q On September the 4th, did you contact Joseph's family
14 and have them come to the sheriff's office annex?
- 15 A I contacted Joseph Davis' family shortly after the
16 interview because of the fact that he revealed to us about
17 some -- an incident that took place with his mom. And he
18 wanted to put on record that the killer was still on the
19 loose. He felt like during that case, they didn't have the
20 right guy. And I turned that case over to SLED.
- 21 Q As a matter of fact, he told you that Johnny Barnes
22 killed his mother; didn't he?
- 23 A He mentioned several names, but ---
- 24 Q And he told you that Danny Bennett found his mother's
25 body, correct?

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1 A He -- he mentioned several names. But during that
2 interview, that's what's -- I wasn't there for that. I was
3 there for the Ronnie Wooten case.

4 Q But you're stating under oath that you did not promise
5 Joseph that you would reopen his mother's murder case?

6 A I did not promise Joseph, because I -- I didn't know
7 anything about that case. So I couldn't reopen something
8 that I had no knowledge about.

9 Q You told Joseph that he shot Ronnie Wooten in self-
10 defense; didn't you?

11 A No, ma'am.

12 Q You didn't tell him that he could say that he shot him
13 for his safety?

14 A Why would I say that?

15 MS. SMART-GITTINGS: I don't have any other questions,
16 Your Honor.

17 THE COURT: Redirect?

18 DEP. SOLICITOR THORNTON: None, Judge. I ask he be
19 allowed to have a seat.

20 THE COURT: You may step down. Call your next witness.

21 DEP. SOLICITOR THORNTON: Your Honor, may we approach?

22 THE COURT: Counsel, approach. Want to come to
23 sidebar?

24 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
25 AND OUT OF THE HEARING OF THE JURY.)

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Direct Examination of Agent Teddy Cone by Dep. Sol. Thornton

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- 1 forms.
- 2 Q All right, sir. And were they -- are they filled out
- 3 or are they blank?
- 4 A They're filled out.
- 5 Q All right. In what case were these statements taken in
- 6 reference to?
- 7 A The Ronnie Wooten murder.
- 8 Q All right, sir. And were you present when those
- 9 Miranda forms were filled out?
- 10 A I was.
- 11 Q And were each of those Miranda forms ---
- 12 **DEP. SOLICITOR THORNTON:** And forgive me, Judge.
- 13 Q --- in Six and Seven, were the rights listed on those
- 14 forms read to anyone in particular?
- 15 A They were. They were read to Joseph Davis.
- 16 Q Do you see Joseph Davis sitting in the courtroom?
- 17 A I do.
- 18 Q And where is he, sir?
- 19 A In the green.
- 20 Q All right. And were you present when those rights were
- 21 read to him?
- 22 A I was.
- 23 Q As to both Six and Seven?
- 24 A Yes, I was.
- 25 Q So in your presence, he was Mirandized twice in the

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1 same day.

2 A Correct. Once at 10:07 a.m. and at 2:19 p.m.

3 Q And both on 9/4/08; is that correct?

4 A 9/4/08. That's Hampton County/Varnville Sheriff's
5 Office Annex.

6 Q After the second -- I believe you said 2:19. After the
7 second Miranda form, did Joseph Davis provide a videotaped
8 statement?

9 A On the 2:19 p.m., yes, was the video statement.

10 Q All right. And at my request, did you review a video
11 and transcription this morning of that statement?

12 A I did.

13 Q And is it a fair and accurate depiction of what Joseph
14 Davis told you on that day?

15 A It is.

16 Q Did anybody threaten anything, threaten Joseph Davis
17 with anything to get him to talk?

18 A No.

19 Q Did anybody make any promises about lighter sentences?

20 A No.

21 Q Anybody promise to reopen some murder investigation if
22 he talked?

23 A No.

24 Q Did anybody order him to talk, or else?

25 A No.

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1 Q When he gave his statement, sir, were people coaching
2 him? Or did he just give a narrative and then you asked
3 questions and they were answered?

4 A He gave his statement and it was his statement.

5 Q Did he seem to have any trouble understanding his
6 rights or understanding what was going on?

7 A No.

8 Q Did he stop anybody and ask them to explain anything
9 else?

10 A No.

11 Q As a matter of fact, on the tape, doesn't it also show
12 Captain Russell asking him does he understand his rights?
13 And then, "Are you sure?"

14 A He was asked several times if he understood, and each
15 time he indicated he fully understood his rights.

16 Q Did he have any trouble verbalizing what happened that
17 day?

18 A No.

19 Q Did he have any trouble explaining what went on that
20 day?

21 A No.

22 Q Did he seem to you to be under the influence of any
23 medications or alcohol?

24 A Not at all.

25 Q Did he seem to you to be of such a low mental ability

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1 or mental IQ that he didn't know what was going on and he
2 didn't understand what you guys were doing?

3 A Not at all. He was asked several times, again and
4 again, if he understood his rights, and he clearly indicated
5 he did.

6 Q And would it be fair to say that Captain Russell was
7 one of the primary questioners on the video?

8 A Captain Russell was.

9 Q All right. And did you also ask a couple of questions?

10 A Towards the end.

11 Q All right, sir. And was there anybody else from SLED
12 with you that day?

13 A Agent Evans, J.J. Evans.

14 Q All right. And did Agent Evans ask him any questions?

15 A He did.

16 Q Okay. There is a -- did you sign anywhere as a witness
17 on there?

18 A I did.

19 Q I'm sorry. Did you sign anywhere on Six or Seven as a
20 witness?

21 A As a witness on the bottom left on Six and Seven.

22 Q All right. So you were a witness to those Miranda
23 Warnings being given?

24 A I was.

25 Q As a matter of fact, isn't the Miranda Warnings on

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1 Seven, isn't that read to Joseph Davis on videotape?

2 A It is.

3 Q And did he sign it on videotape?

4 A He did.

5 Q And initial each one on videotape?

6 A He did.

7 Q And again, no promises, no threats in your presence?

8 A Not at all.

9 Q And you're there on the videotape when this is going

10 on?

11 A I am.

12 Q Now, when you first talked to him prior to the video on

13 the ten o'clock statement on November the 8th on Court's

14 Exhibit Six, it's been brought up that that one is not

15 videotaped.

16 A That's correct.

17 Q All right. While you weren't on videotape, did you

18 assault Mr. Davis?

19 A Not at all.

20 Q Did you threaten him in any way?

21 A Not at all.

22 Q Did you tell him what to say, so that he'd say that

23 when you cut the videotape on?

24 A Not at all.

25 **DEP. SOLICITOR THORNTON:** I don't have anything

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1 further, Your Honor.

2 Q I'd ask you please answer any questions Ms. Smart-
3 Gittings has.

4 **THE COURT:** Cross-examination?

5 **MS. SMART-GITTINGS:** May it please the Court, Your
6 Honor.

7 **CROSS-EXAMINATION**

8 **BY MS. SMART-GITTINGS:**

9 Q Mr. Cone, did you take any notes on September the 4th?

10 A I did.

11 Q Do you have those notes with you?

12 A It's in the memo of interview.

13 Q I'm sorry?

14 A It's in the memo of the interview.

15 Q But do you have those with you?

16 A No, I don't.

17 Q Did you provide a supplemental report as a result of
18 the investigation?

19 A I did a memo of the interview off of the statement
20 taken on the 4th.

21 Q And the tape recorder did not start at 10:17; did it?

22 A Excuse me?

23 Q The tape recorder or the audio of the interview did not
24 start at 10:17?

25 A For which interview?

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- 1 Q On September the 4th.
- 2 A I mean, which time?
- 3 Q At 10:17 a.m.
- 4 A 10:17? I had one at 10:07.
- 5 Q 10:07. Is the tape ---
- 6 A It was not audio or video recorded.
- 7 Q It was not.
- 8 A It was not.
- 9 Q And how long did that last?
- 10 A I don't recall.
- 11 Q So you don't recall what time the interrogation started
- 12 or stopped?
- 13 A I didn't -- no, I did not make a note when it started
- 14 or stopped.
- 15 Q And Joseph didn't send you a note or notify you that he
- 16 wanted to speak with you; did he?
- 17 A Not to me.
- 18 Q So your office and the sheriff's office initiated this
- 19 interrogation?
- 20 A The sheriff's office would have.
- 21 Q And they asked you to come down and sit?
- 22 A That's correct.
- 23 Q And did you do any subsequent interviews or an
- 24 investigation after August 22nd of 2008?
- 25 A August 22nd?

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- 1 Q Yes.
- 2 A Well, there were several other individuals, yes.
- 3 Q That you interviewed?
- 4 A Yeah, regarding this case.
- 5 Q And based on those interviews, you thought it necessary
- 6 to re-interview Joseph?
- 7 A Well, that was after August 22nd. These were both on,
- 8 let's see, September 4th.
- 9 Q I mean, with anyone other than Joe?
- 10 A Yeah. There was three other individuals involved in
- 11 this. Numerous interviews.
- 12 Q Were you aware that Joseph was taking the antipsychotic
- 13 drug, Thorazine?
- 14 A I had no reason to.
- 15 Q Did you know that he had learning disabilities?
- 16 A No, I didn't.
- 17 Q Now, with regard to Joseph's wording, "I, Joseph
- 18 Davis," did you instruct him to say his full legal name?
- 19 A I did not.
- 20 Q So he referred to himself as "I, Joseph Davis"?
- 21 A That's what the video indicated.
- 22 Q Prior to the interview, let's talk about the 10:07
- 23 interrogation. Did he refer to himself as "I, Joseph
- 24 Davis"?
- 25 A I don't recall. It's not in my memo. I can read my

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1 memo of the interview.

2 Q Were you present with -- do you have any knowledge of
3 telling Joseph that his mother's murder investigation would
4 be re-opened if he confessed to this crime?

5 A I did not promise that. There were no promises.

6 Q You didn't promise him that. But you did tell him that
7 you would do it?

8 A I said we could look into it.

9 Q And you didn't tell him that to get you to confess?

10 A Absolutely ---

11 Q To get him to confess?

12 A --- not. That's a separate issue.

13 Q That's a separate issue, but isn't it true you told him
14 prior to him telling you that he shot Ronnie Wooten that you
15 would reopen this investigation?

16 A I said we could look into it.

17 Q Did he tell you that Johnny Barnes killed his mother?

18 A I don't recall.

19 Q Were you aware that Danny Bennett found his mother's
20 body?

21 A No. I mean, I remember him talking about it, but not
22 in specific details, anything that I would have knowledge
23 of. That was years ago.

24 Q You didn't think it was odd that he said that Johnny
25 Barnes sent him to Ronnie Wooten's store to kill him?

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1 **THE COURT:** Just a moment. Yes, sir.

2 **DEP. SOLICITOR THORNTON:** Objection as to relevance.

3 Judge, we're here about the Jackson v. Denno. We're not
4 here about did he think it was odd about this other murder
5 that's -- you know, this has nothing to do with whether he
6 gave a voluntary statement that day.

7 **THE COURT:** Solicitor, it is the Jackson Denno. I'm
8 trying to give you wide latitude on cross-examination, so
9 long as it relates to the issue of voluntariness or a
10 Jackson Denno situation and not necessarily unless you have
11 - unless this is impeachment, for some reason.

12 **MS. SMART-GITTINGS:** It does, Your Honor. We have
13 information that the promise was made. We have witnesses
14 that are going to testify ---

15 **THE COURT:** I think you've asked that question. I'll
16 allow you to ask it one more time, and let's move forward.

17 **CROSS-EXAMINATION CONTINUES:**

18 Q So you're under oath telling this Court that you were
19 not aware that Joseph was taking antipsychotic medications
20 and you did not make any promises?

21 A I did not make Joseph any promises, and I was not aware
22 if he was taking any kind of medication.

23 **MS. SMART-GITTINGS:** I don't have any other questions,
24 Your Honor.

25 **THE COURT:** Redirect?

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1 **DEP. SOLICITOR THORNTON:** I have none, Judge.

2 **THE COURT:** As to this witness?

3 **DEP. SOLICITOR THORNTON:** Ask that he be allowed to
4 remain back in the room.

5 **THE COURT:** He's been instructed about sequestration?

6 **DEP. SOLICITOR THORNTON:** I have instructed all of them
7 about sequestration

8 **THE COURT:** You may step down. Leave my exhibits right
9 there for me, if you would. And you can step back to the
10 room and remain with us. Please don't discuss your
11 testimony. Call your next witness.

12 **DEP. SOLICITOR THORNTON:** J.J. Evans.

13 **WHEREUPON, J.J. EVANS IS DULY SWORN.**

14 **THE COURT:** Have a seat. Make yourself comfortable.
15 State your full name and spell your last name for the court
16 reporter.

17 **MR. EVANS:** John J. Evans, E-V-A-N-S.

18 **THE COURT:** Your witness, Counsel.

19 **DIRECT EXAMINATION**

20 **BY DEP. SOLICITOR THORNTON:**

21 Q Special Agent Evans, who do you work for?

22 A The South Carolina Law Enforcement Division, also known
23 as SLED.

24 Q All right. And did you work for SLED on or about
25 September of 2008?

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1 A I did.

2 DEP. SOLICITOR THORNTON: Your Honor, may I approach?

3 THE COURT: You may.

4 Q Sir, if you'll look at Item Six and Seven, Court's
5 Exhibit Number Six and Seven, can you identify those two
6 documents?

7 A These are SLED Miranda Rights forms. One is from
8 2/19/08 and one is from 9/4 of '08.

9 Q The one that you're looking at says 2/19/08, would you
10 look carefully at that document and see if maybe there is an
11 error on the date?

12 A Yes, sir. It would appear to be.

13 Q All right. Would both of those statements have been
14 taken on the same date, 9/4/08?

15 A Yes, sir.

16 Q And the one that's 2/19/08, that was actually taken at
17 2:19 p.m.; is that correct?

18 A Correct.

19 Q And the other one was taken at, I believe, 10:07 or
20 10:10 ---

21 A Yes.

22 Q --- in the morning?

23 A That's right.

24 Q All right, sir. So both of those were the same day; is
25 that right?

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- 1 A Yes, sir.
- 2 Q Were you present when both of those Miranda Warnings
3 were given to Joseph Davis?
- 4 A I was.
- 5 Q All right. And it's already been testified to about
6 what's on those forms. Were you present as to each of his
7 rights being read to him? "He" being Joseph Davis?
- 8 A Yes, sir.
- 9 Q On Six and Seven?
- 10 A It's my recollection, yes, sir.
- 11 Q All right, sir. And after the warnings given on Seven,
12 was a videotaped statement taken from Joseph Davis?
- 13 A It was.
- 14 Q And on that videotape -- did you review a videotape at
15 my request this morning, along with a transcription
16 underneath it?
- 17 A Yes, sir.
- 18 Q And is that a true and accurate recording of Joseph
19 Davis' interview on 9/4 of '08?
- 20 A Yes, sir, it was.
- 21 Q All right. While you were present, was Mr. Davis
22 threatened in any way to get him to talk?
- 23 A No, sir.
- 24 Q Was he instructed on what to say?
- 25 A No, sir.

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- 1 Q Were any promises made to him to get him to talk?
- 2 A No, sir.
- 3 Q Did anybody threaten him in any way?
- 4 A No, sir.
- 5 Q Are you absolutely sure that each one of the Miranda
- 6 Warnings listed on Six and Seven were read to him that day?
- 7 A Yes, sir.
- 8 Q Did he initial next to each line?
- 9 A He did.
- 10 Q And did he sign?
- 11 A He did.
- 12 Q And did he indicate during your interview or during the
- 13 interview when you were present any problems understanding
- 14 what y'all were asking or talking about?
- 15 A None at all.
- 16 Q And did he give a narrative to start this video off?
- 17 Does he give a narrative? Or did you have to prompt him on
- 18 what to say?
- 19 A He -- he just came right out and said it.
- 20 Q All right. And during that interview, is he asked
- 21 questions?
- 22 A Some. Yes, he is.
- 23 Q All right. And did he seem to have a problem
- 24 understanding what was being asked of him?
- 25 A No, sir.

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1 Q Or any problem understanding the English language?

2 A He did not appear to me, sir.

3 Q Did he appear to be under the influence of any
4 narcotics or medications?

5 A No, sir.

6 Q Or alcohol?

7 A No, sir.

8 Q Any question in your mind that according to your
9 observations, he knew what he was doing?

10 A He knew what he was doing.

11 Q All right, sir.

12 **DEP. SOLICITOR THORNTON:** Your Honor, at this time, I
13 have no other questions for Mr. Evans. Thank you.

14 **THE COURT:** Cross-examination?

15 **MS. SMART-GITTINGS:** May it please the Court?

16 **THE COURT:** Yes, ma'am.

17 **CROSS-EXAMINATION**

18 **BY MS. SMART-GITTINGS:**

19 Q Agent Evans, do you know who filled out State's Number
20 Seven, the initial ---

21 **THE COURT:** Court's Exhibit Number Seven?

22 **MS. SMART-GITTINGS:** Court's Exhibit Number Seven.

23 **THE COURT:** We're not in the trial yet, defense
24 counsel. This is a Jackson Denno Hearing.

25 **MS. SMART-GITTINGS:** Excuse me, Your Honor.

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1 Q Agent Evans, do you know who filled out the line where
2 it says "place, date and time"?

3 A I believe it was Captain Russell.

4 Q You believe Captain Russell did that?

5 A Yes, ma'am.

6 Q Were you aware that Mr. Davis was taking any medication
7 prior to this interview?

8 A No, ma'am.

9 Q Were you aware of any promises made to Mr. Davis to
10 open his mother's murder investigation if he cooperated?

11 A No, ma'am.

12 Q Did you have the opportunity to meet any of Mr. Davis'
13 family members?

14 A I know that I did, but I don't remember who.

15 MS. SMART-GITTINGS: I don't have any other questions,
16 Your Honor.

17 THE COURT: Redirect?

18 DEP. SOLICITOR THORNTON: No, Your Honor.

19 THE COURT: As to this witness?

20 DEP. SOLICITOR THORNTON: Ask that he be excused. He
21 has something in Columbia he needs to do, Judge, at two
22 o'clock. I'd ask he be excused.

23 THE COURT: Has he been advised ---

24 DEP. SOLICITOR THORNTON: He has been advised.

25 THE COURT: So he understands?

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1 **DEP. SOLICITOR THORNTON:** Yes, sir.

2 **THE COURT:** Any objection to this witness being

3 excused?

4 **MS. SMART-GITTINGS:** No objection, Your Honor.

5 **THE COURT:** You may step down, J.J. You're excused

6 from the courtroom.

7 **MR. EVANS:** Thank you, sir.

8 **THE COURT:** Call your next witness.

9 **DEP. SOLICITOR THORNTON:** Your Honor, James Freeman.

10 **THE COURT:** I'll give you a break. Is this your last

11 one?

12 **DEP. SOLICITOR THORNTON:** Yes, sir. And then I've got

13 ---

14 **THE COURT:** I'll give you a break so we can get the

15 screen in here to set up.

16 **DEP. SOLICITOR THORNTON:** Thank you, Your Honor.

17 WHEREUPON, JAMES FREEMAN IS DULY SWORN.

18 **THE COURT:** Come on up, James.

19 **MR. FREEMAN:** How you doing, sir?

20 **THE COURT:** Have a seat and make yourself comfortable.

21 Pull that microphone and adjust it. Speak up for me so

22 everybody in the courtroom can hear you. State your full

23 name. Spell your last name for the court reporter.

24 **MR. FREEMAN:** James Freeman, F-R-E-E-M-A-N.

25 **THE COURT:** Everybody can hear you, James.

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DIRECT EXAMINATION

1
2 **BY DEP. SOLICITOR THORNTON:**

3 Q Mr. Freeman, who do you work for?

4 A I work for the Hampton County Sheriff's Department,
5 sir.

6 Q And who did you used to work for?

7 A South Carolina Law Enforcement Division.

8 Q All right. Mr. Freeman, I'm going to hand you ---

9 **DEP. SOLICITOR THORNTON:** May I approach, Judge?

10 **THE COURT:** You may.

11 Q I'm going to hand you what's been marked for
12 identification as Court's Exhibit Number Eight. Can you
13 identify that document?

14 A Yes, sir.

15 Q And what is that?

16 A This is a statement, a voluntary statement, from Joseph
17 Davis.

18 Q All right. And did you take that statement from Mr.
19 Davis?

20 A Yes, sir. He wrote it. I was present.

21 Q All right. And did you -- is there any place on
22 Court's Exhibit Eight where anybody would think of as
23 Miranda Rights or rights are printed?

24 A Yes, sir.

25 Q And did you go over those with him?

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1 A. Yes, sir.

2 Q And would you please read what you went over with him?

3 A Says "I am giving this statement to Detective Freeman,
4 for which he did not quite identify himself as a detective,
5 and has been duly warned that I have the following rights.
6 That I have the right to remain silent and not make any
7 statements at all. And that any statement I make may be
8 used against me at my trial.

9 That my statement I make may be used as evidence
10 against me in court. And that I have the right to have a
11 lawyer present to advise me prior to and during my
12 questioning. And if I am unable to employ a lawyer, I have
13 the right to have a lawyer appointed to advise me prior to
14 and during my questioning. And that I have the right to
15 terminate the interview at any time.

16 Prior to and during the making of this statement, I
17 have and do hereby knowingly, intelligently, and willingly
18 voluntarily waive the above as plain rights that I do make
19 the following voluntary statement to the aforementioned
20 person of my own free will and without any promises of
21 offers or favors, without compulsion or persuasion by any
22 person or person whosoever."

23 Q Mr. Freeman, after reading that to Joseph Davis, did he
24 give you a -- or did he write down a statement to give to
25 you?

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1 A Yes, he did.

2 Q And was that written in his own hand?

3 A Yes, it was.

4 Q All right. Can you read that statement, please?

5 A Okay. "I, Joseph Davis, was at Ronnie Wooten's store
6 just before he got shot, about two days before. Monty
7 Wooten was asking me to plan a murder on Ronnie Wooten. I,
8 Joseph Davis, told him 'No,' but he said did -- did ever --
9 did I ever plan a robbery? I, Joseph Davis, told Monty
10 Wooten 'Yes, I can do that.' I, Joseph Davis, to ask him
11 how much will he pay me? Monty Wooten said 'Ten thousand
12 dollars.'

13 So, on June -- on that night, I, Joseph Davis, Derrick
14 Adkins, Shawn, and Monty, Marvin Brandy went through Furman
15 and ended up at the stop sign from Ronnie Wooten's store.
16 Monty Wooten dropped I, Joseph Davis, Shawn Davis, Derrick
17 Adkins, all by the bridge as I, Joseph Davis, Shawn Davis,
18 Derrick Adkins went running in the woods.

19 Then Joseph Davis, Shawn Davis, Derrick Adkins was
20 walking through Ronnie Wooten's store. When I, Joseph
21 Davis, Shawn Davis, Derrick Adkins got to the old car,
22 truck, I, Joseph Davis went to talk to Monty Wooten to give
23 him the 20 -- give him the 22 pistol. I left and went back
24 where Shawn Davis and Derrick Adkins was at.

25 Then I, Joseph Davis, Shawn Davis, and Derrick Adkins

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1 walked onto the side of the store. I, Joseph Davis, went
2 into the store where Monty Wooten was -- where Monty Wooten
3 was supposed to meet me at. When I got there on -- when I
4 got there, Ronnie Wooten was shot by Monty Wooten. Derrick
5 Adkins, Shawn Davis came in there and checked the cash
6 register while I, Joseph Davis, turned Ronnie Wooten over.
7 I, Joseph Davis, checked Ronnie Wooten's socks and pants.
8 The money wasn't there. So I, Joseph Davis, Shawn Davis,
9 and Derrick left."

10 Q And is that statement signed ---

11 A Statement is signed by Joseph Davis.

12 Q So, Mr. Freeman, in that statement, Mr. Davis admits to
13 everything, except the shooting, and blames that on the
14 victim's brother in a murder-for-hire scheme; would that be
15 accurate?

16 A Yes, sir.

17 Q Did you make any promises to Joseph Davis to get him to
18 make this statement?

19 A No, sir.

20 Q Did you threaten him in any way to get him to make that
21 statement?

22 A No, sir.

23 Q Did he seem to be under the influence of any alcohol or
24 drugs or anything else when he gave you that statement?

25 A No, sir.

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1 Q All right. And did anybody else threaten him or
2 promise him anything in your presence when he wrote that
3 statement?

4 A No, sir.

5 **DEP. SOLICITOR THORNTON:** Your Honor, I'd ask that
6 Court's Exhibit Number Eight be admitted, for purposes of
7 this hearing.

8 **THE COURT:** Any objection as to Court's Exhibit Eight?

9 **MS. SMART-GITTINGS:** No, sir, Your Honor.

10 **THE COURT:** Court's Exhibit eight will be admitted for
11 purposes of this hearing, without objection.

12 (Court's Exhibit Eight, statement, received into
13 evidence.)

14 **THE COURT:** You may publish. I assume you already
15 have.

16 **DEP. SOLICITOR THORNTON:** I did, yes, sir. And, Your
17 Honor, at this time, I have no further questions for Mr.
18 Freeman; if Ms. Gittings has any.

19 **THE COURT:** Very well. Cross-examination?

20 **CROSS-EXAMINATION**

21 **BY MS. SMART-GITTINGS:**

22 Q Detective Freeman ---

23 A Yes, ma'am.

24 Q --- did you know that Joseph was taking antipsychotic
25 medications?

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1 A Ma'am, you will have to speak a little louder.

2 THE COURT: Use the microphone, Counsel.

3 Q Did you know that Joseph was taking antipsychotic
4 medications?

5 A No, ma'am.

6 Q Did you initiate this interview?

7 A Say what?

8 Q Did you ask Joseph to talk to you?

9 A Did I ask what? I'm sorry; I can't hear you, ma'am.
10 Talk in that microphone.

11 Q Did you bring Mr. Davis to talk to you?

12 A Yeah, he talked to me.

13 Q Did he tell you that he wanted to talk to you before
14 you brought him to talk to you?

15 A No. This is only time when I talked to him.

16 MS. SMART-GITTINGS: I don't have any other questions.

17 THE COURT: Redirect?

18 REDIRECT EXAMINATION

19 BY DEP. SOLICITOR THORNTON:

20 Q I'll just try to clear that up. Mr. Freeman, I think
21 what Ms. Gittings was after is: Did Joseph send you a note
22 or anything, he wanted to talk to you? Or did you bring him
23 over to talk to you?

24 A No.

25 Q All right. So Joseph did not send you a note about

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1 wanting to talk to you?

2 A Send me a note?

3 Q Yes..

4 A No. I didn't get a note from him, to my knowledge.

5 Q Thank you very much.

6 A Been quite a while. I don't remember getting a note.

7 Q That's fine.

8 DEP. SOLICITOR THORNTON: Thank you, Your Honor.

9 THE COURT: Re-cross, limited to redirect.

10 MS. SMART-GITTINGS: None, Your Honor.

11 THE COURT: As to this witness, Solicitor?

12 DEP. SOLICITOR THORNTON: Ask that he be excused,

13 Judge.

14 THE COURT: Has he been advised as to sequestration?

15 DEP. SOLICITOR THORNTON: He has, Your Honor, and ask

16 he have a seat back in the room back there.

17 THE COURT: Any objection?

18 MS. SMART-GITTINGS: No, sir, Your Honor.

19 THE COURT: Then you may step down from the -- you can

20 let me have that. Thank you, sir. You're excused from the

21 courtroom. Call your next witness, Solicitor.

22 DEP. SOLICITOR THORNTON: Your Honor, I need to play

23 the videotape, and I believe that will be it.

24 THE COURT: All right. Hold on one second. Let me

25 look at Court's Exhibit Number Eight. I hadn't had a chance

1 to. Then, we'll take a break and let you set the equipment
2 up.

3 **DEP. SOLICITOR THORNTON:** Yes, sir.

4 (Off the record, briefly.)

5 **THE COURT:** All right. We'll take about a five minute
6 break at this time and let you set the equipment up.

7 **DEP. SOLICITOR THORNTON:** Thank you, Your Honor.

8 (Off the record, briefly.)

9 **THE COURT:** State ready to proceed?

10 **DEP. SOLICITOR THORNTON:** Yes, sir.

11 **THE COURT:** Is the defendant ready to proceed?

12 **MS. SMART-GITTINGS:** Yes, sir, Your Honor.

13 **THE COURT:** All right. My understanding during the
14 break, the screen has come down in the courtroom, Madame
15 Clerk. We have it down now. And I understand that my -- I
16 do not have what I thought, which was a volume level that I
17 tried to turn up the last witness. And now I've turned it
18 back down, and I assume that it's audio on this. So I'm
19 going to ask the Clerk, does the volume on my control work
20 on what's going to be shown on the screen or only on your
21 control?

22 **MADAME CLERK:** No, sir. I think it works on yours,
23 because yours is at 42 percent; mine is, too.

24 **THE COURT:** Okay. We do have the ability, for those of
25 you who can't hear for purposes of the screen -- Madame

1 Clerk, I'm going to ask you, because I've got people in the
2 courtroom, I'm going to ask you if you can take the lights
3 down for me.

4 **MADAME CLERK:** It's number five on your keypad, on this
5 wall, Judge. See that? Number five. We'll only take down
6 this area. It only will bring down this area. The rest of
7 the courtroom will be left on.

8 **THE COURT:** Thank you. All right. I think the screen
9 is visible for the people in the courtroom now. And if we
10 need to, we can turn the volume up. My understanding is
11 that we're now -- I don't know whether or not -- has the
12 tape which is the subject of what's going to be shown on the
13 screen been admitted into evidence, for purposes of this
14 hearing?

15 **DEP. SOLICITOR THORNTON:** I have not, Judge. I can
16 give you a separate copy and have it marked. Or I can give
17 you the copy of the CD that everybody's viewed for purposes
18 of this.

19 **THE COURT:** Ms. Smart-Gittings, is there any objection
20 to him publishing this tape? It needs to be marked in some
21 way for purposes of this hearing because, obviously,
22 Appellate Court needs to know what's being reviewed right
23 now by the people in the courtroom.

24 **DEP. SOLICITOR THORNTON:** Your Honor, I can give you --
25 I can have the disc marked right now.

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1 **THE COURT:** Any objection, Ms. Smart-Gittings?

2 **MS. SMART-GITTINGS:** No objection, Your Honor.

3 **THE COURT:** All right. Well, you ultimately marked it.
4 I assume this is going to be Court's Nine?

5 **DEP. SOLICITOR THORNTON:** It will be Court's Nine,
6 Judge.

7 **THE COURT:** Without objection, Ms. Smart-Gittings?

8 **MS. SMART-GITTINGS:** Without objection, Your Honor.

9 **THE COURT:** All right. What's going to be shown in the
10 courtroom, Madame Court Reporter, is going to be marked by
11 you, once we finish showing it, as Court's Exhibit Number
12 Nine, for purposes of this hearing, without objection by the
13 Defendant. Court's Nine. Solicitor, you may now publish
14 what is going to be marked as Court's Exhibit Number Nine.

15 **DEP. SOLICITOR THORNTON:** Yes, sir.

16 (Whereupon, DVD interview begins playing at 12:15 p.m.
17 and ends at 12:41 p.m.)

18 **THE COURT:** Solicitor, you want to mark the exhibit as
19 Court's Nine now?

20 **DEP. SOLICITOR THORNTON:** Yes, sir.

21 (Court Exhibit Nine, DVD interview of Joseph Davis,
22 received into evidence.)

23 **THE COURT:** If you put a sticker on it, does that
24 affect the ability to play it, in case it needs to be
25 played?

1 **DEP. SOLICITOR THORNTON:** No, sir, it still should
2 play. It still should play. I'll burn another copy for use
3 at trial, Judge, but it should play for any Appellate Court
4 that wishes to play it. I would also point out, I've shown
5 the CD itself to defense counsel. What I had them do,
6 Judge, just -- when I say "they," the officers who were a
7 part of that interview, I had each one of them initial the
8 CD itself, so that they could say that it was a true and
9 accurate representation. I will do it again before I
10 introduce an actual CD into the trial of this case, if you
11 find that it's ---

12 **THE COURT:** So you're referring to the officers who
13 have testified who were present at that interview on
14 September 4, 2008?

15 **DEP. SOLICITOR THORNTON:** Yes, sir. I had each one of
16 them initial that disc, and I will have them do it again, if
17 Your Honor does find that I can introduce this into
18 evidence.

19 **THE COURT:** I understand there is no objection for
20 purposes of this hearing from defense counsel. We're not at
21 the evidence stage yet; is that right, Ms. Smart-Gittings?

22 **MS. SMART-GITTINGS:** That's correct, Your Honor.

23 **THE COURT:** All right. Court's Exhibit Number Nine
24 will be admitted into evidence for purposes of the Jackson
25 Denno Hearing, without objection from the defendant.

1 Solicitor, you may call your next witness.

2 **DEP. SOLICITOR THORNTON:** It's all the witnesses I have
3 for the statements of the defendant, Judge.

4 **THE COURT:** Very well. Ms. Smart-Gittings, you may
5 present, now, any evidence and call any witnesses you choose
6 to present, for purposes of this hearing.

7 **MS. SMART-GITTINGS:** Your Honor, the defense calls
8 Vermill Morris. And she's in the back.

9 **THE COURT:** Are there any jurors in the courtroom?
10 Anyone here for jury duty that's come in the courtroom?

11 (NO RESPONSE.)

12 **THE COURT:** Let the record reflect, no jurors are
13 present.

14 **MS. SMART-GITTINGS:** Your Honor, we have to find where
15 they have our witnesses sequestered.

16 **THE COURT:** That would help us. We need a room; you
17 got to designate it. If you don't have one, I'll have the
18 Clerk give you one. Mylinda, go get her a room if she ---

19 **CLERK OF COURT:** That was already taken care of.

20 **THE COURT:** You already gave it to her? Well, then go
21 find out where they are then, so we don't have to do this
22 every time.

23 **THE COURT:** I understand the Clerk's given you a room.
24 And that's where your witnesses need to be, now. You asked
25 for this sequestration. I told you we weren't going to go

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Direct Examination of Vermill Morris by Ms. Smart-Gittings

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1 on a witness hunting trip.

2 **MS. SMART-GITTINGS:** Yes, sir.

3 (Whereupon, Ms. Vermill Morris enters the courtroom.)

4 WHEREUPON, VERMILL MORRIS IS DULY SWORN.

5 **THE COURT:** State your full name. Spell your last name
6 for my court reporter, please, ma'am.

7 **MS. MORRIS:** Vermill Morris, M-O-R-R-I-S.

8 **THE COURT:** You need to speak up for me, Ms. Morris.
9 Adjust that microphone. You don't have to get so close to
10 it. Elevate your voice a little bit; speak up so everybody
11 can hear. I'm going to make the lawyers use the microphone,
12 so you can hear them.

13 **MS. MORRIS:** Okay.

14 **THE COURT:** Your witness, Counsel.

15 **DIRECT EXAMINATION**

16 **BY MS. SMART-GITTINGS:**

17 Q Good morning, Ms. Morris.

18 A Morning.

19 Q Do you know Joseph Davis?

20 A Uh-huh.

21 Q How do you know him?

22 A That's my nephew.

23 Q And he is your nephew. Can you describe how he's your
24 nephew?

25 A That's my sister's son.

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Direct Examination of Vermill Morris by Ms. Smart-Gittings

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1 Q And your sister's name is?

2 A Phoebe Davis.

3 Q Now, were you called to the sheriff's office in
4 September of 2008?

5 A Uh-huh.

6 **THE COURT:** You've got to say "yes" or "no."

7 **MS. MORRIS:** Yes, sir.

8 Q Who called you to the sheriff's office?

9 A Okay. They called my aunt, Bubba, and called to tell
10 us, you know, we can come over there, asked if we can come
11 over there. So, my aunt was sick and she couldn't go. So,
12 me and my mother went.

13 Q Okay. And when you say "Bubba," who's Bubba? Do you
14 know who Bubba is?

15 A Russell.

16 Q Would you be referring to Captain Anthony Russell?

17 A Yes.

18 Q And so it's your testimony that Captain Anthony
19 Russell, who you know as Bubba, called you to the sheriff's
20 office?

21 A Uh-huh.

22 **THE COURT:** You've got to say "yes" or "no."

23 **MS. MORRIS:** Sorry. Yes.

24 Q Why did he call you to the sheriff's office?

25 A When he called us over there, they promised Joseph that

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Direct Examination of Vermill Morris by Ms. Smart-Gittings

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- 1 he will open his mother's case.
- 2 Q And did you-all ask them to open Ms. Phoebe's murder
3 case?
- 4 A No.
- 5 Q And did they tell you why they promised Joseph that
6 they would open this case?
- 7 A Yes, they did promise him.
- 8 Q And did they follow up on that promise, that you're
9 aware of?
- 10 A No. After that, we ain't heard nothing else.
- 11 Q So after they called you to the sheriff's office and
12 told you that they promised Joseph they were going to reopen
13 his mother's murder case, they didn't follow up on that
14 promise?
- 15 A No.
- 16 Q Do you know Danny Bennett?
- 17 A Yeah.
- 18 Q How do you know him?
- 19 A He live around town. I know, you know, him a while
20 back.
- 21 Q Does Joseph know Danny Bennett?
- 22 A I don't think so.
- 23 Q So is Danny Bennett significant to you in any way?
- 24 A He's the one that found my sister when she got killed.
- 25 Q So when you say -- and I know that this is hard. I

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Direct Examination of Vermill Morris by Ms. Smart-Gittings

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1 know it's been some time. But what do you mean by he found
2 your sister?

3 A Okay. That Sunday -- it was, I think it was a Sunday.
4 Then the police came and told us that he had found my
5 sister; that Danny had found her.

6 Q And the Danny that you're referring to is Danny
7 Bennett?

8 A Uh-huh.

9 Q And it's your testimony that you don't know that Joseph
10 knows Danny.

11 A I don't know.

12 Q Is Danny older or younger than Joseph?

13 A Older.

14 THE COURT: Yes, sir?

15 DEP. SOLICITOR THORNTON: Objection, Judge. This has
16 nothing to do with whether this is a voluntary statement.

17 THE COURT: I will sustain the objection. It's
18 leading. Direct examination, Counsel.

19 Q So you're telling the Court that you were told that
20 Joseph was promised that if he cooperated, they would reopen
21 this murder investigation?

22 DEP. SOLICITOR THORNTON: Judge ---

23 THE COURT: Sustained. No, ma'am. Direct examination.
24 Stop asking leading questions now.

25 Q What did Anthony Russell tell you?

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Cross-Examination of Vermill Morris by Dep. Sol. Thornton

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1 A That he promised Joseph to open the case of his mother.

2 MS. SMART-GITTINGS: I don't have any other questions
3 for this witness.

4 THE COURT: Take a seat for me, Counsel. Cross-
5 examination.

6 CROSS-EXAMINATION

7 BY DEP. SOLICITOR THORNTON:

8 Q Ma'am, you said you're Joseph's aunt?

9 A Yes.

10 Q All right. Were you present when he was being
11 questioned by law enforcement?

12 A What's that now?

13 Q I'm sorry. Were you in the room when he gave a
14 statement and confessed to the murder of Ronnie Wooten?
15 Were you in the room when he ---

16 A No.

17 Q --- did that? Okay. Were you in the room when he
18 confessed to involvement in the murder of Ronnie Wooten, but
19 that it was Myron Mitchell who pulled the trigger?

20 A No.

21 Q Were you in the room when he confessed to the murder-
22 for-hire scheme for the victim, Ronnie Wooten, but that
23 Monty Wooten, the brother, had hired him?

24 A No.

25 DEP. SOLICITOR THORNTON: I don't have anything

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1 further.

2 THE COURT: Redirect?

3 MS. SMART-GITTINGS: None, Your Honor.

4 THE COURT: As to this witness, Ms. Smart-Gittings?

5 MS. SMART-GITTINGS: Your Honor, I'd ask that she be
6 excused.

7 THE COURT: From the trial? Or have you advised her
8 concerning my order and your request of sequestration?

9 MS. SMART-GITTINGS: Yes, sir, Your Honor.

10 THE COURT: You've advised her.

11 MS. SMART-GITTINGS: Yes, sir.

12 THE COURT: You want her to remain in the witness room?

13 MS. SMART-GITTINGS: Yes, sir.

14 THE COURT: And she knows not to discuss her testimony?

15 MS. SMART-GITTINGS: Yes, sir, Your Honor.

16 THE COURT: Any objection, Solicitor?

17 DEP. SOLICITOR THORNTON: No, sir.

18 THE COURT: You may step down, ma'am, and return to the
19 witness room till instructed by Ms. Smart-Gittings that you
20 may leave. Please don't discuss your testimony. Call your
21 next witness, please.

22 MS. SMART-GITTINGS: Julia Davis.

23 THE COURT: Is she in your room?

24 MS. SMART-GITTINGS: She is, Your Honor.

25 THE COURT: Mr. Hood, are you just visiting? Or you're

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1 here in an official capacity?

2 MR. HOOD: Just watching.

3 THE COURT: Happy to have you.

4 MR. HOOD: Thank you.

5 WHEREUPON, JULIA DAVIS IS DULY SWORN.

6 MADAME CLERK: Please have a seat right here.

7 THE COURT: State your full name, spell your last name,
8 please, for the court reporter.

9 MS. DAVIS: My name is Julia Davis. I'm Gregory -- I
10 mean, I'm Joseph Davis' grandmother.

11 THE COURT: Can you spell your last name for me?

12 MS. DAVIS: D-A-V-I-S, Davis.

13 THE COURT: Your witness, Counsel.

14 DIRECT EXAMINATION

15 BY MS. SMART-GITTINGS:

16 Q Ms. Davis.

17 A Yes, ma'am.

18 Q Joseph is your grandson. Can you explain how he's your
19 grandson?

20 A That's my daughter, was got killed, son.

21 Q Okay. And when did your daughter get killed?

22 A It was 19 -- I couldn't remember what year it was.

23 Q Now, do you remember, were you ever called to the
24 sheriff's office in Hampton?

25 A Uh-huh.

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Direct Examination of Julia Davis by Ms. Smart-Gittings

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- 1 Q And how did you get there?
- 2 A My daughter, Vermill Morris, take me there.
- 3 Q Why did you go there?
- 4 A They promised Joseph to open the case back up with my
5 daughter.
- 6 Q When you say "they promised," do you know who made that
7 promise?
- 8 A Bubba, the other two people give me a call. But I
9 don't know them, but they give me a call.
- 10 Q When you say "Bubba," do you know Bubba's real name?
- 11 A Bubba Russell.
- 12 Q Do you see Bubba in this courtroom?
- 13 A Right there. (INDICATING.)
- 14 Q And now, do you remember what happened when you got to
15 the sheriff's office?
- 16 A They had tell us they was gonna open up the case on
17 Phoebe.
- 18 Q And did they ever talk to you anymore after that?
- 19 A Bubba was supposed to come get the paper. Joseph has
20 said I was crying over a letter, but I was crying over that
21 paper. Every time I read it, I think about my daughter.
- 22 Q Okay.
- 23 A But they never did come and pick it up.
- 24 Q And so, can you just explain, if you can, I just want
25 you to explain exactly what, if you remember, who told you

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1 this? Can you just tell the Court what that person said to
2 you, as clear as you can?

3 A You mean to the sheriff office?

4 Q Yes, ma'am.

5 A They was gonna open the case back up.

6 Q Did they tell you why they were going to open the case
7 back up?

8 A They had promised Joseph they were going to go open it
9 back up.

10 Q Okay.

11 A Yeah, for Joseph.

12 Q And you said you had the documents. What are those
13 documents?

14 A I have the -- the number. I don't know them, but I
15 have the number. They had given me the card to get in touch
16 with them.

17 Q Okay.

18 A Uh-huh.

19 Q And who were those -- can you read the card?

20 A Let me see, J.J. Evans.

21 Q J.J. Evans?

22 A Evans.

23 Q Does it say where J.J. Evans works?

24 **DEP. SOLICITOR THORNTON:** We'll stipulate Mr. Evans
25 works at SLED, Judge.

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1 **THE COURT:** Very well. Move along.

2 Q What about the other card?

3 A And S.A. Teddy Cone.

4 Q And did Teddy Cone say anything to you?

5 A We had talked, but I can't remember what they had to
6 say. They had talked to me to the office. But Bubba
7 supposed to had picked this paper here up, but they never
8 did pick it up.

9 Q Okay.

10 **MS. SMART-GITTINGS:** I don't have any other questions,
11 Your Honor.

12 **THE COURT:** Cross-examination?

13 **DEP. SOLICITOR THORNTON:** None, sir.

14 **THE COURT:** As to this witness, Ms. Smart-Gittings?

15 **MS. SMART-GITTINGS:** I'd like for her to be excused for
16 the purpose of this hearing, but not excused for the
17 remainder.

18 **THE COURT:** Have you instructed her concerning my order
19 and your request of sequestration?

20 **MS. SMART-GITTINGS:** Yes, sir, Your Honor.

21 **THE COURT:** She understands she can't discuss her
22 testimony with anyone else?

23 **MS. SMART-GITTINGS:** Yes, sir, Your Honor.

24 **THE COURT:** Any objection, Solicitor?

25 **DEP. SOLICITOR THORNTON:** None, sir.

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1 **THE COURT:** Ms. Davis, you may step down from the
2 witness stand and you may return to the witness room and
3 remain there. Please don't discuss your testimony. Hold
4 on; he's going to come help you. Call your next witness.

5 **MS. SMART-GITTINGS:** Your Honor, defense calls Pecolia
6 Mungin.

7 **THE COURT:** Ms. Mungin.

8 (BRIEF PAUSE WHILE MS. MUNGIN IS BROUGHT INTO
9 COURTROOM.)

10 WHEREUPON, PECOLIA MUNGIN IS DULY SWORN.

11 **THE COURT:** Watch your step. Have a seat and make
12 yourself comfortable. Adjust -- want you to use that
13 microphone. It's going to amplify your voice. She's going
14 to put it down for you. You get comfortable. Just state
15 your full name, spell your last name.

16 **MS. MUNGIN:** Pecolia Mungin, M-U-N-G-I-N.

17 **THE COURT:** Speak up for me now. Your witness,
18 Counsel.

19 **DIRECT EXAMINATION**

20 **BY MS. SMART-GITTINGS:**

21 Q Good morning, Ms. Mungin. Can you tell me where you're
22 employed?

23 A Hampton County Detention Center.

24 Q I can't hear you.

25 A Hampton County Detention Center.

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Direct Examination of Pecolia Mungin by Ms. Smart-Gittings

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- 1 Q And what do you do there?
- 2 A I'm the nurse there.
- 3 Q How long have you been the nurse there?
- 4 A About two years.
- 5 Q About two years? Do you know Joseph Davis?
- 6 A Yes, I do.
- 7 Q How do you know him?
- 8 A I've seen him on several occasions. He has come to my
- 9 office.
- 10 Q And you're familiar with his medical records, since
- 11 he's been at the Hampton County Detention Center?
- 12 A I am.
- 13 Q Now, in particular, are you familiar with the
- 14 prescription for Thorazine?
- 15 A I am.
- 16 Q And can you -- what can you tell this Court about
- 17 Joseph Davis' prescription for Thorazine?
- 18 A Upon being hired for the nurse at the detention center,
- 19 when he came to my office, he was previously on Thorazine
- 20 that had been prescribed through Mental Health.
- 21 Q And can you tell me about when the Thorazine
- 22 prescription started?
- 23 A I have no idea. When I saw Mr. Davis, it was somewhere
- 24 around November of '08.
- 25 Q And did you initially have that prescription prescribed

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Direct Examination of Pecolia Mungin by Ms. Smart-Gittings

1 for him?

2 A No, I did not.

3 Q Do you know where it started?

4 A Orangeburg-Calhoun Detention Center.

5 Q And any subsequent prescriptions, thereafter, you were
6 familiar with?

7 A Yes, ma'am, I was.

8 Q Do you know about any prescriptions in the fall of
9 2008?

10 A He remained on that prescription on that regimen while
11 he was in my care.

12 Q And you said that he was a patient. Do you remember
13 any time that you saw him in 2008, only regarding the
14 Thorazine?

15 A No, ma'am. When it came to mental health issues, he
16 was referred to a Mental Health facility.

17 Q And did he ever come to you having any problem?

18 A He -- he would come to me and tell me different things,
19 then I would refer him to Mental Health.

20 Q What did he tell you specifically?

21 A He told me on a few occasions that he was hearing
22 voices, and that he had -- he had seen his mother's body
23 after she was killed and ---

24 THE COURT: Yes, sir?

25 DEP. SOLICITOR THORNTON: Objection. I think we need

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1 to approach, Judge.

2 **THE COURT:** Counsel, approach.

3 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
4 AND OUT OF THE HEARING OF THE JURY.)

5 **THE COURT:** Objection overruled. Direct examination.
6 Please use the microphone.

7 **MS. SMART-GITTINGS:** Your Honor, just a few more
8 questions.

9 Q Before the objection, I'm sorry, you were telling us
10 what Joseph had told you when you met with him. Could you
11 repeat that?

12 A He told me was hearing voices and that he was having
13 difficulty sleeping. He had seen his mother's body after
14 she was killed.

15 Q And so based on what he was telling you -- well,
16 actually, you're telling this Court that he was already on
17 antipsychotic medications?

18 A Right.

19 Q And so in September of '08, was he on antipsychotic
20 medications?

21 A I don't know. When I saw him, it was in -- in either
22 October or November.

23 **THE COURT:** Speak up, ma'am. I can't hear you.

24 A It was either October or November when I originally saw
25 him.

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Direct Examination of Pecolia Mungin by Ms. Smart-Gittings

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1 Q Do you know of any prescriptions in his file for
2 Thorazine?

3 A Yes, ma'am.

4 Q Did you bring his file with you?

5 A I have some of his information, yes.

6 Q Can you review your file regarding the Thorazine
7 medication?

8 (Witness reviews file.)

9 A Okay. I have orders for November of '08 for Thorazine,
10 and I also have a prescription for October of '08 for
11 Thorazine.

12 Q And can you tell whether or not that prescription was a
13 refill or was it initial prescription?

14 A It does not indicate whether or not it is a refill or
15 not.

16 Q And what is Thorazine?

17 A It's a ---

18 **DEP. SOLICITOR THORNTON:** Objection.

19 **THE COURT:** Counsel, I advised you at the bench, there
20 would be no eliciting of opinions from the witness without
21 qualifications. The objection is sustained as to that. We
22 discussed it at the bench conference. Proceed.

23 **MS. SMART-GITTINGS:** So she's not allowed to tell the
24 Court what type of drug Thorazine is?

25 **THE COURT:** Pardon?

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1 **MS. SMART-GITTINGS:** My question is what type of drug
2 Thorazine is. I didn't ask her an opinion ---

3 **THE COURT:** And I ---

4 **MS. SMART-GITTINGS:** -- just what type of drug ---

5 **THE COURT:** That is an opinion question when you ask
6 types. There's no qualification here yet. As to
7 pharmacology, Ms. Smart-Gittings, I advised you of that at
8 the bench. You told me this was going to be a fact witness
9 and that you were not going to elicit opinions. That's the
10 reason I sustained the objection without argument. That was
11 at a bench conference, but I want it on the record now, in
12 light of what you advised the Court. Proceed.

13 **MS. SMART-GITTINGS:** I don't have any other questions,
14 Judge.

15 **THE COURT:** Cross-examination?

16 **DEP. SOLICITOR THORNTON:** None, Judge.

17 **THE COURT:** As to this witness, Ms. Smart-Gittings?

18 **MS. SMART-GITTINGS:** I'd like to have her excused for
19 the purpose of the hearing, Your Honor.

20 **THE COURT:** Have you advised her concerning my order of
21 sequestration?

22 **MS. SMART-GITTINGS:** I have not, Your Honor. She just
23 arrived. I have not. But I ---

24 **THE COURT:** Do you plan on keeping her for the trial?

25 **MS. SMART-GITTINGS:** Yes, sir.

1 **THE COURT:** All right then, you need to advise her
2 because it's your obligation once you made the motion to
3 advise your witnesses of my ruling at your request. Do you
4 understand?

5 **MS. SMART-GITTINGS:** Yes, sir.

6 **THE COURT:** I'll expect you to do that, since this is
7 your last witness. I'll have her remain, so that you can
8 talk to her before you excuse her for lunch. If you'll step
9 down out of the courtroom, ma'am. Remain with us. Ms.
10 Smart-Gittings needs to talk with you; or Ms. Jordan does.
11 Call your next witness.

12 **MS. SMART-GITTINGS:** I have no further witnesses, Your
13 Honor.

14 **THE COURT:** Any reply testimony from the State?

15 **DEP. SOLICITOR THORNTON:** No, sir.

16 **THE COURT:** All right. Let me say that I think I
17 clearly understand the issues. For purposes of this
18 hearing, I have now reviewed Court's Exhibits One through
19 Eight. Everyone has viewed Court's Exhibit Number Nine,
20 which was a video now marked as Court's Number Nine, the CD,
21 and you have that, Becky?

22 **COURT REPORTER:** I do, Judge.

23 **THE COURT:** The Court has carefully considered all of
24 the evidence which has been offered by the State and the
25 defendant, for purposes of this Jackson Denno Hearing. This

1 Court is convinced by a preponderance of the evidence, and I
2 so find that before any alleged statements were obtained
3 from the defendant, the defendant was advised of his rights
4 under the Fifth and Sixth Amendments to the Constitution of
5 the United States, and that the defendant was advised of the
6 constitutional safeguards required by Miranda v. Arizona.

7 I find that the defendant knowingly and intelligently
8 waived his rights under the Fifth and Sixth Amendments of
9 the Constitution of the United States and the constitutional
10 safeguards required by Miranda v. Arizona. And that the
11 alleged statement from the defendant was freely and
12 voluntarily given without duress, without coercion, without
13 undue influence, without reward, without promise or hope of
14 reward, without promise of leniency, without threat of
15 injury, and without compulsion or inducement of any kind.
16 And that such statement was a voluntary product of the free
17 and unconstrained will of the defendant.

18 I am aware that Counsel for the defendant has pointed
19 out to the Court, and I'm aware from reviewing during the
20 Blair Hearing, Court's Exhibits One and Two, the condition
21 of the defendant. I am also aware of the medication that
22 the defendant was taking, which resulted in at one point
23 this case being held up for purposes of medication. I am
24 also aware of the defendant eliciting testimony concerning
25 what the defendant believed to be promises. That goes to

1 the weight and not the admissibility.

2 This Court makes all of these foregoing conclusions by
3 a preponderance of the evidence. And I therefore find that
4 the statements -- and they are plural since have more than
5 one. We actually have a statement in Court's Number Five,
6 we have a statement in Court's Number Eight, and we have a
7 statement in Court's Number Nine. I believe that is all
8 three statements that the Court has considered. I find that
9 these statements are admissible into evidence in the trial
10 of this case following my consideration of the testimony.
11 Those findings are made by the preponderance of the
12 evidence.

13 All right. Now on the record, I'd like to point out a
14 couple of things, then I want to give my clerk staff and
15 court reporter a chance to break, since the jury is coming
16 at two o'clock. First of all, this case started out, as Ms.
17 Smart-Gittings well knows, as a capital case. The Solicitor
18 withdrew the death penalty noticed in this case, and I
19 relieved Ms. Smart-Gittings' co-counsel, Mr. Cummings. We
20 placed all of that on the record in Colleton County back on,
21 with the defendant present, I believe it was May 18th; is
22 that right, Solicitor?

23 **DEP. SOLICITOR THORNTON:** I believe that's correct.

24 **THE COURT:** That right, Ms. Smart-Gittings?

25 **MS. SMART-GITTINGS:** I believe so, Your Honor.

1 **THE COURT:** May 18th, 2011, in Colleton County. I
2 advised also that -- so this case is proceeding as a non-
3 capital case, rather than a capital case, after the decision
4 by the Solicitor. And that's been placed on the record
5 earlier.

6 Also, I'm advised by the State this morning that they
7 wish to amend their witness list. Now, I have an amended
8 list from the defendant. It contains nine witnesses. I
9 will expect the State's. And if we're going to start
10 promptly at two o'clock, to give my law clerk and to me an
11 amended witness list with home towns on it, for purposes of
12 inquiring of the jury, to make sure we get a fair and an
13 impartial jury.

14 Finally, I've been handed over the weekend -- I worked
15 this weekend -- and I have reviewed both the defendant's
16 voir dire. I did not receive -- State advised me by email
17 they were satisfied with the Court's regular voir dire; is
18 that correct?

19 **DEP. SOLICITOR THORNTON:** It is correct, Your Honor.

20 **THE COURT:** And I have all of your voir dire; is that
21 correct, Ms. Smart-Gittings?

22 **MS. SMART-GITTINGS:** It is correct, Your Honor. Do you
23 have the one that's clocked for today?

24 **THE COURT:** I have the one you sent me, Ms. Smart-
25 Gittings.

1 **MS. SMART-GITTINGS:** I amended and added one more
2 question.

3 **THE COURT:** Well, if you add it and don't send it to
4 me, Ms. Smart-Gittings, how would I know? The one I have
5 that you sent me is dated June 27th, and it has 17 questions
6 on it. If you're going to change it, you need to provide it
7 to the Court. And obviously, voir dire has to be exchanged
8 with opposing counsel.

9 **MS. SMART-GITTINGS:** Your Honor, I have provided the
10 State a copy of the amended voir dire and I believe also ---

11 **THE COURT:** Do I have the latest one? How many
12 questions?

13 **MS. SMART-GITTINGS:** Seventeen, Your Honor.

14 **THE COURT:** All right. I have the latest one. All
15 right. I think that's everything that I needed to place on
16 the record. The jury's coming at two o'clock, right,
17 Mylinda?

18 **MADAME CLERK:** Yes, sir.

19 **THE COURT:** All right. I'm going to advise both of you
20 now, that you have an obligation to advise all of your
21 witnesses. First of all, go directly to them when we break.
22 Make sure they're advised about order of sequestration,
23 because both of you are responsible for your own witnesses.
24 And Ms. Smart-Gittings, I don't want a witness get on this
25 witness stand and you tell me you hadn't had a chance,

1 because I'm giving you that chance to advise them, because I
2 don't want to have a problem. They're not to be allowed --
3 both of you are responsible for turning around and looking
4 in the courtroom, making sure somebody doesn't come in here,
5 in light of your request of sequestration.

6 We're going to start at two o'clock. I want you to let
7 them have a break. It's now 1:15. We're going to take a 45
8 minute break for lunch.

9 (1:15 P.M., JUNE 27, 2011, WHEREUPON COURT IS IN RECESS
10 FOR LUNCH.

11 (2:00 P.M., JUNE 27, 2011, WHEREUPON COURT RECONVENES
12 FOR TRIAL OF STATE V. JOSEPH DAVIS.)

13 **THE COURT:** All right, ladies and gentlemen, I ask if
14 you would to give me your attention. The State has called
15 for trial the case of the State of South Carolina v. Joseph
16 Davis. Mr. Davis is charged by these three pieces of paper
17 that I hold in my hands, which we call Indictments. The
18 indictments contain allegations against the defendant. The
19 indictment is not evidence of any of the allegations
20 contained in the indictment. To the indictment, the
21 defendant has pled not guilty, that places the burden on the
22 State of South Carolina to prove each and every element of
23 the offenses beyond a reasonable doubt, and it will be your
24 duty, if you're selected as a juror in the trial of this
25 case, to determine whether or not the State has met that

1 burden.

2 Now, ladies and gentlemen, I remind you that I'm going
3 to ask you certain questions involving this case to
4 determine your impartiality to serve as a juror in the trial
5 of this case. I remind you that your responses that you
6 will be giving me is under that same oath that you received
7 earlier this afternoon from the clerk of court. In other
8 words, your responses are under oath.

9 If it is necessary for you to stand and respond to one
10 of my questions, please begin by giving me your juror number
11 and your name, so the court reporter will know who is
12 speaking. I ask for your cooperation in that regard.
13 Please remember to speak up or I'll need you to come forward
14 so that we can hear.

15 Ladies and gentlemen, I'm going to have the lawyer
16 stand and introduce themselves and members of their office.
17 And I'm also going to have, in the case of the defendant,
18 that you have the defendant stand, counsel, and introduce
19 your client; beginning with counsel for the State of South
20 Carolina.

21 **DEP. SOLICITOR THORNTON:** Thank you, Your Honor. My
22 name is Sean Thornton and I'm Deputy Solicitor for the
23 Fourteenth Circuit, as the judge indicated before, and is
24 composed of five counties here in the State of South
25 Carolina, Hampton County, of course, being one of them.

1 With me is Tameaka Legette, an Assistant Solicitor here
2 in Hampton County.

3 **THE COURT:** Counsel for the defendant.

4 **MS. SMART-GITTINGS:** My name is Stephanie Smart. I
5 work in the Allendale, Hampton, and Jasper Public Defender's
6 Office. Mr. Gene Hood is our Chief Public Defender and he
7 is out of the Beaufort Office. Also seated with me earlier,
8 and who will be seated with me during the trial, is Ms.
9 Kimberly Jordan, who works for the Beaufort Public
10 Defender's Office. Also in our office is Mr. Steve Plexico
11 and Mr. Bob Hughes. And this is Joseph Davis.

12 **THE COURT:** Turn around, Mr. Davis, so the jury can see
13 you. Ladies and gentlemen, this is the defendant, Joseph
14 Davis. Please be seated.

15 All right, ladies and gentlemen, you have now -- Ms.
16 Smart-Gittings, will you be trying the case, just you?

17 **MS. SMART-GITTINGS:** Yes, sir.

18 **THE COURT:** Very well. All right, ladies and
19 gentlemen, you've met the attorneys both for the State of
20 South Carolina and the defendant, and you've also met the
21 defendant, Mr. Joseph Davis. Let me get my list here,
22 ladies and gentlemen.

23 Counsel approach.

24 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
25 AND OUT OF THE HEARING OF THE JURY.)

1 **THE COURT:** All right, ladies and gentlemen, you've met
2 the attorney who will be trying this case. You've also met
3 the defendant, Joseph Davis, who I understand is from
4 Estill, South Carolina. My first question to you: is any
5 member of my jury panel related by blood, connected by
6 marriage, or a close personal friend or social acquaintance
7 of the defendant, Joseph Davis, of Estill, South Carolina?
8 Is so, please stand at this time.

9 (SEVERAL JURORS STAND.)

10 **THE COURT:** All right, ma'am. I'm going first to you.
11 Listen carefully, give me just your number and your name and
12 let me ask you a yes or no question.

13 **JUROR:** Sixteen, Quinyanna Brown.

14 **THE COURT:** Is it Quinyanna?

15 **JUROR:** Yes, sir.

16 **THE COURT:** All right. Counsel, this is juror number
17 sixteen, Quinyanna Brown. Ms. Brown, are you related by
18 blood to the defendant?

19 **JUROR:** No, sir.

20 **THE COURT:** Are you connected by marriage to the
21 defendant?

22 **JUROR:** Yes, sir.

23 **THE COURT:** All right. Tell me how you are connected
24 by marriage to the defendant, Joseph Davis.

25 **JUROR:** His brother is actually engaged to my mother

1 right now.

2 **THE COURT:** I'll excuse you from service in the trial
3 of this case. Have a seat for me and remain with me. I've
4 got other matters. Yes, ma'am, your name and juror number?

5 **JUROR:** Number Twenty-one, Vitone Brown.

6 **THE COURT:** Is it Vitone?

7 **JUROR:** Yes, sir.

8 **THE COURT:** Vitone Brown. Counsel, this is Vitone
9 Brown, juror Twenty-one. Ms. Brown, are you related by
10 blood to the defendant?

11 **JUROR:** Yes, sir.

12 **THE COURT:** How are you related to him?

13 **JUROR:** His grandmother and my grandmother are first
14 cousins.

15 **THE COURT:** I'll excuse you from service in the trial
16 of this case only. You may be seated. Yes, ma'am, your
17 name and juror number, please?

18 **JUROR:** My name is Mary Mayes.

19 **THE COURT:** What number?

20 **BAILIFF:** She doesn't know her number.

21 **THE COURT:** What number Madame Clerk?

22 **MADAME CLERK:** One Thirty-nine.

23 **THE COURT:** Mary Mayes? Is that right?

24 **JUROR:** Yes, sir.

25 **THE COURT:** Ms. Mayes, are you related by blood to

1 the defendant?

2 JUROR: Yes, yes.

3 THE COURT: How are you related to him?

4 JUROR: By cousin.

5 THE COURT: He's your cousin?

6 JUROR: Yes.

7 THE COURT: I'll excuse you from service in the trial
8 of this case only. Thank you, you may be seated. Anyone
9 else related by blood, connected by marriage, or have a
10 close personal friend of the defendant, Joseph Davis? Is
11 so, please stand at this time.

12 (NO RESPONSE.)

13 THE COURT: Let the record reflect that no one is
14 standing. Counsel approach.

15 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
16 AND OUT OF THE HEARING OF THE JURY.)

17 THE COURT: All right. You've met counsel for the
18 State of South Carolina in this case, Mr. Sean Thornton and
19 Ms. Tameaka Legette. They are with the Fourteenth Judicial
20 Circuit Solicitor's Office. They will be representing the
21 State of South Carolina in this case. As I told you, there
22 are other members in the Hampton County Solicitor's Office
23 that include Randolph Murdaugh, Tabor Vaux, Erin Gentry, in
24 addition to Mr. Thornton and Ms. Legette.

25 Mr. Murdaugh is seated in the courtroom over to my left

1 in the jury box. I ask, ladies and gentlemen, is any member
2 -- and of course, our circuit Solicitor now is Duffie Stone.
3 Is any member of my jury panel related by blood, connected
4 by marriage, or a close personal friend of any of the
5 attorneys involved in this case with the solicitor's office
6 or any member of the Fourteenth Judicial Circuit Solicitor's
7 Office? Is so, please stand at this time.

8 (NO RESPONSE.)

9 **THE COURT:** Let the record reflect that no one is
10 standing. Is any member of my jury panel ever been
11 represented in the past or currently represented by any of
12 the attorneys in the Fourteenth Judicial Circuit Solicitor's
13 Office? Is so, please stand at this time.

14 (NO RESPONSE.)

15 **THE COURT:** Let the record reflect that no one is
16 standing. You've also met counsel for Mr. Joseph Davis, Ms.
17 Stephanie Smart-Gittings. She's with the Hampton County
18 Public Defender's Office. Also in the public defender's
19 office, as I told you, is Mr. Steve Plexico, who is seated
20 in the courtroom to my right and who I introduced you to
21 earlier. Is any member of my jury panel related by blood,
22 connected by marriage, or a close personal friend of the
23 attorneys in the Hampton County Public Defender's Office?
24 Is so, please stand at this time.

25 (NO RESPONSE.)

1 **THE COURT:** Let the record reflect that no one is
2 standing. Any member of my jury panel ever been represented
3 in the past or currently represented by any member of the
4 Hampton County Public Defender's Office? Is so, please
5 stand at this time.

6 (NO RESPONSE.)

7 **THE COURT:** Let the record reflect that no one is
8 standing. Ladies and gentlemen, I'm advised that the
9 potential witnesses in the trial of this case will be as
10 follows. These are potential, ladies and gentlemen. Many
11 of these witness, some are here, but many of them will not
12 be in the courtroom because we're not going to start this
13 trial until in the morning.

14 I'm going to call out their names and their hometown,
15 and then after I finish calling out the list, I'll ask you
16 whether or not any of you are related by blood, connected by
17 marriage, or a close personal friend of any of the potential
18 witnesses in the trial of the case. If the witnesses' names
19 whose names I'm about to call are present in the courtroom,
20 when I call your name, please stand and face my jury panel
21 so they can see your face, as well as hear a name called
22 out.

23 Captain Anthony Russell, Hampton County Sheriff's
24 Department, standing to my left, your right, ladies and
25 gentlemen. Thank you, please be seated.

1 Special Agent Melissa Skipper, South Carolina Law
2 Enforcement Division, SLED.

3 Sgt. Chauncey Solomon, Hampton County Sheriff's
4 Department. Sgt. Maurice Hunt, Hampton County Sheriff's
5 Department. Dr. Michael J. Caplan, C-A-P-L-A-N, madame
6 court reporter, Medical University of South Carolina.

7 Patricia Bellinger, B-E-L-L-I-N-G-E-R, Hampton County
8 9-1-1. Laura Meyer, M-E-Y-E-R, Hampton County EMS. Saul
9 Benitez-Romero, Estill, South Carolina. Jerry Ashmore,
10 Estill, South Carolina.

11 Special Agent William Teddy Cone, South Carolina Law
12 Enforcement Division, SLED. Special Agent J. J. Evans,
13 South Carolina Law Enforcement Division, SLED. Kenneth H.
14 Whitler, W-H-I-T-L-E-R, South Carolina Law Enforcement
15 Division, SLED. Jamie Singleton, Fairfax Police Department.
16 Officer Johnny Wells, Hampton Police Department. Monty
17 Wooten, W-O-O-T-E-N, Estill, South Carolina, standing behind
18 you, ladies and gentlemen. Thank you, sir. You may be
19 seated.

20 Jimmy Freeman, Hampton County Sheriff's Department.
21 Marquis Bryant, Estill, South Carolina. Shawn Davis,
22 Estill, South Carolina. Derrick Adkins, Estill, South
23 Carolina. Dr. Daniel Grant, G-R-A-N-T, Richmond Hill,
24 Georgia. Vermill Morris, Estill, South Carolina. Gordon
25 Rhoden, Hampton, South Carolina. Joyce Carter, Gifford,

1 South Carolina. Jeffrey Warren, Hampton, South Carolina.
2 David Freeman, Hampton, South Carolina. Joseph Davis,
3 Estill, South Carolina. Picora Mungin, Jasper County, South
4 Carolina.

5 Any additional witnesses from the State?

6 **DEP. SOLICITOR THORNTON:** None from the State, Your
7 Honor.

8 **THE COURT:** Any additional witnesses from the
9 defendant?

10 **MS. SMART-GITTINGS:** None from the defense, Your Honor.

11 **THE COURT:** Any member of my jury panel related by
12 blood, connected by marriage, or have a close personal
13 friend of any of the potential witnesses in the trial of
14 this case, whose names I have just called? Is so, please
15 stand at this time.

16 (SEVERAL JURORS STAND.)

17 **THE COURT:** All right, ma'am. You're first, you stood
18 up first. Give me your name and juror number, please.

19 **JUROR:** Two oh-four, Deborah

20 **THE COURT:** Please remain standing. I'll get to you.
21 Counsel, this is juror number 204, Deborah Singleton. Ms.
22 Singleton, are you related by blood to any of the witnesses?

23 **JUROR:** Jamie Singleton is my brother-in-law -- no, my
24 -- my -- my nephew.

25 **THE COURT:** Wait a minute, now. Which is it, your

1 brother-in-law or ---

2 JUROR: My nephew.

3 THE COURT: Your nephew? And that's a Singleton?

4 JUROR: Uh-huh (affirmative).

5 THE COURT: Okay. Hold on one second. Jamie Singleton
6 with the Fairfax Police Department?

7 JUROR: Yes, sir.

8 THE COURT: All right. The fact that Jamie Singleton
9 is your nephew and is a potential witness in the trial of
10 this case, would that in any way affect your ability to give
11 the State of South Carolina or the defendant in this case, a
12 fair and an impartial trial?

13 JUROR: No, sir.

14 THE COURT: Thank you, ma'am. You may be seated. All
15 right, right here on the aisle. Your name and juror number,
16 please.

17 JUROR: My name is Jennifer Benton; juror number six.

18 THE COURT: Ms. Benton, listen carefully. Are you
19 related by blood to any of the witnesses?

20 JUROR: Yes, sir.

21 THE COURT: Which witnesses are you related by blood to
22 and how are you related?

23 JUROR: Laura Meyer is my first cousin.

24 THE COURT: Laura Meyer is your first cousin?

25 JUROR: Yes, sir.

1 **THE COURT:** All right. Ms. Meyer is listed as a
2 potential witness in the trial of this case. The fact that
3 Ms. Meyer with Hampton County EMS is a potential witness in
4 the trial of this case, would that in any way, Ms. Benton,
5 affect your ability to give the State of South Carolina
6 or the defendant in this case, Joseph Davis, a fair and an
7 impartial trial?

8 **JUROR:** No, sir.

9 **THE COURT:** Thank you, ma'am. You may be seated. Yes,
10 sir? Right here on the front. Your name and juror number.

11 **JUROR:** Gregory Williams, juror number Two thirty-six.

12 **THE COURT:** Okay. Counsel, this is Gregory Williams,
13 juror number 236. Mr. Williams, are you related by blood to
14 any of the potential witnesses?

15 **JUROR:** No, sir.

16 **THE COURT:** Are you connected by marriage to any of the
17 potential witnesses?

18 **JUROR:** No, sir.

19 **THE COURT:** Are you a close personal friend of any of
20 the potential witnesses?

21 **JUROR:** I'm a friend of Mr. Monty Wooten and his
22 family.

23 **THE COURT:** You're a friend of Mr. Monty Wooten and his
24 family, all right. The fact that you're a friend of Monty
25 Wooten and family, and as you are, I'm going to ask you some

1 other questions later on in this matter, but the fact that
2 you're friends with Mr. Wooten, would that in any way affect
3 your ability to give the State of South Carolina or the
4 defendant in this case a fair and an impartial trial?

5 JUROR: No, sir, it wouldn't.

6 THE COURT: It would not?

7 JUROR: No, sir.

8 THE COURT: Thank you, sir. You may be seated for now.
9 Yes, sir? Your name and juror number, please.

10 JUROR: My name is Leroy Williams, juror number Two
11 forty-one.

12 THE COURT: Counsel, this is Leroy Williams, juror
13 number 241. Mr. Williams, are you related by blood to any
14 of the potential witnesses?

15 JUROR: Maurice Bryant, his grandfather is my
16 grandfather.

17 THE COURT: Marquis Bryant?

18 JUROR: Yes, yes, Marquis Bryant.

19 THE COURT: And he's what?

20 JUROR: His grandfather is my grandfather, by marriage.
21 His grandfather married my grandmother.

22 THE COURT: His grandfather married your grandmother?

23 JUROR: Yes, sir.

24 THE COURT: And what does that make him to you?

25 JUROR: Still kin, sir.

1 **THE COURT:** Okay. You're just letting me know that?

2 **JUROR:** Yes, sir.

3 **THE COURT:** Hold on one second. The fact that his
4 grandfather married your grandmother, would that in any way
5 affect your ability to give the State or the defendant in
6 this case a fair and an impartial trial, Mr. Williams?

7 **JUROR:** No, sir.

8 **THE COURT:** Thank you, sir. Is that the only reason
9 you're standing?

10 **JUROR:** Yes, sir.

11 **THE COURT:** Thank you. I'm going to take these ladies
12 on this side. Yes, ma'am, Ms. Barnes.

13 **JUROR:** Sharon Barnes, juror number five. I'm
14 distantly related to the witness, Monty Wooten.

15 **THE COURT:** Distantly related how, Ms. Barnes?

16 **JUROR:** So distant I can't really say. My mother and
17 his -- or maybe ---

18 **THE COURT:** You have a distant relationship and you
19 don't know exactly what it is with Mr. Monty Wooten?

20 **JUROR:** No, sir.

21 **THE COURT:** All right. The fact that you have a
22 distant relationship with Mr. Wooten, would that in any way
23 affect your ability to give the State of South Carolina or
24 the defendant in this case a fair and an impartial trial?

25 **JUROR:** No, sir.

1 **THE COURT:** Thank you very much. This is juror number
2 five, ladies and gentlemen, whom she let me use her earlier
3 as an example in the trial of this case. Thank you, Ms.
4 Barnes.

5 Yes, sir, back there the back, your name and juror
6 number, please.

7 **JUROR:** Ed Goodman, juror number Sixty-six.

8 **THE COURT:** Counsel, this is juror number 66, Ed
9 Goodman. Mr. Goodman, are you related by blood to any of
10 the potential witnesses?

11 **JUROR:** No, sir.

12 **THE COURT:** Are you connected by marriage to any of the
13 potential witnesses?

14 **JUROR:** Yes, sir.

15 **THE COURT:** How are you connected by marriage and to
16 what witness?

17 **JUROR:** Captain Anthony Russell.

18 **THE COURT:** You're connected by marriage to Captain
19 Anthony Russell?

20 **JUROR:** Right.

21 **THE COURT:** And how are you connected by marriage to
22 him?

23 **JUROR:** I'm married to his oldest sister.

24 **THE COURT:** All right. You're married to his sister.
25 So, he's your brother-in-law?

1 JUROR: Yes, sir.

2 THE COURT: The fact that Captain Russell is your
3 brother-in-law and is a potential witness in the trial of
4 this case, would that in any way affect your ability to give
5 the State of South Carolina or the defendant in this case a
6 fair and an impartial trial?

7 JUROR: No, sir.

8 THE COURT: Thank you, sir. You may be seated. In
9 the very back, speak up, your name and juror number, please.

10 JUROR: My name is Mr. Jonathon Houston, juror One oh-
11 one.

12 THE COURT: Hold on. Counsel, this is juror number
13 101, Jonathon Houston. Mr. Houston, are you related by
14 blood to any of the potential witnesses?

15 JUROR: Yes, sir.

16 THE COURT: And who are you related by blood to? What
17 witness and how?

18 JUROR: Captain Russell, second cousin.

19 THE COURT: Captain Russell is your second cousin?

20 JUROR: Yes, sir.

21 THE COURT: The fact that Captain Russell is your
22 second cousin, Mr. Houston, would that in any way affect
23 your ability to give the State of South Carolina or the
24 defendant in this case, Joseph Davis, a fair and an
25 impartial trial?

1 JUROR: No, sir.

2 THE COURT: Yes, ma'am, on the aisle, your name and
3 juror number.

4 JUROR: Pearlie Brantley, juror number Ten.

5 THE COURT: Counsel, this is juror number 10, Pearlie
6 Brantley. Ms. Brantley, are you related by blood to any of
7 the witnesses?

8 JUROR: Yes, sir.

9 THE COURT: Which ones?

10 JUROR: Captain Russell, second cousin.

11 THE COURT: Captain Russell is your second cousin?

12 JUROR: Yes, sir.

13 THE COURT: He's got quite a family. The fact that
14 Captain Russell is your second cousin, would that in any way
15 affect your ability to give the State of South Carolina or
16 the defendant in this case, Joseph Davis, a fair and an
17 impartial trial?

18 JUROR: No, sir.

19 THE COURT: Thank you, ma'am. You may be seated. Yes,
20 ma'am? Your name and juror number, please.

21 JUROR: I'm Renee Sanders, juror One ninety-five.

22 THE COURT: Counsel, this is juror 195, Renee Sanders.
23 Ms. Sanders, are you related by blood to any of the
24 witnesses?

25 JUROR: No, sir.

1 **THE COURT:** Are you connected by marriage to any of the
2 potential witnesses?

3 **JUROR:** No, sir.

4 **THE COURT:** Are you a close personal friend of any of
5 the potential witnesses?

6 **JUROR:** Yes, sir.

7 **THE COURT:** Which witnesses?

8 **JUROR:** Marquis Bryant, Derrick Adkins ---

9 **THE COURT:** Hold on. Marquis Bryant and who?

10 **JUROR:** Derrick Adkins and Shawn Davis.

11 **THE COURT:** Marquis Bryant, Derrick Adkins, and who's
12 the third one?

13 **JUROR:** Shawn Davis.

14 **THE COURT:** I've got several Davis's, now. Which one?

15 **MADAME CLERK:** Shawn.

16 **THE COURT:** And Shawn Davis and not Julia Davis. All
17 right. You consider yourself a close personal friend to all
18 three?

19 **JUROR:** Yes, sir.

20 **THE COURT:** All right. The fact that these three are
21 potential witnesses in the trial of this case and you tell
22 me that you're close personal friends with each of these
23 three witnesses, would that in any way affect your ability
24 to give the State of South Carolina or the defendant in this
25 case a fair and an impartial trial?

1 JUROR: Yes, sir.

2 THE COURT: It would?

3 JUROR: Uh-huh (affirmative).

4 THE COURT: I'll excuse you from service in the trial
5 of this case only. Please be seated. Yes, sir? Your name
6 and juror number.

7 JUROR: Andrew Simmons, Two oh-one.

8 THE COURT: What number?

9 JUROR: Two oh-one.

10 THE COURT: Andrew Simmons?

11 JUROR: Yes, sir.

12 THE COURT: Counsel, this is juror number 201, Andrew
13 Simmons. Mr. Simmons, are you related by blood to any of
14 the witnesses?

15 JUROR: No, sir.

16 THE COURT: Are you connected by marriage to any of the
17 potential witnesses?

18 JUROR: No, sir.

19 THE COURT: Are you a close personal friend of any of
20 the potential witnesses?

21 JUROR: Ms. Julia Davis.

22 THE COURT: Who?

23 JUROR: Ms. Julia Davis.

24 THE COURT: Come on up here. I can't hear him.

25 Counsel approach. (TO WITNESS) How are you doing? Now, who

1 are you close personal friend's with?

2 JUROR: Ms. Julia Davis.

3 THE COURT: I understand you're a close personal friend
4 of ---

5 JUROR: She's also my neighbor.

6 THE COURT: I understand. The fact that Ms. Davis is
7 your next door neighbor, would that in any way affect your
8 ability to give the State of South Carolina or the defendant
9 in this case a fair and an impartial trial?

10 JUROR: No, sir.

11 THE COURT: Thank you, sir. Yes, ma'am, you've been
12 standing back there patiently and I thank you. Your name
13 and juror number, please.

14 JUROR: One oh-nine, Elinor Jarrell.

15 THE COURT: Counsel, this is juror number 109, Elinor
16 Jarrell. Ms. Jarrell, are related by blood to any of the
17 potential witnesses?

18 JUROR: No, sir.

19 THE COURT: Are you connected by marriage to any of the
20 potential witnesses?

21 JUROR: Yes, sir.

22 THE COURT: And what witness is that?

23 JUROR: Mr. Wooten.

24 THE COURT: Mr. Monty Wooten?

25 JUROR: Yes, sir.

1 **THE COURT:** And how are you connected by marriage to
2 Mr. Wooten?

3 **JUROR:** His nephew is my brother-in-law.

4 **THE COURT:** All right. The fact that you have this
5 connection by marriage to Mr. Wooten, who is a potential
6 witness in the trial of this case, would that in any way
7 affect your ability to give the State of South Carolina or
8 the defendant in this case, Joseph Davis, a fair and an
9 impartial trial?

10 **JUROR:** It may.

11 **THE COURT:** I'll excuse you from service in the trial
12 of this case. Please be seated. Yes, sir? Your name and
13 juror number, please.

14 **JUROR:** Forty-seven, Franklin Dunbar.

15 **THE COURT:** Counsel, this is juror number 47, Franklin
16 Dunbar. Mr. Dunbar, are you related by blood to any of the
17 potential witnesses?

18 **JUROR:** No, sir.

19 **THE COURT:** Are you connected by marriage to any of the
20 potential witnesses?

21 **JUROR:** No, sir.

22 **THE COURT:** Are you a close personal friend of any of
23 the potential witnesses?

24 **JUROR:** Yes, sir.

25 **THE COURT:** Which witness?

1 JUROR: Mr. James Carter.

2 THE COURT: Of Gifford, South Carolina?

3 JUROR: Yes, sir.

4 THE COURT: The fact that you're a close personal
5 friend of Mr. James Carter, would that in any way affect
6 your ability to give the State of South Carolina or the
7 defendant in this case, Mr. Joseph Davis, a fair and an
8 impartial trial?

9 JUROR: No, sir.

10 THE COURT: Thank you, you may be seated. All right,
11 next gentleman? State your name and juror number for the
12 record.

13 JUROR: Ricky Caden, juror number Twenty-six.

14 THE COURT: Counsel, this is juror number 26, Ricky
15 Caden, am I pronouncing it right?

16 JUROR: Yes, sir.

17 THE COURT: Mr. Caden, are you related by blood to
18 any of the potential witnesses?

19 JUROR: No, sir.

20 THE COURT: Are you connected by marriage to any of the
21 potential witnesses?

22 JUROR: No, sir.

23 THE COURT: Are you a close personal friend to any of
24 the potential witnesses?

25 JUROR: Yes, sir, to some.

1 **THE COURT:** Who?

2 **JUROR:** Some of Mr. Wooten's family and ---

3 **THE COURT:** You're referring to Mr. Monty Wooten?

4 **JUROR:** Yes, sir.

5 **THE COURT:** And who else?

6 **JUROR:** Mr. Jimmy Freeman.

7 **THE COURT:** And Mr. Jimmy Freeman. You consider both
8 to be a close personal friend?

9 **JUROR:** Jimmy Freeman, yes, and Mr. Monty's family, his
10 family.

11 **THE COURT:** All right. I'm going to ask you now just
12 about witnesses. The fact that you're close personal
13 friends of Mr. Monty Wooten, who is a potential witness and
14 Mr. Jimmy Freeman, who is a potential witness, would that in
15 any way prevent you from giving the State of South Carolina,
16 or the defendant in this case, Joseph Davis, a fair and an
17 impartial trial?

18 **JUROR:** It would.

19 **THE COURT:** All right, sir. I'll excuse you from
20 service in the trial of this case only. Please be seated.
21 Anyone else?

22 (NO RESPONSE.)

23 **THE COURT:** Let the record reflect that no one is
24 standing. All right, ladies and gentlemen, I need to tell
25 you a little bit about the allegations in this case.

1 Obviously, if you're selected as a juror in the trial of
2 this case, you must base your decision solely upon evidence
3 introduced during the trial of this case. I merely tell you
4 about the allegations contained in the indictment -- it's
5 not evidence, in order to ask you questions to determine
6 your impartiality to serve as a juror in the trial of this
7 case.

8 First of all, ladies and gentlemen, in the indictment,
9 2008 at 588, the State v. Joseph Davis, charges him with
10 murder. It is alleged that this offense occurred in Hampton
11 County on or about June 23rd, 2007. It is alleged that
12 Joseph Davis did kill and murder one, Ronnie Wooten, by
13 means of shooting him with a gun and that Ronnie Wooten died
14 in Hampton County as a result thereof on June 23rd, 2007.

15 In the second indictment, charging the defendant,
16 Joseph Davis, with the offense of armed robbery. It is
17 alleged that this occurred on or about June 23rd, 2007, in
18 Hampton County, that the defendant, Joseph Davis, at 1550
19 Browning Gate Road, by use of force, threats, and
20 intimidation and while allegedly armed with a deadly weapon,
21 did take and carry away goods and monies from the person or
22 presence of Ronnie Wooten with the intent to permanently
23 deprive the victim of possession of the property.

24 Finally, in Indictment 2008 at 589, charging the
25 defendant, Joseph Davis, with burglary, second degree. It

1 is alleged that this happened in Hampton County on or about
2 June 23rd, 2007, and the defendant did allegedly enter the
3 building of Ronnie Wooten, located at 1550 Browning Gate
4 Road and without consent and with the intent to commit a
5 crime therein. That this entry allegedly occurred at night,
6 and/or while the defendant was armed with a deadly weapon,
7 for the offense of burglary, second degree.

8 I tell you about those allegations in the indictment in
9 order to ask you this: has any member of my jury panel read
10 about, heard about, or know anything whatsoever about the
11 facts which are alleged in this case? Is so, please stand
12 at this time. Now, if I've already excused you, don't
13 stand. But if you haven't been excused and you have read,
14 heard or know anything about the facts which are alleged in
15 this case, please stand at this time.

16 (JURORS STAND.)

17 **THE COURT:** All right. Please come forward. Counsel
18 may approach. One at a time, Mr. Jimmy. Get me the juror
19 number first, so we can look it up as we go.

20 **BAILIFF:** Two thirty-six.

21 **THE COURT:** Becky, this is Gregory Williams, number
22 236. All right, Mr. Williams, have you read about it?

23 **JUROR:** Well, I've actually heard about it at work.

24 **THE COURT:** Okay.

25 **JUROR:** I've met Mr. Wooten and his family and there

1 has been some discussion some of the case.

2 **THE COURT:** You've talked to the Wooten family about
3 the case?

4 **JUROR:** No, I overheard hearsay stuff, but I mean, I
5 want it made aware that I am aware of the situation.

6 **THE COURT:** I understand. You're doing exactly what I
7 asked you to do and that's just normal. I want to ask you
8 this, can you put aside anything that you might have
9 discussed or heard from anybody, and decide this case solely
10 upon evidence introduced in this courtroom?

11 **JUROR:** I'd rather be excused.

12 **THE COURT:** I'm not asking if you want to serve or not.
13 I'm asking you if you can put aside that. If you tell me
14 you can't, I understand that, but I need to know that; not
15 what you prefer, because everybody out here would have a
16 preference.

17 **JUROR:** I'd rather not.

18 **THE COURT:** You don't believe you could decide this
19 case based on the evidence?

20 **JUROR:** No, I couldn't.

21 **THE COURT:** I'll excuse you from service. You may
22 return to your seat for this case only. Yes, sir, name and
23 jury number?

24 **BAILIFF:** Two forty-one.

25 **THE COURT:** Come on over here. You're Mr. Leroy

1 Williams, right?

2 JUROR: Yes, sir.

3 THE COURT: Mr. Williams, have you read something about
4 this case?

5 JUROR: Yes, sir. When I came home off a trip ---

6 THE COURT: A little bit lower.

7 JUROR: Okay. When I came home off of a trip ---

8 THE COURT: You don't have to talk that loud and the
9 reason you're up here is so that we can all hear up here,
10 and not so the jurors can, but the court reporter has to be
11 able to hear you.

12 JUROR: Yes, sir. When I came off a trip one time, I
13 came home and I read about Mr. Wooten, and I know them, you
14 know, personally, from going in and out of the store.

15 THE COURT: You knew the decedent?

16 JUROR: Yes, the decedent.

17 THE COURT: All right. The fact that you read
18 something about this, would that in any way prevent you from
19 giving the State or the defendant a fair and impartial
20 trial?

21 JUROR: Yes, sir.

22 THE COURT: You think it would?

23 JUROR: Yes, sir.

24 THE COURT: You don't believe you could put that aside
25 and decide this case solely on the evidence?

1 JUROR: I don't think so.

2 THE COURT: All right.. I'll excuse you from service in
3 the trial of this case.

4 JUROR: Thank you, sir.

5 THE COURT: Next?

6 BAILIFF: One eighty-five.

7 THE COURT: Counsel, this is juror 185. How are you
8 doing? Mr. Alfred Roberts.

9 JUROR: Yes, Mr. Wooten and I were associates years
10 ago.

11 THE COURT: All right. I asked you if you had read
12 about or heard about anything in this case.

13 JUROR: See, I didn't realize that this Wooten, this
14 man I used to be associated with, so I would be influenced
15 to take things against the person that's accused.

16 THE COURT: Well, let me ask you this, now, what I'm
17 asking you is you tell me you were associated with Mr.
18 Wooten, are you referring to the decedent or are you
19 referring to the witness in this case?

20 JUROR: No, the deceased.

21 THE COURT: All right. And how are you associated with
22 him?

23 JUROR: He run a store in Fairfax, and we were
24 associated maybe two years.

25 THE COURT: Your wife worked in this store?

1 JUROR: He ran this store.

2 THE COURT: I'm aware of that.

3 JUROR: Okay. I frequented his place regularly.

4 THE COURT: You were a customer?

5 JUROR: We became associates and that would influence
6 my decision.

7 THE COURT: Then you don't believe you could sit on
8 this case because of that?

9 JUROR: Well, I always try to tell the truth.

10 THE COURT: I know; that's what we want you to do and
11 we appreciate that. What I'm asking is can you decide this,
12 can you put aside the fact that you were an associate and a
13 customer of his and decide this case solely upon evidence
14 introduced during the trial of this case?

15 JUROR: It would be hard to decide.

16 THE COURT: I'll excuse you from the service in the
17 trial of this case. You may return to your seat.

18 BAILIFF: One thirty-eight.

19 THE COURT: This is juror 138, Ms. Lynn Matthey. Ms.
20 Matthey ---

21 JUROR: I read the newspaper.

22 THE COURT: I understand everybody reads the newspaper.
23 That's fine. That's no problem. Let me start by asking you
24 a question. The reason you came forward is because you read
25 something about this case, correct?

1 **JUROR:** Yes, sir.

2 **THE COURT:** Everybody reads the newspaper. We
3 understand that's completely normal. I do every morning.
4 But can you put aside anything that you read in the
5 newspaper and decide this case solely upon evidence
6 introduced in the trial of this courtroom?

7 **JUROR:** Yes, sir.

8 **THE COURT:** And the fact that you read something in the
9 newspaper, would that keep you from giving the State or the
10 defendant in this case a fair and impartial trial?

11 **JUROR:** No, sir.

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

14 **BAILIFF:** Number five.

15 **THE COURT:** Counsel, this is Sharon Barnes, juror
16 number five. Yes, ma'am, you came up because I asked if you
17 had read about, heard about, or know anything whatsoever
18 about this case?

19 **JUROR:** Right, and I think there's a lot of people that
20 don't support the community by buying the Guardian or
21 they're not telling the truth out there. I read it in the
22 Guardian and heard it on the radio.

23 **THE COURT:** All right. The fact that you read
24 something in the Guardian, which I understand, and heard
25 something on the radio, would that in any way prevent you

1 from giving the State or the defendant a fair and an
2 impartial trial?

3 JUROR: No, no, sir.

4 THE COURT: Now, can you put aside whatever it is that
5 you read in the newspaper, whatever it is that you heard on
6 the radio, and decide this case solely upon the evidence
7 introduced during the trial of this case when both sides are
8 present, with the right of cross-examination?

9 JUROR: Yes, sir.

10 THE COURT: Thank you, Ms. Barnes.

11 JUROR: All right. Thank you.

12 BAILIFF: Fourteen.

13 THE COURT: How are you doing?

14 JUROR: I'm good, and you?

15 THE COURT: You're Joan Brown.

16 JUROR: I am.

17 THE COURT: This is 14, Becky, Joan Brown. I ask you
18 whether or not you've heard about, read about, or know
19 anything about the facts alleged in this case, and you came
20 forward. Would you tell me why you came forward?

21 JUROR: I read about it in the Hampton County Guardian.

22 THE COURT: In the Guardian?

23 JUROR: Uh-huh (affirmative).

24 THE COURT: Yes, ma'am. The fact that you've read
25 something about this case, it's perfectly normal for people

1 to read the newspaper. I do every morning. I think most
2 people do. The fact that you read something about this
3 case, would that in any way keep you from giving the State
4 of South Carolina or the defendant in this case a fair and
5 an impartial trial?

6 JUROR: No, sir.

7 THE COURT: Can you put aside anything that you may
8 have read in the Guardian and decide this case solely upon
9 evidence introduced by the trial of the case when both sides
10 are present with the right of cross-examination?

11 JUROR: I could.

12 THE COURT: Thank you, Ms. Brown. You may return to
13 your seat.

14 BAILIFF: One thirty-seven.

15 THE COURT: How are you doing this afternoon?

16 JUROR: I'm fine.

17 THE COURT: I appreciate your patience. You are Mrs.
18 Markham?

19 JUROR: Right.

20 THE COURT: Becky, this is juror number One thirty-
21 seven, Durena Markham. Ms. Markham, I asked if you had read
22 about, heard about, or know anything whatsoever about the
23 facts which are alleged in this case and you came forward.
24 Would you tell me why you came forward?

25 JUROR: All I know is what I read in the Guardian.

1 **THE COURT:** In the Guardian. I understand everybody
2 reads the Guardian.

3 **JUROR:** Well, not many, apparently.

4 **THE COURT:** Well, the people in Hampton County read the
5 Guardian, apparently, and I understand that. Let me ask
6 you, the fact that you read something in the Guardian, would
7 that in any way keep you from giving the State of South
8 Carolina, or the defendant in this case, Joseph Davis, a
9 fair and an impartial trial?

10 **JUROR:** No, sir.

11 **THE COURT:** Now, can you put aside anything that you
12 read in the Guardian and decide this case solely upon the
13 evidence introduced during the trial of the case when both
14 sides are present.

15 **JUROR:** I don't remember much of what I read, so I
16 think so.

17 **THE COURT:** Okay. Thank you, ma'am. You may return to
18 your seat.

19 **BAILIFF:** One twenty-four.

20 **THE COURT:** How are you doing? I want to make sure, is
21 it Jennifer King.

22 **JUROR:** Yes, it is.

23 **THE COURT:** This is 124, Becky, Jennifer King. Ms.
24 King, I asked you if you had read about, heard about, or
25 know anything whatsoever about the facts which are alleged

1 in this case, and you came forward. Would you tell me why
2 you came forward?

3 JUROR: I read about it in the paper and I attend
4 church -- the church down the road and they was talking
5 about it.

6 THE COURT: Okay. One thing at a time. You read about
7 it in the paper and you also live down the road ---

8 JUROR: I attend church down the road.

9 THE COURT: You attend church down the road from where
10 it happened?

11 JUROR: Uh-huh (affirmative).

12 THE COURT: Okay.

13 JUROR: And I've heard some talk about it.

14 THE COURT: So, you've heard some talk at church.

15 JUROR: Uh-huh (affirmative).

16 THE COURT: All right. That's perfectly normal. I
17 understand that and I appreciate you coming forward. Now,
18 let me ask you, can you put aside what you've read in the
19 newspaper or what you've heard at church and decide this
20 case solely upon evidence introduced during the trial of the
21 case?

22 JUROR: Yes, sir.

23 THE COURT: Okay. Good. Now, I want to ask you this,
24 the fact that you read something in the paper, which is
25 perfectly normal, or that you've heard something at church,

1 which is also perfectly normal, would that in any way keep
2 you from giving the State of South Carolina or the defendant
3 in this case, a fair and impartial trial?

4 JUROR: No, sir.

5 THE COURT: Thank you. You may return to your seat.

6 BAILIFF: One seventy.

7 THE COURT: How are you doing today?

8 JUROR: Fine, Your Honor.

9 THE COURT: You're Ms. Wanda Phillips?

10 JUROR: I am.

11 THE COURT: Becky, this is juror number 170, Wanda G.
12 Phillips. The reason I called you forward is because you
13 might have some knowledge I would not spoken in front of the
14 other jurors. That's the reason I'm not talking as loud
15 now. But Becky's got to hear you and the lawyers have to
16 hear, too. I asked you if you had heard about, read about,
17 or know anything whatsoever about the facts which are
18 alleged in this case and you came forward. Would you tell
19 me why you came forward?

20 JUROR: I came forward because I did read about in the
21 Guardian.

22 THE COURT: Okay. I understand that. I read the
23 newspaper every day and I appreciate you doing what I asked
24 you to do. The fact that you read something in the
25 Guardian, would that in any way keep you from giving the

1 State, or the defendant in this case, a fair and an
2 impartial trial?

3 JUROR: No, sir.

4 THE COURT: Could you put aside anything that you read
5 in the Guardian and decide this case solely upon evidence
6 introduced during the trial of this case when both sides are
7 present with the right of cross-examination?

8 JUROR: Yes, Your Honor, I believe I can.

9 THE COURT: Thank you, Ms. Phillips. I appreciate you
10 being honest with me. Have a nice day.

11 BAILIFF: Seventy-eight.

12 THE COURT: How are you doing? I appreciate your
13 patience. Your Mr. Timothy Graves?

14 JUROR: Yes, sir.

15 THE COURT: This is juror number 78, Mr. Timothy
16 Graves. Mr. Graves, I asked you if you had heard
17 about, read about, or know anything whatsoever about
18 the facts which are alleged in this case, and you came
19 forward. Can you tell me why you came forward?

20 JUROR: Well, I used to be good friend with Mr. Wooten.

21 THE COURT: Which Mr. Wooten?

22 JUROR: (SOTTO VOICE DISCUSSION WITH THE JUDGE.)

23 THE COURT: All right. Let me see if I understand what
24 you told me so far, okay? You're telling me that you didn't
25 read anything in the paper, but you're friends with a member

1 of the Wooten family; is that right?

2 JUROR: Right.

3 THE COURT: All right. And the person you're friends
4 with is the decedent's brother?

5 JUROR: Correct.

6 THE COURT: And his name is Randy?

7 JUROR: Correct.

8 THE COURT: All right. The fact that you're friends
9 with Randy Wooten, would that in and of itself, keep you
10 from giving the State or the defendant in this case a fair
11 and an impartial trial?

12 JUROR: No, Your Honor, it wouldn't. But also, my
13 brother used to date the defendant's mother before she
14 passed away.

15 THE COURT: I can hardly hear you, now. Speak up.
16 Your brother dated the defendant's mother before she passed
17 away?

18 JUROR: Uh-huh (affirmative).

19 THE COURT: All right. The fact that your brother
20 dated the defendant's mother before she passed away, would
21 that in any way keep you from giving the State in this case
22 or the defendant in this case a fair and an impartial trial?

23 JUROR: No, it wouldn't.

24 THE COURT: Now, have you discussed this case with Mr.
25 Wooten's brother since this incident occurred?

1 **JUROR:** Only when it first happened.

2 **THE COURT:** Can you put aside anything that you may
3 have heard in those discussions and decide this case solely
4 upon evidence introduced during the trial of this case?

5 **JUROR:** Yes, I can.

6 **THE COURT:** And you believe you can be fair and
7 impartial to both the State and the defendant in this case?

8 **JUROR:** Yes, I can.

9 **THE COURT:** Thank you, sir. You may return to your
10 seat.

11 **BAILIFF:** One oh-one.

12 **THE COURT:** What number?

13 **BAILIFF:** One oh-one.

14 **THE COURT:** Becky, this is juror 101, Jonathon Houston.
15 I asked if you had read about, heard about or know anything
16 whatsoever about the facts which are alleged in this case
17 when I read you the indictments in this case. You came
18 forward. Would you tell me why you came forward?

19 **JUROR:** Because me and the victim's nephew are good
20 friends in high school and we had talked about the murder
21 case.

22 **THE COURT:** You and the victim's nephew?

23 **JUROR:** John Wooten.

24 **THE COURT:** John Wooten, all right. Y'all were good
25 friends and you talked to Mr. John Wooten about it?

1 **JUROR:** Yes, sir.

2 **THE COURT:** All right. The fact that you talked to Mr.
3 John Wooten about it, would that in any way prevent you from
4 giving the State or the defendant in this case a fair and an
5 impartial trial?

6 **JUROR:** Yes, sir.

7 **THE COURT:** You think it would?

8 **JUROR:** Yes, sir.

9 **THE COURT:** All right. I'll excuse you from service in
10 the trial of this case. You may return to your seat.
11 Anyone else?

12 (NO RESPONSE.)

13 **THE COURT:** Let the record reflect that no one else has
14 come forward.

15 All right, has any member of my jury panel formed any
16 opinion whatsoever about the facts which are alleged in this
17 case? Is so, please stand at this time.

18 (NO RESPONSE.)

19 **THE COURT:** Let the record reflect that no one is
20 standing. Any member of my jury panel know of any bias or
21 prejudice they may have about the facts which are alleged in
22 this case? Is so, please stand at this time.

23 (NO RESPONSE.)

24 **THE COURT:** Let the record reflect that no one is
25 standing. Any member of my jury panel formerly a member of

1 the Hampton County Grand Jury which found the indictments in
2 this case? Is so, please stand at this time.

3 (NO RESPONSE.)

4 **THE COURT:** Let the record reflect that no one is
5 standing. Any member of my jury related by blood, connected
6 by marriage, or a close personal friend of the decedent in
7 this case, Ronnie Wooten? Is so, please stand at this time.

8 (ONE JUROR STANDS.)

9 **THE COURT:** Come on, ma'am. Right over here. Give me
10 your name and juror number.

11 **JUROR:** Ms. DeLoach.

12 **THE COURT:** Ms. DeLoach, I asked you whether or not you
13 were related by blood to the decedent, are you related by
14 blood?

15 **JUROR:** No.

16 **THE COURT:** Are you connected by marriage?

17 **JUROR:** No.

18 **THE COURT:** Are you a close personal friend of the
19 decedent?

20 **JUROR:** Well, we was raised up with Ronnie Wooten, our
21 kids run around together.

22 **THE COURT:** I understand.

23 **JUROR:** And I know the whole family.

24 **THE COURT:** All right. The fact that you were a close
25 personal friend of the decedent, and that you were raised up

1 together as family, would that in any way affect your
2 ability to give the State of South Carolina, or the
3 defendant in this case, a fair and an impartial trial?

4 **JUROR:** I think so.

5 **THE COURT:** You think you can decide this case upon the
6 evidence?

7 **JUROR:** I think so.

8 **THE COURT:** Thank you, Ms. DeLoach. You may return to
9 your seat. Yes, ma'am, name and juror number, please.

10 **BAILIFF:** Number nine.

11 **THE COURT:** How are you doing? Come on over here. You
12 are Ms. Darlene Bowers, number nine?

13 **JUROR:** Yes, sir.

14 **THE COURT:** Becky, this is number 9, Darlene Bowers.
15 Ms. Bowers, I asked if you were related by blood to the
16 decedent, are you?

17 **JUROR:** No, sir.

18 **THE COURT:** Are you connected by marriage to the
19 decedent?

20 **JUROR:** No, sir.

21 **THE COURT:** Are you a close personal friend of the
22 decedent?

23 **JUROR:** I knew him.

24 **THE COURT:** You knew him?

25 **JUROR:** Yes, sir.

1 **THE COURT:** All right. The fact that you were close
2 personal friend of the decedent, would that in any way
3 affect your ability to give the State of South Carolina and
4 the defendant in this case a fair and impartial trial?

5 **JUROR:** I just don't know.

6 **THE COURT:** Now, I understand that you knew his
7 brothers and that you knew the decedent. Are you telling me
8 that the fact that you knew them that it would prevent you
9 from giving a fair ---

10 **JUROR:** Well, I hope not, but ---

11 **THE COURT:** Well, I realize it's difficult. Jury
12 service isn't necessarily always easy, but what I need to
13 know is can you put aside anything about knowing someone and
14 decide this case solely upon evidence introduced during the
15 trial of the case?

16 **JUROR:** I would prefer not to have to.

17 **THE COURT:** I'm not asking you whether you would prefer
18 to. I need to know if you could put aside ---

19 **JUROR:** No, sir.

20 **THE COURT:** You don't think you can?

21 **JUROR:** Unh-unh.

22 **THE COURT:** I'll excuse you from service in the trial.
23 Thank you, Ms. Bowers.

24 Counsel approach.

25 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD

1 AND OUT OF THE HEARING OF THE JURORS.)

2 **THE COURT:** All right. Is any member of my jury panel
3 ever been the victim of a violent crime? Is so, please
4 stand at this time.

5 (NO RESPONSE.)

6 **THE COURT:** Let the record reflect that no one is
7 standing. Any member of my jury panel or a member of their
8 immediate family -- and by immediate family, I'm referring
9 to your husband, your wife, your brother, your sister, your
10 mother, your father, or your child. Any member or member of
11 their immediate family ever been employed with a law
12 enforcement agency? Is so, please stand at this time.

13 (JURORS STAND.)

14 **THE COURT:** Name and juror number, please.

15 **JUROR:** One forty-five, Tammie McMillan.

16 **THE COURT:** Counsel, this is juror number 145, Tammie
17 McMillan. Ms. McMillan, were you or a member of your
18 immediate family employed with a law enforcement agency?

19 **JUROR:** My son. I'm not sure if this applies, but he
20 was working while he was in college in Columbia with SLED.

21 **THE COURT:** Your son, while he was in college, worked
22 with SLED. Would that in any way affect your ability to
23 give the State in this case or the defendant a fair and
24 impartial trial?

25 **JUROR:** No, sir.

1 **THE COURT:** Thank you, ma'am. You may be seated. Yes,
2 ma'am, your name and juror number?

3 **JUROR:** One thirty-eight, Lynn

4 **THE COURT:** Counsel, this is juror number 138, Lynne D.
5 Mattie. Ms. Mattie, were you or a member of your immediate
6 family employed with a law enforcement agency?

7 **JUROR:** Yes, sir.

8 **THE COURT:** You or a member of your immediate family?

9 **JUROR:** Yes, sir. My nephew is a State Trooper.

10 **THE COURT:** Your nephew is currently a State Trooper?

11 **JUROR:** Yes, sir.

12 **THE COURT:** The fact that your nephew is a State
13 Trooper, would that in any way affect your ability to give
14 the State or the defendant in this case a fair or impartial
15 trial?

16 **JUROR:** No, sir.

17 **THE COURT:** Yes, ma'am, your name and juror number,
18 please?

19 **JUROR:** Wanda Phillips, One Seventy. My father used to
20 be a policeman for the town of Varnville. He is not any
21 longer, but he used to be.

22 **THE COURT:** Counsel, this is juror 170. It's Wanda
23 Phillips. Ms. Phillips, your father used to be with the
24 Varnville Police Department, but he's no longer employed
25 there; is that right?

1 **JUROR:** That's correct, Your Honor.

2 **THE COURT:** The fact that your father previously was
3 with the Varnville Police Department, would that in any way
4 affect your ability to give the State in this case or the
5 defendant in this case a fair and impartial trial?

6 **JUROR:** No, sir.

7 **THE COURT:** Thank you, ma'am. You may be seated.
8 Any member of my jury panel own or work in a
9 convenience store? Is so, please stand at this time.

10 **(JURORS STAND.)**

11 **THE COURT:** Yes, ma'am, on the front row, your name and
12 juror number, please.

13 **JUROR:** Juror number Sixty-five.

14 **THE COURT:** Counsel, this is juror number 65, Ms. Wes
15 Gooding. Ms. Gooding, the fact that you own a convenience
16 store or you work in one or what?

17 **JUROR:** I work in one.

18 **THE COURT:** You work in one. The fact that you work in
19 a convenience store, would that in any way affect your
20 ability to give the State in this case or the defendant in
21 this case a fair and impartial trial?

22 **JUROR:** No, sir.

23 **THE COURT:** Thank you, ma'am. You may be seated. Yes,
24 sir?

25 **JUROR:** Richard Hagan, Eighty-six.

1 **THE COURT:** Counsel, this is juror number 86. Mr.
2 Hagan, you own or work in a convenience store?

3 **JUROR:** I own one.

4 **THE COURT:** The fact that you own a convenience store,
5 would that in any way affect your ability to give the State
6 in this case or the defendant in this case a fair and
7 impartial trial?

8 **JUROR:** No, sir.

9 **THE COURT:** Thank you, please be seated. Yes, ma'am,
10 your name and juror number?

11 **JUROR:** Patricia Caulder, One twenty-six.

12 **THE COURT:** Counsel, this is juror number 126, Patricia
13 Caulder. Ms. Caulder, do you own or work in a convenience
14 store?

15 **JUROR:** I work in one.

16 **THE COURT:** The fact that you work in a convenience
17 store, would that in any way affect your ability to give the
18 State in this case or the defendant in this case a fair and
19 impartial trial?

20 **JUROR:** No, sir.

21 **THE COURT:** Thank you, ma'am, you may be seated. Yes,
22 sir, your name and juror number?

23 **JUROR:** James Jarrell, One ten.

24 **THE COURT:** Counsel, this is James Jarrell, juror
25 number 110. Mr. Jarrell, do you own or work in a

1 convenience store?

2 JUROR: Work in one.

3 THE COURT: The fact that you work in a convenience
4 store, would that in any way affect your ability to give the
5 State in this case or the defendant in this case a fair and
6 impartial trial?

7 JUROR: No, sir.

8 THE COURT: Let the record reflect that no one is
9 standing in response to my last question. Is any member of
10 the jury panel a member of or a contributor to any group
11 which has as its primary concern the promotion of law
12 enforcement of victim's rights? These groups would include
13 MADD, SADD, CAVE, and CADRE. Is so, please stand at this
14 time.

15 (NO RESPONSE.)

16 THE COURT: Let the record reflect that no one is
17 standing. Any member of my jury panel who is a member of
18 the South Carolina Trooper's Association or the County
19 Sheriff's Association or the Fraternal Order of the Police?
20 Is so, please stand at this time.

21 THE COURT: Let the record reflect that no one is
22 standing. Any member of my jury panel know of any reason
23 whatsoever why they can't give the State of South Carolina
24 or the defendant in this case a fair and an impartial trial?
25 Is so, please stand at this time.

1 (NO RESPONSE.)

2 THE COURT: Let the record reflect that no one is
3 standing. Any additional voir dire from the State?

4 DEP. SOLICITOR THORNTON: No, sir.

5 THE COURT: From the defendant?

6 MS. SMART-GITTINGS: No, sir, Your Honor.

7 THE COURT: All right. Counsel, it's my understanding
8 that you both agree that the strikes are ten and five.
9 We'll be drawing three alternate jurors. Two and one on
10 each of the three alternates; is that correct, from the
11 State?

12 DEP. SOLICITOR THORNTON: It is, Your Honor.

13 THE COURT: Correct from the defendant?

14 MS. SMART-GITTINGS: That is correct, Your Honor.

15 THE COURT: All right. Madame Clerk, would you give us
16 a jury, please. Ten and five, two and one, three
17 alternates.

18 (BRIEF PAUSE WHILE THE COMPUTER DRAWS THE JUROR'S
19 NAMES.)

20 THE COURT: Now, what's happening right now is we use
21 the computer to draw the jury now. The computer has drawn
22 the jury. No one has seen the list. They've just handed it
23 to me. The Clerk has it in her hand. She's going to call
24 the names that I have qualified as a potential juror in the
25 trial of this case. Please bring your belongings with you

1 and come forward, turn around and face the direction I'm
2 facing right now, toward the back of the courtroom, up at
3 the Clerk's bench when your name is called, and bring your
4 belongings with you, if you would, please. Madame Clerk,
5 would you give us a jury, please.

6 **MADAME CLERK:** Number 137, Durena Marcum. What says
7 the State?

8 **DEP. SOLICITOR THORNTON:** Please present this juror.

9 **MADAME CLERK:** What says the defense?

10 **MS. SMART-GITTINGS:** Please excuse this juror.

11 **MADAME CLERK:** Okay, ma'am, you may have a seat.

12 Number 239, John G. Williams. What says the State?

13 **DEP. SOLICITOR THORNTON:** Please present this juror.

14 **MADAME CLERK:** What says the defense?

15 **MS. SMART-GITTINGS:** Please seat this juror.

16 **MADAME CLERK:** Number 145, Tammie McMillan. What says
17 the State?

18 **DEP. SOLICITOR THORNTON:** Please present this juror.

19 **MADAME CLERK:** What says the defense?

20 **MS. SMART-GITTINGS:** Please seat this juror.

21 **MADAME CLERK:** Number 190, Carl Ruth. What says the
22 State?

23 **DEP. SOLICITOR THORNTON:** Please present this juror.

24 **MADAME CLERK:** What says the defense?

25 **MS. SMART-GITTINGS:** Please seat this juror.

1 **MADAME CLERK:** Number Five, Sheron Barnes. What says
2 the State?
3 **DEP. SOLICITOR THORNTON:** Please present this juror.
4 **MADAME CLERK:** What says the defense?
5 **MS. SMART-GITTINGS:** Please excuse this juror.
6 **MADAME CLERK:** Have a seat back with the panel. Number
7 106, Christine James. What says the State?
8 **DEP. SOLICITOR THORNTON:** Please present this juror.
9 **MADAME CLERK:** What says the defense?
10 **MS. SMART-GITTINGS:** Please seat this juror.
11 **MADAME CLERK:** Number 181, Myrick Riddles. What says
12 the State?
13 **DEP. SOLICITOR THORNTON:** Please excuse this juror.
14 **MADAME CLERK:** Number 165, Arthur O'Banner. What says
15 the State?
16 **DEP. SOLICITOR THORNTON:** Please present this juror.
17 **MADAME CLERK:** What says the defense?
18 **MS. SMART-GITTINGS:** Please seat this juror.
19 **MADAME CLERK:** Number 175, Jorelle Ready. What says
20 the State?
21 **DEP. SOLICITOR THORNTON:** Please present this juror.
22 **MADAME CLERK:** What says the defense?
23 **MS. SMART-GITTINGS:** Please seat this juror.
24 **MADAME CLERK:** Number 22, Joseph Brunson. What says
25 the State?

1 **DEP. SOLICITOR THORNTON:** Please present this juror.

2 **MADAME CLERK:** What says the defense?

3 **MS. SMART-GITTINGS:** Please seat this juror.

4 **MADAME CLERK:** Number 78, Timothy Graves. What says
5 the State?

6 **DEP. SOLICITOR THORNTON:** Please excuse this juror.

7 **MADAME CLERK:** Have a seat back. Number 138, Lynne
8 Mattie. What says the State?

9 **DEP. SOLICITOR THORNTON:** Please present this juror.

10 **MADAME CLERK:** What says the defense?

11 **MS. SMART-GITTINGS:** Please seat this juror.

12 **MADAME CLERK:** Number 124, Jennifer King. What says
13 the State?

14 **DEP. SOLICITOR THORNTON:** Please excuse this juror.

15 **MADAME CLERK:** Number 118, Jessica Johnson. What says
16 the State?

17 **DEP. SOLICITOR THORNTON:** Please present this juror.

18 **MADAME CLERK:** What says the defense?

19 **MS. SMART-GITTINGS:** Please seat this juror.

20 **MADAME CLERK:** Number 233, Patricia White. What says
21 the State?

22 **DEP. SOLICITOR THORNTON:** Please present this juror.

23 **MADAME CLERK:** What says the defense?

24 **MS. SMART-GITTINGS:** Please seat this juror.

25 **MADAME CLERK:** Number 59, Phillip Garvin. What says

1 the State?

2 **DEP. SOLICITOR THORNTON:** Please present this juror.

3 **MADAME CLERK:** What says the defense?

4 **MS. SMART-GITTINGS:** Please seat this juror.

5 **MADAME CLERK:** Number 220, Lizzie Taylor. What says

6 the State?

7 **DEP. SOLICITOR THORNTON:** Please excuse this juror.

8 **MADAME CLERK:** Number 237, Harden Williams. What says

9 the State?

10 **DEP. SOLICITOR THORNTON:** Please present this juror.

11 **MADAME CLERK:** What says the defense?

12 **MS. SMART-GITTINGS:** Please seat this juror.

13 **MADAME CLERK:** Number 27, Lumisha Campbell. What says

14 the State?

15 **DEP. SOLICITOR THORNTON:** Please excuse this juror.

16 **MADAME CLERK:** Number 178, Bradley Rhoden. Does the

17 State have cause to strike?

18 **DEP. SOLICITOR THORNTON:** No, ma'am, please present

19 this juror.

20 **MADAME CLERK:** What says the defense?

21 **MS. SMART-GITTINGS:** Please excuse this juror.

22 **MADAME CLERK:** Number 60, Jimmy Glass. Does the State

23 have cause to strike?

24 **DEP. SOLICITOR THORNTON:** No, ma'am, please present

25 this juror.

1 MADAME CLERK: What says the defense?

2 MS. SMART-GITTINGS: Please seat this juror.

3 MADAME CLERK: Number 147, Mattie Miller.

4 THE COURT: That's 12?

5 MADAME CLERK: Yes, sir.

6 THE COURT: This is Alternate Number One, the strikes
7 are two and one.

8 MADAME CLERK: What says the State?

9 DEP. SOLICITOR THORNTON: Madame Clerk, may I have the
10 juror number one more time, please?

11 MADAME CLERK: One forty-seven.

12 DEP. SOLICITOR THORNTON: Please present this juror.

13 MADAME CLERK: What says the defense?

14 MS. SMART-GITTINGS: Please excuse this juror.

15 MADAME CLERK: Number 41, Nathaniel Deloach. What says
16 the State?

17 DEP. SOLICITOR THORNTON: Please excuse this juror.

18 MADAME CLERK: Number 128, Tim Kowalewski. Does the
19 State have cause for strike?

20 DEP. SOLICITOR THORNTON: Please present this juror.

21 MADAME CLERK: What says the defense?

22 MS. SMART-GITTINGS: Please seat this juror.

23 THE COURT: Alternate Number Two, two and one.

24 MADAME CLERK: Number 135, Casey Malphrus. What says
25 the State?

1 **DEP. SOLICITOR THORNTON:** Please present this juror.

2 **MADAME CLERK:** What says the defense?

3 **MS. SMART-GITTINGS:** Please seat this juror.

4 **THE COURT:** Alternate Number Three, two and one.

5 **MADAME CLERK:** Number 120, Elnora Jones. What says the
6 State?

7 **DEP. SOLICITOR THORNTON:** Please present this juror.

8 **MADAME CLERK:** What says the defense?

9 **MS. SMART-GITTINGS:** Please seat this juror.

10 **MADAME CLERK:** Okay, Judge.

11 **THE COURT:** Are there any matters of law pertaining to
12 the selection of the jury that need to be decided before the
13 jury is sworn, from the State of South Carolina?

14 **DEP. SOLICITOR THORNTON:** No, sir, Your Honor.

15 **THE COURT:** From the defense?

16 **MS. SMART-GITTINGS:** None, Your Honor.

17 **THE COURT:** Counsel approach.

18 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD AND
19 OUT OF THE HEARING OF THE JURY.)

20 **THE COURT:** All right. Ladies and gentlemen of the
21 jury, I want you to go with my security people to your jury
22 room, because when you report in the morning, I want you to
23 report to your jury room. Do not come to the courtroom.
24 They will tell you how to get in and out of the courthouse.
25 They're going to tell you about parking, if you need that

1 issue. Please do not discuss this case. You have not heard
2 any evidence in this case and it would be improper for you
3 to discuss it amongst yourselves or with anybody else.

4 I don't know if there's going to be anything on radio,
5 television, or in the newspaper about this case. Please do
6 not read such, watch such, or listen to such. You must
7 decide this case based on evidence introduced during the
8 trial of this case, when both sides are present with the
9 right of cross-examination.

10 Now, I'm going to swear you in the morning and we're
11 going to be starting a little later, because I have a matter
12 that's going to take a couple hours starting at 8:00 in the
13 morning in another county. So we're going to start at 10:15
14 in the morning, but I'm going to bring you back. I want you
15 to do a little work.

16 Now, the three of you, beginning with you, Mr.
17 Kowalewski, the three of you are my alternate jurors. You
18 are just as important as a member of the jury if for some
19 reason a member of the jury cannot continue to serve, you
20 would take their place on the jury. You will be with the
21 jury at all times throughout the trial of the case.

22 However, because you're an alternate, this time you're
23 not eligible to be foreperson. I would like for the 12 of
24 you that are on the jury, I'd like for you to select a
25 foreperson in your jury room. Here's what I want you to do.

1 They're going to give you a pad and a pen. Any of the
2 twelve of you are eligible to be selected as foreperson.

3 Let me tell you the duties of foreperson so you'll know
4 what I want you to do. The foreperson presides in the jury
5 room, just like the chairperson of a committee would preside
6 at a committee meeting. It is the foreperson's job to see
7 that each and every member of the jury has a full and a fair
8 opportunity to voice their opinions in the jury room once
9 deliberations begin. So, the foreperson presides in the
10 jury room.

11 The foreperson also writes and signs the verdict for
12 the jury. So, the foreperson completes the verdict form for
13 the jury and signs the foreperson's name to the verdict
14 form.

15 And finally, should the need arise during the trial of
16 the case, the foreperson speaks out here in the courtroom
17 for the entire jury. So, the foreperson presides in the
18 jury room to see that each and every person has a full and
19 fair opportunity to voice their opinion. The foreperson
20 writes the jury's verdict and the foreperson speaks for the
21 jury should the need arise during the trial of the case.

22 Any of the 12 of you are eligible to be elected as
23 foreperson. When you go to the jury room with my alternate
24 jurors, they'll be with you, but they're not eligible to be
25 foreperson. I want you to select a foreperson in this case.

1 Write their name on a piece of paper and then knock on your
2 jury room door when you've selected a foreperson. Then,
3 we'll bring you back into the courtroom and I'm going to
4 excuse you, because we're not going to start the trial until
5 tomorrow morning. But please do not discuss the case. Talk
6 about the weather. Talk about sports. Talk about anything
7 else. Select a foreperson, but do not talk about the case.
8 You may retire to your jury room at this time. Thank you
9 very much.

10 (5:40 PM, 06-27-11, WHEREUPON, THE JURY EXITS THE
11 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
12 RECORD.)

13 **THE COURT:** All right. Ladies and gentlemen who were
14 not selected as jurors in the trial of this case, I want to
15 thank you for your patience. You see that it takes a while
16 to get everything done and when you're dealing with people
17 that know other people in a small community, it slows the
18 process down, but I thank you for your patience and I thank
19 you for your presence and your willingness to serve.

20 Now, ladies and gentlemen, we don't keep you here while
21 we're trying a case. Each of you should have a card or my
22 bailiff have a card back there in the back. They will give
23 you a card as you leave here, just my jurors now, and it's
24 got a telephone number -- what's the number here, Mylinda?

25 **MADAME CLERK:** I think it's 914-2257.

1 **THE COURT:** It's 914-2257. I'm going to ask you to
2 call that number after 6:00 tonight. There will be a taped
3 message on that number telling you when, if at all, I might
4 need you to return. Don't call the number prior to 6:00,
5 wait until after 6:00. There's one number for all jurors.
6 If I do ask you to return, report to the area of the
7 courtroom that you're seated in now and please be on time.
8 If one of you is late, all the rest of you have to sit and
9 wait until everybody is present. Follow the instructions on
10 the tape. It may tell you to call back tomorrow night; it
11 may tell you to report. Follow the instructions on the
12 tape. If the number is busy, just keep calling until you
13 get through. There's one message for all jurors.

14 Any questions from any of my jurors? Does everybody
15 understand what to do? Now if anybody needs transportation
16 to get here on time, let me know, ladies and gentlemen, and
17 I'll provide transportation for you.

18 Thank you for your patience. You're now excused for
19 the balance of the day.

20 (JURORS LEAVE THE COURTROOM.)

21 **THE COURT:** All right. First of all, before I bring
22 the jury back in, counsel came to the bench in the course of
23 the afternoon and we were advised that juror number 86, who
24 is Richard Hagan, H-A-G-A-N. He had a doctor's appointment
25 with Dr. Don Johnson at Southeastern Spine. He just had a

1 epidural or surgery and his appointment is for either
2 tomorrow or the next day, and obviously, this case is going
3 to take up tomorrow and the next day. Counsel have agreed,
4 because of his doctor's appointment, and the difficulty of
5 rescheduling his medical treatment, to excuse him. Is that
6 correct from the State?

7 **DEP. SOLICITOR THORNTON:** It is, Your Honor.

8 **THE COURT:** From the defendant?

9 **MS. SMART-GITTINGS:** Yes, Your Honor.

10 **THE COURT:** But he was taken out of the juror pool by
11 consent of counsel. I have been advised by my security
12 personnel that the jury has chosen juror Christine James as
13 the Foreperson of the jury, that's juror number 106,
14 Christine James. I have the note right here. Any objection
15 from the State to making the jury's note a court exhibit?

16 **DEP. SOLICITOR THORNTON:** No, sir.

17 **THE COURT:** From the defendant?

18 **MS. SMART-GITTINGS:** No, sir.

19 **THE COURT:** Madame Clerk, would you hand that to my
20 court reporter. That will be Court's Exhibit Number One,
21 jury's note.

22 (COURT EXHIBIT ONE, JURY NOTE, RECEIVED IN EVIDENCE.)

23 All right. Now, Counsel is aware that we're not going
24 to be able to start until after 10:15 in the morning and
25 I'll be advising the jury. You understand that from the

1 State?

2 DEP. SOLICITOR THORNTON: I do, Your Honor.

3 THE COURT: You understand that Ms. Smart-Gittings?

4 MS. SMART-GITTINGS: I do, Your Honor.

5 THE COURT: Anything further from the State before I
6 bring the jury back in and excuse them for the evening?

7 DEP. SOLICITOR THORNTON: No, Your Honor.

8 THE COURT: From the defense?

9 MS. SMART-GITTINGS: None, Your Honor.

10 THE COURT: Bring us the jury, please.

11 (5:50 P.M., 6-27-11, WHEREUPON THE JURY ENTERS THE
12 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

13 THE COURT: Now, let me help you a little bit. I know
14 my bailiffs are trying to assist you. Now, Ms. James,
15 congratulations on your election. I got your note. That
16 will be your seat. Mr. Jimmy has you sitting all the way
17 down, and that's because I've got three alternates back
18 there. You notice that that box has more chairs than just
19 12; it's got 18. I assume it was the Grand Jury box at one
20 time and we changed the courtroom when we renovated it. We
21 did the same thing in other counties.

22 However, it is difficult, particularly those on the
23 back row, don't try to walk between the chairs. I've got a
24 step back there and I don't want anyone to fall. When you
25 come in, if you want to sit by somebody, line up in your

1 jury room that way, but come all the way in and all the way
2 down, so nobody has to crawl over anybody and nobody has to
3 walk between the chairs. The bailiffs will assist you.

4 Now, my alternates, you're doing exactly what I want.
5 You're sitting in the order in which you were selected,
6 alternate one, two and three. The foreperson sits where Ms.
7 James is and the rest of you can sit anywhere you want to,
8 just fill all the way down so nobody has to crawl over you
9 to get in and out of the box.

10 Now, ladies and gentlemen, I told you I was going to
11 let you get home today. We're going to start -- I want you
12 in your jury room by 10:15 in the morning. You'll have
13 plenty of time before we start. Over the overnight recess,
14 please do not discuss this case, not even with a member of
15 your own family. You haven't heard any evidence in this case
16 and it would be improper for you to discuss it.

17 I know people are curious and they come up to you and
18 say, "Did you get on the jury?" Say, "Yes, but the judge
19 asked me not to talk about it." If somebody persists in
20 wanting to talk to you about this case, you just get their
21 name and give it to me and I'll handle that problem for you,
22 ladies and gentlemen. That person won't bother you anymore.
23 I can promise you that.

24 As I told you, I don't know whether there will be
25 anything on radio, television, or in the newspaper about

1 this case. Please don't read such, watch such, or listen to
2 such. You must decide this case solely upon evidence
3 introduced in this courtroom when both sides are present
4 with the right of cross-examination. The parties have a
5 right to know exactly what you're relying on in making your
6 decision. That's why evidence is introduced in the presence
7 of everybody in the courtroom, and in that regard, ladies
8 and gentlemen, let me warn you that it is improper for any
9 of you to do any juror research about any matter involved in
10 this case or any lawyer, or any witness, or any court
11 officer, on any electronic device. You must solely decide
12 this case upon evidence introduced in this courtroom when
13 both sides are present with the right of cross-examination.

14 Now, I want to thank you for your patience. I know
15 it's been a long afternoon for you. This case will probably
16 take a couple of days. I want you to listen carefully. I
17 will be talking to each of you tomorrow when we start.

18 Please be on time. We're going to take good care of
19 you in the jury room. I can promise you that. When you get
20 here early, they will have something for you to drink and a
21 snack. Please be here prior to 10:15. If anybody needs
22 transportation, let my bailiffs know.

23 On behalf of Hampton County and this Court, I want to
24 thank you for your service. I look forward to seeing each
25 and every one of you in the morning in your jury room by

1 10:15. You are now excused for the evening and I will see
2 you tomorrow. You may leave the courtroom at this time.

3 (5:55 P.M., 06-27-11, WHEREUPON, THE JURY EXITS THE
4 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
5 RECORD.)

6 **THE COURT:** Anything on the record before we adjourn
7 for the evening, from the State?

8 **DEP. SOLICITOR THORNTON:** Nothing, Your Honor.

9 **THE COURT:** From the defendant?

10 **MS. SMART-GITTINGS:** Nothing, Your Honor.

11 (WHEREUPON, COURT IS ADJOURNED FOR THE EVENING.)

12 (10:30 A.M., 06-28-11, WHEREUPON, THE JURY ENTERS THE
13 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
14 RECORD.)

15 **THE COURT:** Now, let me start with a couple of things
16 that have happened in chambers this morning. Yesterday, I
17 want to make a record of what happened. Yesterday, during
18 the Jackson v. Denno Hearing, Mr. Thornton objected on
19 grounds of relevance at the bench to the questioning of --
20 help me with the name, Stephanie -- Ms. Mungin, but I can't
21 pronounce her first name. Anyway, she's with the Jasper
22 County Jail, right?

23 **MS. SMART-GITTINGS:** The Hampton County.

24 **THE COURT:** Hampton County Jail, but lives in Jasper
25 County.

1 **MS. SMART-GITTINGS:** Yes, sir, Your Honor.

2 **THE COURT:** Counsel approached the bench. I publicly
3 stated after that bench conference, the objection of Mr. --
4 keep that door shut for me now. Is it shut?

5 **BAILIFF:** Yes, sir.

6 **THE COURT:** Keep it shut.

7 **BAILIFF:** Yes, sir.

8 **THE COURT:** I publicly stated that the objection was
9 overruled. What occurred at the bench, and I want to make a
10 record of it was this: Mr. Thornton objected on relevance
11 saying that he felt that the questioning of Ms. Mungin went
12 beyond the issue of voluntariness.

13 I reminded Ms. Smart-Gittings that I had found the
14 defendant competent, and I was very aware from reviewing the
15 exhibits on competency about his medication. But I allowed
16 her to go into it, and she said "Judge, I'm going to tie
17 this in to voluntariness, and I'm not going into competence,
18 and I'm not going to ask any opinion questions." And I told
19 her she was a fact witness, and as long as she wasn't
20 eliciting opinions, I would overrule the objection. And I
21 stated the objection was overruled on the record.

22 After that bench conference, which wasn't on the
23 record, she came back. Ms. Smart-Gittings tried to elicit
24 from the witness an opinion as to what a certain drug was.
25 The Solicitor stood up and objected again. I sustained that

1 objection because at the bench conference Ms. Smart-Gittings
2 had promised me she would not elicit opinion testimony. And
3 as to the type of drugs or the affect of drugs, the witness
4 was not, although could have been, qualified to give an
5 opinion. I don't know, since no qualification, other than
6 that she was a nurse in the jail was elicited from the
7 witness, and that was the basis of our ruling. And I wanted
8 there to be a record of what occurred. So, now that's taken
9 care of.

10 I was told by the lawyers this morning that I omitted
11 from the witness list, even though I asked them yesterday if
12 there were any additional witnesses, and no one told me,
13 because I added one more witness, which in fairness to Ms.
14 Smart-Gittings, she had on her original list, Davina
15 Hartigan, with Blazer Investigations out of Charleston,
16 South Carolina. And that's H-A-R-T-I-G-A-N, Becky.

17 Apparently, my law clerk tried to put on one piece of
18 paper the 27 witnesses that he thought were both the State
19 and the defendant's. I noticed there was an omission and I
20 wrote that witness's name down at the very bottom. And,
21 apparently, I did not inquire of the jury about that
22 witness. Therefore, when I bring the jury back in, prior to
23 swearing the jury this morning, I will inquire if there's
24 any member of the jury panel who is related by blood,
25 connected by marriage, or a close personal friend of Davina

1 Hartigan of Charleston, South Carolina who is a potential
2 witness in the trial of this case.

3 Is that satisfactory with the State?

4 **DEP. SOLICITOR THORNTON:** It is, Your Honor.

5 **THE COURT:** Is that satisfactory with the defendant, as
6 to the witness?

7 **MS. SMART-GITTINGS:** It is, Your Honor.

8 **THE COURT:** All right. I'm also advised this morning
9 that the State has a witness, either Number 3 or Number 4,
10 who will need an interpreter. I'm assuming this is a
11 Spanish-speaking individual?

12 **DEP. SOLICITOR THORNTON:** It is, Your Honor. And I
13 believe he is going to be -- I think it's Witness number 5,
14 Judge, but I don't know right off the top of my head.

15 **THE COURT:** All right. I inquired because under 17-1-
16 50(a)(4), to be exact, and whether or not this was a
17 certified interpreter, which let me again point out, a
18 certified interpreter means an interpreter who meets the
19 standards under the code and who is certified by the
20 Administrative Office of the United States Courts, or by the
21 Administrative Office of the State Courts or by a
22 nationally-recognized interpreter professional organization.

23 A qualified interpreter, as opposed to a certified
24 interpreter, under 17-1-50, means a person who is 18 years
25 of age who is not a family member of a party or witness in

1 the proceeding, who is not confined to an institution, and
2 who convinces the Court that they have education, training,
3 or experience that enables them to speak English and a
4 foreign language fluently and readily able to interpret
5 simultaneously and consecutively and to sight-translate
6 documents from English into the language of a non-English
7 speaking person or from the language of that person into
8 spoken English.

9 Counsel wasn't sure. I assume you've had the chance.
10 Is this a certified or a qualified interpreter?

11 **DEP. SOLICITOR THORNTON:** Your Honor, may I have one
12 moment?

13 **THE COURT:** You may.

14 (BRIEF PAUSE.)

15 **THE COURT:** Yes, sir?

16 **DEP. SOLICITOR THORNTON:** Your Honor, I will tell you
17 that I have talked to the Clerk of Court who helped arrange
18 this, and this comes from a list of people that the Court
19 administration specifically authorizes and uses.

20 **THE COURT:** So you believe they are certified?

21 **DEP. SOLICITOR THORNTON:** I believe she would be
22 certified, Judge, and I apologize if I get that wrong. But
23 we got it -- we got her directly from the Court
24 Administration list.

25 **THE COURT:** All right. Well, when she arrives, if

1 you'll inquire. I'll need to make a record if she's
2 qualified, to determine her qualifications. If she is
3 certified, then she needs to put her qualifications on the
4 record to show her certification, so we can proceed using
5 her. But we'll have to do that before she interprets, and
6 she'll have to take the oath from the Clerk, obviously. So
7 would you check on that when she arrives, so we can handle
8 that at the appropriate time?

9 **DEP. SOLICITOR THORNTON:** Yes, sir. And she's here. I
10 can send somebody to do that right now.

11 **THE COURT:** Okay. Do you want to send Tameaka or
12 somebody -- oh, wait a minute. A member of The Dream Team's
13 here.

14 **DEP. SOLICITOR THORNTON:** I've got Angela Stallings.
15 She's going to take care of it right now, Judge.

16 **THE COURT:** All right. That will be fine. All right
17 now, I think that's everything that we covered in chambers,
18 other than the fact that I've asked counsel to -- obviously,
19 nothing's shown to the jury demonstratively or in evidence
20 without opposing counsel seeing it first and y'all giving me
21 the opportunity to rule before you present anything to the
22 jury.

23 I understand we're going to use the screen today, which
24 is fine, once a piece of evidence is entered into evidence
25 and I explain that to the jury. I asked counsel to pre-mark

1 the exhibits, which they've done. And I think that's
2 everything we discussed.

3 Ms. Jordan, welcome back. I know that Stephanie's glad
4 to have you back.

5 Have I covered everything we discussed in chambers,
6 insofar as the State is concerned?

7 **DEP. SOLICITOR THORNTON:** Yes, sir, I believe so.

8 **THE COURT:** Insofar as the defendant is concerned?

9 **MS. SMART-GITTINGS:** Yes, sir, Your Honor.

10 **THE COURT:** Very good. Bring me the jury, please.

11 **MADAME CLERK:** Court Administration says she's State
12 certified.

13 **DEP. SOLICITOR THORNTON:** Thank you.

14 (06-28-11, WHEREUPON, THE JURY ENTERS THE COURTROOM AND
15 THE FOLLOWING PROCEEDINGS ARE HELD ON THE RECORD.)

16 **THE COURT:** Good morning, Madame Foreperson.

17 **MS. FOREPERSON:** Good morning.

18 **THE COURT:** Good morning, ladies and gentlemen of the
19 jury. Thank you for being here. We had some matters come
20 up; it happens in every case. And let me tell you one of
21 them because of something I neglected yesterday that I want
22 to start by correcting.

23 Do you recall that I told you, you were under oath and
24 I read a very long list -- I got it right here -- of
25 potential witnesses in the trial of this case. And I asked

1 each of you if you were related by blood, connected by
2 marriage, or a close, personal friend of any of the
3 potential witnesses.

4 Well, trying to be complete, I wrote the 28th name down
5 at the bottom of the page, as y'all can see my scratch down
6 here. I neglected to call out that name. So, let me now
7 correct that situation. There is a witness in this case
8 whose name is Davina, D-A-V-I-N-A, Hartigan, H-A-R-T-I-G-A-
9 N. She is with Blazer Investigations and lives in
10 Charleston, South Carolina. She is a potential witness in
11 the trial of this case.

12 Is there any member of my jury panel -- and I remind
13 you you're under oath from the Clerk yesterday -- any member
14 of my jury panel related by blood, connected by marriage, or
15 a close personal friend of Davina Hartigan of Charleston,
16 South Carolina? If so, please raise your hand at this time.

17 (NO RESPONSE.)

18 **THE COURT:** Let the record reflect, no hands are
19 raised. Any additional inquiry concerning witnesses from
20 the State?

21 **DEP. SOLICITOR THORNTON:** No, sir.

22 **THE COURT:** From the defendant?

23 **MS. SMART-GITTINGS:** None, Your Honor.

24 **THE COURT:** Very well. Madame Clerk, would you please
25 swear the jury?

1 **MADAME CLERK:** Yes, sir. Would you stand and raise
2 your right hands, please?

3 **WHEREUPON, THE JURORS ARE DULY SWORN.**

4 **THE COURT:** All right, ladies and gentlemen. Before we
5 begin this trial, I want to tell you, and I run into this
6 quite a bit now, that this trial probably is going to be
7 different from what many of you might expect. You know,
8 ladies and gentlemen, most people, many people, do not have
9 a chance to attend an actual court session, as each of you
10 are doing right now.

11 And most people may think from watching television, or
12 going to a movie, or reading in a book that trials are
13 always full of high drama, intense acting and riveting and
14 entertaining circumstances. Such shows as Cold Case and CSI
15 and New York Law, LA Law and things of that nature give the
16 impression that trials are always full of riveting and
17 entertaining circumstances and buttons can be pushed by
18 people in white coats and all of a sudden, miraculously, all
19 the facts become crystal clear.

20 You know, ladies and gentlemen, an actual trial is not
21 for entertainment. An actual trial is a search for the
22 truth in an effort to make sure that justice is done between
23 the parties, before the Court. Searching for the truth and
24 making sure that justice is done is often slow, as you saw
25 this morning. It is often deliberate. It is often

1 repetitive. The exact opposite of what you may have seen on
2 television or seen in a movie or read in a book.

3 This courtroom, ladies and gentlemen, is a place of
4 honor. It is dedicated to the protection and to the
5 preservation of citizen's rights through what many people
6 have called the greatest justice system in the entire world.

7 The attorneys that are going to be appearing before
8 you, they are advocates for the parties that they represent,
9 both the State of South Carolina and the defendant. But
10 first and foremost, the attorneys are officers of this
11 Court. And as officers of this Court, they are sworn in an
12 oath that they took to uphold the integrity, and to uphold
13 the fairness of our judicial system, and to help you, the
14 jury, in a search for the truth.

15 You should expect the attorneys to be professional.
16 You should expect the attorneys to be prepared, competent,
17 and you should expect the attorneys to be courteous to you,
18 to each other, and the Court. And you should expect the
19 attorneys to be ethical in the representation of their
20 client's interests.

21 Now, I want to remind you, that each of you have now
22 taken an oath, just like the attorneys and I have taken an
23 oath. And in that oath, you just told the Clerk of Court
24 that you will try this case and that you will reach a fair
25 and a just verdict in this case. So you, ladies and

1 gentlemen of the jury, you are also expected to be
2 professional, to be reasonable and to be ethical in your
3 duties as jurors.

4 I want to thank each and every one of you for accepting
5 this very important responsibility of jury service. I want
6 to thank you for your contribution as jurors today to our
7 justice system. Without you, ladies and gentlemen of the
8 jury, justice can never be accomplished in a courtroom. And
9 I thank you for that service. On behalf of myself, and on
10 behalf of Hampton County, we appreciate your service on the
11 jury.

12 Now, ladies and gentlemen, I told you yesterday before
13 you left, and I'll reiterate this to you. While you're on
14 the jury, I ask that you not discuss this case with other
15 people, except when I tell you to, and that's only with each
16 other in your jury room. Now, we're very strict about that
17 rule, ladies and gentlemen. And one of the reasons is
18 because the very last thing I tell you in this trial might
19 make the difference to you. The last witness you hear, the
20 last argument you hear, the last thing in my charge to you
21 on the law might change your mind. That's why we ask you
22 not to discuss it. Do not engage in any premature
23 deliberations in this case.

24 I ask that you do not read or listen to any news
25 reports about the case. I ask that you do not use a

1 computer or a cellular phone or any other electronic device
2 with communication capabilities during this trial. It is
3 improper for you on the jury to do any juror research or try
4 to obtain information about the case. And that includes
5 information about any party, witness, attorney or court
6 officer, or any news account of the case, or any information
7 that you collect through juror research or any topic raised
8 or testimony offered by a witness.

9 And even though you might feel as a juror that the
10 information that you could obtain from using an electronic
11 device might be helpful to you in deciding the case, it is
12 absolutely prohibited that you engage in any type of
13 research on your own. You must decide this case solely upon
14 evidence introduced during the trial of the case when both
15 sides are present, with the right of cross-examination.
16 They have a right to know what evidence that you are basing
17 your decision on, as a jury. And that's only evidence
18 that's brought out in this courtroom in their presence and
19 in your presence, and not on some outside source, like a
20 news account, radio, television, newspaper account or some
21 research through an electronic device.

22 So I instruct you, ladies and gentlemen, you may not
23 communicate with anyone about the case on your cell phone or
24 through email or on an iPhone or text messaging or on
25 Twitter or through any blog or website, through any internet

1 chat room or by the way of any other social networking
2 websites, including Facebook, My Space, LinkedIn, or You
3 Tube. It's prohibited that you do so. And I ask that you
4 follow my instructions completely in regards to that,
5 because you took that oath, ladies and gentlemen, to fairly
6 try this case and decide this case solely upon evidence
7 introduced during the trial of the case when both sides are
8 present.

9 All right, ladies and gentlemen, Madame Foreperson, I
10 hold in my hand the three indictments. I told you that the
11 information in these indictments are not evidence, and
12 that's true. The case we're about to try, as you already
13 know, is the case of the State of South Carolina v. Joseph
14 Davis. Mr. Davis is seated over at the defense table with
15 his attorneys.

16 Now, the defendant is charged in this case by these
17 three pieces of paper with the three indictments and they're
18 filed with this Court. The defendant is charged with the
19 offense of murder. The defendant is charged with the offense
20 of burglary in the second degree, and the defendant is
21 charged with the offense of armed robbery.

22 Now, I'm going to explain the elements of each of those
23 offenses to you in my charge to you on the law at the
24 conclusion of the case. You should understand for right
25 now, as a juror, that the indictment is simply the charges

1 by which the case is brought into this Court, and that it is
2 not in any since evidence of the allegations contained in
3 the indictment.

4 The defendant has pled "not guilty" to each of those
5 three indictments. The State of South Carolina, therefore,
6 has the burden of proving each of the essential elements of
7 those offenses beyond a reasonable doubt. And it will be
8 your duty, ladies and gentlemen, to decide whether or not
9 the State of South Carolina has met that burden. It is your
10 solemn responsibility, and it is your duty under the oath
11 which each of you just took, to determine the guilt or the
12 innocence of the defendant, and your verdict must be based
13 solely on the evidence as it is presented to you in this
14 trial and on the law, as I instruct it to you to be during
15 the trial and at the close of the trial, in my charge to you
16 on the law, at the conclusion of the trial.

17 Now, in just a minute, Deputy Solicitor will make what
18 we call an opening statement in which he will explain to you
19 the issues in this case, or at least what he contends to be
20 the issues in this case. And following that, the attorney
21 for the defendant will make an opening statement.

22 Now, I want to tell you, the attorneys have worked
23 hard, both for the State and the defendant, to prepare the
24 case for you. And I want you to listen to them. But what
25 the attorneys tell you in opening statement, what the

1 attorneys argue to you in their closing argument at the
2 conclusion of the case, what the attorneys suggest to you in
3 their questions of a witness is not evidence. The attorneys
4 are advocates for the parties they represent, State of South
5 Carolina and the defendant. And what the attorneys tell you
6 is not evidence. And the opening statements by an attorney
7 is only their contention as to what the issues are because
8 none of us have heard the evidence in this case. I haven't
9 heard the evidence in this case, and each of you have told
10 me that you will decide this case solely upon the evidence
11 introduced during the trial of this case and not on any
12 outside source.

13 Now, what is evidence? The evidence in this case is
14 going to be presented to you by witnesses who have taken an
15 oath and sit down in this witness stand that's located on
16 the side of the courtroom in close proximity to you.
17 Evidence might also take the form of an exhibit, such as a
18 photograph or a model. But as to any such exhibit, you will
19 first hear me say that it is in evidence. You'll hear me
20 say -- it might be an exhibit by either side.

21 You'll hear me say "It's in evidence. You may publish
22 to the jury." That means it's available then for you to
23 look at, and you will have these exhibits with you in your
24 jury room during your deliberations at the conclusion of the
25 case, unless it requires electronic equipment to be played

1 out here in the courtroom, like a disc, in which case you
2 can come back into the courtroom and we'll play it for you,
3 just as -- if that occurs during the trial, just as if it
4 happened during the trial.

5 Evidence may also take the form of a stipulation, an
6 understanding, an agreement, where the parties or their
7 attorneys stipulate that a fact is true, so that it isn't
8 necessary to prove that fact to you. So evidence may be
9 sworn testimony from the witness stand, it may be an
10 exhibit, or it may be a stipulation between the parties.

11 Now, in the consideration of this evidence, you, the
12 members of the jury, including my alternate jurors, each of
13 you should remember at all times that under the Constitution
14 of the State of South Carolina, you and you alone, the jury,
15 are the sole judges of the facts in this case. The same law
16 that makes you, the jury, the sole judges of the facts in
17 this case, makes me the sole judge of the law in this case.
18 I cannot invade your province and tell you, or suggest to
19 you, or even comment to you in any way about what the facts
20 are in this case. And you should not invade my province and
21 differ with me about what the law is in this case.

22 Everything that I say during the course of this trial,
23 ladies and gentlemen of the jury, being taken down by my
24 court reporter, Becky Hill, seated right below me, who's
25 looking at me right now and taking down every word I say,

1 just as she will take down everything that's said by the
2 attorneys or a witness in this case. And if I make a
3 mistake to the law, as to the law to the detriment of a
4 party in this case, they can appeal the case to an Appellate
5 Court. And if the Appellate Court agrees that I made a
6 mistake on the law, they will reverse the case and send it
7 back for a new trial.

8 So don't you as a juror worry about whether or not I've
9 told you the law correctly. That is somebody else's worry;
10 that is not your concern. Your job as a juror is to take
11 the law as I give it to you and apply it to the facts as you
12 find them to be, based on evidence introduced during the
13 trial of the case. And after doing that, you will render
14 your verdict at the conclusion of the case under that solemn
15 oath which each of you just took from the Clerk of Court of
16 Hampton County.

17 Now, from time to time, and this already happened,
18 during the trial of this case, you going to hear me say --
19 you saw this probably yesterday -- "Counsel, approach the
20 bench." Or you might hear them say, "Your Honor, we have a
21 question of the law that we'd like to discuss with you. May
22 we approach the bench, Your Honor?" Or I myself might find
23 it necessary that you, the jury, as you were this morning
24 for about 30 minutes, be excused from the courtroom for a
25 little while, while the attorneys and I discuss a matter of

1 law.

2 Now, the reason for this is just what I've told you.
3 You're the sole judges of the facts in this case. And
4 sometimes when I am discussing matters of the law with the
5 attorneys, it may be necessary for me to make a comment as
6 to the facts in connection with ruling whether or not a
7 particular piece of law applies to this case.

8 Now, I'm not supposed to make any comment or tell you
9 what the facts are. So the practice in this state is to try
10 to excuse you from the courtroom or for me to take it up at
11 a sidebar over to the side, while such discussions of the
12 law take place, so that you will not be influenced by
13 anything that I might say or do in connection with the facts
14 in this case.

15 And in that connection, let me tell each of you again,
16 that you and you alone, the members of the jury, are the
17 sole judges of the facts in this matter. And if you should
18 gather from anything that I might say or do during the
19 course of this trial that I have any opinion whatsoever as
20 to the facts in this case, please erase that from your mind,
21 because as I have said to you, you are, and you alone, the
22 members of the jury, are the sole judges of the facts in
23 this case, based on evidence introduced during the trial of
24 the case.

25 Now, I've told you what your job is. In determining

1 what the true facts are in this case, ladies and gentlemen,
2 you as a jury will, of necessity, have to pass upon the
3 credibility, which simply means the believability, of the
4 witnesses who will testify and take this witness stand right
5 beside you.

6 By way of illustration, it will be my responsibility as
7 a sole judge of the law to rule as a matter of law as to
8 whether certain testimony is admissible or not. But once
9 I've allowed the testimony to be admitted, whether or not
10 you as a jury believe the testimony, is solely a matter for
11 you, the jury, to determine.

12 You're the sole judges of the facts and you're the sole
13 judges of the believability of the witnesses or the
14 credibility of the witnesses who will testify during the
15 trial of this case. And in passing upon the credibility, or
16 believability, of the witnesses, you have the right, as a
17 jury, to take into consideration the interest of any
18 witness, the bias, if any, of any witness, the prejudice, if
19 any, of any witness, the opportunity for the witness to have
20 observed the matters and things about which he or she may
21 testify.

22 You may even taken into consideration in what we call
23 the demeanor of the witness, the appearance of the witness
24 while the witness is on the witness stand. Anything that is
25 in evidence, you as a jury have the right to consider in

1 ruling upon the believability or credibility of the
2 witnesses who will testify during the trial of this case.

3 And that means, Madame Foreperson, and that means,
4 ladies and gentlemen of the jury, that it is your duty under
5 your sworn oath and obligation that you just took as jurors
6 to pay close attention to the witnesses, to listen to the
7 witnesses.

8 Don't let your thoughts wonder, ladies and gentlemen of
9 the jury, but give strict attention to the testimony in this
10 case, so that at the conclusion of all the testimony, and
11 after you hear the final arguments of the attorneys in this
12 case, and after you hear my charge to you on the law in this
13 case, you will have placed yourself, by listening and
14 observing, in a position to determine what the true facts
15 are, and apply the law as I give it to you, to the facts as
16 you find them to be, based on evidence introduced during the
17 trial of the case, and thus render a just verdict in the
18 case.

19 Now as I told you, you must not consider anything that
20 you may have read or heard about this case outside of this
21 courtroom, whether before or during this trial. And until
22 this case is submitted to you under my instructions at the
23 conclusion of the trial, you must not discuss it with
24 anyone, not even your fellow jurors or a member of your own
25 family. And after it is submitted to you with my

1 instructions at the conclusion of the case, you must discuss
2 it only in your jury room with your fellow jurors. It is
3 very important, ladies and gentlemen, that each of you keep
4 an open mind and not decide the case until the entire matter
5 has been submitted to you under my instructions.

6 Now, Madame Foreperson, it will be your added duty to
7 preside in the jury room. You will be the jury's
8 spokesperson out here in the courtroom. It will also be
9 your duty to write the jury's verdict, but I will give you
10 instructions in my charge to you on the law at the
11 conclusion of the case how to write the verdict.

12 It will also be your obligation to whatever you write
13 on the verdict form, I'm going to ask you to write the exact
14 same words on the indictment. There's a blank on the back
15 that says "verdict." My law clerk, Nick Rivera's job, is
16 not to let you leave the courtroom until you've signed your
17 name on the indictment. So he's going to be looking for you
18 at the conclusion of the trial. Whatever's written on the
19 verdict form will also be written on the indictment.

20 Now, nobody's having a problem -- this nice lady on the
21 back row's the farthest one from me. You can hear me,
22 ma'am, can't you? Yes, ma'am, I know that. Every in the
23 courtroom can hear me because I talk loud. I've shot a
24 shotgun all my life and I have a hearing problem. Got a
25 hearing aid in this ear. People like me that have hearing

1 impairments talk loud. But unfortunately, some people talk
2 so softly that you cannot hear them. When that happens, it
3 becomes difficult. We've had that problem already in this
4 case. If at any time a member of the jury cannot hear,
5 raise your hand. I'll handle it, ladies and gentlemen.

6 Just let me know if you can't hear. I want my jurors to be
7 able to hear at all times throughout the trial of the case.

8 If you hear me say that an exhibit is in evidence and
9 you can't, for whatever reason, see the exhibit, raise your
10 hand. I want my jurors to be able to see and to hear at all
11 times throughout the trial of the case. And I'll be
12 watching all 15 of you throughout the trial. So, if you
13 have a problem hearing or you have a problem seeing, raise
14 your hand for me.

15 We do not allow jurors to ask questions normally in the
16 courtroom, Madame Foreperson. However, if a member of the
17 jury has a question, here is the procedure we have to
18 follow. If you are not already in your jury room, the
19 entire jury retires to your jury room.

20 You, as the foreperson of the jury, write the question
21 on a piece of paper. Give it to my bailiff. He's going to
22 bring it out to me. I will then have to rule as a matter of
23 law, whether or not the question can or cannot be answered,
24 just as I would any question asked by any one of the
25 attorneys during the trial of the case.

1 I've tried both ways. I ask that you do not take
2 written notes. Why? Because I've found that -- and you're
3 going to see me writing; you see I got a pen in my hand
4 right now and I'm going to be writing a lot. But I don't
5 want you to take written notes. I've found that if the
6 written note-taker makes an error in the written notes, the
7 notes can be harmful, rather than helpful in your jury room,
8 once deliberations begin. The time-tested system is for
9 each of you on the jury to listen and listen carefully to
10 the evidence that's going to be presented during the trial
11 of this case.

12 Now as I've told you, please -- and I know everybody
13 feels like -- I'll show you mine. Please, if you got one of
14 these (holds up cell phone) -- it's on vibrate, ladies and
15 gentlemen; I can promise you that. And if you got a cell
16 phone, they're not allowed while you're on jury duty. It's
17 not just the noise interference, ladies and gentlemen, it's
18 not just the juror research problem that I discussed with
19 you earlier.

20 We had a jury go out in a county in South Carolina, one
21 of the jurors. They were discussing a medical issue and one
22 of the jurors said, "Well, you know, my brother's a doctor.
23 I'll just call him on my cell phone and ask his opinion."
24 Once again, ladies and gentlemen, that is improper. You
25 must decide this case based on the evidence presented during

1 the trial of the case when both sides are present with the
2 right of cross-examination.

3 Now, I do not intend that you right now should construe
4 what I've just told you as a charge on the law in this case.
5 Because I'm going to charge you the law that applies to this
6 case in my charge to you on the law at the conclusion of the
7 case. This has been merely an attempt on my part to briefly
8 explain to you some of the procedure that we follow in the
9 trial of the case, so that you will have a better
10 understanding as to what may be happening from time to time.

11 We have an order for everything we do. Person with the
12 burden of proof, State of South Carolina, goes first. So
13 the State will have first opening statement, the State will
14 present its evidence first.

15 Ladies and gentlemen, I want you to listen to all the
16 evidence in this case and base your decision solely upon the
17 evidence which is introduced during the trial of this case.
18 However, in order to preserve everyone's rights in this
19 case, since I've made preliminary remarks to you, I'll
20 always give the parties an opportunity to accept or object
21 to anything that I've said to you, if there are any
22 exceptions or objections. Any exceptions or objections from
23 the State of South Carolina?

24 **DEP. SOLICITOR THORNTON:** No, Your Honor.

25 **THE COURT:** From the defendant?

1 **MS. SMART-GITTINGS:** None, Your Honor.

2 **THE COURT:** Ladies and gentlemen of the jury, we will
3 now begin the trial of the case. Solicitor.

4 **DEP. SOLICITOR THORNTON:** Thank you, Your Honor. May
5 it please the Court?

6 **THE COURT:** Yes, sir.

7 **OPENING STATEMENT**

8 **DEP. SOLICITOR THORNTON:** June the 23rd of 2007, ladies
9 and gentlemen, at the Lena's Quick Stop here in Hampton
10 County, South Carolina, Joseph Davis, the defendant sitting
11 here at this table, along with Shawn Davis and Derrick
12 Adkins robbed that store. They didn't leave with much
13 because they didn't find any money in the register. Joseph
14 Davis walked into the store, took a .22 Revolver, stuck it
15 and aimed it at Ronnie Wooten and gunned him down. Shot him
16 one time in the face. Ronnie Wooten died as a result of
17 that wound.

18 After going down, Joseph Davis, Shawn Davis, and
19 Derrick Adkins rolled his body over in an attempt to find
20 money. Searched his pockets, searched the register. Joseph
21 Davis had on all black, had on latex gloves, had on a mask.
22 The three of them, incidentally, were dropped off by a man
23 named Marquis Bryant, who never went in the store. Dressed
24 in all black, wearing gloves, wearing a mask, shot a man in
25 the face in his own store. That's what this case is about.

1 You know, the Judge talks about CSI and Law and Order
2 and all those kind of things. This also isn't California.
3 You're not going to be sitting here for six weeks, okay?
4 You've probably all seen that on television where it takes
5 six weeks to do a case. This case will probably only take
6 two to three days, all right? But just because it's short
7 doesn't mean that it's not important. A man was gunned down
8 in his own store.

9 So, all we can ask you, ladies and gentlemen, is to pay
10 close attention. And what the Judge said, absolutely true.
11 Nothing I tell you is evidence. Nothing Ms. Smart-Gittings
12 tells you is evidence. The only evidence in this case is
13 going to be what comes from that stand right there and any
14 exhibits, pictures, photographs that we have. You're going
15 to see some pictures and photographs. You're going to hear
16 from EMS. You're going to hear from officers with the South
17 Carolina Law Enforcement Division, also known as SLED.
18 You're going to hear from Hampton County Sheriff's Officers.
19 You are also going to hear a confession from the defendant,
20 Joseph Davis.

21 All we can ask you, ladies and gentlemen, is that you
22 don't leave your common sense at the door. We want you to
23 use your common sense. We want you to pay attention, listen
24 very carefully to all the evidence. And at the end of the
25 day, ladies and gentlemen, we're going to ask you to render

1 a just verdict in this case. Thank you.

2 **THE COURT:** Ms. Smart-Gittings.

3 **MS. SMART-GITTINGS:** May it please the Court?

4 **THE COURT:** Yes, ma'am.

5 **OPENING STATEMENT**

6 **MS. SMART-GITTINGS:** Mr. Thornton, Ms. Legette, Captain
7 Russell, good morning ladies and gentlemen of the jury. I
8 am Stephanie Smart-Gittings. I'm here today representing
9 Mr. Joseph Davis.

10 Sherlock Holmes, in "A Scandal of Bohemia" said, "This
11 is indeed a mystery." Watkins replied, "What do you imagine
12 that is?" Sherlock Holmes said, "I have no data yet. It is
13 a capital mistake to theorize before one has data.
14 Insensibly, one might begin to twist facts to suit theory,
15 instead of theory to suit the facts."

16 We submit to you today that we are indeed here in a
17 mystery. The State will tell you that this is a slam-dunk
18 case because they have a confession. But we, as the
19 defense, submit to you that it's not a slam-dunk as they
20 will have you to believe.

21 We are here today not in any means insensitive to what
22 the family may be going through. That is a tragic event
23 that no one wants to experience, and especially not when
24 someone was murdered in their own store. And we, as well as
25 the State, want justice. But we submit to you that justice

1 will not be served unless you, as a jury, pay specific
2 attention to the testimony coming from the witness stand.

3 The Judge has told you that you have the right to
4 determine whether or not a witness is telling the truth. We
5 submit to you that the glass could be seen half empty or
6 half full. I oftentimes wonder how some people look at the
7 same thing and see it totally different. And we have
8 decided to pick you people because we believe that your
9 different life experiences, your different walks of life
10 will allow you to look at the same facts and I expect that
11 you will see them differently. But we expect you to be able
12 to deliberate, deliberate peacefully, to come up with a
13 verdict that will speak the truth.

14 Credibility of the witnesses. I came home one night
15 and I went in my bedroom. And one of my two children wrote
16 on the wall. I was angry, but I wasn't surprised. And I
17 had an idea which of the two did it, but I didn't rush to
18 judge him. So I asked, "Who wrote on my wall?" And, of
19 course, both of them said, "Not me, Mommy."

20 I suspected that my son did it because my daughter is
21 not really the type, but I couldn't just beat my son without
22 knowing that he did it. So, I had to figure out who wrote
23 on the wall. Now, did I want him to confess, "Yes, Mommy,
24 I'm sorry. I did it"? Of course, I did. It's human nature
25 for us to want somebody to say "I did it."

1 Well, Joseph is saying, Mr. Davis is saying, "I didn't
2 do it." And the founders of our Constitution have said once
3 he says he didn't do it, the State has to prove to you that
4 he did it. So, you may say, "Well, if he didn't do it, well
5 why doesn't he just tell them?" You can't even think it.
6 You can't even ask yourselves why didn't he testify. We,
7 right now, haven't decided whether or not he's going to
8 testify.

9 But if he doesn't, in advance, I tell you that you
10 cannot, you cannot consider, you cannot, because if you
11 consider it, you're shifting the blame -- you're shifting
12 the burden of proof from the State to the defendant. You're
13 asking the defendant to prove that he is not guilty, when
14 the law required the State to prove beyond any reasonable
15 doubt that he, in fact, is guilty.

16 So we ask that you listen to the testimony, set your
17 emotions aside, listen to the facts, use your life
18 experiences to determine whether or not you believe the
19 testimony, then deliver a true and just verdict. Thank you.

20 **THE COURT:** Call your first witness.

21 **DEP. SOLICITOR THORNTON:** Patricia Bellinger, Your
22 Honor. State calls Patricia Bellinger.

23 **WHEREUPON, PATRICIA BELLINGER IS DULY SWORN.**

24 **THE COURT:** Watch your step. Hold on one second.

25 Let's turn the microphone on; it's not on yet. Need you to

1 speak into that microphone. It's going to amplify your
2 voice for everybody to hear you in the courtroom. I'd like
3 for you to begin, if you would, stating your full name and
4 spelling your last name for the court reporter, all right?
5 Speak up.

6 **MS. BELLINGER:** Patricia Bellinger, B-E-L-L-I-N-G-E-R.

7 **THE COURT:** Stay close enough to it. Your witness,
8 Counsel.

9 **DEP. SOLICITOR THORNTON:** Thank you, Your Honor.

10 **DIRECT EXAMINATION**

11 **BY DEP. SOLICITOR THORNTON:**

12 Q Ms. Bellinger, who do you work for, ma'am?

13 A For Hampton County 911.

14 Q All right. And what is your job with 911?

15 A I'm a dispatcher.

16 Q All right. In June of 2007, were you a dispatcher?

17 A Yes.

18 Q And what is it that a dispatcher does?

19 A Takes in calls for our EMS and law enforcement,
20 dispatch ambulance and police officer.

21 Q All right. And do you also, as part of that job,
22 receive calls from people calling 911?

23 A Yes.

24 Q Okay.

25 **DEP. SOLICITOR THORNTON:** Your Honor, may I approach?

1 **THE COURT:** You may.

2 Q Ma'am, I'm going to show you what's been marked for
3 identification as State's Exhibit Number One. Can you
4 identify that?

5 A It's the transcript of the 911 call.

6 Q All right. And at my request, ma'am, did you review
7 that disk?

8 A Yes, I have.

9 Q All right. And did you initial that disk?

10 A Yes.

11 Q So are you sure that that now is the one, that those
12 are your initials?

13 A Yes, it is.

14 Q All right. Is that an accurate depiction of a 911 call
15 received by you on that day, June the 23rd of 2007?

16 A Yes.

17 Q And is it an accurate transcription, in meaning the
18 words underneath the audio, or with the audio, is that
19 correct as well?

20 A Yes.

21 Q Has it been altered or changed in any way?

22 A No, it hasn't.

23 **DEP. SOLICITOR THORNTON:** Your Honor, at this time, I'd
24 ask State's Exhibit Number One be put into evidence.

25 **THE COURT:** As to State's Number One, Counsel.

1 MS. SMART-GITTINGS: Without objection, Your Honor.

2 THE COURT: Ladies and gentlemen of the jury, State's
3 Exhibit Number One will be admitted into evidence in the
4 trial of this case, without objection.

5 (State Exhibit One, Wooten 911 call, received into
6 evidence.)

7 THE COURT: State's One, now in evidence. You may
8 publish to the jury.

9 DEP. SOLICITOR THORNTON: Thank you, Your Honor.

10 THE COURT: Is this on video as well?

11 DEP. SOLICITOR THORNTON: It has a video for the words,
12 Your Honor, yes, sir, for the transcription.

13 (BRIEF PAUSE.)

14 DEP. SOLICITOR THORNTON: Your Honor, may I have a
15 moment? I apologize. I'm having a small problem.

16 (Off the record briefly.)

17 DEP. SOLICITOR THORNTON: I apologize, Your Honor.
18 It's ready to go.

19 (State Exhibit One, disc of 911 call, is played for the
20 jury. The CD begins playing at 11:35 a.m. and ends at 11:38
21 a.m.)

22 Q Ms. Bellinger, is that an accurate representation of
23 the call you received from the decedent's brother, Monty
24 Wooten?

25 A Yes, it is.

1 Q All right. Thank you. I have no further questions.
2 Please answer any questions that Ms. Smart-Gittings has for
3 you.

4 THE COURT: Cross-examination?

5 MS. SMART-GITTINGS: I don't have any questions for
6 this witness, Your Honor.

7 THE COURT: As to this witness, Solicitor?

8 DEP. SOLICITOR THORNTON: Your Honor, I ask that she be
9 excused. I have instructed her as to the Court's orders. I
10 would ask that she be excused for the day.

11 THE COURT: From the trial?

12 DEP. SOLICITOR THORNTON: Yes, sir.

13 THE COURT: Any objection?

14 MS. SMART-GITTINGS: No objection, Your Honor.

15 THE COURT: You may step down and you are excused from
16 the trial of this case. You may leave the courtroom. Call
17 your next witness.

18 DEP. SOLICITOR THORNTON: Laura Meyer.

19 WHEREUPON, LAURA MEYER IS DULY SWORN.

20 THE COURT: Have a seat. Make yourself comfortable.
21 Speak into that microphone. I want you to begin by stating
22 your full name and spelling your last name for the court
23 reporter, all right?

24 MS. MEYER: Yes, sir. My name is Laura Meyer. Last
25 name is spelled M-E-Y-E-R.

1 **THE COURT:** Your witness, Counsel.

2 **DEP. SOLICITOR THORNTON:** Thank you, Your Honor.

3 **DIRECT EXAMINATION**

4 **BY DEP. SOLICITOR THORNTON:**

5 Q Ms. Meyer, who do you work for?

6 A Hampton County EMS.

7 Q Ma'am, did you work for Hampton County EMS on or about
8 June 23rd of 2007?

9 A Yes, sir.

10 Q Actually, I believe this would have been June the 24th
11 of 2007. And did you respond to any particular calls that
12 day, ma'am?

13 A Yes, sir.

14 Q And what call did you respond to?

15 A I responded to a cardiac arrest of an individual in
16 Lena Quick Stop.

17 Q All right. And when you say "cardiac arrest," is that
18 what was reported to you?

19 A Yes, sir.

20 Q All right. And when you got to the -- where did you
21 say it was?

22 A Lena's Quick Stop.

23 Q And where is that, ma'am?

24 A On Browning Gate Road.

25 Q All right. Is that here in Hampton County?

1 A Yes, sir.

2 Q All right. What did you see when you got there?

3 A An individual laying on the left side in a pool of
4 blood, basically.

5 Q All right. Was it fairly easy for you to determine at
6 that point that this was not a cardiac arrest?

7 A Yes, sir.

8 Q All right. Let me ask you some questions, ma'am. I
9 know there are different levels of EMS training. What level
10 were you at the time?

11 A A paramedic.

12 Q All right. And what do you have to do to be a
13 paramedic?

14 A You have to go through basic school, complete that,
15 take the national test for that. And then you have to go
16 back to intermediate school, which is two months long. Once
17 again, take the national test, and then you go to paramedic
18 school and you have to take the national test for that.

19 Q All right. And how much education are we talking
20 about?

21 A The basic school is six months. The intermediate
22 school is two months. And the paramedic school, mine was
23 about nine months.

24 Q All right. And how long have you been a paramedic now?

25 A Four years.

1 Q What, say, is the difference between if you're a
2 paramedic, what are the things that you can do that, say,
3 somebody who's just a basic EMS person can't do?

4 A I can use specific drugs to treat different conditions.
5 I can use electrical therapy for lethal rhythms. I can
6 start IVs.

7 Q Do you use any machines to determine, say, if
8 somebody's alive or not?

9 A Yes, sir. We use the cardiac monitor.

10 Q All right. And did you use the cardiac monitor in this
11 case?

12 A Yes, sir.

13 **DEP. SOLICITOR THORNTON:** Your Honor, at this time I'd
14 ask that Ms. Meyer be rendered an expert as to providing
15 emergency medical services.

16 **THE COURT:** Any objection as to qualifications?

17 **MS. SMART-GITTINGS:** No objections, Your Honor.

18 **THE COURT:** Ladies and gentlemen, you're about to hear
19 testimony from a witness who claims to have special
20 knowledge, skill, or training in the field of Emergency
21 Medicine care. Normally, the law does not permit witnesses
22 to get on the witness stand and give testimony as to
23 opinions or conclusions. An exception to this rule is for
24 those witnesses whom we call expert witnesses, witnesses who
25 claim to have special knowledge, skill, education, or

1 training are permitted, if qualified the Court, to give an
2 opinion an expert in the matters in which the witness claims
3 to be so skilled.

4 This witness is qualified without objection in this
5 case. In determining the weight to be given such opinion,
6 you should consider the qualifications and the credibility
7 or believability of the expert, the reasons given for his or
8 her opinion. You're not bound by any expert opinion. You
9 give it the weight, if any, as a jury, to which you deem it
10 should be entitled.

11 **THE COURT:** You may proceed, Counsel. The witness is
12 qualified, without objection.

13 **DEP. SOLICITOR THORNTON:** Thank you, Your Honor.

14 Q Ms. Meyer, when you got to the decedent in this case,
15 were you able to determine identity?

16 A No, sir.

17 Q That's not something that you do?

18 A No, sir.

19 Q All right. Were you able to determine whether or not
20 the person that you found was alive or dead?

21 A Yes, sir.

22 Q All right. What was your determination?

23 A This person was dead.

24 Q And how did you make that determination?

25 A To begin with, the patient was pulseless and apneic,

1 meaning he wasn't breathing, he didn't have a pulse. And we
2 put him on the cardiac monitor and I determined he had no
3 electrical activity at all.

4 Q All right.

5 **DEP. SOLICITOR THORNTON:** Your Honor, may I approach?

6 **THE COURT:** You may.

7 Q Now, I'm going to hand you what is State's Exhibit, for
8 identification, Number 6. Can you identify that document
9 for me?

10 A Yes, sir. This is a patient care report that we have
11 to give after every call. This is the one I did on this
12 particular day.

13 Q All right. And is the patient's name listed on there?

14 A Yes, sir.

15 Q All right. So at some time -- I asked you earlier
16 about identity. At some time, you were able to identify the
17 person ---

18 A Yes.

19 Q --- is that correct? And who was it?

20 A Ronnie Wooten.

21 Q All right. And is that the person you provided care
22 for that day?

23 A Yes, sir.

24 Q Is that run report an accurate copy, the run report you
25 did for the killing of Ronnie Wooten?

1 A Yes, sir.

2 Q And is that the one that we're talking about here today
3 at Lena Quick Stop store?

4 A Yes, sir.

5 Q Has that been altered or changed in any -- I realize
6 this is a photocopy. Other than that, has it been altered
7 or changed in any way?

8 A It's the same.

9 Q All right.

10 **DEP. SOLICITOR THORNTON:** Your Honor, I'd ask State's
11 Exhibit Number Six be moved into evidence.

12 **THE COURT:** As to State's Six?

13 **MS. SMART-GITTINGS:** No objection, Your Honor.

14 **THE COURT:** Ladies and gentlemen of the jury, State's
15 Exhibit Number Six will be admitted into evidence without
16 objection.

17 (State Exhibit Six, EMT Report, is received into
18 evidence.)

19 **THE COURT:** State's Six now in evidence. You may
20 publish, Solicitor.

21 **DEP. SOLICITOR THORNTON:** Thank you, Your Honor.

22 Q Ms. Meyer, I'm going to hand you what's been marked as
23 -- go through them one at a time -- State's Exhibit Number
24 Two.

25 A This is the outside of the store that we responded to.

1 Q All right. And is that an accurate representation of
2 the store, as it appeared?

3 A Yes, sir.

4 Q Has it been altered or changed in any way?

5 A No, sir.

6 Q And that's the store here in Hampton County that we're
7 talking about; is that right?

8 A Yes, sir.

9 DEP. SOLICITOR THORNTON: Your Honor, I'd ask that
10 State's Exhibit Number Two be moved into evidence.

11 THE COURT: As to State's Two, Counsel?

12 DEP. SOLICITOR THORNTON: No objection, Your Honor.

13 THE COURT: Ladies and gentlemen of the jury, State's
14 Exhibit Number Two will be admitted into evidence, without
15 objection.

16 (State Exhibit Two, photo, is received into evidence.)

17 THE COURT: State's Number Two now in evidence. You
18 may publish.

19 Q And I put this up on the monitor now so that as to
20 State's Exhibit Number Two. Is that the outside of the
21 store that you reported to that day?

22 A Yes, sir.

23 Q All right. Ask you what's been -- if you can identify
24 what's been marked for identification as State's Exhibit
25 Number Three.

1 A And this is also the front door of the store that we
2 responded to.

3 Q Is that a closer view of it?

4 A Yes, sir.

5 Q Has it been altered or changed in any way?

6 A No, sir.

7 **DEP. SOLICITOR THORNTON:** Your Honor, I'd ask that
8 State's Exhibit Number Three be placed into evidence.

9 **THE COURT:** As to State's Three, Counsel?

10 **MS. SMART-GITTINGS:** No objection, Your Honor.

11 **THE COURT:** Ladies and gentlemen of the jury, State's
12 Exhibit Number Three will be admitted into the trial of this
13 case as evidence.

14 (State Exhibit Three, photo, is received into
15 evidence.)

16 **THE COURT:** State's Three into evidence. You may
17 publish, Solicitor.

18 Q So that is a close-up of the door as you're going in;
19 is that correct, ma'am?

20 A Yes, sir.

21 Q If you'll look at this next picture that's been marked
22 for identification is State's Exhibit Number Four. Can you
23 describe for me what that is?

24 A Yes, sir. That's where we walked in. And on the
25 right, that's how we found the patient.

1 Q When you say "on the right," do you mean to the right
2 of the front door?

3 A Yes, sir.

4 Q And is that the picture of the decedent?

5 A Yes, sir. And that's exactly how we found him.

6 Q All right. In that position?

7 A Yes, sir.

8 Q Is this picture, is it an accurate reflection of what
9 you saw that day?

10 A Yes, sir.

11 Q Has it been altered or changed in any way?

12 A No, sir.

13 **DEP. SOLICITOR THORNTON:** Your Honor, I'd ask that
14 State's Exhibit Number Four be moved into evidence.

15 **THE COURT:** As to State's Four?

16 **MS. SMART-GITTINGS:** No objection, Your Honor.

17 **THE COURT:** Ladies and gentlemen of the jury, State's
18 Exhibit Number Four will be admitted into evidence in the
19 trial of this case.

20 (State Exhibit Four, photo, is received into evidence.)

21 **THE COURT:** State's Four into evidence. You may
22 publish.

23 Q Ms. Meyer, I see what looks like some kind of pad or
24 placement on his upper -- I guess it's his -- this side, his
25 right side. What is that, ma'am?

1 A That is a patch we use for the cardiac monitor.

2 Q All right. And that was one of the ways, other than
3 rigor setting in, that you determined he was dead; is that -
4 --

5 A Yes, sir.

6 Q --- correct? All right, ma'am, I'm going to hand you
7 what's been marked for identification as State's Exhibit
8 Number Five, and ask you if you can identify that.

9 A Yes, sir. Right behind me, these were some wallet
10 contents that we noticed on the floor right behind the
11 patient. This is when we determined we needed law
12 enforcement.

13 Q All right. And is this a true and accurate
14 representation?

15 A Yes, sir.

16 Q Been altered or changed in any way?

17 A No, sir.

18 Q Let me ask you something. Is this what you're talking
19 about right here, the ---

20 A Yes, sir.

21 Q --- wallet contents. And is this a close-up of that?

22 A Yes, sir.

23 **DEP. SOLICITOR THORNTON:** Your Honor, at this time, I'd
24 ask State's Exhibit Number Five be moved into evidence.

25 **THE COURT:** As to State's Five, Counsel?

22 A That's right. Due to the fact that he had -- he was
23 laying in a pool of blood, and we classified him as -- or I
24 classified him dead right there, I did not attempt to roll
25 him over. I went ahead and called law enforcement,

1 especially with the wallet contents behind him.

2 Q So you didn't -- did you visualize his face at all?

3 A No, ma'am.

4 Q You did not. And your reported indicated that you left
5 the scene at 04:46; is that correct?

6 A Yes.

7 Q Was Mr. Monty Wooten still at the scene when you left?

8 A Yes, ma'am.

9 Q And Mr. Wooten told you that he had last seen his
10 brother at ---

11 **DEP. SOLICITOR THORNTON:** Objection, Your Honor.
12 Hearsay.

13 **THE COURT:** Sustained. Do not refer to what someone
14 else said. Counsel, do not elicit hearsay by your
15 questions. Cross-examination, please proceed.

16 Q In your report, it states Mr. Wooten was at the store
17 between eight and 9:30; is that correct?

18 A Yes, ma'am.

19 Q Had Mr. Wooten's body -- Ronnie Wooten, I'm referring
20 to -- had his body been turned immediately after the injury
21 and had not the blood flowed to the opposite side of his
22 face?

23 A I was not able to determine that. We did not roll the
24 patient in any way. As soon as we determined he was dead,
25 we left the scene.

1 Q You didn't determine a time of death; did you?

2 A Well, time of death that we got, we just say right
3 there on the scene, so it was 02:49.

4 Q Did the Coroner arrive prior to your leaving?

5 A Yes.

6 MS. SMART-GITTINGS: I don't have any further
7 questions, Your Honor.

8 THE COURT: Redirect?

9 DEP. SOLICITOR THORNTON: None, Your Honor. Ask she be
10 excused.

11 THE COURT: Any objection to this witness being
12 excused, Ms. Smart-Gittings?

13 MS. SMART-GITTINGS: None, Your Honor.

14 THE COURT: You may step down, Ms. Meyer, and you are
15 excused from the trial of this case. You may leave the
16 courtroom. Leave my exhibits right there.

17 Call your next witness.

18 DEP. SOLICITOR THORNTON: Melissa Skipper.

19 WHEREUPON, MELISSA SKIPPER-WALLACE IS DULY SWORN.

20 THE COURT: Have a seat; make yourself comfortable.

21 Will you state your full name and spell your last name for
22 the record, please, ma'am?

23 MS. WALLACE: My name is Melissa Skipper Wallace, W-A-
24 L-L-A-C-E.

25 THE COURT: Your witness, Counsel.

1 **DEP. SOLICITOR THORNTON:** Thank you, Judge.

2 **Q** Ms. Wallace now, it's been a while since I've seen you.

3 I'll have to try to remember that. Ms. Wallace, who do you

4 work for, ma'am?

5 **A** I'm employed by the South Carolina Law Enforcement

6 Division, which is commonly known as SLED.

7 **Q** So you work for SLED?

8 **A** Yes, I do.

9 **Q** All right. And did you work for SLED on or about

10 September -- or excuse me, on or about June the 23rd of

11 2007?

12 **A** I did.

13 **Q** All right. And did you respond out to any scenes on

14 that day?

15 **A** If I can check my notes.

16 **Q** You can. Actually, I guess the date, if you check, may

17 have been June the 24th of ---

18 **A** That's correct.

19 **Q** --- 2007.

20 **A** That's correct.

21 **Q** And did you respond out to any particular scenes?

22 **A** I did.

23 **Q** And where was that at?

24 **A** The address was at 1550 Browning Gate Road in Estill.

25 It's the Lena's Quick Stop.

1 Q All right. At the Lena Quick Stop. And did you go out
2 there?

3 A I did.

4 **DEP. SOLICITOR THORNTON:** May I approach, Judge?

5 **THE COURT:** You may.

6 Q Ma'am, I'm going to show you what's been marked for
7 identification purposes only, as State's Exhibit Seven.
8 We'll just do them one at a time. Let's start with Seven.
9 Can you identify that for me?

10 A Yes. State's Exhibit Seven is a copy of the diagram,
11 which was completed by Special Agent Bruce Gant.

12 Q All right, ma'am, and is -- does Bruce Gant still work
13 with SLED?

14 A No. He passed away.

15 Q All right. So he is deceased. Were you with him when
16 this sketch was done?

17 A He -- he -- he drew it and I reviewed it.

18 Q So is that sketch an accurate depiction of the store,
19 as it appeared that day when you got there?

20 A Yes, it is.

21 Q All right. And I realize it says on there it's not to
22 scale. But is that just a general layout of the store?

23 A It is a general layout of the front of the store.

24 Q Is it a true and accurate depiction of the front of the
25 store, although it's not to scale?

1 A Yes, it is.

2 Q Has it been altered or changed in any way?

3 A No, it has not.

4 **DEP. SOLICITOR THORNTON:** Your Honor, I'd ask State's
5 Exhibit Number Seven be moved into evidence.

6 **THE COURT:** As to State's Seven, Counsel

7 **MS. SMART-GITTINGS:** No objection, Your Honor.

8 **THE COURT:** Ladies and gentlemen of the jury, State's
9 Exhibit Number Seven will be admitted into evidence in the
10 trial of this case.

11 (State Exhibit Seven, Crime Scene Sketch, is received
12 into evidence.)

13 **THE COURT:** State's Seven in evidence. You may
14 publish.

15 **DEP. SOLICITOR THORNTON:** Thank you, Your Honor.

16 Q Could you describe for us, what would this be, ma'am?

17 A That is the front door to the store.

18 Q All right. And, obviously, the diagram there to the
19 right, is that where the body was found?

20 A Yes, it is.

21 Q All right. And forgive me; I need to move this over.
22 So that's in a back right corner. And you have "A" is
23 reference to poker machines; is that correct, ma'am?

24 A That's the front, right corner, yes.

25 Q Okay. I'm sorry, front right corner. So to the right

1 of the front door, would that be correct?

2 A That's correct.

3 Q All right. And I see you have labeled the chair as a
4 "B" and in blood. Is that the pool of blood that was next
5 to the victim's body?

6 A It is.

7 Q I'm going to hand you what's been marked as State's
8 Exhibit Number Eight, for identification, and ask if you can
9 identify that.

10 A Yes. State's Exhibit Eight is a photograph taken just
11 to the right of the front door showing back towards the left
12 front corner of the store.

13 Q All right. And is that a true and accurate depiction?

14 A Yes, it is.

15 Q Has it been altered or changed in any way?

16 A No, it has not.

17 Q State's for identification Number Nine. Can you
18 identify that?

19 A Yes. State's Exhibit Nine is a photograph taken from
20 the front door and is of the left rear corner of the store.

21 Q And has it been altered or changed in any way?

22 A No, it has not.

23 Q Is it a true and accurate depiction of how you saw the
24 scene that day?

25 A It is.

1 Q I'm going to hand you what's been marked for State's
2 identification Ten. Ask you if you can identify that.

3 A Yes. State's Exhibit Ten is a photograph, again, taken
4 from the front door area, and it is a photograph of the
5 right rear corner of that front room.

6 Q Is that a true and accurate depiction of the scene as
7 you saw it?

8 A It is.

9 Q Has it been altered or changed in any way?

10 A It has not.

11 **DEP. SOLICITOR THORNTON:** Your Honor, as to the
12 interior shots of the store, State's Exhibit Eight, Nine and
13 Ten, I would ask they be moved into evidence at this time.

14 **THE COURT:** Any objection as to Eight, Nine or Ten?

15 **MS. SMART-GITTINGS:** No objection, Your Honor.

16 **THE COURT:** Ladies and gentlemen of the jury, State's
17 Exhibit's Eight, Nine, and Ten will be admitted into
18 evidence in the trial of this case.

19 (State Exhibit Eight, Photo, is received into
20 evidence.)

21 (State Exhibit Nine, photo, is received into evidence.)

22 (State Exhibit Ten, photo, is received into evidence.)

23 **THE COURT:** State's Eight, Nine and Ten in evidence.

24 You may publish.

25 Q Ma'am, where did you say State's Exhibit Eight was?

1 A That's a photograph taken just to the right of that
2 front door. And that is a photograph of the left front
3 corner, which is the register area of the store.

4 Q All right. So that's where the register is located?

5 A Yes, it is.

6 Q And that will be the left, you said, of the front door.

7 A Yes.

8 Q As to State's Nine?

9 A That is also a photograph taken from the front door
10 area. It is a photograph of the left rear area of that
11 front room of the store.

12 Q Still on the same side, the left side where the
13 register area is?

14 A Yes.

15 Q And finally, ma'am, State's Ten.

16 A Again, that is a photograph taken from the door, the
17 front door area of the store. And that is the right rear
18 corner of that front room.

19 Q All right. So you say that's the right -- it's a
20 picture of the right rear corner?

21 A That's correct.

22 Q If you could see through those racks, is that where the
23 body's located?

24 A No. The body is located further around to the right.

25 Q Okay. Going to hand you what's been marked State's

1 Exhibit Number Eleven and ask you if you can identify that.

2 A Yes. State's Exhibit Eleven is a photograph, close-up
3 photograph, of the victim's right front pocket, which is
4 turned inside out.

5 Q And is that a true and accurate depiction of how you
6 found the scene on that day?

7 A It is.

8 Q And has it been altered or changed in any way?

9 A It has not.

10 **DEP. SOLICITOR THORNTON:** Your Honor, I'd ask that
11 State's Exhibit Number Eleven be moved into evidence.

12 **THE COURT:** As to State's Eleven?

13 **MS. SMART-GITTINGS:** No objection, Your Honor.

14 **THE COURT:** Ladies and gentlemen of the jury, State's
15 Exhibit Number Eleven will be admitted into evidence in the
16 trial of this case.

17 (State Exhibit Eleven, photo, received into evidence.)

18 **THE COURT:** State's Eleven into evidence. You may
19 publish.

20 Q And is that what you mean when you mean "pockets turned
21 inside out"?

22 A Yes.

23 Q Did you also notice anything next to the victim?

24 A His wallet and the contents of his wallet were to the
25 rear of him.

1 Q All right. Meaning, that documents, I think in a
2 previous picture, were scattered around; is that correct?

3 A That's correct.

4 THE COURT: Refer to the Exhibit Number for the record.

5 DEP. SOLICITOR THORNTON: Yes, sir, I'm going to.

6 Q State's Exhibit Number Four is the one I'm placing for
7 review of the jury, ma'am. Is that a true and accurate
8 depiction of the scene as you saw it?

9 A It is.

10 Q All right. And the items here behind the victim's --
11 looks like his right ankle, would that be the documents and
12 forms and other things you're talking about?

13 A Those documents, as well as those behind his knee area.

14 Q I'm going to show you, ma'am, State's Exhibit Number
15 Five. It's already in evidence. Those are the contents
16 you're talking about?

17 A Yes. Those are the contents which are behind his knee.

18 Q I'm going to show you, ma'am, what's been marked for
19 identification as State's Exhibit Number Twelve, and ask you
20 if you can identify that.

21 A Yes. State's Exhibit Twelve is a photograph of the
22 trash can which is just to the left of the front door.

23 There's a empty Newport cigarette carton in the trash can.

24 Q Is that a true and accurate depiction of how you found
25 the trash can and the contents on that day?

1 A It is.

2 Q Has it been altered or changed in any way?

3 A It has not.

4 **DEP. SOLICITOR THORNTON:** Your Honor, I'd ask that
5 State's Exhibit Number Twelve be moved into evidence.

6 **THE COURT:** As to State's Twelve, Counsel?

7 **MS. SMART-GITTINGS:** No objection, Your Honor.

8 **THE COURT:** Ladies and gentlemen of the jury, State's
9 Exhibit Number Twelve will be admitted into evidence in the
10 trial of this case, without objection.

11 (State Exhibit Twelve, photo, is received into
12 evidence.)

13 **THE COURT:** State's Twelve in evidence. You may
14 publish.

15 Q So that empty Newport container was found inside the
16 trash can; is that correct?

17 A That's correct.

18 **DEP. SOLICITOR THORNTON:** Court's indulgence for a
19 moment ---

20 **THE COURT:** Yes, sir.

21 **DEP. SOLICITOR THORNTON:** --- Your Honor.

22 (BRIEF PAUSE.)

23 Q Couple other questions very quickly. As you went
24 through the store, did you notice a lot of items in
25 disarray, where it looked like there had been any kind of

1 struggle or fight?

2 A The store was very cluttered. However, the -- the only
3 thing that looked like it had been disturbed were around the
4 register and around the victim.

5 Q No racks turned over or anything like that.

6 A No. There were some chairs which were knocked over
7 right around the victim. But nothing in -- in disarray as -
8 - as if it had been rummaged.

9 Q Other than the victim and the cash register area?

10 A That's correct.

11 Q Thank you very much, ma'am. I have no further
12 questions. Please answer any questions that Ms. Smart-
13 Gittings has.

14 THE COURT: Cross-examination?

15 MS. SMART-GITTINGS: May it please the Court?

16 CROSS-EXAMINATION

17 BY MS. SMART-GITTINGS:

18 Q Agent Skipper, were you in charge of processing the
19 crime scene that day?

20 A Agent Gant, it was his case originally. However, I
21 worked with him on processing the scene.

22 Q And in processing the scene, would you not have
23 collected the credit cards and the pieces of paper that were
24 located close to the victim's body?

25 A Those items were collected.

- 1 Q Were they submitted as evidence?
- 2 A Yes, they were.
- 3 Q Fingerprinted?
- 4 A Yes, ma'am.
- 5 Q And were any fingerprints on those items?
- 6 A No, ma'am.
- 7 Q Not even the victim's fingerprints on those items?
- 8 A That's correct.
- 9 Q Were any other pictures taken that day?
- 10 A/ Yes, ma'am.
- 11 **MS. SMART-GITTINGS:** May I approach, Your Honor?
- 12 **THE COURT:** You may.
- 13 (Court reporter marks documents for defense counsel.)
- 14 Q Are those some of the pictures that were taken ---
- 15 **THE COURT:** Counsel, approach.
- 16 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
- 17 AND OUT OF THE HEARING OF THE JURY.)
- 18 **THE COURT:** You may approach the witness, Counsel.
- 19 **MS. SMART-GITTINGS:** Thank you, Judge.
- 20 Q My apologies, Agent Skipper. I'm handing you what has
- 21 been marked for the defense for identification one. Was
- 22 that photograph taken by your office?
- 23 A I'm not sure. I'd have to see a photo of the register
- 24 as a whole ---
- 25 Q Is it a fair and accurate description of how the cash

1 register -- I'm sorry, of how the trash can looked at the
2 time of your office's investigation?

3 A Defense One is of the -- the cash register drawer.

4 Q I'm sorry. Cash register?

5 A Like I said, I can't advise without a copy of --
6 without comparing a photo of the cash register as a whole.
7 I don't remember exactly how the drawer looked that day.

8 THE COURT: Refer to the exhibit number that's pre-
9 marked for identification for the record in your questions,
10 Counsel.

11 (BRIEF PAUSE.)

12 THE COURT: Ask a question, Counsel. You've handed
13 additional documents without numbers for the record.

14 Q Agent Skipper, I handed you Defendant's, for
15 identification, Three and Four. Would those pictures help
16 refresh your memory?

17 A Defense Three and Four are close-up photographs of the
18 checks which were in the cash register, and they appear to
19 be next to the -- the items displayed in defense one.

20 Q Thank you. And is that a fair and accurate description
21 of the cash register on June the 23rd? I'm sorry, June 24th
22 of 2007?

23 A Yes, it does.

24 Q Has it been altered in any way?

25 A We opened the drawer. But that -- that's the only

1 thing. It was closed when we got there.

2 Q You didn't take a picture of the cash register prior to
3 opening the door?

4 A There should be a photograph of it.

5 MS. SMART-GITTINGS: Your Honor, I request that these
6 be marked as Defense Exhibits One, Three, and Four and
7 introduce those into evidence.

8 THE COURT: As to Defense Exhibit's One, Three, and
9 Four, Counsel?

10 DEP. SOLICITOR THORNTON: I have no objection, Judge.

11 THE COURT: Ladies and gentlemen of the jury,
12 Defendant's Exhibits One, Three, and Four will be admitted
13 into evidence without objection.

14 (Defendant's Exhibit One, photo, is received into
15 evidence.)

16
17 (Defendant's Exhibit Three, photo, is received into
18 evidence.)

19 (Defendant's Exhibit Four, photo, is received into
20 evidence.)

21 THE COURT: Counsel, approach.

22 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
23 AND OUT OF THE HEARING OF THE JURY.)

24 THE COURT: Let's proceed.

25 Q Agent Skipper, can you describe what's been previously

1 marked as Defendant's Exhibit One?

2 A Defense Exhibit One?

3 Q Yes, ma'am.

4 A Defense Exhibit One is a close-up photograph of the
5 contents of the cash register drawer.

6 Q And Number Three?

7 A Defense Exhibit Three, it is our two close-up
8 photographs of some checks that were in the cash register.

9 Q And Defense Exhibit Four?

10 A Defendant's -- Defense Exhibit Four are additional
11 close-up photographs of those checks.

12 MS. SMART-GITTINGS: Your Honor, we'd like to offer
13 Defense Exhibits One, Two, Three and Four into evidence.

14 THE COURT: They're in evidence, without objection.
15 You may publish.

16 MS. SMART-GITTINGS: May we publish to the jury?

17 THE COURT: Defendant's One, Three and Four are in
18 evidence, Counsel. You may proceed.

19 MS. SMART-GITTINGS: I don't have any further questions
20 for this witness, Your Honor.

21 THE COURT: Redirect?

22 REDIRECT EXAMINATION

23 BY DEP. SOLICITOR THORNTON:

24 Q Agent Skipper, just to clarify something when you
25 testified earlier. When you got there, was the register

1 open or closed?

2 A As far as I remember, it was closed.

3 Q All right. So these pictures are taken after law
4 enforcement opened it at the scene?

5 A That's correct.

6 Q Thank you. I have nothing further.

7 THE COURT: Re-cross, limited to redirect.

8 MS. SMART-GITTINGS: None, Your Honor.

9 THE COURT: As to this witness, Solicitor?

10 DEP. SOLICITOR THORNTON: Ask that she be excused,
11 Judge, but she'll remain on telephone standby, but ask that
12 she be allowed to leave the courtroom.

13 THE COURT: Any objection, Counsel?

14 MS. SMART-GITTINGS: None, Your Honor.

15 THE COURT: Ms. Wallace, you are excused, but you're on
16 telephone standby. Leave my exhibits with them. Have a
17 nice day.

18 MS. WALLACE: Thank you, Judge.

19 THE COURT: Thank you. Call your next witness.

20 DEP. SOLICITOR THORNTON: Thank you, Your Honor. State
21 calls Dr. Caplan to the stand.

22 WHEREUPON, DR. MICHAEL JEFFREY CAPLAN IS DULY SWORN.

23 THE COURT: Have a seat. Make yourself comfortable.
24 Speak into that microphone there. Please state your full
25 name and spell your last name for my court reporter.

1 **DR. CAPLAN:** Sure. My name is Michael Jeffrey Caplan,
2 spelled C-A-P-L-A-N.

3 **THE COURT:** Your witness, Counsel...

4 **DEP. SOLICITOR THORNTON:** Thank you, Judge.

5 **DIRECT EXAMINATION**

6 **BY DEP. SOLICITOR THORNTON:**

7 Q Dr. Caplan, who do you work for, sir?

8 A I'm employed by the Medical University of South
9 Carolina.

10 Q And what do you do for MUSC?

11 A I'm a pathologist, which means that I study how the --
12 the human body reacts to disease or injury. And so I --
13 some of my duties include performing autopsies to determine
14 the cause of death involving people. Some of it involves
15 teaching students. Some of it involves examining tissues
16 from living people to determine the disease process that's
17 going on.

18 Q All right. Dr. Caplan, obviously, I'm calling you a
19 doctor. Are you an MD, sir?

20 A Yes, I am.

21 Q So how many years of school does it require to obtain
22 an MD?

23 A It -- it takes four years of medical school to obtain
24 the MD degree. It's usually -- it's -- before that, usually
25 you go to four years of an undergrad in college.

1 Q Then do you do some sort of residency? Or did you do
2 some sort of residency after obtaining your medical
3 doctorate?

4 A Yes. After obtaining a medical degree, then you obtain
5 -- then you do a -- a years of residency, or what we call a
6 subspecialty training where we learn to become proficient in
7 our particular area of medicine, and I chose pathology.

8 Q Dr. Caplan, you mentioned earlier that you do
9 autopsies; is that correct, as part of your duties?

10 A That's correct.

11 Q All right. How many autopsies do you think you've
12 performed?

13 A I would say that I have either performed or directly
14 supervised somewhere between 2,000 and -- and 2200 autopsies
15 in my career.

16 Q All right. And how many -- have you ever been
17 qualified as an expert in court to testify?

18 A Yes, I have.

19 Q About how many times, sir?

20 A I've been qualified somewhere between 150 and 200
21 times.

22 **DEP. SOLICITOR THORNTON:** Your Honor, at this time I
23 ask that Dr. Caplan be recognized by the Court as an expert
24 in the field of Forensic Pathology.

25 **THE COURT:** Any objection as to qualifications in the

1 field of Forensic Pathology?

2 MS. SMART-GITTINGS: No objection, Your Honor.

3 THE COURT: Ladies and gentlemen of the jury, this
4 witness is qualified, without objection. Recalling my
5 earlier instruction to you concerning the expert witness'
6 testimony.

7 You may proceed, Counsel. Witness is qualified,
8 without objection.

9 DEP. SOLICITOR THORNTON: Thank you.

10 Q Dr. Caplan, were you employed by MUSC on or about June
11 of 2007?

12 A Yes, I was.

13 Q On June 25th of 2007, did you perform an autopsy on a
14 Ronnie Wooten?

15 A Yes, I did.

16 Q All right, sir. And can you describe for us what your
17 relevant findings were?

18 A Yes. On -- on that day, I performed the autopsy on the
19 victim, Mr. Wooten. And as we start off with an autopsy, we
20 make observations about the person's body. Mr. Wooten
21 weighed approximately 220 pounds and was approximately five
22 feet, nine inches tall. He was dressed in a tee shirt, a
23 pair of blue jeans, had a pair of Rockport shoes on.

24 And after we'd removed the clothing, photographed his
25 body and noticed that he had several external findings which

1 include some scars. He had scar over the midline of his
2 chest, which corresponded to some heart surgery that I found
3 later when I did the internal examinations. He also had a
4 scar over his left knee, and he had some additional skin
5 lesions, such as moles under various parts of his body.

6 Q Dr. Caplan, let me ask you a quick question. Did you
7 see any -- I think the term may be "for evidence of injury
8 or recent injury"?

9 A Yes, I did.

10 Q All right. Could you describe that for us, please?

11 A Yes. He had injuries on his -- mainly on his face. He
12 had some blunt force injuries, which included raised or
13 scrapes to the skin on the forehead area on both sides. He
14 also had a gunshot wound that was on the left side of the
15 nose.

16 Q All right. And in performing the autopsy, sir, did you
17 -- trying to think of the right word for it. But did you go
18 looking and see if you could find a bullet? Was there an
19 entrance and an exit; or just an entrance? Or what did it
20 appear to you when you examined Mr. Wooten?

21 A I only saw an entrance wound. And any -- as part of
22 the normal practice in doing an autopsy, when we have a
23 penetrating injury like a gunshot wound, we typically will
24 perform an X-ray before the autopsy to determine whether a
25 bullet or part of the bullet fragment is present. And we

1 did do that, an X-ray, and we did find a bullet in the -- in
2 the head. So there was no exit wound. And we did recover a
3 bullet from that gunshot wound track.

4 Q All right. To a reasonable degree of medical
5 certainty, sir, in your expert opinion, what did Ronnie
6 Wooten die from?

7 A In my opinion, he died from a gunshot wound to the
8 nose, with injury of the brain.

9 Q And can you tell us approximately where the path of the
10 bullet went, once it entered Mr. Wooten's skull?

11 A Yes. After it entered his skull, went through the --
12 the -- the left side of the nose, what we call the allo,
13 which is the part of the nose in front of the nostril, went
14 through the back of the nose. And then it went in through
15 the base of the skull through what we call frame and magna,"
16 which is a cavity where the spinal cord sits.

17 It then grazed or impacted the bottom of the
18 cerebellum, which is a part of the brain that -- that helps
19 us with balance. It's a posterior part on the left side.
20 And then it impacted the inside of the skull. After it
21 impacted the skull, it took about a straight path -- both
22 the -- where it hit the skull and where the entrance wound
23 was were both a little less than half an inch to the left of
24 the midline.

25 So when it took -- there was no horizontal deviation.

1 It went straight back and slightly upward. And then once it
2 hit that -- the inner part of the skull, it then took a very
3 short path and ended in a part where the cerebellum in the
4 lower part of the brain, the brain stem. So, it basically
5 went front to back, swept upward and without any significant
6 deviation from side to side.

7 Q All right, Doctor, let me ask you a question. Have you
8 ever heard the term, or are you familiar with the term,
9 defensive wounds?

10 A Yes, I have heard that term.

11 Q All right. And could you describe for the jury what
12 you would normally associate with defensive wound?

13 A Yes. Defensive wounds are generally wounds that a
14 victim sustains in an attempt to defend his or herself. And
15 it could be different types. So, if it's a sharp-force
16 injury, such as a knife or some other sharp object, then
17 usually defensive wound will be found in a certain part of
18 the -- of the -- of the body to -- to defend oneself from
19 those injuries.

20 So, for example, if somebody is being threatened or
21 assaulted with a knife or another sharp object, you would
22 find defensive wounds in-between the fingers of the hands or
23 on the side of the hand where the pinky is, what we call the
24 ulnar part of the hand, trying to ward off those injuries.

25 If in a blunt force injury, such as a blow or from

1 another object, then somebody -- you might see it in a
2 different distribution. For example, if somebody is trying
3 to defend themselves from -- from a head injury, they might
4 put their hands over their head or their face, and that
5 would expose the backs of their hands. And that's where you
6 might see bruises or tears, lacerations on the backs of the
7 hands. That would be a more typical place for blunt force
8 object injuries.

9 Q Doctor, let me ask you: In this case, did you do a
10 complete examination of Ronnie Wooten?

11 A Yes, I did.

12 Q Did you find any defensive wounds?

13 A No, I did not.

14 Q Doctor, I'm going ---

15 **DEP. SOLICITOR THORNTON:** With Court's permission to
16 approach.

17 **THE COURT:** You may.

18 Q --- hand you what's been marked as State's Exhibit, for
19 identification, Thirteen. Could I have that back, Doctor?

20 **DEP. SOLICITOR THORNTON:** I apologize, Judge.

21 Q Hand you back what's been marked as State's Exhibit
22 Thirteen for identification. Doctor, can you identify that
23 for me?

24 A Yes, I can.

25 Q What is that a picture of, sir?

1 A. This is a close-up picture of the deceased, Mr. Wooten,
2 identified by the autopsy number, FA07452. And this depicts
3 a few of the victim's face after the blood has been wiped
4 away. And it shows clearly the gunshot wound to the left
5 side of his nose. Also shows the abrasions, or scrapes,
6 that are on the forehead, both on the right and on the left
7 sides. Also shows that he's got a full mustache, as well.

8 Q Doctor, is that an accurate depiction of Ronnie Wooten
9 as he appeared to you before you performed -- or during the
10 autopsy?

11 A Yes, it is.

12 Q Has that picture been altered or changed in any way?

13 A No, it has not.

14 DEP. SOLICITOR THORNTON: Your Honor, I'd ask State's
15 Exhibit Number Thirteen be placed into evidence.

16 THE COURT: Any objection as to State's Thirteen?

17 MS. SMART-GITTINGS: No objection, Your Honor.

18 THE COURT: Ladies and gentlemen of the jury, State's
19 Exhibit Thirteen will be admitted into evidence without
20 objection.

21 (State Exhibit Thirteen, photo, is received into
22 evidence.)

23 THE COURT: State's Thirteen into evidence. You may
24 publish.

25 Q Now, you referenced earlier that FA number. "FA", does

1 that stand for "forensic autopsy"?

2 A Yes, it does.

3 Q All right. And that gives you your reference number,
4 so you know what case it is; is that correct?

5 A That's correct.

6 Q And the dark area which is right here, is that the
7 bullet wound?

8 A Yes. That is the entrance gunshot wound to the nose.

9 Q All right. And you testified earlier, Doctor, that
10 that gunshot wound is the cause of death; is that correct?

11 A Yes, that's correct.

12 Q And as part of your findings, do you also determine
13 manner of death?

14 A Yes. We determine manner of death in conjunction with
15 the investigation. But yes, we also do that.

16 Q What was the manner of death in this case, Doctor?

17 A In this case, the manner of death was homicide.

18 Q By gunshot wound to the brain?

19 A Yes. The cause of death was gunshot wound, and the
20 manner of death was homicide, death at the hands of another
21 person.

22 Q Doctor, let me ask you a question. Do you also, as
23 part of when you're looking at gunshot wounds, is there a
24 way sometimes to tell whether a gunshot wound is what they
25 call a contact wound, meaning that the barrel was touching

1 the skin, as opposed to further away? Is there a way you
2 can tell that?

3 A Yes. Generally, we can make -- well, we -- we can
4 while usually not say the exact distance. We can make
5 general opinions as to whether a wound was more or less
6 likely to be a contact wound that they -- in direct contact
7 with the skin, be in close range or being a -- a -- a more
8 distance range. We can make some general opinions regarding
9 that.

10 Q And, Doctor, if a gunshot wound was either a contact or
11 very close range -- and if you would, define how close it
12 would need to be -- what are some of the things you would
13 look for or expect to find on a wound?

14 A Okay. Well, starting with a contact wound, if the --
15 if meaning that the -- that the barrel of the gun is -- is
16 in direct contact with the skin, what we might expect to see
17 there would be -- one thing, because the gases have to
18 escape somewhere, there would be a larger wound actually at
19 the -- at the site of the entrance. You might see a bunch
20 of larger laceration or tearing of the skin because of the
21 pressure of those gases.

22 The other thing that you might see would be the
23 unburned gunpowder which we call soot, only to travel a very
24 short distance. But in a contact wound, that unburned
25 gunpowder would be propelled into the skin and possibly

1 through the wound itself. And so we would see a black or
2 gray discoloration actually in the skin or beneath the wound
3 in the bone, actually. The other thing that -- that we
4 might see would be actual searing, which is a -- which is a
5 -- a -- a burning of the skin at the site of the gunshot
6 wound.

7 If it's a close -- a close range fire, then what we
8 might expect to see would be unburned or incompletely burned
9 gunpowder. So, we call that stippling or tattooing. And
10 there you would see little tiny pinpoint abrasions which
11 would have a red and orange color in it. And generally with
12 handguns, you can see stippling up to approximately three
13 and a half -- three to three-and-a-half feet between the
14 barrel of the gun and -- and the skin.

15 And that's just an estimate, though, because to
16 determine the exact range of fire, you'd actually have to
17 test fire that weapon and -- and to see exactly how far that
18 goes. But that's the general feature of -- of handguns.

19 Q Doctor, in this case, did you find any soot?

20 A I did not find any soot.

21 Q Did you find any stippling?

22 A No, I did not see any stippling.

23 Q Based on your expert opinion and to a reasonable degree
24 of medical certainty, do you feel this was either a contact
25 wound or what you call close-range, within three feet,

1 wound?

2 A No. In my opinion, I -- I do not -- I did not see any
3 signs it was either contact or -- or a very close range.

4 Q Doctor, as part of an autopsy, do you also routinely do
5 a -- for lack of a better word -- toxicology?

6 A Yes. We collect -- we collect samples such as blood,
7 urine and -- and -- and tissues and body fluids to allow
8 those samples to be tested for drugs abused or therapeutic
9 drugs. And so we don't actually perform the toxicology, but
10 we collect the specimens that are analyzed for toxicology.

11 Q And was toxicology performed in this case?

12 A Yes, it was.

13 Q Was there anything found in the toxicology of Ronnie
14 Wooten?

15 A Yes, there was.

16 Q And what was found?

17 A What was found was a -- a nicotine and the metabolite
18 of nicotine, that's called Coltene, was found in Mr.
19 Wooten's blood.

20 Q So nicotine being what you find in cigarettes?

21 A That's correct.

22 Q Anything else, sir?

23 A Not -- not -- in Coltene, there was a metabolite of
24 nicotene, but only those two compounds were found.

25 Q Thank you, sir.

indulgence, please, for one moment.

Q Doctor, one other question: Were you able to recover the bullet, or partial fragment of a bullet, from Ronnie Wooten?

A Yes, I was.

Q All right. And did you turn that over to a member of law enforcement who attended the autopsy?

A Yes, I did.

Q And do you by any chance remember who that person was?

A Yes. That was Officer Chauncey Solomon, who I -- who I -- who I turned that -- that bullet over to.

Q Dr. Caplan, thank you very much, sir, for answering my questions. Please answer any questions Ms. Smart-Gittings has.

THE COURT: Cross-examination?

CROSS-EXAMINATION

BY MS. SMART-GITTINGS:

Q Dr. Caplan, you indicated that there was a blunt force injury to the forehead of the victim; is that correct?

A Yes, that's correct.

Q And was that a recent injury?

A Yes. In my opinion, that was a recent injury.

Q And you didn't indicate a time of death; did you?

A No, I didn't. I -- I indicated that the body was found

Cross-Examination of Dr. Michael Jeffrey Caplan by Ms. Smart-Gittings
Redirect Examination of Dr. Michael Jeffrey Caplan by Dep. Sol. Thornton

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1 at approximately three o'clock in the morning on June 24th,
2 2007. But no, I did not indicate an exact time of death.

3 Q I don't have any other questions.

4 THE COURT: Redirect?

5 DEP. SOLICITOR THORNTON: Just one question.

6 REDIRECT EXAMINATION

7 BY DEP. SOLICITOR THORNTON:

8 Q Doctor, you just talked about the bruising. Can you
9 give a medical or expert opinion on what the likely cause of
10 that bruising is?

11 A Yes. Those -- it was actually a -- a -- mostly
12 abrasions rather than bruising. Abrasions are scrapes of
13 the skin. There was a bruise, a small bruise to the scalp.
14 These were on the protuberant parts of the face, the parts
15 of the face that -- that jut out, the -- the -- the -- the
16 forehead, particularly the -- the part of the forehead over
17 the orbits of the eyes, the boney margins of the eyes, part
18 of the nose. And those protuberant parts of the face are
19 often -- sustain injuries when somebody has a fall where
20 they cannot protect themselves from that fall.

21 Q So, Doctor, say if somebody had been shot in the face
22 standing next to poker machines, would it be consistent with
23 a fall from that -- from just falling down, collapsing?

24 A Yes, in my opinion it would be.

25 Q I don't have anything else. Thank you, Doctor.

1 **THE COURT:** Re-cross, limited to redirect.

2 **MS. SMART-GITTINGS:** Nothing, Your Honor.

3 **THE COURT:** As to this witness, Solicitor?

4 **DEP. SOLICITOR THORNTON:** Thank you, Your Honor. I'd
5 ask Dr. Caplan be excused and allowed to go back to
6 Charleston.

7 **THE COURT:** Any objection to this witness being excused
8 from the trial of this case, Counsel?

9 **MS. SMART-GITTINGS:** No objection, Your Honor.

10 **THE COURT:** Dr. Caplan, if you'll leave my exhibits
11 with me. I think you probably just have your file. You are
12 excused from the trial of the case. You may leave the
13 courtroom at this time.

14 **DR. CAPLAN:** Thank you.

15 **THE COURT:** Thank you. Counsel, approach.

16 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
17 AND OUT OF THE HEARING OF THE JURY.)

18 **THE COURT:** Ladies and gentlemen of the jury, I'm going
19 to stop at this point. We're going to provide you with
20 lunch. I'm going to take you out to lunch. During the
21 lunch break, please do not discuss this case amongst
22 yourselves, with anybody else. Somebody tries to talk to
23 you about it, just tell them you're on the jury, you can't
24 talk about it. And if they persist, get their name, give it
25 to me, and I'll handle the problem for you.

1 I hope everybody has a pleasant lunch. And we're going
2 to try to start back -- it's 12:35 right now. I'd like to
3 start back at 1:45, which is an hour and ten minutes from
4 now. Give you hopefully enough time. But I'm going to be
5 mindful of where you are. You're going to be taken by
6 security personnel for your lunch.

7 Hope everybody has a pleasant lunch. We'll start back
8 as soon as I know all of you have had a chance to get lunch.
9 I also have to be concerned about the parties and the people
10 here getting lunch. But we'll start back as quickly as we
11 can. You may retire to your jury room at this time.

12 (12:35 P.M., 6-28-11, WHEREUPON THE JURY EXITS THE
13 COURTROOM.)

14 **THE COURT:** Counsel, approach.

15 (WHEREUPON, COURT IS RECESSED FOR LUNCH.)

16 (2:00 p.m., 6-28-11, THE TRIAL COMMENCES PROCEEDINGS IN
17 THE CASE OF JOSEPH DAVIS.)

18 **THE COURT:** State ready to proceed?

19 **DEP. SOLICITOR THORNTON:** State's ready to proceed,
20 Your Honor.

21 **THE COURT:** Defendant ready to proceed?

22 **MS. SMART-GITTINGS:** Defense is ready to proceed, Your
23 Honor.

24 **THE COURT:** Bring us the jury. Counsel, approach.

25 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD

1 AND OUT OF THE HEARING OF THE JURY.)

2 **THE COURT:** I received a note from the foreperson of
3 the jury. The note advised us that sometimes -- said the
4 State attorney sometimes blocks the view of the witness
5 giving testimony. It's signed by the foreperson. I've
6 asked my lawyers at the bench, and obviously they know I
7 don't allow them to walk up to a witness without asking the
8 Court to approach. And one of the reasons for that is,
9 obviously, so you don't block the view of the jury of the
10 witness. And I've asked my lawyers to cooperate, and they
11 understand that. And I recognize that when they go up to
12 the witness stand, that they have, very often, documents for
13 identification, to use the proper method.

14 And I've told them to hand it to the witness, step
15 back, ask the witness to identify it, rather than remain on
16 the witness stand asking questions, even though sometimes
17 you feel it's easier, particularly where you have multiple
18 exhibits. I understand that. But the purpose is to let the
19 jury view the witness at all times. And my attorneys tell
20 me they're going to certainly cooperate, not only with my
21 directives, but the wishes of the jury.

22 Any objection to making the jury's note a Court's
23 exhibit, from the State?

24 **DEP. SOLICITOR THORNTON:** No, sir.

25 **THE COURT:** From the defendant?

1 **MS. SMART-GITTINGS:** None, Your Honor.

2 **THE COURT:** Mylinda, if you'll -- thank you. Hand that
3 to Becky. Court's Exhibit Number ---

4 **COURT REPORTER:** Two.

5 **THE COURT:** Court's Exhibit Number Two, without
6 objection.

7 (Court's Exhibit Two, jury note from foreperson,
8 received into evidence.)

9 **THE COURT:** All right, Counsel, I understand that my
10 jury's back from lunch and that my jury also is out of the
11 bathroom now. So even though I'm 15 minutes behind my
12 schedule, we'll proceed with the trial of the case. Bring
13 the jury, Mr. Jimmy.

14 (2:03 P.M., 6-28-11, WHEREUPON, THE JURY ENTERS THE
15 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

16 **THE COURT:** Madame Foreperson, ladies and gentlemen of
17 the jury, I received your note and I want you to understand,
18 the lawyers know the practice in the courtroom is, they
19 can't walk up to a witness. And the reason they can't
20 approach a witness is the very reason you pointed out;
21 you're doing exactly what I asked you to do. And I told you
22 if you couldn't see or couldn't hear, let me know and raise
23 your hand.

24 Very often when they have more than one exhibit, they
25 have a tendency, they think that it saves time to stay up

1 there and ask about several exhibits. However, it does
2 block your view. The lawyers know that they're going to
3 have to ask me to approach, and I've asked them to step back
4 so you can view the witness at all times while the witness
5 is on the witness stand. And I can assure you, they'll
6 cooperate with that. But thank you for listening to my
7 instruction, following my instructions, ladies and
8 gentlemen.

9 We'll now continue with the testimony in the trial of
10 this case. Counsel, you may call your next witness.

11 **ASST. SOLICITOR LEGETTE:** Thank you, Your Honor. The
12 State calls Chauncey Solomon.

13 **WHEREUPON, CHAUNCEY SOLOMON WAS DULY SWORN.**

14 **THE COURT:** Pull the microphone down for me. You know
15 how to use it. Speak in the microphone and state your full
16 name, spelling your last name for the court reporter.

17 **MR. SOLOMON:** Chauncey Demetrius Solomon. The last
18 name's spelled S-O-L-O-M-O-N.

19 **ASST. SOLICITOR LEGETTE:** Thank you, sir.

20 **DIRECT EXAMINATION**

21 **BY ASST. SOLICITOR LEGETTE:**

22 **Q** Mr. Solomon, where do you work?

23 **A** I'm employed at the Hampton County Sheriff's Office.

24 **Q** And what is your title at the Hampton County Sheriff's
25 Office?

1 A I am a lieutenant in investigations and in criminal
2 investigations.

3 Q And, sir, you're a detective? Investigator?

4 A Yes, I am.

5 Q How long have you worked for the Hampton County
6 Sheriff's Office?

7 A A total law enforcement experience, most of it at the
8 sheriff's office, I'm in my 16th year; November will be 17
9 years.

10 Q Now, what is your current position at the Hampton
11 County Sheriff's Office?

12 A I am also a -- still a detective.

13 Q And what do you do -- as a detective, what do you do?

14 A Well, my job as an investigator, to investigate any
15 crime that happens that's in the region of Hampton County
16 for crimes committed. I respond after the patrol division,
17 get -- get to the scene and -- and get detective calls and
18 then go out again to gather evidence and just investigate
19 crime that happen in Hampton County.

20 Q Okay. Well, Detective Solomon, were you working for
21 the Hampton County Sheriff's Office Investigations in June
22 of 2007?

23 A Yes, ma'am.

24 Q Did you become involved in an investigation involving a
25 Mr. Ronnie Wooten?

1 A Yes, ma'am, I -- I -- I did.

2 Q Well, Detective Solomon, did you know Mr. Wooten?

3 A Yes. I -- I grew up -- I grew up with him. So I -
4 - I know him quite well.

5 Q So tell us what happened when you became involved in
6 the investigation involving Mr. Ronnie Wooten.

7 A Okay. Sometime that night, roughly three or four
8 o'clock in the morning, maybe at two, I received a call from
9 dispatch about there was a possible homicide at the Lena
10 Quick Stop, which is in Hampton County. Of course, I
11 responded.

12 I arrived there sometime after I left my home. And --
13 and when I arrived, I met the patrol division, along with
14 the other supervisor. The sheriff was there at the time.
15 Captain Russell was there, and some of the other
16 investigators.

17 Q And what night is this? You talked about the ---

18 A Saturday night, early Sunday morning, June the 23rd. I
19 actually responded on the 24th of June.

20 Q So what did you find when -- you went to the store?

21 A Yes, I did.

22 Q What did you find when you went to the store?

23 A Okay. Once I got there, I put some protective gear on,
24 shoes. I was greeted by the patrol sergeant, a corporal at
25 the time. And I actually went into the store, to do a

1 brief, just a look-around to see what we had, looking for
2 evidence, anything that actually said that it was a -- a
3 homicide.

4 Q So when you went into the store, did you see Mr.
5 Wooten?

6 A Yes.

7 Q Okay. What condition was Mr. Wooten in?

8 A Well, when I walked into the store, immediate to your
9 right, he was lying on the floor. He was lying there in a
10 pool of blood. His pocket -- if I'm not mistaken, his right
11 pocket was emptied. The contents from his wallet and his
12 pocket was spread out all over the floor. And he suffered
13 some kind of a head wound. And it was a massive amount of
14 blood.

15 Q So you said that you found things around his body?

16 A Yes, yes.

17 Q Where was he -- where was he in the store exactly?
18 What was he near?

19 A He was -- in -- in the store, he had some -- some type
20 of game or a poker machine of some kind. He was there,
21 lying in front of it. And it looked like to me at the time,
22 just looking back in my mind, it looked like it was a
23 apparent robbery of some kind. That's the first thing that
24 came to my mind.

25 Q So thereafter, was Mr. Wooten pronounced dead?

1 A Yes. The coroner came and -- and he was pronounced
2 dead. And -- and myself and some of the other detectives,
3 along with State Law Enforcement Division Forensic team,
4 went back into the -- the store and began to process the
5 crime scene.

6 Q So Detective Solomon, I want to turn your attention now
7 to Mr. Wooten's autopsy. Did you attend Mr. Wooten's
8 autopsy?

9 A Yes.

10 Q What did you see at the autopsy?

11 A Well, at the autopsy -- the reason why an investigator
12 goes to a autopsy is to observe any kind of evidence, to
13 assist the pathology and -- and to actually -- if he has any
14 questions about the crime that took place, and to receive
15 evidence that's actually come -- maybe if it's a bullet or
16 if it's some kind of -- any kind of instrument that -- that
17 was in the body, retrieve it, and take it to the crime scene
18 to be analyzed.

19 Q So were any type of evidence retrieved from the body?

20 A Yes.

21 Q What was retrieved?

22 A Appeared to be a small caliber bullet. It was taken
23 from out of his skull.

24 Q And did you see the bullet taken out of the body?

25 A Yes. The pathologist actually -- he actually stopped

Direct Examination of Chauncey Solomon by Asst. Sol. Legette

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1 what he was doing and -- and actually called me in there and
2 actually showed me the angle where he came in. And then he
3 took the bullet out, yes.

4 Q And you received this bullet?

5 A Yes.

6 Q And after receiving the bullet, what do you do with
7 this bullet?

8 A Well, later, it was taken to the State Law Enforcement
9 Division Crime Lab and given to SLED to be analyzed.

10 Q Do you recall who you gave it to?

11 A I think it was the female clerk by the name of Nikki
12 Perry, if I'm not mistaken. And can I refer to my notes?

13 Q Please.

14 (The witness reviews his notes.)

15 A Yes. It was a -- a clerk by the name of Nikki Perry.

16 ASST. SOLICITOR LEGETTE: Beg the Court's indulgence.

17 (BRIEF PAUSE.)

18 ASST. SOLICITOR LEGETTE: Your Honor, may I approach
19 the witness?

20 THE COURT: You may.

21 Q Detective Solomon, I'm going to hand you now what's
22 been previously marked for identification, State's Exhibit
23 Twenty-one and Twenty-two. Take a moment and tell me if you
24 recognize these.

25 THE COURT: Ms. Legette.

1 **ASST. SOLICITOR LEGETTE:** Yes, Your Honor.

2 **THE COURT:** Step back.

3 (The witness reviews the document.)

4 **A** Yes, ma'am, I recognize these.

5 **Q** And what are those?

6 **A** These are pictures -- on this one right here ---

7 **Q** Don't tell me. Just tell me what you recognize.

8 **A** It's a bullet that was taken from the head of Mr.

9 Ronnie Wooten and ---

10 **Q** Is it a bullet or a picture of the bullet?

11 **A** It's a picture of the bullet.

12 **Q** Yes.

13 **A** Yes, that's the picture of the bullet that was taken

14 the head of Mr. Ronnie Wooten and ---

15 **Q** Don't show me. Don't show me.

16 **A** And this here is actually the envelope that it was

17 sealed in by the State Law Enforcement Division.

18 **Q** Detective Solomon, if you'll go back to the last
19 photograph you identified. Tell me what State's Exhibit is
20 that.

21 **A** Twenty-one.

22 **Q** So State's Exhibit Twenty-one, what is that?

23 **A** It's an envelope that the bullet actually was sealed
24 in.

25 **Q** Okay. Detective Solomon, are State's Exhibit Twenty-

1 one and Twenty-two fair and accurate depictions of the
2 pictures of the actual bullet that was taken out of the body
3 of Ronnie Wooten?

4 A Yes, ma'am.

5 ASST. SOLICITOR LEGETTE: At this time, Your Honor, I
6 would offer for admission into evidence, State's Exhibit
7 Twenty-one and Twenty-two.

8 THE COURT: Show it to counsel.

9 (SHOWS EXHIBITS TO COUNSEL.)

10 THE COURT: Any objection as to Twenty-one and Twenty-
11 two?

12 MS. SMART-GITTINGS: No objection, Your Honor.

13 THE COURT: Ladies and gentlemen of the jury, State's
14 Exhibits Twenty-one and Twenty-two will be admitted into
15 evidence without objection.

16 (State Exhibit Twenty-one, photo, received into
17 evidence.)

18 (State Exhibit Twenty-two, photo, received into
19 evidence.)

20 THE COURT: Twenty-one and Twenty-two now in evidence.
21 You may publish. Refer to the exhibit number when asking
22 questions so the record knows what the jury is reviewing.

23 ASST. SOLICITOR LEGETTE: Thank you, Your Honor.

24 Q Detective Solomon, I'm going to now show you what has
25 been admitted into evidence as State's ---

1 **THE COURT:** Hold on a second.

2 (BRIEF PAUSE.)

3 **Q** Detective Solomon ---

4 **A** Yes, ma'am.

5 **Q** --- I now show you what's been marked for evidence,
6 marked for ID and admitted into evidence as State's Exhibit
7 Twenty-one. Tell us what we're looking at here.

8 **A** Well, you're looking at the envelope that the bullet
9 was put inside for evidence.

10 **Q** Okay. And is that bullet -- this package right here
11 what you're referring to?

12 **A** Yes.

13 **Q** Okay. Is that what you received the bullet in from Dr.
14 Caplan?

15 **A** Yes.

16 **Q** Okay. And tell us, what is this particular item right
17 here?

18 **A** That's the bullet itself.

19 **Q** Okay. Now, please refer to this particular envelope
20 right here as State's Exhibit Twenty-one. What is this?

21 **A** That's an envelope that is actually sealed and the one
22 on the left put into that bag and sealed it into that. So
23 two different bags.

24 **Q** Okay. So what you're telling us that this bullet was
25 put into this envelope?

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- 1 A Yes.
- 2 Q From the doctor?
- 3 A Yes.
- 4 Q And that this envelope was put into this bag?
- 5 A Yes, ma'am.
- 6 Q Tell us what initials we are looking at on the envelope
- 7 right here, says "SLED."
- 8 A Okay. What that is, when it's sealed -- it's sealed
- 9 with evidence tape and you have to sign your initials, so if
- 10 it was to be tampered, the seal would be broke. So the key
- 11 thing to it is to seal it, put the tape around it, put your
- 12 initials, saying that was sealed, being protected. That's
- 13 my initials.
- 14 Q Those are your initials?
- 15 A Yes.
- 16 Q All right. Detective Solomon, I'm now going to show
- 17 you what's been previously marked for ID and entered into
- 18 evidence as State's Exhibit Twenty-two. What are we looking
- 19 at here, sir?
- 20 A You're actually looking at the bullet.
- 21 Q Okay. And this is the bullet that you received?
- 22 A Yes, that is.
- 23 Q Detective Solomon ---
- 24 **ASST. SOLICITOR LEGETTE:** Dim the lights.
- 25 Q --- you said you received this bullet from the doctor,

1 took it to SLED?

2 A Yes, ma'am.

3 Q Turned it in to Nikki Perry?

4 A Yes, ma'am.

5 Q At some point, did you receive the bullet again?

6 A Yes.

7 Q Okay. When was that?

8 A It was some time later. I can't remember the exact
9 date.

10 (The witness reviews document.)

11 A July 24, 2010, if I'm not mistaken.

12 Q You received the bullet again?

13 A Yes.

14 Q Okay. And at that time, what did you next do with the
15 bullet?

16 A Well, I put it back into evidence. Put it in evidence
17 so it could be stowed in our evidence locker. Again, we
18 were able to take it back to SLED. We resubmitted it back
19 to SLED again.

20 Q Now, Detective Solomon, after May 2010, at some point,
21 in August of 2010, you got that bullet again after a trial,
22 correct?

23 A Yes. I think it was this year. Think it was this
24 year.

25 Q Okay.

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- 1 A Think it was.
- 2 Q But you did receive the bullet again.
- 3 A Yes.
- 4 Q Okay. And from where did you get the bullet at that
- 5 time?
- 6 A From the Clerk right here, the Clerk, the Court
- 7 Reporter.
- 8 Q Okay. And is that bullet here today?
- 9 A No.
- 10 Q What happened to that bullet?
- 11 A Well, somehow or another, between receiving it from the
- 12 Clerk, for which I did sign it out, along with the weapon,
- 13 between then and now, the small bullet, we can't find it.
- 14 Q Have you searched for this bullet?
- 15 A Yes.
- 16 Q And you have not been able to find it?
- 17 A No, ma'am. I wasn't -- we wasn't able to find it.
- 18 Q Detective Solomon, what kind of bullet was that?
- 19 A A .22-caliber spent round.
- 20 **ASST. SOLICITOR LEGETTE:** Beg the Court's indulgence.
- 21 (BRIEF PAUSE.)
- 22 Q Detective Solomon, I want you to go back to this
- 23 bullet. When you received it, what condition was -- was it
- 24 in field condition?
- 25 A Yes, ma'am.

1 Q Did you alter it in any way while it was in your
2 custody and control?

3 A No, ma'am.

4 Q And each time you received it, what condition was it
5 in?

6 A It was in the same condition as we got it from the
7 pathologist.

8 Q That's the field condition?

9 A Yes.

10 Q And while it's in your possession, did you alter it in
11 any way?

12 A No, ma'am.

13 Q And as far as the last time you saw this bullet, that
14 was at trial. What kind of trial was that?

15 A It was a trial dealing with the co-defendants in this
16 particular ---

17 Q Case.

18 A --- case, his co-defendants.

19 **ASST. SOL. LEGETTE:** Beg the Court's indulgence.

20 Q I have no further questions. Answer any questions from
21 the defense.

22 **THE COURT:** Cross-examination?

23 **CROSS-EXAMINATION**

24 **BY MS. SMART-GITTINGS:**

25 Q Lieutenant Solomon?

Cross-Examination of Chauncey Solomon by Ms. Smart-Gittings

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- 1 A Yes, ma'am. How are you doing?
- 2 Q I'm good.
- 3 A Good.
- 4 Q You had executed a search warrant for this particular
- 5 case; didn't you?
- 6 A Yes, ma'am.
- 7 Q And that search warrant was executed on Lena's store?
- 8 A Yes, ma'am.
- 9 Q Several days after the alleged armed robbery?
- 10 A I think so. It would have been more than one. A crime
- 11 scene requires us to -- to get a search warrant also ---
- 12 Q Did you ---
- 13 A --- for the ---
- 14 **THE COURT:** Hold on, Counsel. Let him finish his
- 15 answer before you ask another question.
- 16 A Before a crime scene -- are you talking about the
- 17 actual crime scene?
- 18 Q The search warrant that you executed.
- 19 A Okay. Yes, I did.
- 20 Q And do you have the inventory of that search warrant?
- 21 A It would probably be somewhere in the file somewhere.
- 22 Q But you don't have it in ---
- 23 A I can look.
- 24 (BRIEF PAUSE.)
- 25 A Yes.

1 Q And can you tell the Court what an inventory is?

2 A A inventory -- an inventory is -- it's basically where
3 the State of South Carolina or any law enforcement agency
4 actually goes into a residence, or a store, or any place to
5 be searched, be going for a magistrate or a judge to get a
6 search warrant to search the premises. We conduct a search.
7 Anything that we take out of the residence, or a store, or
8 wherever the places that we've searched, we have to do a
9 inventory. We have to actually -- everything that we take
10 out the store or out -- out of the premises, we write it
11 down and put it in the inventory. Same common thing that if
12 you will be taking a inventory -- inventory list.

13 Q And in that inventory, it's true that you recovered
14 from the Lena Quick store a .22-caliber serial number 73390
15 Ivory handled pistol?

16 A Yes. That would be correct.

17 Q Is that what's taken from the right side of the counter
18 under the cash register, correct?

19 A Yes.

20 Q You also obtained a BB gun?

21 A Yes.

22 Q A 32?

23 A Yes, ma'am.

24 Q A plastic bag with three handguns it?

25 A Yes, ma'am.

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- 1 Q Another 22?
- 2 A Yes, ma'am.
- 3 Q A .32-caliber?
- 4 A Yes, ma'am.
- 5 Q A 9 millimeter?
- 6 A Yes, ma'am.
- 7 Q A Winchester?
- 8 A Yes, sir.
- 9 Q A 12 gauge?
- 10 A Yes, ma'am.
- 11 Q A 410 shotgun?
- 12 A Yes, ma'am.
- 13 Q A 30-30 .54-caliber?
- 14 A Yes, ma'am.
- 15 Q Another double barrel shotgun?
- 16 A Yes, ma'am.
- 17 Q And three .22 rifles?
- 18 A Yes, ma'am.
- 19 Q Along with another 12 gauge shotgun?
- 20 A That would be correct, ma'am.
- 21 Q And typically, when places are burglarized and guns are
- 22 involved, the subject usually takes the weapons from the
- 23 place that has been burglarized, correct?
- 24 A It all depends. I mean, every scenario would be
- 25 different, but in some cases yes, in some cases no.

1 Q And those guns are sold on the street. Usually they
2 have a street value, correct?

3 A Yes, ma'am.

4 Q The number of guns that were taken from the store would
5 have a large street value; wouldn't you say?

6 A I would say it would definitely have a street value.

7 Q Now, you testified earlier that there was a .22-caliber
8 bullet taken from the victim.

9 A Yes, ma'am.

10 Q And there was several .22-caliber guns taken from the
11 store after the alleged shooting. Were all of those .22-
12 caliber submitted into evidence?

13 A Every last one of them.

14 Q And they were submitted for fingerprints?

15 A They were submitted to SLED for fingerprints and for
16 analysis into the -- the bullet that actually came from the
17 victim in this case.

18 MS. SMART-GITTINGS: Court's indulgence.

19 (BRIEF PAUSE.)

20 MS. SMART-GITTINGS: May I approach the witness, Your
21 Honor?

22 THE COURT: You may.

23 (COUNSEL SHOWS DOCUMENTS TO STATE.)

24 Q Can you identify ---

25 THE COURT: This is pre-marked, Counsel?

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1 MS. SMART-GITTINGS: They are pre-marked.

2 THE COURT: Would you like to re-approach the witness?

3 MS. SMART-GITTINGS: Yes, Your Honor. May I approach?

4 THE COURT: You may.

5 Q Can you identify what has preciously been marked for
6 Defendant's identification, Number Two, Number Five, and
7 Number Six?

8 THE COURT: Do you see the markings on there?

9 DETECTIVE SOLOMON: Yes. Yes, sir.

10 A Yes, ma'am. Number Two is the photograph of inside the
11 Lena Quick Stop, the trash can by the door, by the cash
12 register.

13 Q And Number Five?

14 A Number Five looks like it's the -- the trash can again.
15 It was just a up-close picture.

16 Q Number Six.

17 A Number Six is some cash, some money. I don't remember
18 the exact amount, but some money that was in the left
19 pocket, if I'm not mistaken -- or either the right pocket --
20 of the victim in this case, Mr. Ronnie Wooten.

21 Q And Number Seven.

22 A This is the picture of the victim in this case, Mr.
23 Ronnie Wooten, feet and shoes.

24 Q Are Defendant's Exhibits Two, Five, Six and Seven, a
25 fair and accurate depiction of how the items were at the

1 crime scene?

2 A Yes, ma'am, I would say so. Yes.

3 MS. SMART-GITTINGS: Your Honor, I'd like to introduce
4 into evidence previously marked for identification
5 Defendant's Items Number Two, Five, Six and Seven.

6 THE COURT: Any objection as to Two, Five, Six and
7 Seven?

8 ASST. SOLICITOR LEGETTE: Without objection, Your
9 Honor.

10 THE COURT: Ladies and gentlemen of the jury,
11 Defendant's Exhibits Two, Five, Six and Seven will be
12 admitted into evidence in the trial of this case, without
13 objection.

14 (Defendant's Exhibit Two, photo, received into
15 evidence.)

16 (Defendant's Exhibit Five, photo, received into
17 evidence.)

18 (Defendant's Exhibit Six, photo, received into
19 evidence.)

20 (Defendant's Exhibit Seven, photo, received into
21 evidence.)

22 THE COURT: Two, Five, Six and Seven into evidence.
23 You may now publish, Counsel.

24 MS. SMART-GITTINGS: Thank you, Your Honor. May I
25 approach the witness?

Cross-Examination of Chauncey Solomon by Ms. Smart-Gittings

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1 **THE COURT:** You may.

2 **Q** Investigator Solomon.

3 **A** Yes, ma'am.

4 **MS. SMART-GITTINGS:** Your Honor, may I approach the
5 bench?

6 **THE COURT:** You may.

7 **ASST. SOLICITOR LEGETTE:** Your Honor, could we
8 approach? May we approach, Your Honor?

9 **THE COURT:** Counsel, approach.

10 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
11 AND OUT OF THE HEARING OF THE JURY.)

12 **THE COURT:** Madame Foreperson, ladies and gentlemen of
13 the jury, I have to take up a matter of law. Would you
14 please retire to your jury room. I'll be right back with
15 you in just a moment. Please do not discuss the case. You
16 can leave the exhibits right here in the courtroom on the
17 railing.

18 (2:30 P.M., 6-28-11, WHEREUPON, THE JURY EXITS THE
19 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
20 RECORD.)

21 **THE COURT:** All right. The door is shut. Let the
22 record reflect that Counsel approached the bench and of
23 course they took the document back with them. Somebody
24 please hand it to the Court. Just give it to the Clerk,
25 please, so you don't have to walk all the way around.

1 The document which has been pre-marked for
2 identification as Defendant's Number Eight is a letter on
3 the stationery of Hampton County Sheriff's Office. Says
4 "Sheriff T.C. Smalls, Hampton County Sheriff's Office" on
5 the letterhead. There is no date that's legible on the
6 letter that I can see. It is a letter to a Hampton County
7 magistrate, Judge Carolyn Williams. It references a James
8 Carter for burglary second and a David Freeman for burglary
9 second. The letter is authored by Chauncey Solomon, Hampton
10 County Sheriff's Office.

11 And it says, "Dear Judge Williams, this letter serves
12 as a request of your office to either deny or set bail at
13 unobtainable amount to ensure that the two defendants, Mr.
14 James Carter and Mr. David Freeman, remain incarcerated at
15 this time. Our office submits this request due to the
16 following: One, both subjects are named suspects in murder
17 investigation regarding Ronnie Wooten case; two, both are
18 deemed to be menace and danger to society and pose risk of
19 flight; three, evidence collected at the scene is in
20 possession of SLED authorities and still being processed;
21 four, having both subjects incarcerated, lacking
22 communication and contact with each other, is imperative to
23 the outcome of investigations. We ask that you seriously
24 consider this request. Sincerely, Chauncey Solomon, Hampton
25 County Sheriff's Office."

1 When Counsel showed the letter, which she pre-marked,
2 to Counsel for the State, they asked to approach the bench.
3 Counsel for the State objected on the grounds of relevancy
4 and on the grounds of third party guilt doctrine, which, of
5 course, in South Carolina is governed by the case of State
6 v. Gregory; that's the older case. There is a more -- in
7 fact, the most recent one I have is Cope, which is a 2009
8 case. But the doctrine, the admissibility of evidence under
9 third party guilt is governed by the rule in Gregory, which
10 is a 1941 case found at 16 S.E. 2d 532.

11 When Counsel announced their objection at the bench, it
12 was defense counsel's request that I excuse the jury because
13 defense counsel wanted to be heard on this. Have I
14 accurately stated what occurred at the bench insofar as
15 counsel for the State is concerned?

16 **DEP. SOLICITOR THORNTON:** Yes, Your Honor.

17 **THE COURT:** Insofar as counsel for the defendant is
18 concerned?

19 **MS. SMART-GITTINGS:** Yes, sir.

20 **THE COURT:** Very well. Now, have I accurately stated
21 the grounds for your objection in its entirety, Mr.
22 Thornton?

23 **DEP. SOLICITOR THORNTON:** You have, Judge.

24 **THE COURT:** All right, Ms. Smart-Gittings, you wanted
25 to be heard on this. I'll be happy to hear from you.

1 **MS. SMART-GITTINGS:** May it please the Court, Your
2 Honor? It's crucial for Mr. Davis to elicit testimony from
3 a witness that's going to show the similarities between the
4 cases involving Mr. Freeman, Mr. Carter and Mr. Warren.
5 There was a similar gun used in that case.

6 **THE COURT:** But this document doesn't reference that at
7 all. I understand that's an argument you're making, but
8 there's no evidence in the trial as to that fact.

9 **MS. SMART-GITTINGS:** But that document evidenced the
10 sheriff's department's opinion that Mr. Carter and Mr.
11 Freeman were main suspects in the same case that we're here
12 for today. And that is the opinion of the Sheriff's
13 Department through Detective Chauncey Solomon, Your Honor.
14 And that's why I believe it's going to be relevant in this
15 case. I do believe that it fits under the third party
16 guilt. As Your Honor has stated, Gregory is the leading
17 case on third party guilt. And it states that evidence
18 offered by the accused as to the condition of the crime by
19 another must be subject to such facts as are inconsistent
20 with his own guilt, and such facts that raise a reasonable
21 inference or presumption as to his innocence."

22 In the Sheriff's Department statement in the letter
23 that both subjects are main suspects in the murder
24 investigation of Ronnie Wooten fits the criteria that a
25 reasonable inference is made to the presumption of Mr.

1 Davis's innocence. I think this is an issue for the jury to
2 decide whether or not they find the document credible or
3 just whether or not they believe the sheriff's department
4 assertion at that time that Mr. Freeman and Mr. Carter were
5 actually the persons that committed this offense.

6 And we would submit to you that the documents obtained
7 in that letter and also the defense questioning Officer
8 Chauncey Solomon on other documents that he received during
9 that investigation would also fall under the third party
10 guilt.

11 **THE COURT:** Is that everything?

12 **MS. SMART-GITTINGS:** Your Honor, the Constitution
13 requires that a criminal defendant have a right to a
14 complete defense. And any person charged with this offense,
15 shall be fully heard on his defense, And we submit to the
16 Court that in order for us to have complete -- in order for
17 Mr. Davis to have a complete defense, I would be able to ask
18 questions of the State regarding Mr. Warren and Mr. Carter
19 and Mr. Freeman.

20 **THE COURT:** Of course, the objection right now is to a
21 document concerning bond, not to a question that you might
22 ask an officer concerning their investigation. So we're not
23 at that point in the trial. We're dealing just with your
24 Defendant's Number Eight ---

25 **MS. SMART-GITTINGS:** And I'd like ---

1 **THE COURT:** --- for identification at this point, which
2 is a letter of Mr. Solomon, no date, to a magistrate
3 concerning bond, apparently referencing James Carter and
4 David Freeman, charged with burglary second. So let's
5 confine it. I'm certainly not going to try to anticipate
6 what might come on later because you'd be at liberty to
7 raise that. But let's deal just with the document for right
8 now on the objection of relevancy in the third party guilt;
9 you understand?

10 **MS. SMART-GITTINGS:** Yes, sir.

11 **THE COURT:** All right. Have you finished everything
12 you want to tell me about the document as to why you think
13 it's admissible?

14 **MS. SMART-GITTINGS:** The document states the sheriff's
15 office position that Carter and Freeman are responsible for
16 the murder. And that, we're saying, is relevant ---

17 **THE COURT:** No, it does not say that, Counsel.

18 **MS. SMART-GITTINGS:** It says they ---

19 **THE COURT:** The sentence here is "suspects" ---

20 **MS. SMART-GITTINGS:** Suspects.

21 **THE COURT:** --- "in a murder investigation regarding
22 Ronnie Wooten." Doesn't say they're responsible for it.
23 That's a completely different thing.

24 **MS. SMART-GITTINGS:** You're right, Your Honor.

25 **THE COURT:** And we're dealing with the issue of bond.

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1 But I've got the document in front of you. It's going to be
2 made part of the record. It will speak for itself.

3 MS. SMART-GITTINGS: Yes, sir, Your Honor.

4 THE COURT: Is that it?

5 MS. SMART-GITTINGS: That's it, sir.

6 THE COURT: All right. Counsel for the State wish to
7 be heard in response?

8 DEP. SOLICITOR THORNTON: Your Honor, only this. What
9 that does, as counsel well knows, that was -- you know, has
10 to be early on in the investigation, Judge. I realize it's
11 not dated, because you're talking about a bond of two people
12 who were arrested and later the charges were dismissed by
13 our office. So it's an attempt to basically elicit third
14 party guilt on people that the case has already been
15 dismissed against, Your Honor.

16 In addition to that Judge, if I might, you know, it's
17 one thing to ask him if other people were arrested in
18 connection with this and then exonerated.

19 THE COURT: I want to make sure. I have not limited
20 defense counsel because I don't want to get into --- we're
21 going to handle everything in this trial in one objection.

22 DEP. SOLICITOR THORNTON: Yes, sir. I understand that.

23 THE COURT: What we're dealing with right now is the
24 Defendants for identification Number Eight, and only that,
25 Counsel.

1 **DEP. SOLICITOR THORNTON:** Yes, sir. What I'm saying,
2 Judge, is it would be inappropriate to even admit that with,
3 I mean, basically a prior statement of a witness. And it's
4 improper to use extrinsic evidence of a prior statement of a
5 witness unless -- and it is inconsistent to start with. I
6 mean, even if you get past third party guilt and everything
7 else, it would still be improper because he hasn't denied
8 making the statement, even if Your Honor felt that it was
9 proper to ask. Thank you, Your Honor. I don't have
10 anything else, sir.

11 **THE COURT:** All right. Let me tell you my feeling on
12 the document, because I want to make sure -- and I'm looking
13 to make sure -- I've got so many cases in my third party
14 guilt file. Bear with me one moment.

15 (BRIEF PAUSE.)

16 **THE COURT:** First of all, I want to -- and I want you
17 to understand clearly my ruling. I'm dealing with Defense
18 Exhibit marked for identification as Number Eight. There's
19 no date on it, and it's on the sheriff's department
20 stationery. And it's a typed -- and it apparently is a
21 signature on there. But the typed portion says "Chauncey
22 Solomon." But I can see some faint lines above it. And, of
23 course, the witness hadn't even been asked.

24 I do not believe the document is admissible. First of
25 all, and I'll tell you why. I completely understand your

1 right to put up a defense, Ms. Smart-Gittings, but I'm
2 certainly not trying to limit. The Constitution prohibits
3 exclusion of defense evidence under rules that serve no
4 legitimate purpose, or that are disproportionate to the ends
5 that are asserted to promote the well-established rules of
6 evidence.

7 They permit trial judges to exclude evidence if its
8 probative value is outweighed by certain other factors; such
9 as unfair prejudice, confusion of the issues, or potential
10 to mislead the jury. That is one reason that this document,
11 in my opinion, is not admissible concerning bond in a case.
12 However, the objection was on two grounds. The other ground
13 was on third party guilt.

14 Evidence of admissibility of evidence under third party
15 guilt, as to this document, I believe you're correct, Ms.
16 Smart-Gittings. It is governed by State v. Gregory. And
17 evidence offered by an accused as to commission of a crime
18 by another person must be limited to such facts as are
19 inconsistent with the defendant's own guilt. And to such
20 facts as raise a reasonable inference or presumption as to
21 the defendant's own innocence, the evidence which can have
22 no other affect, other than to cast a bear suspicion upon
23 another person, or to raise a conjectural inference as to
24 the commission of the crime by another is not admissible.

25 Before such testimony could be received, there must be

1 proof of connection with it, such as a train of facts or
2 circumstances as tends clearly, to point out such other
3 person as the guilty party. Evidence of third party guilt
4 may include facts that are inconsistent with the defendant's
5 guilt and evidence raising a reasonable inference as to the
6 accused's innocence.

7 It is clear to me under either way as to this document
8 that it is not admissible in the trial of the case. That
9 does not mean that you can't ask the sheriff's department
10 about their investigation. That does not mean that you
11 can't ask a witness about what he did in connection with the
12 investigation.

13 But as to Defendant's Number Eight on the grounds of
14 both relevance and on the grounds that I have asserted
15 concerning third party guilt, the objection is sustained and
16 I'm handing Defendant's Eight to the Clerk, if I can -- I
17 can't see her, but I know she's down there some -- there she
18 is.

19 Bring me the jury, please.

20 (2:47 P.M., 6-28-11, WHEREUPON, THE JURY ENTERS THE
21 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

22 **THE COURT:** Madame Foreman, ladies and gentlemen of the
23 jury, we'll now continue with the testimony in the trial of
24 this case. Cross-examination, please proceed, Ms. Smart-
25 Gittings.

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1 MS. SMART-GITTINGS: Thank you, Your Honor.

2 EXAMINATION CONTINUES:

3 Q Investigator Solomon, during course of your
4 investigation, isn't it true that you interviewed Mr. David
5 Freeman?

6 A Yes, ma'am.

7 Q And during that interview, you discovered that Mr.
8 Freeman was present at Lena's store on the night in question
9 of June 23rd, 2007?

10 A Yes, ma'am. Based on our investigation. It could be,
11 or we believe that Mr. David Freeman possibly was there at
12 some point in time. Whether it was that night or another
13 night, we do believe that at some point he -- he was there,
14 yes.

15 Q Based on your investigation, isn't it true that you
16 obtained the arrest warrant for David Freeman?

17 A Yes, ma'am, I did.

18 Q And you charged David Freeman with the murder of Ronnie
19 Wooten?

20 A Yes, ma'am. Him and some co-defendants.

21 Q You also charged him with the burglary of the Lena
22 store for June 23rd, 2007?

23 A I don't think I charged him with burglary that day, on
24 the 23rd. He was charged with burglary on another date, if
25 I'm not mistaken.

1 Q But he was charged with the murder of Ronnie Wooten.

2 A Yes, ma'am, he was.

3 Q And also, was James Carter?

4 A Yes. Yes, ma'am.

5 Q And also Jeffrey Warren?

6 A Yes, ma'am, all three of them.

7 Q And so, initially, when this case was investigated, it
8 was the sheriff's department opinion that these three
9 gentlemen committed this offense?

10 A Well, it started, you know, with early on in doing this
11 early investigations, our evidence, what we thought led to
12 those particular three suspects, based on statements from
13 each one of them, and based on the fact that they went back
14 to the store and burglarized the store and stole some items
15 out of the store.

16 Q In fact, you obtained a written statement from Jeffrey
17 Warren, correct?

18 A All three of them, actually.

19 Q All admitted to being at Lena's store?

20 A Yes.

21 Q All admitting to hearing the gunshot at Lena's store?

22 A Well, it was some conflicting stories about the date
23 and time that it happened. But what we had -- and
24 department calls which was based on the information of why
25 we charged them, was each one of them was saying, "Well, I

1 think the other told me that he might have went to the store
2 to rob Ronnie Wooten." And the other one said the same
3 thing.

4 Q Isn't it true that James Carter said that he was
5 outside on ---

6 **DEP. SOLICITOR THORNTON:** Objection, Your Honor. It's
7 hearsay.

8 **THE COURT:** Sustained. Rephrase your question,
9 Counsel.

10 Q You firmly believed at the time you arrested James
11 Carter, Jeffrey Warren, and David Freeman, that they
12 committed this offense, correct?

13 A No, I can't say that, ma'am. You know, that's why we
14 continued to work the case. We charged them, based on the
15 information that they gave us, that maybe -- and what they
16 say was, "I think my partner may have done it." And then
17 the other one said, "No, I think my partner maybe had done
18 it," but neither one of them would actually say "Yeah, we
19 did it."

20 So with that information, that was probable cause
21 enough to make an arrest, and we did. We did and felt
22 strongly about the case, but we continued working the case.
23 And that what led us to this particular case today.

24 Q Now, you created a supplemental report and turned it
25 into investigation; didn't you?

1 A Yes.

2 Q And in that supplemental report, you indicated that
3 there was no physical evidence at the crime scene, correct?

4 A At that particular time, other than Mr. -- the victim
5 being killed and the bullet, physical evidence as in putting
6 somebody else in the store, you talking about?

7 Q Your report states that there is no physical evidence
8 left at the scene.

9 A Well -- well, what I was referring to, no physical
10 evidence putting -- being there to identify a particular
11 suspect at the time.

12 Q Subsequent to your report, has any other physical
13 evidence been uncovered?

14 A Physical evidence?

15 Q Yes, sir. Physical evidence.

16 A Not that I'm aware of. It could be. Not that I can
17 think of right now. Only would be what we actually got from
18 the -- from the store that particular night.

19 Q One more question. During your investigation, you
20 received information that about 12:30 to 12:45, there was an
21 older model white Buick parked behind Mr. Wooten's car at
22 the store; isn't that correct?

23 A Well, during our investigation, during the time of the
24 murder, there was so many people that we were talking to.
25 We were talking to a lot of people who may have passed the

1 store who may have just -- you know, who lived in
2 neighborhood. And we went out and -- and just canvassed
3 through the neighborhood, so to speak. And yes, we did
4 receive information from a young lady who said she seen
5 maybe a white-looking vehicle. Didn't know exactly what
6 kind it was. She said "maybe a Buick or maybe" -- she just
7 couldn't understand.

8 Q But she did say that that car was at the store between
9 12:30 and 12:45. You did find that in your investigation,
10 correct?

11 A Sometime that night. I can't remember the exact time
12 what she said.

13 Q But there was no 911 call regarding Mr. Wooten's store
14 until around 2:45/2:40?

15 A Yes.

16 Q And your office also received information that about
17 9:55, there were three cars parked at Mr. Wooten's store,
18 correct?

19 A I can't remember exactly all the reports that we talked
20 to or that we received for that particular night. But yes,
21 we -- we talked to a lot of people and a lot of people had a
22 lot of things to say.

23 Q And on the night in question, you don't know what time
24 Mr. Wooten closed his store; did you?

25 A No, ma'am. Only thing we rely on is just information

1 from witnesses who may have been in there, his brother, and
2 things of that nature.. We -- no, we didn't -- we wouldn't
3 have no idea to what time he closed.

4 Q But you do have information that the lights were on
5 outside of the store until 2:45 a.m., correct?

6 A Well, like I said, speaking to so many people, so many
7 people had different things to say. We did heard -- someone
8 did say that the store was open, there was lights open -- on
9 at the time. And there was people said that it was dark, so
10 ---

11 Q Isn't it true that Mr. Wooten would leave the store --
12 if Mr. Wooten was in the store working, the lights would be
13 on inside the store and outside the store, correct?

14 A I have no clue what Mr. Ronnie Wooten did with the
15 lights. I didn't -- I've probably been the store before
16 that happened, probably three years before that; so I have
17 no clue.

18 Q No further questions.

19 **THE COURT:** Redirect?

20 **ASST. SOLICITOR LEGETTE:** Thank you, Your Honor.

21 **REDIRECT EXAMINATION**

22 **BY ASST. SOLICITOR LEGETTE:**

23 Q Detective Solomon, at some point, were those cases
24 against James Carter, David Freeman, and Jeffrey Warren
25 dismissed?

Redirect Examination of Chauncey Solomon by Asst. Sol. Legette

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1 A Yes, ma'am, they were.

2 Q Okay. And were cases then brought against Joseph Davis
3 and his co-defendants, Shawn Davis, Derrick Adkins and
4 Marquis Bryant?

5 A Yes, ma'am. Based on our investigation, yes.

6 Q Okay. Let's talk about any evidence that was recovered
7 after the investigation, or your supplemental report.

8 Wasn't a gun recovered at some point?

9 A Yes, ma'am. A gun was recovered. When we charged
10 them, a whole new, you know, thing starting to come about.
11 So, yes.

12 Q Thank you. I have no further questions. Answer any
13 questions that defense counsel may have.

14 THE COURT: Re-cross, limited to redirect.

15 RE-CROSS-EXAMINATION

16 BY MS. SMART-GITTINGS:

17 Q You also recovered a gun when you investigated David
18 Freeman and James Carter; didn't you?

19 A I recall a bunch of guns was at the store at the time,
20 if that's what you're referring to. There was a bunch of
21 guns left in the store, the inventory list that we went
22 over.

23 MS. SMART-GITTINGS: May I approach the witness, Your
24 Honor?

25 THE COURT: You may. (BRIEF PAUSE.)

1 MS. SMART-GITTINGS: May I approach the witness, Your
2 Honor?

3 THE COURT: You may. Has it been marked?

4 MS. SMART-GITTINGS: It's just for him to testify from.

5 THE COURT: You don't plan to introduce it?

6 MS. SMART-GITTINGS: No, sir.

7 Q Do you recognize that document, Detective Solomon?

8 A It's a copy of the inventory sheet.

9 Q Just to refresh your memory, did you recover a gun when
10 you were investigating David Freeman and James Carter?

11 A Yes.

12 Q No further questions.

13 THE COURT: Solicitor, as to this witness?

14 ASST. SOLICITOR LEGETTE: Beg the Court's indulgence,
15 Your Honor.

16 (BRIEF PAUSE.)

17 Q Detective Solomon, referring to that gun ---

18 THE COURT: Counsel, I'm not asking you for any further
19 -- you've already had redirect. As to this witness, as to
20 whether he can be excused or not.

21 ASST. SOLICITOR LEGETTE: Yes, Your Honor. We ask that
22 he be excused, please.

23 THE COURT: Any objection to this witness being excused
24 from the trial?

25 ASST. SOLICITOR LEGETTE: Your Honor, we ask that he be

1 subject to sequestration, just in case he has to be recalled

2 **THE COURT:** Very well. Any objection?

3 **MS. SMART-GITTINGS:** Yes, Your Honor. We concur with
4 that from the State, Your Honor.

5 **THE COURT:** Pardon?

6 **MS. SMART-GITTINGS:** We would like for him to remain
7 for the trial, to remain sequestered.

8 **THE COURT:** Did you subpoena this witness?

9 **MS. SMART-GITTINGS:** I did not.

10 **THE COURT:** Do you want him to remain?

11 **DEP. SOLICITOR THORNTON:** Yes, sir. Judge, we'd ask
12 that he be subject to sequestration. He's already been
13 instructed.

14 **THE COURT:** Very well. You may step down. You're
15 still subject to my sequestration. Becky, in regards to the
16 last question that was asked on re-cross examination, I'm
17 making defense, this is not in evidence, it's for
18 identification only, on the -- be Defendant's Number what?

19 **COURT REPORTER:** Twelve.

20 **THE COURT:** Number Twelve, which was what counsel for
21 the defendant handed to the witness to refresh the witness'
22 memory for the record. Call your next witness.

23 **ASST. SOLICITOR LEGETTE:** Thank you, Your Honor. State
24 calls Mr. Saul Benitez-Romero and his interpreter is Ms.
25 Rebecca McCann.

1 (WHEREUPON, THE WITNESS AND THE INTERPRETER ENTER THE
2 COURTROOM.)

3 MADAME CLERK: Place your left hand on the Bible and
4 raise your right.

5 THE COURT: Give the interpreter's oath first, because
6 she's the interpreter and she has to interpret the witness's
7 oath.

8 MADAME CLERK: Oh, so we have to do the other first?

9 THE COURT: Yeah.

10 WHEREUPON, REBECCA MCCANN WAS DULY SWORN.

11 THE COURT: If you would, just stay right there. And I
12 understand from the Clerk that you're not certified, but
13 you're a qualified interpreter; is that correct?

14 MS. MCCANN: That's correct.

15 THE COURT: For the record, would you state your name,
16 please, ma'am?

17 MS. MCCANN: Rebecca McCann. M-C-Capital C-A-N-N.

18 THE COURT: Ms. McCann, I need to ask you certain
19 questions under our code, to determine your qualifications
20 to interpret. Are you 18 years of age or older?

21 MS. MCCANN: Yes, sir, I am.

22 THE COURT: Are you a family member of any party in
23 this case, to your knowledge, or any witness in this case?

24 MS. MCCANN: No, I am not.

25 THE COURT: Are you presently confined to any

1 institution?

2 **MS. MCCANN:** No, I am not.

3 **THE COURT:** Would you tell the Court a little bit about
4 your education, training, and experience that enables you to
5 speak English and Spanish fluently, and which readily
6 enables you to interpret consecutively and simultaneously
7 and to site translate documents from English to Spanish or
8 Spanish to English.

9 **MS. MCCANN:** Certainly. In college, I majored in
10 Spanish. I spent junior year of my college career in
11 Madrid, Spain. After graduation, I continued to graduate
12 school where I got my master's degree. I lived a year in
13 Madrid, then went into education. I taught Spanish for many
14 years. Then lived in Barcelona, Spain for five years. My
15 husband and I have traveled extensively in Spanish-speaking
16 countries. I have co-authored a Elementary Grammar textbook
17 and I have been interpreting in the courts since 2005. I am
18 a qualified interpreter and I have successfully completed
19 Phase One and Phase Two of the certification process; and I
20 have the documents with me, if you care to see those.

21 **THE COURT:** I understand that. Any objection as to
22 qualifications from the State?

23 **ASST. SOLICITOR LEGETTE:** No, Your Honor.

24 **THE COURT:** From the defendant?

25 **MS. SMART-GITTINGS:** No, Your Honor.

1 **THE COURT:** I'll find that the witness is qualified to
2 act as an interpreter from Spanish to English and English to
3 Spanish for purpose of the trial of this case.

4 Madame Clerk, please swear the defendant and allow the
5 interpreter to interpret the oath.

6 WHEREUPON, SAUL BENITEZ-ROMERO WAS DULY SWORN.

7 **THE COURT:** I'm going to give you this cordless mic.

8 **MS. MCCANN:** Your Honor, I requested that it was not
9 necessary for the case, but I like to be on the same level
10 with the witness.

11 **THE COURT:** Yes, ma'am. I understand that. We have
12 different levels in the courtroom, but the jury has to see
13 the witness and they have to hear you. So we've got to --
14 if you're at a handicap from being able to do your job, you
15 let me know. I'm going to give you a cordless mic. And I
16 want you to be able to see him, but I want the jury to be
17 able to see him as well.

18 All right. Ms. McCann, the first thing I want you to
19 tell him before we begin is that you are only going to
20 translate exactly what he says, based on a question either
21 asked by me or one of the lawyers in this case. And even if
22 he does not understand the question, to your knowledge or
23 belief, you will only translate to us what he says, word for
24 word. Understand? Tell him that.

25 (Interpreter complies.)

1 **THE COURT:** Also tell him you're not allowed to add
2 anything or ask him any clarifying questions.

3 (Interpreter complies.)

4 **THE COURT:** Now, I'll let you use that microphone for
5 my court reporter's sake and for the jury's sake. And we
6 will begin. If you would ask him to please state his full
7 name and spell his last name for the court reporter. You
8 ask him for me. I'm asking the question, so I want you to
9 interpret rather than just give me your response.

10 State your full name for the record.

11 **MR. BENITEZ-ROMERO:** Saul Benitez-Romero. S-A-U-L B-
12 E-N-I-T-E-Z-R-O-M-E-R-O.

13 **THE COURT:** Very well. Counsel, this is your witness.
14 Direct examination. Please slow down, okay?

15 **ASST. SOLICITOR LEGETTE:** Yes, sir.

16 **THE COURT:** So that the interpreter has time to give us
17 a response to your question and that she can interpret all
18 these questions; you understand?

19 **ASST. SOLICITOR LEGETTE:** Yes, Your Honor.

20 **THE COURT:** All right. Proceed.

21 **DIRECT EXAMINATION**

22 **BY ASST. SOLICITOR LEGETTE:**

23 Q Good afternoon, Mr. Romero.

24 A Good afternoon.

25 Q Mr. Romero, where do you work?

1 A In The Greenery Landscaping.

2 Q Mr. Romero, where do you live?

3 A In Estill.

4 Q How long have you lived in Estill?

5 A Seven years.

6 Q What high school did you attend?

7 A Estill High School.

8 Q Do you know a man named Shawn Davis?

9 A Yes.

10 Q How long have you known Shawn Davis?

11 A Like two years.

12 Q How do you know Shawn Davis?

13 A I went to the school where he also went.

14 Q Mr. Romero, I want to turn your attention to June 23rd,
15 2007 or June 2007. Did you see Shawn Davis in June of 2007?

16 A Yes.

17 Q What happened when you saw Shawn Davis?

18 A He came to sell me a pistol to my home.

19 Q Did you buy a gun from him?

20 A Yes.

21 **ASST. SOLICITOR LEGETTE:** Beg the Court's indulgence.

22 (BRIEF PAUSE.)

23 **THE COURT:** Counsel, approach.

24 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
25 AND OUT OF THE HEARING OF THE JURY.)

1 **ASST. SOLICITOR LEGETTE:** Your Honor, may I approach
2 the witness?

3 **THE COURT:** You may.

4 **Q** Mr. Romero, I'm going to hand you now what has been
5 previously marked for identification as State's Exhibit
6 Fourteen. It has been made safe by a gun lock, so it cannot
7 be fired. I want you to take a moment and tell me if you
8 recognize it.

9 **ASST. SOLICITOR LEGETTE:** May I approach, Your Honor?

10 **THE COURT:** You may.

11 **Q** Mr. Romero, do you recognize that gun?

12 **A** Yes.

13 **Q** And what is that gun?

14 **A** It is the pistol that Shawn Davis sold me.

15 **ASST. SOLICITOR LEGETTE:** Your Honor, at this time, I
16 would offer into evidence State's Exhibit Number Fourteen.

17 **THE COURT:** Any objection as to State's Fourteen?

18 **MS. SMART-GITTINGS:** No objection, Your Honor.

19 **THE COURT:** Ladies and gentlemen of the jury, State's
20 Exhibit Number Fourteen will be admitted into evidence,
21 without objection.

22 (State Exhibit Fourteen, gun, received into evidence.)

23 **THE COURT:** State's Fourteen is now in evidence. There
24 is a gun lock on the State's Fourteen. Proceed.

25 **ASST. SOLICITOR LEGETTE:** Your Honor, may I publish

Direct Examination of Saul Benitez-Romero by Asst. Sol. Legette

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1 previously marked as State's Exhibits Fifteen and Sixteen
2 for identification. I want to ask you if you recognize
3 them.

4 **ASST. SOLICITOR LEGETTE:** May I approach the witness,
5 Your Honor?

6 **THE COURT:** You may. Solicitor, come over to the
7 microphone.

8 Q Mr. Romero, do you recognize State's Exhibit Fifteen
9 and Sixteen?

10 A Yes.

11 Q Is there a signature on State's Exhibits Fifteen and
12 Sixteen?

13 A Yes.

14 Q Mr. Romero, please tell us what is seen in item State's
15 Exhibit Fifteen.

16 A The signature and the photo of Shawn Davis. And my
17 signature and the photo of the person that accompanied him.

18 Q Now, Mr. Romero, are you saying that you circled Shawn
19 Davis in State's Exhibit Fifteen?

20 A Yes.

21 Q Now let's turn to the State's Exhibit Number Sixteen.
22 What is State's Exhibit Sixteen a photograph of?

23 A The -- the man who accompanied Shawn Davis.

24 **ASST. SOLICITOR LEGETTE:** Your Honor, at this time, I
25 would offer for admission into evidence State's Exhibit's

1 Fifteen and Sixteen, previously marked for identification.

2 **THE COURT:** As to Fifteen and Sixteen, Ms. Smart-
3 Gittings?

4 **MS. SMART-GITTINGS:** No objection, Your Honor.

5 **THE COURT:** Ladies and gentlemen of the jury, State's
6 Exhibits Fifteen and Sixteen will be admitted into evidence
7 in the trial of this case, without objection.

8 (State Exhibit Fifteen, Shawn Davis line-up, received
9 into evidence.)

10 (State Exhibit Sixteen, Derrick Adkins line-up,
11 received into evidence.)

12 **THE COURT:** Fifteen and Sixteen in evidence. You may
13 now publish to the jury.

14 **ASST. SOLICITOR LEGETTE:** Thank you, Your Honor. May I
15 approach the witness?

16 **THE COURT:** You may.

17 Q Mr. Romero, if you will look at the screen. You may
18 also have it on your screen. I apologize; it's not there?
19 If you will look at the screen, Mr. Romero. Can you point
20 to Shawn Davis in this photograph? Or give me a number.
21 Tell me what number Shawn Davis is.

22 A Four.

23 **ASST. SOLICITOR LEGETTE:** Let the record reflect, the
24 witness has indicated Shawn Davis in ---

25 **THE COURT:** Refer to the exhibit number, for the

1 record.

2 **ASST. SOLICITOR LEGETTE:** Yes, Your Honor. With regard
3 to State's Exhibit Fifteen, let the record reflect, the
4 witness has indicated Shawn Davis by way of indicating
5 number four.

6 Q Mr. Romero, I am now showing you State's Exhibit Number
7 Sixteen. Can you tell us who the man was that accompanied
8 Shawn Davis, by indicating the number you circled?

9 A Number two.

10 **ASST. SOLICITOR LEGETTE:** Let the record reflect, the
11 witness, with regard to State's Exhibit Sixteen, has
12 indicated this man, as number two, as the man who has
13 accompanied Shawn Davis to sell him the gun.

14 Q Mr. Romero, a few more questions. When Shawn Davis
15 sold you the gun, did he tell you why he wanted to sell the
16 gun?

17 A No.

18 **ASST. SOLICITOR LEGETTE:** Beg the Court's indulgence.

19 (BRIEF PAUSE.)

20 Q Mr. Romero, I have no further questions. Answer any
21 questions from the defense counsel, please.

22 **THE COURT:** Cross-examination?

23 **MS. SMART-GITTINGS:** May it please the Court?

24 **THE COURT:** Yes, ma'am.

25 **CROSS-EXAMINATION**

1 BY MS. SMART-GITTINGS:

2 Q Mr. Romero, did you provide a written statement?

3 A Yes.

4 Q In that written statement, you wrote Shawn Davis sold
5 you the gun because he needed money?

6 A Yes.

7 Q I have no other questions.

8 THE COURT: Redirect?

9 ASST. SOLICITOR LEGETTE: None, Your Honor.

10 THE COURT: As to this witness, Solicitor?

11 ASST. SOLICITOR LEGETTE: We ask that he be excused
12 from this case, Your Honor.

13 THE COURT: Any objection, Ms. Smart-Gittings?

14 MS. SMART-GITTINGS: No objection, Your Honor.

15 THE COURT: You may step down from the witness stand
16 and you are excused from the trial of this case, and you may
17 leave the courtroom at this time. Thank you.

18 Call your next witness.

19 ASST. SOLICITOR LEGETTE: Beg the Court's indulgence.

20 State calls Marquis Bryant.

21 WHEREUPON, MARQUIS BRYANT WAS DULY SWORN.

22 THE COURT: Have a seat on the witness stand for me.

23 Pull that microphone up, going to amplify your voice. Pull

24 the chair up, pull the microphone down. I want you to speak

25 loudly so that the people on the end of the jury can hear

Direct Examination of Marquis Bryant by Asst. Sol. Legette

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1 you. State your full name and spell your last name for the
2 court reporter, please.

3 MR. BRYANT: Marquis Lamar Bryant.

4 THE COURT: Spell your last name.

5 MR. BRYANT: B-R-Y-A-N-T.

6 THE COURT: Speak up now. Stay close enough to the
7 microphone. Your witness, Counsel.

8 ASST. SOLICITOR LEGETTE: Thank you, Your Honor.

9 DIRECT EXAMINATION

10 BY ASST. SOLICITOR LEGETTE:

11 Q Good afternoon, Mr. Bryant. Good afternoon.

12 A Good afternoon.

13 Q I need you to speak up into the microphone so ---

14 A Yes, ma'am.

15 Q --- the jury can hear whatever you say. Thank you very
16 much. Mr. Bryant, where are you from?

17 A Estill, South Carolina.

18 Q And are you currently living in South Carolina?

19 A Yes, ma'am.

20 Q Do you work?

21 A No, ma'am.

22 Q Okay. Mr. Bryant, what high school did you attend?

23 A Estill High.

24 Q Mr. Bryant, do you know Mr. Joseph Davis?

25 A Yes, ma'am.

1 State's Fourteen to the jury?

2 THE COURT: You may.

3 Q Mr. Romero, can you tell me what kind of gun this is?

4 A A .22-caliber revolver.

5 Q How many shots does it have?

6 A Nine.

7 Q How much did you pay for the gun?

8 A One hundred dollars.

9 Q Okay. Mr. Romero, did anyone else come with Shawn

10 Davis to sell you that gun?

11 A Yes.

12 ASST. SOLICITOR LEGETTE: Beg the court's indulgence.

13 Q Mr. Romero, you tell me that someone else came with Mr.

14 Davis to sell you the gun?

15 A Yes.

16 Q At some point, did you talk to law enforcement about

17 the gun that Shawn Davis sold you?

18 A Yes.

19 Q Mr. Romero, when you talked to law enforcement about

20 Mr. Davis, did they show you any photographs of any

21 individuals?

22 A Yes.

23 Q Were you able to select anyone from those photographs?

24 A Yes.

25 Q Mr. Romero, I'm going to hand you now what has been

1 Q Do you know Shawn Davis?

2 A Yes, ma'am.

3 Q Do you know Derrick Adkins?

4 A Yes, ma'am.

5 Q Okay. Mr. Bryant, I want to turn your attention to
6 June 23rd, 2007. Do you recall that day or that evening?

7 A Yes, ma'am.

8 Q Were you with -- who were you with that night?

9 A I was with Joseph, Derrick and Shawn.

10 Q Now, are you referring to Joseph Davis, and Shawn
11 Davis, and Derrick Adkins?

12 A Yes, ma'am.

13 Q Okay. What did you do with Joseph Davis, Shawn Davis
14 and Derrick Adkins?

15 A I dropped them off.

16 Q Where?

17 A At the Lena Quick Stop.

18 Q After you dropped them off, what did you do?

19 A I went on my way.

20 Q Did you see them again?

21 A No. The next day or so.

22 **ASST. SOLICITOR LEGETTE:** Beg the court's indulgence.

23 (BRIEF PAUSE.)

24 Q Mr. Bryant, did you and Mr. Davis talk about anything
25 that night before y'all went -- before you took them to the

Direct Examination of Marquis Bryant by Asst. Sol. Legette

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1 Lena store?

2 A No, ma'am.

3 Q Did you give a prior statement in this case?

4 A Yes, ma'am.

5 Q Okay. Do you remember telling two SLED agents on or
6 about September the 8th, 2008, around 4 p.m. at the
7 Varnville substation that Joseph Davis and you talked about
8 what happened before y'all went to the store?

9 A No, ma'am.

10 Q Do you remember telling police, or the SLED agents,
11 that Joseph Davis threatened to kill you with a gun if you
12 told what happened?

13 A No, ma'am.

14 Q Mr. Bryant ---

15 **ASST. SOLICITOR LEGETTE:** Beg the Court's indulgence.

16 (BRIEF PAUSE.)

17 Q Mr. Bryant, I'm going to hand you now what's been
18 previously marked for identification as State's Exhibit
19 Twenty-three. I want you to take ---

20 **ASST. SOLICITOR LEGETTE:** May I approach the witness,
21 Your Honor?

22 **THE COURT:** You may.

23 Q Take a moment and tell me if you recognize this.

24 (The witness reviews the document.)

25 Q Mr. Bryant, have you read that statement?

1 A Yes, ma'am.

2 Q Is your signature on that statement?

3 A Yes, ma'am.

4 Q So that is your statement?

5 A Yes, ma'am.

6 Q Agent Teddy Cone and Agent J.J. Evans?

7 A Yes, ma'am.

8 Q And in that statement, didn't you tell them that you
9 heard Joseph and Marquis -- I'm sorry, Joseph and Shawn and

10 Derrick plan to rob Ronnie Wooten?

11 A Yes, ma'am.

12 Q And in that statement, don't you mention that Joseph
13 threatened to kill you with a gun if you ever told anyone
14 what just happened?

15 A Yes, ma'am.

16 Q Okay. Mr. Bryant, I have no further questions. Answer
17 any questions that the defense may have.

18 **THE COURT:** Cross-examination?

19 **CROSS-EXAMINATION**

20 **BY MS. SMART-GITTINGS:**

21 Q Mr. Bryant, isn't it true, you were promised that if
22 you cooperated with law enforcement by giving them a
23 statement to say that Joseph was the trigger man, that you
24 would be offered leniency?

25 A Yes, ma'am.

Cross-Examination of Marquis Bryant by Ms. Smart-Gittings

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1 Q And you were interrogated by the police officers.
2 several times, correct?

3 A Yes, ma'am.

4 Q And neither one of those interrogations were on video;
5 were they?

6 A I'm -- I'm not sure.

7 Q But you wrote this statement because they promised you
8 that they would offer you a lighter sentence.

9 A Yes, ma'am.

10 Q Is anything in this statement true?

11 A Yes, ma'am.

12 Q You don't recall -- you told the jury, when asked by
13 the State, "Did you hear Joseph Davis say that he shot
14 Ronnie Wooten," correct?

15 A Can you repeat the question?

16 Q The Solicitor asked you "Did Joseph Davis tell you he
17 shot Ronnie Wooten," correct?

18 A Yes, ma'am.

19 Q And you said "No"?

20 A Yes, ma'am.

21 Q Is that correct? You did not hear him say that?

22 A No, ma'am.

23 Q No further questions.

24 THE COURT: Redirect?

25 ASST. SOLICITOR LEGETTE: Beg the Court's indulgence.

REDIRECT EXAMINATION

BY ASST. SOLICITOR LEGETTE:

Q Mr. Bryant, isn't it in your statement, the one you just read, acknowledged your signature's on it, it's your statement, isn't it in that statement that Joseph Davis told you he shot Ronnie Wooten?

A It's in that statement, yes, ma'am.

Q Okay. No further questions.

THE COURT: Re-cross, limited to redirect.

MS. SMART-GITTINGS: None, Your Honor.

THE COURT: As to this witness, Solicitor?

ASST. SOLICITOR LEGETTE: Your Honor, we ask that he be excused from the trial of this case.

THE COURT: Any objection to this witness being excused?

MS. SMART-GITTINGS: No objection, Your Honor.

THE COURT: You may step down. You're excused from the courtroom, and you may leave the courtroom. Call your next witness.

ASST. SOLICITOR LEGETTE: State calls Shawn Davis.

THE COURT: Hold on. I'll take a five minute recess at this time. Ladies and gentlemen, please do not discuss the case. I'll be right back with you. Give you a chance to stretch your legs and use the restroom. Please retire to your jury room at this time.

1 (3:30 P.M., 6-28-11, WHEREUPON, THE JURY EXITS THE
2 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
3 RECORD.)

4 **THE COURT:** All right. We'll take a short break. I
5 want to see counsel in my chambers.

6 (Off the record, briefly.)

7 (3:52 P.M., 6-28-11, WHEREUPON, THE JURY ENTERS THE
8 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
9 RECORD.)

10 **THE COURT:** All right, ladies and gentlemen, we'll now
11 continue with the testimony in this case. Call your next
12 witness.

13 **ASST. SOL. LEGETTE:** Thank you, Your Honor. The State
14 calls Shawn Davis.

15 WHEREUPON, MR. SHAWN DAVIS IS DULY SWORN.

16 **THE COURT:** Have a seat. Now, adjust that microphone.
17 Now, that microphone is going to amplify your voice so
18 everybody in this courtroom, particularly the people at the
19 end of my jury box can hear you. I need you to speak up
20 like I'm doing now so that everybody can hear what you're
21 saying. Begin by stating your full name and spelling your
22 last name for the court reporter.

23 **WITNESS:** Shawn Davis, D-A-V-I-S.

24 **THE COURT:** Excellent. Your witness, counsel.

25 **ASST. SOL. LEGETTE:** Thank you, Your Honor.

1 DIRECT EXAMINATION

2 ASST. SOL. LEGETTE:

3 Q Mr. Davis?

4 A Yes, ma'am?

5 Q You know Joseph Davis?

6 A Yes, ma'am.

7 Q How do you know Joseph Davis?

8 A He's my brother.

9 Q All right. Tell me, what were you doing on November
10 23rd, 2007?11 A The only thing I can say is I got -- I got 30 years.
12 I ain't got nothing to say.

13 ASST. SOL. LEGETTE: Your Honor?

14 A I ain't got nothing to say.

15 THE COURT: Just a moment. Counsel approach.

16 WHEREUPON, a bench conference is held off the record
17 and out of the hearing of the jury.18 Q Mr. Davis, didn't you give a statement to Special
19 Agent Teddy Cone and J. J. Evans on September 9th, 2008,
20 about 4:05 p.m. in the Varnville Substation in Varnville
21 where your co-defendant Joseph Davis, Derrick Adkins, and
22 yourself were dropped off by Marquis Bryant?

23 MS. SMART-GITTINGS: Objection.

24 Q And that you ---

25 THE COURT: Just a moment.

Direct Examination of Shawn Davis by Asst. Sol. Legette

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1 **MS. SMART-GITTINGS:** Leading, Your Honor.

2 **THE COURT:** Sustained. Direct examination, counsel.

3 **Q** Didn't you give a statement?

4 **A** Chauncey Solomon wrote the statement.

5 **ASST. SOL. LEGETTE:** May I approach the witness, Your

6 Honor?

7 **THE COURT:** You may approach the witness.

8 **Q** Mr. Davis, I'm going to hand you now what's been

9 previously marked as State's Exhibit Twenty-five.

10 **ASST. SOL. LEGETTE:** May I approach the witness, Your

11 Honor?

12 **THE COURT:** You may.

13 **Q** I want you to take a moment and tell me if you

14 recognize that.

15 **A** I ain't got nothing to say.

16 **MR. DAVIS:** May I ask a question, Sir?

17 **THE COURT:** You don't ask questions. You answer them.

18 You're under oath. Ask a question, counsel.

19 **Q** Mr. Davis, do you recognize that statement.

20 **A** No, ma'am.

21 **Q** Thank you.

22 **ASST. SOL. LEGETTE:** Your Honor, at this time, we would

23 seek to introduce the statement -- beg the Court's

24 indulgence.

25 Your Honor, pursuant to 613(b) of the South Carolina

1 Rules of Evidence, we are at this time seeking to introduce
2 this statement as a prior statement of the State.

3 **THE COURT:** Counsel, I understand the Rule. You may
4 proceed pursuant to the Rule.

5 **Q** Mr. Davis, you deny making that statement?

6 **A** Yes.

7 **Q** Your signature is on that statement?

8 **A** I didn't know what I was signing at the time. I told
9 you this.

10 **ASST. SOL. LEGETTE:** No further questions of this
11 witness, Your Honor.

12 **Q** Answer any questions for the defense.

13 **THE COURT:** Cross-examination?

14 **MS. SMART-GITTINGS:** May I approach the witness, Your
15 Honor?

16 **THE COURT:** You may.

17 **MS. SMART-GITTINGS:** May we approach the bench, Your
18 Honor?

19 **THE COURT:** Counsel approach.

20 **WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD**
21 **AND OUT OF THE HEARING OF THE JURY.**

22 **THE COURT:** All right, ladies and gentlemen, I
23 understand that there are a couple of more questions on
24 direct examination and that counsel for the State has
25 requested that she complete her direct examination prior to

Direct Examination of Shawn Davis by Asst. Sol. Legette

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1 starting cross. Direct examination.

2 ASST. SOL. LEGETTE: thank you, Your Honor. Your
3 Honor, may I approach the witness?

4 THE COURT: You may.

5 DIRECT EXAMINATION CONTINUES:

6 BY ASST. SOL. LEGETTE:

7 Q Mr. Davis, I'm going to hand you what's been previously
8 marked for identification as State's Exhibit Twenty-five.

9 Mr. Davis, is your signature on that statement?

10 A Yes, ma'am.

11 Q And you signed that document?

12 A Yeah, I really didn't know what it was at the time.

13 Q So, Mr. Davis, you deny making that statement?

14 A Yes, ma'am.

15 Q Okay. And that statement was made on September the 8th,
16 2008, at the Varnville Sub-Station and given to SLED Agent
17 Teddy Cone and Agent Evans?

18 A I really can't remember. Thirty years, that has messed
19 my head up.

20 Q Mr. Davis ---

21 ASST. SOL. LEGETTE: At this point, Your Honor, I'd
22 like to move pursuant to 613(b) to admit extrinsic evidence
23 of Mr. Davis.

24 THE COURT: MS. Smart- Gittings, pursuant to 613(b)?

25 MS. SMART-GITTINGS: No objection, Your Honor.

1 Q Mr. Davis, is it true that on September the 8th, 2008,
2 at the Varnville Sub-Station, you gave a statement to Agent
3 Cone and Agent Evans where you said that Marquis Bryant took
4 you, Joseph Davis, and Derrick Adkins to Ronnie Wooten's
5 store; isn't that true?

6 A No, ma'am.

7 **ASST. SOL. LEGETTE:** Your Honor, at this time, I would
8 offer for admission into evidence, State's Exhibit Number
9 Twenty-five, for admission in to evidence, Your Honor.

10 **THE COURT:** Any objection?

11 **MS. SMART-GITTINGS:** No objection, Your Honor.

12 **THE COURT:** Ladies and gentlemen of the jury, State's
13 Exhibit Number Twenty-five will be admitted into evidence in
14 the trial of this case, without objection. State's twenty-
15 five now in evidence. You may publish to the jury.

16 (STATE'S EXHIBIT NUMBER TWENTY-FIVE, STATEMENT OF SHAWN
17 DAVIS, RECEIVED INTO EVIDENCE.)

18 **ASST. SOL. LEGETTE:** Thank you, Your Honor. Voluntary
19 statement: last name, Davis; first name, Shawn. Middle
20 Name, Leonard. Age, 23. Date of birth: [REDACTED].
21 Nickname, Billy. Male. Social Security Number, last four
22 digits: [REDACTED]. Street address: [REDACTED]. City:
23 Estill, South Carolina, 29918. Mailing address, the same.

24 Location of interview: Hampton County Sheriff's
25 Office, Varnville Annex. Interviewing agent: SLED Agent

Direct Examination of Shawn Davis by Asst. Sol. Legette

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1 Teddy Cone. Lowcountry SLED. Interviewing agent: Solomon
2 Russell, Hampton County Sheriff's Office.

3 I, Shawn Leonard Davis, understand I have the right. I
4 do not have to say anything and I volunteer the following
5 information of my own free will, for whatever purposes it
6 may serve. I cannot read and write or I can read and write,
7 and completed the 12th Grade in school. That sometime in the
8 summer of last year, that me, Shawn Davis, Derrick Adkins,
9 Joseph Davis, Marquis Bryant, was in Scotia, South Carolina
10 at Derrick Adkins' house when we planned to go to Lena's
11 Quick Stop, Ronnie Wooten's store, and rob him.

12 Joseph Davis said that Ronnie Wooten should have a lot
13 of money and we should go rob him. So all of us got into a
14 grey Maxima that Marquis Bryant was driving and went to Lena
15 to Ronnie Wooten's store. Marquis Bryant's job was to drop
16 us off and come back and pick us up and be the lookout. The
17 rest of us, me, Shawn Davis, Derrick Adkins, and Joseph
18 Davis got out of the car and went into the Lena Store. And
19 Joseph Davis shot Ronnie Wooten with a .22 caliber revolver,
20 black in color.

21 I, Shawn Davis, went and tried to open the cash
22 register, but it would not open at all. Derrick Adkins and
23 Joseph Davis went and rolled Ronnie Wooten over and checked
24 his pockets for money. Joseph Davis went through the wallet
25 and threw all the paper down and we all ran out of the store

1 and ran through the woods back to Estill.

2 All of us met back in Scotia later that night and
3 talked about what happened. The gun was still with Joseph
4 Davis until the next day. Joseph Davis said to me in
5 Scotia, "I shot him. I shot him." The next day, Derrick
6 Adkins states that he had the gun and he got it from Joseph
7 Davis and that they need to get rid of the gun. So, me,
8 Shawn Davis, and Derrick Adkins sold the gun to a guy named
9 Saul, a Mexican, that lives in Scotia, South Carolina. Saul
10 gave us \$100 for the gun. The gun was a black .22-caliber
11 revolver.

12 End of statement. Signature of person giving voluntary
13 statement: Shawn Davis.

14 Your Honor, I have no further questions.

15 **THE COURT:** Give the court reporter the exhibit,
16 counsel. That's Twenty-five?

17 **ASST. SOL. LEGETTE:** State's Exhibit Twenty-five, Your
18 Honor.

19 **THE COURT:** Cross-examination.

20 **MS. SMART-GITTINGS:** May I approach the witness, Your
21 Honor?

22 **THE COURT:** You may.

23 **CROSS-EXAMINATION**

24 **BY MS. SMART-GITTINGS:**

25 **Q** Can you read, Mr. Davis?

Cross-Examination of Shawn Davis by Ms. Smart-Gittings

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1 A Yes, ma'am.

2 Q If you will call your attention to the top of the
3 document, isn't it true that you circled "I cannot read and
4 write" and completed where it was written "in the 12th
5 Grade"?

6 A Yes, ma'am.

7 Q Did you tell the officers that you couldn't read?

8 A Yes, ma'am. Chauncey Solomon write the statement. And
9 he stated ---

10 Q Don't tell me what he said. Don't tell me what he
11 said. Isn't it true that you did not write this statement?

12 A Yes, ma'am.

13 Q When you were interrogated on September the 5th of 2008,
14 isn't it true that Chauncey Solomon, Teddy Cone, and J. J.
15 Evans were interrogating you?

16 A Yes, ma'am.

17 Q And isn't it true that you were visited by Davita
18 Hartigan from my office?

19 A Yes, ma'am.

20 Q Isn't it true that you told Davita Hartigan that
21 Captain Anthony Russell told you that if you confessed to
22 this crime that he would reopen your mother's murder
23 investigation?

24 A Agent Teddy Cone say something like that.

25 Q So it was Agent Teddy Cone that told you that?

- 1 A Uh-huh.
- 2 Q Now, have you seen or spoken to any of your family
3 members since you've been incarcerated? You haven't seen
4 your grandmother, have you?
- 5 A No, ma'am.
- 6 Q Have you seen your Aunt?
- 7 A No, ma'am.
- 8 Q What's your grandmother's name?
- 9 A Julia Davis.
- 10 Q And what is your Aunt's name?
- 11 A Which one? The one I live with?
- 12 Q Isn't it true that Vermill Morris is your Aunt?
- 13 A Yes, ma'am.
- 14 Q Now, since you were interrogated by Agent Cone and
15 Evans and Captain Russell, you have not seen your Aunt, nor
16 your grandmother, have you?
- 17 A No, ma'am.
- 18 Q You have not spoken to them, have you?
- 19 A No, ma'am.
- 20 Q But you were promised that if you confessed to this
21 murder and implicated your brother, that they would reopen
22 your mother's murder investigation?
- 23 A Yes, ma'am.
- 24 Q Isn't it also true that they promised the most you
25 would get would be a minimum sentence?

Redirect Examination of Shawn Davis by Asst. Sol. Legette
Recross Examination of Shawn Davis by Ms. Smart-Gittings

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1 A Yes, ma'am.

2 MS. SMART-GITTINGS: I have no other questions.

3 THE COURT: Redirect?

4 ASST. SOL. LEGETTE: Beg the Court's indulgence.

5 REDIRECT EXAMINATION

6 BY ASST. SOL. LEGETTE:

7 Q Mr. Davis, you told Ms. Smart that you were offered a
8 deal.

9 A Yes, ma'am.

10 Q But isn't it true that you didn't plead guilty or get a
11 deal? You went to trial?

12 A I went to trial.

13 Q So you didn't take a deal?

14 A No. That was a lie.

15 ASST. SOL. LEGETTE: No further questions, Your Honor.

16 THE COURT: Recross, limited to redirect?

17 RECROSS EXAMINATION

18 BY MS. SMART-GITTINGS:

19 Q When you said that was a lie, you're referring to what
20 the officers told you, correct?

21 A Yes, ma'am.

22 MS. SMART-GITTINGS: No further questions, Your Honor.

23 THE COURT: As to this witness, Solicitor?

24 ASST. SOL. LEGETTE: We ask that he be excused, Your
25 Honor, and be allowed to go back.

1 **THE COURT:** Any objection?

2 **MS. SMART-GITTINGS:** No objection, Your Honor.

3 **THE COURT:** You may step down. You are excused from the
4 trial of this case. Call your next witness.

5 **ASST. SOL. LEGETTE:** Your Honor, we call Derrick
6 Adkins.

7 WHEREUPON, DERRICK ADKINS ENTERS THE COURTROOM AND IS
8 DULY SWORN.

9 **THE COURT:** Have a seat. Adjust the microphone. I
10 want you to speak into that microphone. It's going to
11 amplify your voice so everybody in the courtroom can hear
12 you. I want you to begin by stating your full name and
13 spelling your last name for the court reporter.

14 **MR. ADKINS:** Derrick Adkins, A-D-K-I-N-S.

15 **THE COURT:** Your witness, counsel.

16 **ASST. SOL. LEGETTE:** Thank you, Your Honor.

17 **DIRECT EXAMINATION**

18 **BY ASST. SOL. LEGETTE:**

19 Q Mr. Adkins, do you know Joseph Davis?

20 A Yes, ma'am.

21 Q How do you know Joseph Davis?

22 A From the street.

23 Q Are you any relation to Joseph Davis?

24 A Sort of.

25 Q Sort of? Do you know Shawn Davis?

Direct Examination of Derrick Adkins by Asst. Sol. Legette

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- 1 A Yes, ma'am.
- 2 Q Do you know Marquis Bryant?
- 3 A Yes, ma'am.
- 4 Q Mr. Adkins, were you with Joseph Davis on June 23rd,
5 2007?
- 6 A Yes, ma'am.
- 7 Q Tell us what happened. What happened when you were
8 with Joseph Davis?
- 9 A I can't remember.
- 10 Q I'm sorry?
- 11 A I can't remember.
- 12 Q You cannot remember?
- 13 A No, ma'am.
- 14 Q Mr. Adkins, did you give a statement ---
- 15 A Yes, ma'am.
- 16 Q --- detailing what happened on June 23rd, 2007?
- 17 A I can't remember a statement.
- 18 **THE COURT:** You may approach.
- 19 **ASST. SOL. LEGETTE:** I'm going to show it to counsel,
20 Your Honor.
- 21 Q Mr. Adkins, I'm going to show you now what's been
22 previously marked for identification, State's Exhibit
23 Twenty-four.
- 24 **ASST. SOL. LEGETTE:** May I approach?
- 25 **THE COURT:** You may.

1 Q Is your signature on State's Exhibit Twenty-four?

2 A Yes, ma'am.

3 Q Is that the statement you gave?

4 A I guess so.

5 Q You guess so? Is that your statement?

6 A Yeah.

7 Q Mr. Adkins, in that statement, what did you say?

8 A I can't remember.

9 Q Then why don't you read the statement, Mr. Adkins?

10 A I don't want to read it.

11 Q Mr. Adkins, in that statement that you made to Special
12 Agent Teddy Cone, Special Agent J. J. Evans ---

13 **ASST. SOL. LEGETTE:** Your Honor, at this time, I would
14 offer extrinsic evidence of Mr. Adkins statement, pursuant
15 to Rule 613(d).

16 **THE COURT:** Remember the requirements of the Rule,
17 Solicitor.

18 **ASST. SOL. LEGETTE:** Yes, Your Honor.

19 **THE COURT:** All right.

20 Q Mr. Adkins, that statement that you gave to Special
21 Agent Teddy Cone, Special Agent J. J. Evans, on or about
22 September the 8th, 2008, at the Varnville Sub-Station in
23 Hampton County. Mr. Adkins, didn't you tell them in that
24 statement that you ---

25 **MS. SMART-GITTINGS:** Objection, Your Honor.

1 **THE COURT:** Counsel approach.

2 WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
3 AND OUT OF THE HEARING OF THE JURY.

4 Q On or about September the 8th, 2008, didn't you give
5 that statement to Special Agent Teddy Cone and J. J. Evans
6 at the Varnville Sub-Station?

7 A I think so; can't remember.

8 Q Okay. Well, Mr. Adkins ---

9 **ASST. SOL. LEGETTE:** Your Honor, at this point,
10 pursuant to Rule 613(b), I would ask permission to lead the
11 witness in order to elicit extrinsic evidence of his
12 testimony.

13 **THE COURT:** Any objection?

14 **MS. SMART-GITTINGS:** Objection, Your Honor.

15 **THE COURT:** Overruled. You may lead.

16 Q Mr. Adkins, in that statement, isn't it true that you
17 tell Special Agent Teddy Cone and J. J. Evans that you,
18 Shawn Davis, and Joseph Davis were dropped off at the Lena
19 Store by Marquis Bryant?

20 A I think so.

21 Q Mr. Adkins, isn't it also true that you told Sled Agent
22 Teddy Cone and Evans in that statement that once you got
23 dropped off, Joseph Davis went inside the Lena Quick Stop
24 and shot Ronnie Wooten while you and Shawn Davis sat outside
25 on the steps?

1 A Don't remember.

2 ASST. SOL. LEGETTE: Your Honor, at this point, I would
3 offer for admission into evidence, State's Exhibit Twenty-
4 four.

5 THE COURT: Counsel, as to State's Twenty-four?

6 MS. SMART-GITTINGS: Without objection, Your Honor.

7 THE COURT: Ladies and gentlemen, State's Exhibit
8 Twenty-four will be admitted into evidence without
9 objection. State's Twenty-four now in evidence. You may
10 publish.

11 (STATE'S EXHIBIT TWENTY-FOUR, STATEMENT OF DERRICK
12 ADKINS, RECEIVED INTO EVIDENCE.)

13 ASST. SOL. LEGETTE: Thank you, Your Honor. May I
14 approach the witness?

15 THE COURT: Yes.

16 ASST. SOL. LEGETTE: Voluntary statement. Last Name:
17 Adkins. First name: Derrick. Middle name: NMN. Age: 23.
18 Date of birth: [REDACTED]. Nickname: Not applicable. Male.
19 Social security number: last four digits [REDACTED]. Street
20 address: [REDACTED], Estill, South Carolina
21 29918. Mailing address is the same. Location of interview:
22 Hampton County Sheriff's Office. Date and time of
23 interview: September 8th, 2008, 4:24 p.m. Interviewing
24 Agent: Special Agent Teddy Cone. Interviewing Agent:
25 Special Agent J. J. Evans. I, Derrick Adkins, understand

1 that I don't have to say anything and I volunteer the
2 following information of my own free will for whatever
3 purposes it may serve.

4 I can read and write and completed the 11th grade in
5 school. I, Derrick Adkins, Joseph Davis, Shawn Davis, and
6 Marquis Bryant were at my sister's house and we asked my
7 brother-in-law can we hold his car to go see some girls. He
8 had in mind that we were going -- that we were on the way to
9 Hampton to go see some girls, when we were passing the Lena
10 Store and saw that the store was open. Then, Joseph had in
11 mind to rob the store. He got Marquis to drop me, Shawn,
12 and Joseph off down by the bridge. So, we had masks and
13 gloves on. We went walking through the woods up to the
14 store. Joseph went up to the store, first, and approached
15 Ronnie. Me and Shawn stood on the outside while Joseph went
16 in the store. He held Ronnie at gunpoint and "Where is the
17 money?" I and Shawn was on the steps and Joseph fired one
18 shot and shot Ronnie in the head.

19 Then, me and Shawn came in the store. That's when I
20 helped Joseph look for the money and Shawn was at the cash
21 register. Shawn got cigars and cigarettes. We did not get
22 any money, so me and Shawn went running out the store. We
23 left Joseph and went running past the old folks home coming
24 into Estill. That's when we flagged Marquis down and he
25 take us back to my sister's house. We did not see Joseph

1 until the next day or two.

2 That when I take Shawn to the Mexican house and Shawn
3 sold the gun to the Mexican for \$150. I think I did not --
4 I did not know that Joseph was going to shoot Ronnie, but
5 that is how it happened, and I never told anyone because I
6 thought Joseph would have come and killed me or one of my
7 family member. That's why I never went to the police
8 because my life was in danger. Derrick Adkins, signature of
9 person making voluntary statement.

10 Q Mr. Adkins, isn't it also true that you've been
11 convicted of crimes in the past?

12 A Ma'am?

13 Q Isn't it also true -- I'm sorry. Have you been
14 convicted of a crime in the past?

15 A No, ma'am.

16 Q Mr. Adkins, where do you live, Mr. Adkins?

17 A Over on the outside of Estill.

18 Q Where do you live on the inside?

19 A Scotia.

20 Q Mr. Adkins, where are you right now?

21 A In the courthouse.

22 Q Mr. Adkins, let me just get to the point. Who's
23 standing beside you? What are you wearing right now?

24 A Clothes.

25 Q Are you wearing a jumpsuit from SCDC?

Direct Examination of Derrick Adkins by Asst. Sol. Legette
Cross-Examination of Derrick Adkins by Ms. Smart-Gittings

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- 1 A Yes.
- 2 Q Are you housed at SCDC?
- 3 A Yes.
- 4 Q Have you been convicted of a crime in the past?
- 5 A Last year.
- 6 Q Last year? Okay. And that's why you're at SCDC now?
- 7 A (NODS HEAD IN AGREEMENT.)
- 8 Q I have no further questions. Answer any questions from
9 the defense.
- 10 THE COURT: Cross-examination?
- 11 CROSS-EXAMINATION
- 12 BY MS. SMART-GITTINGS:
- 13 Q Mr. Adkins, isn't it true that you were visited by Ms.
14 Hartigan?
- 15 A Yes, ma'am.
- 16 Q At SCDC?
- 17 A Yes, ma'am.
- 18 Q Because they asked you during that interview whether or
19 not the statement you gave the police was true; isn't it?
- 20 A I can't remember.
- 21 Q Didn't you tell the investigators that the statement
22 you gave to Agent Cone and J. J. Evans and Captain Russell
23 was not true?
- 24 A Yes, ma'am.
- 25 Q And isn't it true that you told the investigators the

Cross-Examination of Derrick Adkins by Ms. Smart-Gittings
Redirect Examination of Derrick Adkins by Asst. Sol. Legette

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1 only reason why you cooperated with them was because they
2 promised you leniency?

3 A Yes, ma'am.

4 Q And isn't it also true that you were instructed as to
5 what they wanted you to say?

6 A Yes, ma'am.

7 MS. SMART-GITTINGS: I don't have any further
8 questions, Your Honor.

9 THE COURT: Redirect?

10 ASST. SOL. LEGETTE: Briefly, Your Honor.

11 REDIRECT EXAMINATION

12 BY ASST. SOL. LEGETTE:

13 Q Mr. Adkins, did you get a deal, or did you go to trial
14 and get convicted?

15 A Went to trial and convicted.

16 Q I have no further questions. Thank you.

17 THE COURT: Recross, limited to redirect?

18 MS. SMART-GITTINGS: None, Your Honor.

19 THE COURT: As to this witness, Solicitor?

20 ASST. SOL. LEGETTE: Your Honor, we ask that he be
21 excused from the trial of this case.

22 THE COURT: Any objection?

23 MS. SMART-GITTINGS: No objection, Your Honor.

24 THE COURT: You may step down and you are excused from
25 the trial of the case. You may leave the courtroom. Call

Direct Examination of Agent Whitler by Asst. Sol. Legette

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1 your next witness.

2 **ASST. SOL. LEGETTE:** We call Special Agent Kenneth
3 Whitler.

4 **WHEREUPON, AGENT WHITLER IS DULY SWORN.**

5 **THE COURT:** You know what to do. State your full name
6 and spell your last name for the court reporter, please.

7 **AGENT WHITLER:** My name is Kenneth Whitler. Last name
8 is spelled W-H-I-T-L-E-R.

9 **THE COURT:** Your witness, counsel.

10 **ASST. SOL. LEGETTE:** Thank you, Your Honor.

11 **DIRECT EXAMINATION**

12 **BY ASST. SOL. LEGETTE:**

13 Q Agent Whitler, where do you work, sir?

14 A I work for the South Carolina Law Enforcement Division,
15 also known as SLED. I work in the Forensic Services
16 Division, which is the laboratory, and I'm a firearms tool
17 mark examiner.

18 Q And Agent Whitler, how long have you worked at SLED?

19 A Since 1997.

20 Q And how long have you been a tool mark and firearms
21 examiner?

22 A I've been a qualified firearms tool mark examiner since
23 1991.

24 Q Agent Whitler, what is your educational background?

25 A I have graduate and undergraduate degrees from the

1 University of South Carolina.

2 Q Agent Whitler, you testified about being a firearms and
3 tool marks person who examines those items. What type of
4 training did you receive to be able to do that?

5 A There is no course or degree in firearms
6 identification. It's something you have to learn from other
7 qualified examiners. When I was in the FBI laboratory, I
8 underwent their training program, which takes approximately
9 two years. I successfully completed that course and became
10 certified by them to do firearms identification for the FBI
11 laboratory. I retired in 1997 and came to SLED doing
12 basically the same job.

13 Q Agent Whitler, can you tell us, what is tool mark
14 examination?

15 A Well, firearms identification is the study of the marks
16 on ammunition, such as bullets or cartridge cases, to
17 determine if they were fired by the same firearm or if you
18 happen to have a firearm, to determine if it was fired by a
19 particular firearm. Tool mark on firearms, marks on bullets
20 and cartridge cases are basically tool marks, so tool marks
21 would sort of the umbrella disciplined in firearm
22 identification as a subset.

23 Q Agent Whitler, in your career, how many firearms
24 examinations have you conducted?

25 A It my career, it's coming up on 20 years, I have

1 probably looked at literally thousands of guns and done
2 several thousand exams.

3 Q And along that same vein, in your career, how many tool
4 mark's examinations of, I suppose, cartridges or bullets,
5 have you conducted?

6 A That would be the same number.

7 Q Agent Whitler, have you ever been qualified in Court
8 before as an expert in tool mark's examination and firearm
9 examination?

10 A Yes, I've been qualified in approximately 235 to 40
11 various State, Federal and Territorial Courts since I was
12 qualified.

13 ASST. SOL. LEGETTE: Your Honor, at this time, we would
14 offer Agent Whitler as an expert in the field of tool mark's
15 examination and firearm examination.

16 THE COURT: Any objection as to qualifications?

17 MS. SMART-GITTINGS: No objections, Your Honor.

18 THE COURT: The witness is qualified without objection,
19 ladies and gentlemen. Recalling my earlier instruction to
20 you concerning expert testimony. You may proceed, without
21 objection, Solicitor.

22 ASST. SOL. LEGETTE: Thank you, Your Honor.

23 Q Agent Whitler, I want to turn your attention now to a
24 case involving a suspect named Joseph Davis. Are you
25 familiar with the case?

1 A No, I'm not familiar with it by name. I'm familiar
2 with cases in a lab number. That's how I know them.

3 Q Okay. Well, I turn your attention to SLED lab number
4 L07-09176. Are you familiar with that case?

5 A Yes, ma'am, I am.

6 Q Okay. Who are the suspects listed -- I'm sorry, is
7 Joseph Davis a suspect in that case?

8 A Yes, he is.

9 Q Agent Whitler, along that vein, did you receive any
10 items of evidence in regards to SLED Number L07-09176 with
11 Joseph Davis as a suspect?

12 A Yes, I did.

13 Q And what item of evidence did you receive?

14 A I received a number of items. Can you be a little more
15 specific?

16 Q Well, I apologize, Mr. Whitler. Let's talk
17 specifically about Item Number Thirteen.

18 A All right.

19 Q Did you receive Item Number Thirteen?

20 A Yes, ma'am, I did.

21 Q All right. And did you also receive an Item Number
22 Thirty-five related to this case?

23 A Yes, I did.

24 Q And did you conduct any examination on those two items?

25 A Yes, I did. I compared the -- excuse me, let me back

Direct Examination of Agent Whitler by Asst. Sol. Legette

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1 up. Item Thirteen is a fired bullet and Item Thirty-five is
2 a .22 rim fire caliber revolver. My examination consisted
3 of test-firing the revolver and trying to determine if that
4 bullet was fired by that revolver.

5 Q Agent Whitler ---

6 ASST. SOL. LEGETTE: Your Honor, may I approach the
7 witness?

8 THE COURT: You may.

9 Q Agent Whitler, I'm going to hand you what's been
10 previously marked for identification purposes and entered
11 into evidence as State's Exhibit Twenty-one and Twenty-two.
12 Do you recognize those items?

13 A Yes, I do.

14 Q And what are these items, Mr. Whitler?

15 A They are two photocopies of photographs I took of the
16 evidence. When I received the evidence, I photographed the
17 evidence so that I know how to repackaging it or what package
18 it came in. One photograph shows the outer packaging with
19 the Item Thirteen bullet in it. The other one is actually
20 two photographs of the Item Thirteen bullet that has been
21 enlarged somewhat.

22 Q Agent Whitler, can you testify about the condition of
23 those items when you received them, State Exhibit Number
24 Twenty-one and Twenty-two.

25 A State's Exhibit Twenty-two are pictures of the bullet.

1 The bullet was in very poor condition. It was very damaged.
2 In fact, it was not suitable for identification with a
3 specific firearm. It still had some class characteristics,
4 rifling impressions that we could use to determine if this
5 bullet could have been fired by another gun, based on class
6 characteristics. If the class characteristics of a gun that
7 was submitted were wrong, then I would be able to say, based
8 on that, this bullet couldn't have been fired by the gun.
9 However, if the class characteristics were the same, then it
10 means that there weren't enough of it to say that bullet was
11 fired by that gun specifically, but it could have been fired
12 by that gun.

13 Q Okay. And educate me, if you can, Agent Whitler, I'm
14 kind of dense sometimes, class characteristics?

15 A Class characteristics are the firing barrels are rifles
16 and they have grooves cut in the barrels, and they either go
17 to the right or to the left. So, class characteristics
18 would be if you had a gun that had right hand rifling or
19 left hand rifling. If you had a bullet that had a right
20 hand twist, or rifling, and a gun that had left hand
21 rifling, then obviously, that bullet couldn't be fired by
22 that gun. Likewise, there are a number of grooves cut in
23 the barrel. For example, the revolver, or the handgun, or
24 whatever submitted, has six grooves cut in the barrel, and
25 your bullet was fired from one with five grooves, then

1 again, on the class characteristics alone you could say that
2 bullet was not fired by that gun. But now, if you had a
3 bullet that had six grooves on it and the gun had six
4 grooves, and they were the same widths, then you would have
5 to say, well, this could have been fired by the gun, because
6 it has the right class characteristics; but because we
7 didn't have enough specific marks on it to say that it was
8 fired by that gun, that it could have been fired by that
9 gun.

10 Q Agent Whitler, let's talk about the chain of custody on
11 that Item Thirteen, which is State's Exhibit Twenty-two in
12 that photograph. What was the condition of the packaging on
13 that item when you received it?

14 A It was sealed.

15 Q And Agent Whitler, as to internal chain of custody, can
16 you tell us where you got that bullet from?

17 A I received the -- when evidence comes into SLED, it
18 comes into what is called our login department, and that's
19 where, say, the Sheriff's Department brings evidence. They
20 bring it in and it's checked in down there. It's assigned a
21 lab number if it's a brand new case. If it's an older case,
22 it's given an item number. Then, the appropriate department
23 is called, or notified, that there's evidence downstairs and
24 you go downstairs to pick up your evidence.

25 I picked up this bullet on June 28th from one of the

1 login ladies, Amy Stephens. On the 31st, I took it back
2 downstairs, having completed my exam, on July 31st of 2007,
3 and gave it to Selena Kinard.

4 Later, the bullet was resubmitted for an additional
5 exam, and I received that on May 24th, 2010, from Selena
6 Kinard and I did the exam and returned the evidence to the
7 login department on May 26th, 2010, and gave it to Patricia
8 Crooks.

9 Q Agent Whitler, I want to turn your attention now to
10 another item of evidence you received in this case. Did you
11 also receive a gun in this case?

12 A Yes, I did.

13 **ASST. SOL. LEGETTE:** May I approach the witness, Your
14 Honor?

15 **THE COURT:** You may.

16 Q Agent Whitler, I hand you now what's been previously
17 entered into evidence as State's Exhibit Number Fourteen.
18 It's a gun. It has been gun-locked. It will not fire. It
19 has been rendered safe. I hand it to you, now, sir. Take a
20 moment and tell me if you recognize that piece of evidence,
21 State's Exhibit Fourteen.

22 A Yes, I do.

23 Q Agent Whitler, did you examine State's Exhibit
24 Fourteen?

25 A Yes, I did.

Direct Examination of Agent Whitler by Asst. Sol. Legette

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1 Q Was it in working order when you examined it?

2 A Yes, it was.

3 Q Agent Whitler, did you also compare State's Exhibit
4 Fourteen to the bullet picture in State's Exhibit Twenty-
5 two?

6 A Yes, I did.

7 Q And that was SLED Item Number Thirteen?

8 A That's correct.

9 Q What were your findings?

10 A My findings were that the bullet could have been fired
11 out of this revolver, or another revolver with similar
12 rifling. As I stated previously, this bullet was in such
13 poor condition that it will never be identifiable to any
14 particular gun. The best we could do is say based on class
15 characteristics, it could have been fired by this gun or
16 another firearm with similar rifling.

17 Q Agent Whitler, after you made your findings, did you
18 put your findings down in a report?

19 A Yes, I did.

20 Q And did you sign that report?

21 A Yes, I did.

22 **ASST. SOL. LEGETTE:** May I approach the witness, Your
23 Honor?

24 **THE COURT:** You may.

25 Q Agent Whitler, I hand you now what's been marked as

1 identification, State's Exhibit Seventeen. Take a moment
2 and tell me if you recognize this.

3 A Yes, I do.

4 Q And what is that, sir?

5 A It's a copy of a supplemental report I issued on May
6 26th, 2010.

7 Q And that's your report?

8 A Yes, ma'am.

9 Q And your signature appears on that report?

10 A Yes, ma'am, on the second page.

11 **ASST. SOL. LEGETTE:** Your Honor, at this time, I would
12 offer for admission into evidence State's Exhibit Number
13 Seventeen.

14 **THE COURT:** As to State's Seventeen?

15 **MS. SMART-GITTINGS:** Without objection, Your Honor.

16 **THE COURT:** Ladies and gentlemen of the jury, State's
17 Exhibit Seventeen will be admitted into evidence without
18 objection. State's Seventeen in evidence.

19 (STATE'S EXHIBIT SEVENTEEN, SUPPLEMENTAL REPORT BY
20 AGENT WHITLER, IS RECEIVED INTO EVIDENCE.)

21 Q Agent Whitler, you testified earlier about having
22 examined other firearms in this case as well?

23 A Yes, ma'am.

24 Q Okay. And after examining those firearms, did you also
25 make a report of your findings?

Direct Examination of Agent Whitler by Asst. Sol. Legette

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1 A I made several, yes.

2 ASST. SOL. LEGETTE: May I approach the witness, Your
3 Honor?

4 THE COURT: You may.

5 Q Agent Whitler, I hand you now what's been previously
6 marked for identification as State's Exhibit Number Twenty-
7 six. Please take a moment and tell me if you recognize
8 this.

9 A Yes, I do.

10 Q And Sir, what is that?

11 A It is my written report that I issued on July 16th,
12 2007.

13 Q And Agent Whitler, is your signature on that report?

14 A Yes, ma'am, it is.

15 ASST. SOL. LEGETTE: Your Honor, at this time, the
16 State would offer for admission into evidence State's
17 Exhibit Number Twenty-six.

18 THE COURT: Counsel?

19 MS. SMART-GITTINGS: Without objection.

20 THE COURT: Ladies and gentlemen of the jury, State's
21 Exhibit Number Twenty-six will be admitted into evidence
22 without objection. State's Twenty-six in evidence.

23 (STATE'S EXHIBIT NUMBER TWENTY-SIX, REPORT OF AGENT
24 WHITLER DATED 7-16-07, IS RECEIVED INTO EVIDENCE.)

25 Q Agent Whitler, what were your results from that report?

1 A Do you want me to summarize it or read it?

2 Q Summarize is fine.

3 A Basically, a number of firearms were submitted and I
4 compared the Item Thirteen bullet to all of these firearms
5 which were submitted and either the guns were negative or
6 inconclusive. Again, because the bullet could not be
7 identified as to a particular firearm, those with the
8 correct class characteristics fell into the range.

9 Q Agent, I have no further questions. Answer any
10 questions of the defense.

11 THE COURT: Cross-examination?

12 MS. SMART-GITTINGS: May it please the Court? May I
13 approach the witness, Your Honor?

14 THE COURT: You may.

15 CROSS EXAMINATION

16 BY MS. SMART-GITTINGS:

17 Q Agent Whitler, do you have your supplemental report
18 dated July 25th, 2007?

19 A Yes, I do.

20 Q And in that report, Item Number Two is a Ivory Johnson
21 Rifle, correct?

22 A You said July 25th?

23 Q Yes, sir.

24 A 2007?

25 Q Yes, sir.

Cross Examination of Agent Whitler by Ms. Smart-Gittings

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1 A That report only has -- there is no Item Two -- oh,
2 you're talking about the Item Two Rifle in the ---

3 Q Yes, sir.

4 A Okay. What was your question again?

5 Q You tested Item Number Two, the Ivory Johnson Rifle,
6 correct?

7 A That's correct.

8 Q And you compared that Ivory Johnson Rifle with Item
9 Number Thirteen, which is a bullet, correct?

10 A That's correct.

11 Q And also, you found that the rifling impressions on
12 Item Number Thirteen, which is the bullet, were similar to
13 those on Item Number Two, which is the Ivory Johnson Rifle,
14 correct?

15 A That's correct.

16 Q And you also said that it was inconclusive due to the
17 lack of sufficient corresponding microscopic marks of value
18 on it.

19 A That's correct.

20 Q And can you tell the Court who the victim on your
21 report dated July 25th, 2007, was?

22 A According to this it's Ronnie Wooten.

23 Q And the suspect?

24 A Odis Deloach.

25 Q And in your report dated May 26th, 2010, isn't it true

1 that Ronnie Wooten is also the victim in this case?

2 A Yes, it is.

3 Q And the suspects are a Odis Deloach, James Carter,
4 David Freeman, Joseph Davis, Derrick Adkins, Shawn Davis,
5 and a Marquis Bryant?

6 A That's correct.

7 Q So at least two weapons that you compared had similar
8 characteristics as Item Thirteen, correct?

9 A The Item Two rifle that you're referring to was in
10 another case. It wasn't submitted in regards to this case.
11 But there were a number, in the original report, there are a
12 number that were negative or inconclusive.

13 Q But Ronnie Wooten is labeled as the victim on the Ivory
14 Johnson Rifle, correct?

15 A That's correct. That's the information that was put
16 into the system. I have no knowledge as to whether it's
17 correct or not. What happens when a case is logged in, the
18 subject victim, or that information is logged into the
19 computer system and it is pulled into the report and that
20 section is merely so that when we issue a report and send it
21 to the contributor, that they will have a way of looking it
22 up to make sure that it is put in the right file. As far as
23 who's the subject or who's the victim, is it correct or not,
24 I have no knowledge.

25 Q I understand what you're saying, but for purposes of

Cross Examination of Agent Whitler by Ms. Smart-Gittings

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1 your document dated July 25th, 2007, SLED Lab Number L07-
2 09176, incident date 6-24-2007, it indicates that Ronnie
3 Wooten is the victim and Odis Deloach is the suspect,
4 correct?

5 A Right. This is the same case. The rifle was submitted
6 in another case.

7 MS. SMART-GITTINGS: No further questions.

8 THE COURT: Redirect?

9 ASST. SOL. LEGETTE: None, Your Honor.

10 THE COURT: As to this witness?

11 ASST. SOL. LEGETTE: We ask that he be excused, Your
12 Honor.

13 THE COURT: Any objection to this witness being
14 excused?

15 MS. SMART-GITTINGS: No, Your Honor.

16 THE COURT: Agent Whitler, you may step down and you're
17 excused from the trial of the case. Do I have all the
18 exhibits with the court reporter?

19 ASST. SOL. LEGETTE: No, Your Honor. They are on the
20 witness stand.

21 THE COURT: Nobody's got exhibits at counsel table?

22 (ALL ATTORNEYS SHAKE THEIR HEAD.)

23 THE COURT: All right. Call your next witness.

24 ASST. SOL. LEGETTE: Teddy Cone.

25 WHEREUPON, SLED AGENT TEDDY CONE ENTERS THE COURTROOM

1 AND IS DULY SWORN.

2 THE COURT: Have a seat. Make yourself comfortable.

3 Use the microphone to amplify your voice. State your full
4 name and spell your last name for the court reporter and the
5 jury.

6 AGENT CONE: Special Agent Teddy Cone, State Law
7 Enforcement Division. Cone, C-O-N-E.

8 THE COURT: Your witness, counsel.

9 ASST. SOL. LEGETTE: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY ASST. SOL. LEGETTE:

12 Q Agent Cone, where do you work, sir?

13 A State Law Enforcement Division.

14 Q And, sir, how long have you worked there?

15 A Since March of 2007.

16 Q And how long have you been in law enforcement?

17 A Almost 16 years.

18 Q Where was your other law enforcement experience?

19 A DNR.

20 Q Okay. Now, Agent Cone, in your current position, what
21 are your duties?

22 A Currently, to investigate longterm narcotics
23 investigations.

24 Q What were your duties in June of 2007?

25 A I was assigned the Lowcountry Region.

Direct Examination of Agent Teddy Cone by Asst. Sol. Legette

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1 Q Agent Cone, during June 2007, did you become involved
2 in a homicide in Hampton County?

3 A I did.

4 Q What was your involvement, sir?

5 A Because the suspect was also named in another ---

6 MS. SMART-GITTINGS: Objection, Your Honor.

7 A --- crime.

8 THE COURT: Counsel --- just a moment. Counsel
9 approach.

10 WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
11 AND OUT OF THE HEARING OF THE JURY.

12 THE COURT: Objection is sustained. Rephrase your
13 question, Solicitor. You may proceed.

14 Q Agent Cone, at some point in your career, did you
15 become involved in the investigation involving Mr. Ronnie
16 Wooten's homicide?

17 A I did.

18 Q Okay. Was that in 2008?

19 A That's correct.

20 Q Did you interview any witnesses concerning that
21 homicide?

22 A I did, several.

23 Q Did you interview a Saul Benitez-Romero?

24 A I did, twice.

25 Q Okay. During that interview, did you show him any

1 photographs?

2 A I did. Two photo lineups.

3 Q Did he make identification?

4 A He did.

5 Q Who did he identify?

6 A Shawn Davis and Derrick Adkins.

7 **ASST. SOL. LEGETTE:** May I approach the witness, Your
8 Honor?

9 **THE COURT:** You may.

10 Q Agent Cone, I hand you what's been previously entered
11 into evidence, State's Exhibit Fifteen and Sixteen.

12 A Okay.

13 Q Do you recognize those, sir?

14 A I do.

15 Q Agent Cone, what are those?

16 A Both of those are SLED prepared lineups.

17 Q And did you show those lineups to Mr. Saul Benitez-
18 Romero?

19 A I did, on 2-18-09.

20 Q And who did he pick out?

21 A Shawn Davis and Derrick Adkins.

22 Q Agent Cone, I want to turn your attention now to Mr.
23 Joseph Davis. Are you familiar with Joseph Davis?

24 A I am.

25 Q Agent Cone, during the investigation of this case, at

Direct Examination of Agent Teddy Cone by Asst. Sol. Legette

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1 some point were you involved during his interview?

2 A I was, yes.

3 Q And before you interviewed him, was he advised of his
4 Miranda rights?

5 A He was.

6 Q And how was he advised?

7 A Verbally. He read them, initialed them, and we
8 witnessed them.

9 Q Did he appear to understand his Miranda rights?

10 A Yes.

11 Q Tell us first of all, what are Miranda rights, if you
12 can tell us?

13 A Your rights as a citizen; your rights are being taken
14 from you. You have a right to an attorney, I mean, I can
15 read the standard form.

16 Q That's all right, you don't have to read it. But those
17 are Miranda rights?

18 A Those are his rights.

19 Q And he was advised of those rights?

20 A That's correct.

21 Q Upon being advised of those rights, did he appear to
22 understand what he was doing?

23 A Yes.

24 Q And Agent Cone, did you advise him of those rights on
25 September 4th, 2008?

1 A I need to look at the rights' form to make sure the
2 dates are exact for that time.

3 Q Well, in September of '08, was he advised of his
4 rights?

5 A Yes.

6 Q And were you present for the advisement of those
7 rights?

8 A I was.

9 ASST. SOL. LEGETTE: May I approach the witness, Your
10 Honor?

11 THE COURT: You may.

12 Q Agent Cone, I hand you now what's been previously
13 marked for identification, State's Exhibits Eighteen and
14 Nineteen.

15 A Okay.

16 Q Do you recognize those, sir?

17 A I do. These are standard SLED Miranda Rights forms.

18 Q And is your signature on those forms?

19 A It is, on both.

20 Q Is Mr. Davis's signature on those forms?

21 A It is, on both.

22 Q Agent Cone, did you watch Mr. Davis sign that form?

23 A I did.

24 Q And did he sign both forms in your presence?

25 A He did.

Direct Examination of Agent Teddy Cone by Asst. Sol. Legette

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- 1 Q And did he give a statement thereafter?
- 2 A On the first one of 9-4-07, he gave a statement ---
- 3 Q Are you sure it's '07?
- 4 A 9-4 of '08, I'm sorry. At 10:07 a.m., he gave a verbal
- 5 statement and I did a SLED memo on it and the second one at
- 6 2:19 p.m., it's on video where he was read his rights and he
- 7 signed it.
- 8 Q Okay. And is there a typographical error, or a
- 9 Scribner's error, on that report as far as the time and
- 10 date?
- 11 A It is. It was on 9-4 of '08. It was struck through.
- 12 Q And what is the correct date?
- 13 A 9-4-08 at 2:19 p.m.
- 14 **ASST. SOL. LEGETTE:** At this time, Your Honor, I would
- 15 like to submit for admission into evidence State's Exhibits
- 16 Seventeen and Eighteen.
- 17 **MS. SMART-GITTINGS:** Without objection, Your Honor.
- 18 **THE COURT:** Very well. State's Exhibit Seventeen and
- 19 Eighteen.
- 20 **COURT REPORTER:** Your Honor, may I approach?
- 21 (SOTTO VOICE DISCUSSION BETWEEN THE COURT REPORTER AND
- 22 THE COURT.)
- 23 **ASST. SOL. LEGETTE:** Your Honor, I apologize to the
- 24 Court.
- 25 **THE COURT:** Counsel, the exhibits you've handed the

1 Annex, on 9-4-08 at 10:07 a.m. Before we ask you any
2 questions, you must understand your rights. You have the
3 right to remain silent. Anything you say can be used in
4 Court as evidence against you. You're entitled to talk to a
5 lawyer now and to have him present now or at any time during
6 questioning. If you cannot afford an attorney, one will be
7 appointed for you, without cost. If you decide to answer
8 questions now without a lawyer present, you will still have
9 the right to stop answering at any time.

10 You also have the right to stop answering at any time
11 until you talk to a lawyer. Do you understand these rights?
12 Do you wish to talk with us at this time?

13 Waiver of rights: I've read the statement of my rights
14 and I understand what my rights are. I am willing to talk
15 now without a lawyer present. I understand and know what I
16 am doing. No promises or threats have been made to me and
17 no pressure or coercion of any kind has been used against
18 me. Signed, Joseph Davis.

19 Beside each one of those individual lines is his
20 initials. I witnessed the statement along with Det.
21 Russell.

22 Q And that was State's Exhibit Number ---

23 A Eighteen.

24 Q Eighteen. Agent Cone, with regards to State's Exhibit
25 Nineteen, would you publish that for the jury?

1 A You want me to read it?

2 Q Yes, please.

3 A Miranda Rights, place: Hampton County Sheriff's
4 Office, HCSO Sub-station. Date -- this is where the
5 correction was made: 9-4-08, 2:19 p.m. Before we ask you
6 any questions, you must understand your rights. You have
7 the right to remain silent. Anything you say can be used in
8 Court as evidence against you. You're entitled to talk to a
9 lawyer now and to have him present now or at any time during
10 questioning. If you cannot afford an attorney, one will be
11 appointed for you, without cost. If you decide to answer
12 questions now without a lawyer present, you will still have
13 the right to stop answering at any time.

14 You also have the right to stop answering at any time
15 until you talk to a lawyer. Do you understand these rights?
16 Do you wish to talk with us at this time?

17 Waiver of rights: I've read the statement of my rights and
18 I understand what my rights are. I am willing to talk now
19 without a lawyer present. I understand and know what I am
20 doing. No promises or threats have been made to me and no
21 pressure or coercion of any kind has been used against me.

22 Signed, Joseph Davis. Witness: Captain Anthony Russell.

23 Witness Two: William T. Cone, Jr.

24 Q Agent Cone, so Mr. Davis is advised of his rights twice
25 in one day?

1 witness are Eighteen and Nineteen; not seventeen and
2 eighteen. Show them to opposing counsel.

3 **ASST. SOL. LEGETTE:** Your Honor, I apologize. State's
4 Exhibits Eighteen and Nineteen are offered for admission
5 into evidence.

6 **THE COURT:** Any objection as to Eighteen and Nineteen?

7 **MS. SMART-GITTINGS:** No objection, Your Honor.

8 **THE COURT:** Ladies and gentlemen of the jury, State's
9 Exhibits Eighteen and Nineteen will be admitted into
10 evidence in the trial of this case. Eighteen and Nineteen
11 are in evidence. You may publish to the jury, counsel.

12 (STATE EXHIBIT EIGHTEEN, SLED MIRANDA RIGHTS FORM, IS
13 RECEIVED INTO EVIDENCE)

14 (STATE EXHIBIT NINETEEN, MIRANDA RIGHTS FORM, IS
15 RECEIVED INTO EVIDENCE.)

16 Q Agent Cone, at this time, would you publish to the jury
17 and show us how Mr. Davis was advised of his rights under
18 Miranda?

19 A He was read his rights and he initialed by each one
20 that states that he understood it and that the waiver of
21 rights he signed below it on both forms.

22 Q Can you read it, please?

23 A The entire form?

24 Q Yes, please.

25 A Place: Hampton County Sheriff's Office, Varnville

Direct Examination of Agent Teddy Cone by Asst. Sol. Legette

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- 1 A He was -- at 2:19 p.m. and 10:07 a.m. on 9-4-08.
- 2 Q And did he appear to understand his rights?
- 3 A He did.
- 4 Q And did he appear to be able to talk to you coherently?
- 5 A Yes.
- 6 Q Was he ever threatened in any way?
- 7 A In no way, shape or form.
- 8 Q And was he ever promised anything for his statement?
- 9 A No, no promises were made.
- 10 Q Was he ever coerced to give a statement?
- 11 A No.
- 12 Q Did you force him to sign that document?
- 13 A No, I did not. It's on video.
- 14 Q Agent Cone, after you advised Mr. Davis, or you were
- 15 present when he was advised of his rights, both in the
- 16 morning and the afternoon, did he then give you a statement?
- 17 A He gave a verbal statement that morning at 10:07, then
- 18 a videotaped statement at 2:19 p.m. on 9-4-08.
- 19 Q After being advised of his rights, twice, on that day,
- 20 what did he tell you?
- 21 A Basically, on video, he went into how him and three
- 22 other individuals ---
- 23 Q Who? What three individuals?
- 24 A Shawn Davis, Derrick Adkins, and Marquis Bryant, the
- 25 driver. Shawn Davis was the front passenger. Derrick

1 Adkins was the right rear passenger, and Joseph Davis was
2 the driver's side rear passenger. They borrowed a car and
3 drove to Lena. As they got to the store -- well, they
4 didn't get to the store, first. Marquis dropped off Joseph,
5 Shawn and Derrick at the bridge on Highway 3. Those three
6 individuals ran through the woods to the store. Joseph went
7 in first, Derrick with Shawn came up the steps behind him.
8 Joseph went in the store. Ronnie Wooten was at the poker
9 machine on the right as you go in. He fired one shot and
10 struck Mr. Wooten. Shawn Davis came in and went to the
11 register. And Derrick helped Joseph roll the body to see if
12 there was any money. There was no money. They got scared
13 and left.

14 Q And you may have already told me this, but did anyone
15 take anything from the store?

16 A A pack of Newport cigarettes, and maybe a cigar; but I
17 know definitely a pack of Newport cigarettes.

18 Q And while Mr. Davis was telling you all this, did he
19 appear to understand what he was doing?

20 A He did. It's on video.

21 Q I have no further questions. Answer any questions from
22 the defense, please.

23 **THE COURT:** Cross-examination?

24 **MS. SMART-GITTINGS:** May it please the Court?

25 **CROSS-EXAMINATION**

Cross-Examination of Agent Teddy Cone by Ms. Smart-Gittings

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- 1 BY MS. SMART-GITTINGS:
- 2 Q Agent Cone, have you had the opportunity to view a
- 3 photograph provided by you from the Solicitor's Office?
- 4 A Which one?
- 5 Q I'll hand you Defendant's Exhibits Number Six and
- 6 Number Seven.
- 7 MS. SMART-GITTINGS: May I approach, Your Honor?
- 8 THE COURT: Step back to ask a question.
- 9 Q Do you recognize those photographs?
- 10 A I don't.
- 11 Q You do not?
- 12 A No, this would be testimony from the crime scene. I
- 13 did not respond that night. I was not in the Lowcountry
- 14 region when this crime scene was worked. I was later
- 15 assigned the case.
- 16 Q They're not in your case file?
- 17 A Not in my report. I don't need them. The crime scene
- 18 keeps this.
- 19 Q But you were present at the interrogation on September
- 20 4th, 2008, correct?
- 21 A That's correct.
- 22 Q And you initially interrogated Joseph at about 10:00
- 23 that morning?
- 24 A 10:07 is what's on the Miranda rights.
- 25 Q You were at the Sheriff's Office Annex in Varnville?

1 A That's correct.

2 Q That would be Captain Russell's office?

3 A That's correct, Captain Russell's office.

4 Q And that office is equipped with a video recorder,
5 correct?

6 A It is.

7 Q And at 10:00 you chose not to turn on a video recorder,
8 correct?

9 A We did.

10 Q So you interrogated Mr. Davis for about an hour or so
11 but did not turn the video on, correct?

12 A I don't recall how long the interview was initially,
13 but it wasn't very long, because if you look at my SLED
14 memo, he only provided very little information. It's not
15 even four, five lines long. He initially didn't want to
16 talk.

17 Q He initially didn't want to talk?

18 A When I say that, he wasn't providing us with anything,
19 as much information, so we cut the interview off.

20 Q Isn't it true that you promised him that if he
21 confessed, you would reopen his mother's murder
22 investigation?

23 A Absolutely not.

24 Q You did not? Do you know Ms. Julia Davis?

25 A I would have to see her.

Cross-Examination of Agent Teddy Cone by Ms. Smart-Gittings

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1 Q What about Ms. Vermill Morris?

2 A I remember two ladies we went and spoke to. I remember
3 leaving them my business cards, but I don't remember their
4 names. If I saw their faces, I might remember that.

5 Q When you say you went and spoke to them, did you go to
6 their house to visit them?

7 A We did, out in, I think it was, maybe, in Estill. And
8 I remember leaving her my card in case she needed anything
9 she could contact me.

10 Q Did Captain Russell go with you to their house?

11 A It was either -- I know Special Agent Evans went and
12 either, or both, Detective Solomons and Captain Russell
13 went. I don't recall if it was both of them. I know it was
14 one of them, if not both of them. I know Special Agent
15 Evans went with me.

16 Q Do you recall which house you went to?

17 A If I saw it again, probably. But we were up in a
18 neighborhood. I'm not familiar with that area and that's
19 why we took Captain Russell and Detective Solomons.

20 Q And when you went to visit Ms. Davis and Ms. Morris,
21 was it at their house?

22 A Right.

23 Q What did you tell them?

24 A I told them that we would look into his mother's -- we
25 were trying to find out some information. We knew what

1 Joseph had told us, but we wanted to establish more facts to
2 see exactly what the deal was with his mother.

3 Q So you did tell Ms. Morris and Ms. Davis that you were
4 going to look into his mother's murder?

5 A And we did.

6 Q You did?

7 A Yeah, and we found that there was no more evidence to
8 go forward, that someone was already in prison for that
9 crime.

10 Q Didn't you tell Ms. Davis you were going to come by and
11 pick up some papers from her?

12 A Seems like I did. It was like some letters from prison
13 or -- I don't remember. It seems like she was going to look
14 for them.

15 Q And did she provide those items to you?

16 A No, I don't have them if she did. I don't recall them.

17 Q Did you go back and get them?

18 A I don't remember. We didn't see where they were
19 necessary, so my guess is no, we didn't go back. And she
20 didn't bother to contact me to provide them.

21 Q But you are testifying that you went to her house,
22 correct?

23 A I did. I remember leaving her my business card to
24 contact me if she came up with the paperwork or whatever it
25 was she was going to look, but it was irrelevant to what we

Cross-Examination of Agent Teddy Cone by Ms. Smart-Gittings

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1 were doing.

2 Q And after that, Joseph decided to talk and cooperate
3 with you?

4 A I think we had already talked with Joseph. We wouldn't
5 have known to go to her house if we hadn't already talked
6 with Joseph.

7 Q But that's how you found out about Joseph's mother,
8 through Joseph, correct?

9 A Through Joseph, right.

10 Q Now, when you interviewed Joseph, did he refer to
11 himself as "Joseph Davis"?

12 A On the video, I think he did.

13 Q Did you instruct him to say his legal name for the
14 video?

15 A I did not.

16 Q Doesn't he refer to himself as "Joe"?

17 A I don't know what he calls himself.

18 Q When he used the word ---

19 A I know he told me he calls himself -- his nickname is
20 "sunshine"; he's got a tattoo on his arm that says sunshine
21 or something.

22 Q I'm not sure about that. Let's talk about your
23 interview of Mr. Davis. Isn't it true that Mr. Davis said
24 that he turned Mr. Wooten's body over and searched his
25 pocket, but there wasn't any money in his pocket?

1 A What he said was, it was a little notepad, a little
2 small pad, and it's on the video. I showed him one during
3 the video, and he said, yeah, it's a little notebook about
4 that size.

5 Q And he said that those were balled up in his socks,
6 correct?

7 A No. He said they were in his pockets.

8 Q Oh, he said they were in his pockets?

9 A I mean, if you play the video, it's on there.

10 Q He also told you that he had a sweater cap on, correct?

11 A Yeah, he did.

12 Q And you guys asked him if the sweater cap had holes in
13 the eyes and the mouth?

14 A Right.

15 Q And he said "no"?

16 A He said no, it was like a ski mask, because when he
17 went in the store, the mask rolled up and Ronnie Wooten
18 recognized him.

19 Q And he said he had a stocking cap on top of that ski
20 mask, didn't he?

21 A I just recall he had on, like, a stocking cap, and it
22 rolled up, and Ronnie Wooten saw him and knew who he was.

23 Q Isn't it true that he told you that what he said during
24 his interrogation was he was sent to collect \$15,000 from
25 Mr. Wooten?

Cross-Examination of Agent Teddy Cone by Ms. Smart-Gittings

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1 A That's what he said.

2 Q And he said that Danny Bennett sent him to collect this
3 money?

4 A I think so.

5 Q And didn't he also tell you ---

6 A I believe somebody told Joseph, another individual, but
7 that's just what he told us.

8 Q But he also told you that Danny Bennett was the person
9 who discovered his mother's body, correct?

10 A I don't know if he said "discovered".

11 Q But he told you that Danny Bennett was involved in his
12 mother's ---

13 A Involved, yes, somehow with his mother's death.

14 Q And also Johnny Vaughn?

15 A That's correct.

16 Q He also said that Johnny Vaughn was involved in his
17 mother's death?

18 A If I remember correctly, yeah. I remember those two
19 names and having to do with his mother.

20 MS. SMART-GITTINGS: I don't have any other questions,
21 Your Honor.

22 THE COURT: Redirect?

23 ASST. SOL. LEGETTE: None, Your Honor.

24 THE COURT: As to this witness?

25 ASST. SOL. LEGETTE: We ask that he be excused at this

1 time, but subject to recall, and still under sequestration.

2 **THE COURT:** Any objection?

3 **MS. SMART-GITTINGS:** No objection, Your Honor.

4 **THE COURT:** Agent Cone, you may step down, and you are
5 excused, subject to being recalled in the trial of this
6 case.

7 Counsel approach.

8 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
9 AND OUT OF THE HEARING OF THE JURY.)

10 **THE COURT:** Madame Foreperson, ladies and gentlemen of
11 the jury, I'm going to stop at this time for the evening.
12 We're trying to plan, as you know, we have to do that
13 constantly concerning the witnesses and bringing witnesses
14 from other places. We will start back in the morning at
15 9:30, and I can promise you that I'm working to complete the
16 trial in a timely fashion. Over the overnight recess,
17 please do not discuss this case with anyone. As I told you
18 throughout the case, you must decide the case solely upon
19 evidence introduced in this courtroom when both sides are
20 present. I look forward to seeing you in the morning. If
21 you'll get here prior to 9:30, we'll have something for you
22 to drink or to eat. Mr. Jimmy will take good care of you
23 back there. I can promise you that.

24 Please don't discuss the case with anyone. I don't
25 know if there will be anything on radio, newspaper, or on

1 television about the case. Please don't read such, watch
2 such, or listen to such. You must decide this case solely
3 upon evidence introduced in the courtroom when both sides
4 are present with the right of cross-examination. Thank you
5 for your patience. I will see you in the morning at 9:30.

6 **THE COURT:** Anything on the record, outside the
7 presence of the jury, before we adjourn for the evening?

8 **DEPUTY SOL. THORNTON:** Yes, Your Honor, just quickly I
9 wanted to let the Court know, the reason State Exhibits 20
10 and 23 the reasons they are not in. Twenty is the
11 confession of the defendant, which we haven't put into
12 evidence yet. Twenty-three, I believe, was the statement of
13 Marquis Bryant, which he admitted, so we couldn't introduce
14 it as extrinsic evidence. I apologize for the holes in it,
15 but that's why they are there.

16 **THE COURT:** Also, during the -- and I know you are
17 aware of this, it was Court's Exhibit Number Nine, a CD, and
18 that is not in evidence in this trial?

19 **DEPUTY SOL. THORNTON:** No, sir. That will be -- a copy
20 of that CD I will make this evening, Judge, and I will
21 introduce that as Twenty. We were going to put the Twenty
22 on Court's Exhibit Nine, but with two stickers, I'm afraid
23 it won't play, Your Honor. So, that's why we're doing it
24 that way

25 **THE COURT:** Anything on the record outside of the

1 presence of the jury from the defendant before we adjourn
2 for the evening?

3 **MS. SMART-GITTINGS:** No, sir, Your Honor.

4 **THE COURT:** Very well. Now, just so you'll know. I
5 realize that it's very difficult, because you have the
6 assistance of --- and just as Ms. Legette can't stand up
7 without Mr. Thornton grabbing her and talking to her, you
8 can't do so without also getting a little assistance from
9 Ms. Jordan or Ms. McKinney, and I've tried to rearrange the
10 tables. One of the things I want to caution you about. You
11 don't realize it because you're working so hard and diligent
12 is the jury is watching you when you stand up and you walk.
13 So, I'm going to ask you to please, unless it's an absolute
14 necessity and you ask me, don't get up and walk in and out
15 of the courtroom in front of the jury or stand up at counsel
16 table.

17 If you don't have enough room or you need help, you let
18 me know and I'll give it to you. I don't want you to think
19 I'm restricting you, but you don't realize how it takes the
20 jury's attention away from a witness, away from a question
21 asked by either attorney. So, I ask you to please be aware
22 of that.

23 With that, we will be adjourned in this case until 9:30
24 in the morning.

25 (WHEREUPON, COURT IS IN RECESS FOR THE EVENING AT 5:30

1 P.M. ON 6-28-11)

2 (AT 9:30 A.M., WEDNESDAY, 6-29-2011, COURT RECONVENES
3 IN THE TRIAL OF THE JOSEPH DAVIS CASE.)

4 **THE COURT:** Is the defendant ready to proceed?

5 **MS. SMART-GITTINGS:** We are, Your Honor.

6 **THE COURT:** All right. Bring me the jury.

7 (06-29-11, WHEREUPON, THE JURY ENTERS THE COURTROOM AND
8 THE FOLLOWING PROCEEDINGS ARE HELD ON THE RECORD.)

9 **THE COURT:** Good morning, Madame Foreperson, ladies and
10 gentlemen of the jury. I hope everyone had a pleasant
11 evening. We'll now continue with the testimony in the trial
12 of this case. Solicitor, you may call your next witness.

13 **DEP. SOLICITOR THORNTON:** Thank you, Your Honor.
14 Captain Anthony Russell.

15 **THE COURT:** Come around and be sworn by the Clerk,
16 please.

17 WHEREUPON, CAPTAIN ANTHONY RUSSELL IS SWORN.

18 **THE COURT:** Good morning, Captain. Have a seat. Make
19 yourself comfortable. You know what to do.

20 **WITNESS:** Anthony Russell, spelling the last name, R-U-
21 S-S-E-L-L.

22 **THE COURT:** Your witness, counsel.

23 **DEP. SOLICITOR THORNTON:** Thank you, Your Honor.

24 **DIRECT EXAMINATION**

25 **DEP. SOLICITOR THORNTON:**

1 Q Captain Russell, who do you work for, Sir?

2 A Hampton County Sheriff's Office.

3 Q And how long have you been with the Sheriff's Office?

4 A Currently fifteen years now.

5 Q All right. So did you work for the Sheriff's Office on
6 or about June of 2007?

7 A Yes, sir. That is correct.

8 Q And in your capacity with the Sheriff's Office, what do
9 you do?

10 A I am the Captain of Operations.

11 Q All right. What does that mean?

12 A Captain of Operations, I oversee the road patrol and
13 criminal investigations unit.

14 Q All right. Is that another word of saying detectives?

15 A Yes, sir.

16 Q Did you have any connection with the case involving the
17 murder of Ronnie Wooten?

18 A Yes, sir, I did.

19 Q All right. And as part of that, did you conduct
20 interviews?

21 A Yes, sir, I did.

22 Q And did you participate in interviews?

23 A Yes, sir, I did.

24 DEP. SOLICITOR THORNTON: Your Honor, may I approach?

25 THE COURT: You may.

1 Q Captain Russell, I've handed you what's been marked and
2 entered into evidence as State's Exhibit Twenty-five, can
3 you identify that document, please?

4 A Yes, sir. In State's Exhibit Number Twenty-five, this
5 is a voluntary statement given by the co-defendant, Shawn
6 Davis.

7 Q All right. And you as case officer, sir, you've been
8 in here the entire trial; is that correct?

9 A Yes, sir.

10 Q And you saw Mr. Davis and his testimony yesterday; is
11 that correct?

12 A Yes, I did.

13 Q Now, one of the things, Detective, that he said was
14 that he couldn't read or write, that he didn't write that
15 statement, so on and so forth. Were you present when that
16 statement was given?

17 A Yes, sir, I was.

18 Q Is your name listed on that form?

19 A Yes, sir, it is.

20 Q All right. Now, did you sign it or is your name
21 listed?

22 A My name is listed.

23 Q And you were present when this was given; is that
24 correct?

25 A That is correct.

1 Q Now, did Detective Solomon write that on behalf of the
2 defendant?

3 A Yes, sir, he did. The co-defendant in this case, Shawn
4 Davis, stated that he could not write, so Detective Solomon
5 wrote this statement for him. When he got finished writing
6 the statement for him, he read it to him verifying that what
7 he said was accurate on the statement that was given.

8 Q Now, Captain Russell, did you witness Detective Solomon
9 read that back to -- read that statement, State's Exhibit
10 Twenty-five, back to the co-defendant, Shawn Davis?

11 A Yes, sir, I did.

12 Q And did Mr. Davis acknowledge that that was in fact the
13 truth and that was his statement?

14 A Yes, sir, he did.

15 Q And was he promised anything?

16 A No, sir. He was not promised anything.

17 Q Was Shawn Davis coerced in any way or pressured to give
18 that statement?

19 A No promises, no threats, no coercion of any kind was
20 given.

21 Q And did he indicate that that was his statement?

22 A Yes, sir, he did.

23 Q And I understand that he didn't write it. Did he sign
24 it at the bottom indicating that that was his statement?

25 A Yes, sir, at the bottom of the voluntary statement

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- 1 form, you see the signature line says signature of the
2 person giving the voluntary statement, which he signed it.
- 3 Q Thank you very much, Captain Russell.
- 4 DEP. SOLICITOR THORNTON: Your Honor, may I approach?
- 5 THE COURT: You may.
- 6 Q Captain Russell, I've handed you a CD, or a computer
7 disc, which has been marked only for identification as
8 State's Exhibit Number Twenty. Can you identify that for
9 me?
- 10 A Yes, sir. State's Exhibit Number Twenty is a CDR, the
11 confession of the defendant, Joseph Davis, with my initials
12 at the bottom.
- 13 Q And why are your initials at the bottom of it, sir?
- 14 A To accurately represent that I've reviewed this CD and
15 know what's on it.
- 16 Q And did you review that CD at my request?
- 17 A Yes, sir, I did.
- 18 Q Did you initial it saying you had reviewed it?
- 19 A Yes, sir, I did.
- 20 Q Now, you said that's the confession of -- is that the
21 confession of Joseph Davis seated here at defense table?
- 22 A Yes, sir, the defendant seated there, his confession.
- 23 Q Is it a video confession?
- 24 A Yes, sir, it is video and audio.
- 25 Q All right. And is there also, for lack of a better

1 word, a transcription underneath it of the words of the
2 audio?

3 A Yes, sir, it is.

4 Q And did you review all of that at my request?

5 A I have.

6 Q Is that a true and accurate depiction of what occurred
7 in Joseph Davis's audiotape and videotaped confession?

8 A Yes, sir, it is.

9 Q All right. Has it been altered or changed in any way?

10 A No, sir, it hasn't.

11 DEP. SOLICITOR THORNTON: Your Honor, I'd ask at this
12 time that State's Exhibit Twenty be entered into evidence.

13 THE COURT: As to State's Twenty, subject to my earlier
14 ruling?

15 MS. SMART-GITTINGS: Correct, Your Honor.

16 THE COURT: Very well. Ladies and gentlemen of the
17 jury, State's Exhibit Number Twenty will be admitted into
18 evidence in the trial of this case. State's Exhibit Number
19 Twenty now in evidence. You may publish to the jury.

20 (STATE'S EXHIBIT NUMBER TWENTY, CD OF JOSEPH DAVIS
21 CONFESSION, IS RECEIVED INTO EVIDENCE.)

22 DEP. SOLICITOR THORNTON: Your Honor, I'll be one
23 moment publishing.

24 THE COURT: Yes, sir.

25 DEP. SOLICITOR THORNTON: May I approach?

- 1 **THE COURT:** Yes, sir.
- 2 **DEP. SOLICITOR THORNTON:** Thank you, Judge.
- 3 **Q** Captain Russell, before we play the video, I have a
4 couple of brief questions for you.
- 5 **DEP. SOLICITOR THORNTON:** Your Honor, May I approach?
- 6 **THE COURT:** You may.
- 7 **Q** Captain Russell, I've handed you what's been entered
8 into evidence as State's Exhibits, I believe, 18 and 19; is
9 that correct, sir?
- 10 **A** Yes, sir, that's correct.
- 11 **Q** All right. Now, State's Eighteen and State's Nineteen
12 are two separate documents; is that correct?
- 13 **A** That's correct.
- 14 **Q** As to State's Exhibit Eighteen, into evidence, can you
15 tell me what that is?
- 16 **A** State's Exhibit Eighteen is a SLED Miranda Form that
17 was given to the Defendant Joseph Davis in this case.
- 18 **Q** All right. And what date was that Miranda given to
19 him?
- 20 **A** On State's Exhibit Eighteen the date was 9/4/08. The
21 time was 10:07 a.m.
- 22 **Q** All right, sir. And I believe you heard Officer Teddy
23 Cone with SLED testify to that earlier; is that correct?
- 24 **A** That's correct.
- 25 **Q** All right. Were you present when these Miranda

1 warnings were given to the defendant, sir?

2 A Yes, sir, I was.

3 Q All right. And are you actually the one that signed
4 that as the primary person giving those rights?

5 A Yes, sir, I did.

6 Q Did you give Joseph Davis his Miranda Rights?

7 A Yes, sir, I did.

8 Q All right. And did you give him the rights as listed
9 on that form?

10 A Yes, sir, I did.

11 Q And when I say "that form", I mean State's Exhibit
12 Eighteen.

13 A Yes, sir, that is correct.

14 Q Did Mr. Davis seem to understand what you were talking
15 about when you gave him his rights?

16 A Yes, sir, he did. He understood what we were talking
17 about.

18 Q Did he give you any indication that he didn't
19 understand you?

20 A No, sir, never did.

21 Q Did he tell you he didn't understand English or he was
22 having trouble with the concept you were talking to him
23 about?

24 A No, because during one of the interviews, I asked him
25 did he understand the English language and he said "yes".

- 1 Q All right. Let me ask you this, did he appear to be
2 under the influence of any mind altering substances, to the
3 extent that you didn't think he knew what he was doing?
- 4 A No, sir, he didn't.
- 5 Q In layman's terms, did he appear drunk or high to you
6 when you were talking to him?
- 7 A No, sir, he didn't.
- 8 Q He seemed to fully understand what he was doing?
- 9 A That's correct.
- 10 Q Now, did you threaten him when you were giving him
11 these Miranda Rights?
- 12 A No, sir, no threats were made.
- 13 Q Did you promise him anything? Promise him leniency?
14 Promise him anything at all to get him to make this
15 statement or to force him into making this statement?
- 16 A No, sir, no promises to anything was made toward the
17 defendant, Joseph Davis.
- 18 Q You didn't threaten him? You didn't pull a gun on him
19 and order him to confess or anything like that?
- 20 A No, sir.
- 21 Q All right. State's Exhibit Nineteen, can you tell me
22 what that is, sir?
- 23 A Yes, sir. State's Exhibit Nineteen is also a SLED
24 Miranda form given to the defendant, Joseph Davis, in this
25 case on 9/4/2008. The time was 2:19 p.m.

1 Q All right. So the same day as State's Exhibit
2 Eighteen?

3 A Yes, sir, that's correct.

4 Q So would it be fair to say that he was Mirandized twice
5 in the same day?

6 A Yes, sir, he was.

7 Q Now, did you just, for lack of a better word, Captain
8 Russell, did you just phone the second one in or did you
9 actually read it to him line by line?

10 A No, sir, we read it to him line by line.

11 Q Did you threaten him the second time you talked to him?

12 A No, sir, we did not.

13 Q Did you promise him anything?

14 A No promises of anything were made towards the
15 defendant.

16 Q Now, on the second statement -- excuse me, on the
17 second Miranda form, which is State's Exhibit Nineteen, was
18 that statement, after he signed that Miranda Form, did he
19 give a statement?

20 A Yes, sir, he did, and that was the one that was given
21 on video and audio.

22 Q And that's the one that you just testified about, which
23 is now in evidence, State's Exhibit Twenty?

24 A That's correct.

25 Q All right. And are you on the videotape?

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1 A Yes, sir, I am.

2 Q And is SLED Agent Cone on the videotape as well?

3 A Yes; myself, Agent Cone, and Special Agent, J. J.
4 Evans.

5 Q Now, since you reviewed the tape, who would be the
6 primary person doing the interview on this tape?

7 A I was the primary person doing the interview on this
8 tape.

9 Q All right. You mentioned J. J. Evans. Is he readily
10 visible on the tape or is he kind of off to the side?

11 A He's a little bit off to the side.

12 DEP. SOLICITOR THORNTON: Your Honor, May I approach?

13 THE COURT: You may.

14 DEP. SOLICITOR THORNTON: Your Honor, Court's
15 indulgence, please, for one moment, sir.

16 (BRIEF PAUSE WHILE SOLICITOR PREPARES DVD FOR VIEWING.)

17 DEP. SOLICITOR THORNTON: Your Honor, at this time, I
18 would ask to publish State's Twenty to the jury.

19 THE COURT: Very well.

20 (WHEREUPON, STATE'S EXHIBIT TWENTY, DVD OF JOSEPH
21 DAVIS'S CONFESSION BEGINS PLAYING FOR THE JURY AT 9:51 A.M.
22 THE DVD IS ENDED AT 10:20 A.M.)

23 Q Captain Russell?

24 A Yes, sir.

25 Q Although it may have been clear from the video, just to

1 clarify, as an officer, do you often deal with gangs and
2 gang terminology?

3 A Yes, sir, we do.

4 Q All right. I heard the words "folks, crypts and
5 bloods"; are all those gangs, sir?

6 A Yes, sir, they are.

7 Q Now, the person in the video, who was that you were
8 getting a statement from?

9 A That was the defendant sitting there, Joseph Davis.

10 Q All right. Obviously, he's had a little bit of change
11 in hairstyle since you interviewed him; is that correct?

12 A Yes, sir. He's had his head shaved.

13 Q All right.

14 **DEP. SOLICITOR THORNTON:** Your Honor, at this time, I
15 have no further questions for Captain Russell. Captain
16 Russell, please answer any questions that Ms. Smart-Gittings
17 has for you.

18 **THE COURT:** Cross-examination?

19 **MS. SMART-GITTINGS:** Thank you, Your Honor.

20 **CROSS-EXAMINATION**

21 **MS. SMART-GITTINGS:**

22 Q Good morning, Captain Russell.

23 A Good morning.

24 Q Aren't gangs notorious for selling stolen guns off the
25 street?

Direct Examination of Captain Anthony Russell by Dep. Sol. Thornton
Cross-Examination of Captain Anthony Russell by Ms. Smart-Gittings

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- 1 A I'm pretty sure they are; drugs also.
- 2 Q But there were many guns left in Mr. Wooten's store on
3 the night of the murder, correct? Thirteen?
- 4 A We took those guns into our possession?
- 5 Q Mr. Davis wrote a statement on August 22nd, didn't he?
- 6 A Yes, ma'am, I believe he did.
- 7 Q And he denied being the shooter on that statement,
8 didn't he?
- 9 A Yes, ma'am, one of the statements he did deny being the
10 shooter.
- 11 Q As a matter of fact, two statements he denied being the
12 shooter, correct?
- 13 A I'm not sure. I'd have to look at the statements and
14 see.
- 15 Q Out of all the time he was interviewed, there's only
16 one time that he confessed to the murder in this case,
17 correct?
- 18 A That's correct.
- 19 Q And that's on the date that you and Agent Cone and
20 Evans interviewed him, correct?
- 21 A That's correct.
- 22 Q Agent Cone testified yesterday that the initial
23 interview at 10:07 on September the 4th only lasted a few
24 minutes; is that correct?
- 25 A I'm not sure of the exact time it lasted, but it didn't

1 last, I'd say, less than an hour.

2 Q So it was less than an hour?

3 A Yes.

4 Q Did you provide a supplemental report for this case?

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

6 Q So you're relying on memory for your testimony?

7 A No, this case was actually turned over to the South
8 Carolina Law Enforcement Division. We were just assisting
9 SLED with this case and a couple of things that took place
10 in Hampton County.

11 Q Joseph said that the exact date of the incident was
12 June 24th, didn't he? On the video?

13 A On the video, I think he did, Yes, ma'am.

14 Q And you told him that the exact date was June 24th,
15 didn't you?

16 A On the video, I think I said around about June --
17 either 23rd or 24th of '07.

18 Q He repeated exactly what you told him, correct?

19 A I'm not sure what he repeated, but he give us the facts
20 of his involvement in that case.

21 Q Joseph said that Monty Wooten was at the back of the
22 store when he arrived there, correct?

23 A Yes, ma'am, he did.

24 Q But you don't have any other evidence to corroborate
25 that, correct?

Cross-Examination of Captain Anthony Russell by Ms. Smart-Gittings

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1 A No, ma'am, we don't.

2 Q And he also said in the video that from the front of
3 the store he witnessed Mr. Ronnie Wooten inside the store
4 playing a video game -- a poker game, correct?

5 A I think he said when he went into the store, he was to
6 the right doing something. I don't think he recalled
7 whether he was playing a video game or not.

8 Q You don't recall him saying that from outside the
9 store, he observed Ronnie Wooten inside the store playing
10 the video game?

11 A No, ma'am.

12 Q But it would have been pretty much impossible to see
13 the video games from the outside of the store, correct?

14 A Yes.

15 Q He also said that Derrick Adkins cut off the lights
16 when he came into the store, didn't he?

17 A Yes, ma'am, he did.

18 Q But later on in the statement, he said he cut off the
19 lights, didn't he?

20 A Yes.

21 Q So that was inconsistent?

22 A Yes, uh-huh.

23 Q He said he turned -- he said Derrick Adkins turned
24 Ronnie over and searched his pockets, correct?

25 A No, he said the both of them began to search the

1 deceased in this case, Ronnie Wooten, to search for money.

2 Q So by him turning him over, he would have turned him
3 over to search his left pocket, correct?

4 A I'm assuming that when he said they searched the
5 deceased in this case, Ronnie Wooten, for money when he shot
6 Ronnie, Ronnie fell and he fell on his left side. They
7 searched the right side of his pocket. When we got there,
8 we retrieved money from out of the deceased's left pocket.
9 So apparently, they didn't roll him over. They just
10 searched the pocket that was closest to them.

11 Q But they said they turned him over and searched his
12 pockets, correct?

13 A Yes, that's what they said.

14 Q And money was found in Mr. Wooten's pocket, correct?

15 A Yes, that's correct. I'm not sure ---

16 Q --- a large sum of money ---

17 THE COURT: Just a moment, counsel. Let him finish his
18 answer.

19 A I'm not sure of the exact amount of money that was
20 found, but money was found in the deceased's left pocket,
21 which was the side he was lying on.

22 Q He also said he checked his socks and found a notebook,
23 correct?

24 A No, I think he said he checked his pants pocket and
25 found notebooks.

Cross-Examination of Captain Anthony Russell by Ms. Smart-Gittings

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- 1 Q He didn't tell Agent Cone that he pulled a balled,
2 rolled up notebook out of his sock?
- 3 A I think he said he pulled notebooks out of his pants
4 pocket.
- 5 Q He said that Derrick Adkins told him that he buried the
6 gun, correct?
- 7 A That is correct.
- 8 Q But Derrick Adkins told you that he sold the gun,
9 correct?
- 10 A Yes, later, through investigation, the other co-
11 defendant in this case told us that he sold the gun to a
12 Mexican who testified on yesterday.
- 13 Q So again, the facts that Joseph gave are incorrect?
- 14 A That's correct.
- 15 Q Agent Cone testified that Joseph revealed that Danny
16 Bennett found his mother's body, correct?
- 17 A Yes, ma'am, that is correct.
- 18 Q But he told you that Danny Bennett sent him to retrieve
19 drugs, correct?
- 20 A Yes, he did.
- 21 Q And he also told you that Joseph Barnes was involved
22 with his mother's death, correct?
- 23 A Yes, he did mention a Barnes' subject name.
- 24 Q But then he told you that Joseph Barnes sent him to
25 collect \$15,000, correct?

1 A That's correct.

2 Q Now, the State offered into evidence a trash can with
3 one carton of cigarettes yesterday, correct?

4 A Yes, ma'am, I believe so.

5 Q Was that carton tested for fingerprints?

6 A I'm not sure. I would have to look at the crime scene
7 log to see if they actually retrieved that. I'm not sure if
8 they did or not.

9 Q And the statement read into evidence yesterday, the
10 statement of Shawn Davis, indicated that he took one pack of
11 cigarettes, correct?

12 A One pack of cigarettes and, I believe, a cigar.

13 Q And at the crime scene, there were several packs of
14 cigarettes on the counter where the cash register was,
15 correct?

16 A That was correct.

17 Q But they only took one pack of cigarettes?

18 A According to them, they said they only took one pack of
19 cigarettes, which we would have no way of knowing.

20 Q Could you -- you can't verify that anything was taken
21 from the store, can you?

22 A No, I can't. Just going by totally what the defendants
23 in this case said.

24 Q So without Shawn Davis or Derrick Adkins telling you
25 that they took a pack of cigarettes, you would not know

1 whether anything was taken from that store, would you?

2 A I would not, no, ma'am.

3 Q You don't even know whether or not they were invited
4 into the store that night, do you?

5 A Well, we assume he wasn't invited because ---

6 Q No, you can't assume. You don't know that he wasn't
7 invited into that store, do you?

8 A I don't think nobody would know that.

9 Q You don't know whether the store was closed, do you?

10 A No, ma'am.

11 Q Isn't it customary that when an officer writes a
12 statement for a witness or a suspect, the first line of that
13 statement should read, "I requested this officer to write
14 this statement on my behalf"?

15 A That depends on the officer. Every officer who
16 investigates cases and writes statements are different.

17 Q When an officer writes a statement for a suspect and it
18 doesn't include that that statement is being written, it
19 appears as if the suspect wrote the statement, correct?

20 A Can you repeat that again, please?

21 Q When a statement is written, "I, Shawn Davis, did
22 this." "I, Shawn Davis, did that." There's no language
23 indicating that the statement was written by an officer, the
24 reader would believe that Shawn Davis wrote the statement,
25 correct?

1 A I'm not sure what you're trying to get to, but it was
2 his statement that Officer Solomon wrote for the defendant,
3 Shawn Davis.

4 Q Now, you indicated that no promises were made to
5 Joseph?

6 A Yes, ma'am, I did.

7 Q Agent Cone indicated that he did tell Joseph he would
8 reopen his mother's murder investigation, correct?

9 A Yes, ma'am, he did.

10 Q But you didn't hear that?

11 A Yes, I heard what he said. But no promises were made
12 towards the defendant to get him to admit his guilt.

13 Q You didn't consider that a promise?

14 A No, that wasn't a promise. That had something separate

15 ---

16 THE COURT: Yes, sir? Just a moment.

17 DEP. SOLICITOR THORNTON: Objection, Your Honor.

18 That's two times now she's interrupted him halfway through
19 an answer.

20 THE COURT: Counsel, I've warned you now, please. I'm
21 not going to warn you again. Let the witness finish his
22 answers before you interrupt with another question.

23 Objection is sustained. Proceed.

24 MS. SMART-GITTINGS: Court's indulgence, Your Honor.

25 THE COURT: Yes, ma'am.

Redirect Examination of Captain Anthony Russell by Dep. Sol. Thornton
Recross Examination of Captain Anthony Russell by Ms. Smart-Gittings

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1 **MS. SMART-GITTINGS:** I don't have any other
2 questions, Your Honor.

3 **THE COURT:** Redirect?

4 **REDIRECT EXAMINATION**

5 **DEP. SOLICITOR THORNTON:**

6 **Q** Captain Russell, would you expect to find fingerprints
7 at a crime scene if the defendants were wearing latex
8 gloves?

9 **A** No, sir, not at all.

10 **Q** Thank you.

11 **THE COURT:** Anything further?

12 **DEP. SOLICITOR THORNTON:** Your Honor, I apologize. No
13 further questions for this witness.

14 **THE COURT:** Recross, limited to redirect, counsel.

15 **RECROSS-EXAMINATION**

16 **MS. SMART-GITTINGS:**

17 **Q** Shawn Davis didn't say he was wearing gloves, did he?

18 **A** No, his brother did.

19 **Q** But Shawn wasn't wearing gloves?

20 **A** I'm not sure. His brother said they were all wearing
21 latex gloves.

22 **THE COURT:** As to this witness, Solicitor?

23 **DEP. SOLICITOR THORNTON:** Ask that he be allowed to
24 step back and join us back at counsel table, Your Honor.

25 **THE COURT:** You may step down. You can remain with us.

1 Call your next witness.

2 **DEP. SOLICITOR THORNTON:** Your Honor, at this time, the
3 State rests.

4 **THE COURT:** Very well. Are there any matters of law
5 that I need to take up?

6 **MS. SMART-GITTINGS:** Yes, Your Honor.

7 **THE COURT:** Very well. Madame Foreperson, ladies and
8 gentlemen of the jury, I need to take up a matter of law. I
9 hope that I won't be long. Please do not discuss the case.
10 You have not heard all the evidence in the case. It would
11 be improper for you to discuss it amongst yourselves or with
12 anyone else. I'll be right back with you as quick as I can.
13 Please retire to your jury room.

14 (10:30 A.M., 06-29-11, WHEREUPON, THE JURY EXITS THE
15 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
16 RECORD.)

17 **THE COURT:** Ms. Smart-Gittings?

18 **MS. SMART-GITTINGS:** May it please the Court, Your
19 Honor?

20 **THE COURT:** Come on up to my microphone if you would
21 for the court reporter and for the judge.

22 **MS. SMART-GITTINGS:** The defense moves for a directed
23 verdict and that the State has not met the elements for
24 burglary second, murder, and armed robbery, Your Honor.

25 **THE COURT:** Very well. Mr. Thornton?

1 **DEP. SOLICITOR THORNTON:** Thank you, Your Honor. Your
2 Honor, it's the State's position that the State has
3 presented enough evidence when taken in the light most
4 favorable to the State, which I believe is the standard,
5 Your Honor, that there is evidence as to each element. Your
6 Honor, as to the murder, it's the unlawful killing of
7 another, of course, with malice aforethought. Clearly, the
8 defendant's own statement, along with the statements that
9 are in the evidence from co-defendants would indicate that
10 he shot Ronnie Wooten in the face with a 22 caliber pistol.
11 We've had medical testimony that that's what caused his
12 death. Your Honor, as to the burglary in the second degree,
13 although counsel did point out that you have no way of
14 knowing whether someone invited them in or not, you never
15 have that, Judge, in a case where the store owner or the
16 home owner is killed.

17 **THE COURT:** Let me ask you this, what testimony is
18 there that this is a dwelling?

19 **DEP. SOLICITOR THORNTON:** Your Honor, it wouldn't be a
20 dwelling. There was testimony that it's a store and this
21 was at night and the defendant was armed with a gun. All of
22 which would make this a burglary in the second degree,
23 violent.

24 **THE COURT:** Which is the reason that it's second
25 degree?

1 **DEP. SOLICITOR THORNTON:** Yes, sir.

2 **THE COURT:** And as to armed robbery?

3 **DEP. SOLICITOR THORNTON:** As to armed robbery, Your
4 Honor, clearly there is testimony from Joseph Davis, there's
5 a statement from Shawn Davis, and a statement from Derrick
6 Adkins, altogether, that at least a pack, if not more,
7 cigarettes and cigars were taken, and they both all confirm
8 that. I realize that it's not the robbery of the century,
9 Judge, but I don't think they ought to get credit for not
10 thoroughly searching Ronnie Wooten's dead body. The fact is
11 they removed things from the store and the State submits,
12 Judge, that we have met the burden, at least as to this
13 point, to get it to the jury.

14 **THE COURT:** Ms. Smart-Gittings, you recognize the
15 standard that the Court has to use at the directed verdict
16 stage. Your motions for directed verdict are respectfully
17 denied. I'd ask that you and your client come around and be
18 sworn by the Clerk of Court at this time.

19 WHEREUPON, DEFENDANT MR. JOSEPH DAVIS, IS DULY SWORN.

20 **THE COURT:** All right. State your full name for me for
21 the record.

22 **MR. DAVIS:** Joseph Davis.

23 **THE COURT:** Mr. Davis, at this time, I'm going to
24 explain to you certain of your rights. If you do not
25 understand anything that I say, please let me know. If you

1 want me to explain anything in further detail, please let me
2 know. Do you understand?

3 MR. DAVIS: Yes, sir.

4 THE COURT: We've now reached the stage of the trial
5 where you may present your defense. You have the right to
6 testify in your own behalf. However, no one, no one can
7 make you testify. In the event you have a record for any
8 conviction involving dishonesty, or false statement, or for
9 a crime punishable by imprisonment for more than one year,
10 and this Court determines as a matter of law that the
11 probative value of admitting this evidence outweighs its
12 prejudicial effect to you, the Solicitor would be able to
13 introduce this record for impeachment purposes to attack
14 your credibility or your believability. If you elect not to
15 take the witness stand, I will charge the jury that they are
16 not to give the fact that you did not testify any
17 consideration whatsoever and there is to be absolutely no
18 prejudice to you because you did not testify. You have a
19 constitutional right to remain silent. The decision as to
20 whether or not you testify in this case will be left
21 entirely up to you. You may talk with your attorney, but
22 the ultimate decision will be left entirely up to you as to
23 whether or not you wish to testify in the trial of this
24 case. Have you understood what I've just told you?

25 MR. DAVIS: Yes, sir.

1 **THE COURT:** Solicitor, does he have any prior record?

2 **DEP. SOLICITOR THORNTON:** He does, Your Honor. The one
3 that I believe would be relevant in this case would be a --
4 or actually two, Judge. There is a 2005 grand larceny
5 conviction, which of course would carry a ---

6 **THE COURT:** Carries more than one year and it's within
7 ten years, as Ms. Smart-Gittings well knows.

8 **DEP. SOLICITOR THORNTON:** And a 2008 grand larceny
9 conviction.

10 **THE COURT:** And it also involved dishonesty.

11 **DEP. SOLICITOR THORNTON:** Yes, sir.

12 **THE COURT:** All right. So there are two prior
13 convictions. Ms. Smart-Gittings, I know you're aware of his
14 record?

15 **MS. SMART-GITTINGS:** Yes, sir.

16 **THE COURT:** And you understand that both of those would
17 be subject to the rule that I've explained to him?

18 **MS. SMART-GITTINGS:** Yes, sir, Your Honor.

19 **THE COURT:** Since it's now 10:40, I'll give you a
20 minute and give everyone a mid-morning break while the jury
21 is out for you to talk to your client. We will come back
22 and I will expect your client to tell me his decision as to
23 whether or not he wishes to testify in the trial of this
24 case; you understand?

25 **MS. SMART-GITTINGS:** Yes, sir, Your Honor.

1 **THE COURT:** Very well. We'll take a ten minute recess.

2 (OFF THE RECORD FROM 10:40 A.M. - 11:15 A.M.)

3 **THE COURT:** Is the State ready to proceed?

4 **DEP. SOLICITOR THORNTON:** The State's ready, Judge.

5 **THE COURT:** Is the defendant ready to proceed?

6 **MS. SMART-GITTINGS:** I need a few more minutes, Judge,
7 if I may.

8 **THE COURT:** I've got a jury waiting, now, counsel.
9 I've given you twenty-five minutes. I know that I kept you
10 in the office for fifteen of those, but I wanted you to go
11 over the charge.

12 (OFF THE RECORD FROM 11:15 A.M. - 11:18 A.M.)

13 **THE COURT:** All right. Ms. Smart-Gittings, it's time
14 to proceed. You and the defendant come around, please.

15 Mr. Davis, earlier I placed you under oath; do you
16 recall?

17 **MR. DAVIS:** Yes, sir.

18 **THE COURT:** And I explained to you certain of your
19 rights concerning testifying in this case and you told me
20 that you understood what I explained to you; is that
21 correct?

22 **MR. DAVIS:** Yes, sir.

23 **THE COURT:** All right, sir. I ask you, now, do you
24 wish to testify in the trial of this case?

25 **MR. DAVIS:** No, sir.

1 **THE COURT:** Is that your decision?

2 **MR. DAVIS:** Yes, sir.

3 **THE COURT:** And that's nobody else's decision, but
4 yours; do you understand that?

5 **MR. DAVIS:** It's my decision.

6 **THE COURT:** Nobody forced you into that decision?

7 **MR. DAVIS:** No, sir.

8 **THE COURT:** And that's solely your decision?

9 **MR. DAVIS:** Yes, sir.

10 **THE COURT:** Thank you very much. You may return to
11 your seat with your attorney.

12 Is the defendant ready to proceed, Ms. Smart-Gittings?

13 **MS. SMART-GITTINGS:** We are, Your Honor.

14 **THE COURT:** Very well. Bring us the jury.

15 (11:20 A.M., 06-29-11, WHEREUPON, THE JURY ENTERS THE
16 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
17 RECORD.)

18 **THE COURT:** Madame Foreperson, ladies and gentlemen of
19 the jury, you've heard the evidence from the State of South
20 Carolina. We will now hear from the defendant. Ms. Smart-
21 Gittings, you may call your first witness.

22 **MS. SMART-GITTINGS:** Ms. Julia Davis.

23 WHEREUPON, MS. JULIA DAVIS ENTERS THE COURTROOM AND IS
24 DULY SWORN.

25 **THE COURT:** Speak into my microphone. If you would

Direct Examination of Ms. Julia Davis by Ms. Smart-Gittings

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1 begin, please, ma'am, by stating your full name and spelling
2 your last name.

3 MRS. DAVIS: Okay. My name is Julia Mae Davis, D-A-V-
4 I-S, Davis.

5 THE COURT: Your witness, counsel.

6 DIRECT EXAMINATION

7 BY MS. SMART-GITTINGS:

8 Q Good morning, Ms. Davis.

9 A Good morning.

10 Q Where do you live?

11 A In Estill, South Carolina.

12 Q Do you know Joseph Davis?

13 A Uh-huh.

14 THE COURT: You've got to say "yes" or "no".

15 A Yes.

16 Q How do you know him?

17 A That's my grandson.

18 Q That's your grandson?

19 A Uh-huh.

20 THE COURT: You have to say "yes" or "no". You can't
21 say uh-huh.

22 A I'm sorry.

23 Q Do you know Shawn Davis?

24 A My grandson.

25 Q How is he your grandson?

1 A That's my daughter's children.

2 Q And what is your daughter's name?

3 A Phoebe Ann Patterson.

4 Q When was the last time you spoke to Joseph?

5 A It was a long time.

6 Q When was the last time you spoke to Shawn?

7 A It's a long time. It's a good while because he is in
8 trouble. He up the road. I see Joseph, but I ain't talk to
9 him.

10 Q What, if any, law enforcement officers do you know in
11 this courtroom?

12 A I know Bubba.

13 Q And when you say "Bubba", can you point to Bubba?

14 A Right there.

15 MS. SMART-GITTINGS: Let the record reflect that Ms.
16 Davis is pointing to Captain Russell.

17 Q How do you know Bubba?

18 A Well, our children most come up along with him. Been
19 knowing his parents for years. I always did call him Bubba.

20 Q What, if anything, do you know about this case?

21 A Well, they had sent -- he had gone over here to
22 Varnville to the ---

23 DEP. SOLICITOR THORNTON: Objection, Your Honor.

24 THE COURT: Counsel approach.

25 (WHEREUPON, A BENCH CONFERENCE IS HELD OUT OF THE

1 HEARING OF THE JURY.)

2 THE COURT: The objection is sustained. Ms. Davis, let
3 me tell you about our rules in the courtroom. You cannot
4 testify to what somebody else said. You began with "they
5 said." Let me warn you that the reason I'm sustaining the
6 objection is because of that. We call that hearsay and we
7 don't allow that in the courtroom. Unless I ask you to tell
8 as an exception to one of our rules -- unless I, as the
9 Judge, ask you to talk about what somebody else said, you're
10 not permitted to testify as to what anyone else said. Do
11 you understand that?

12 MS. DAVIS: Okay.

13 THE COURT: Now, I'm going to have Ms. Smart-Gittings
14 rephrase her question so that she doesn't elicit from you
15 what someone else said, but only what you know of your own
16 knowledge. What you saw with your eyes, not what you heard
17 with your ears.

18 MRS. DAVIS: Yes, sir. I was just saying what they
19 told me.

20 THE COURT: But you can't testify to what somebody told
21 you. All right. The objection is sustained. Direct
22 Examination, ask a question, counsel.

23 Q When you went to the place in Varnville, who was there?

24 A I have to read it on the card, who gave me the card.

25 It was J. J. Evans. I can't pronounce it good, but it's J.

1 J. E-V-A-N-S, and S. A. Teddy Cone, and Bubba.

2 Q Did they talk to you about Joseph?

3 A They did. Told me and my daughters that they was going
4 to open up the case.

5 THE COURT: No, ma'am. Hold on. Let her ask a
6 question. Go ahead.

7 Q Did they tell you -- what did ---

8 THE COURT: I'll permit her ---

9 DEP. SOLICITOR THORNTON: I was going to say, Judge,
10 the State will allow her to lead. We realize this is a
11 little difficult.

12 THE COURT: Very well. I'll permit you, I was going to
13 say before counsel conceded, I'll permit you to ask a
14 leading question in this one area on direct examination,
15 counsel.

16 Q Did they make any promises to you?

17 A Say they promise Joseph they was gonna open my
18 daughter's case up, but we ain't never did hear no more from
19 it.

20 Q Do you have -- did you talk to them anymore after that
21 day?

22 A Unh-unh.

23 THE COURT: You have to say "yes" or "no".

24 A No.

25 Q Did they come to your house?

Direct Examination of Ms. Julia Davis by Ms. Smart-Gittings

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- 1 A No. They never did been to my house.
- 2 Q How many times did you see them?
- 3 A Once.
- 4 Q I don't have any other questions. Thank you.
- 5 A You're welcome.
- 6 MS. SMART-GITTINGS: Wait a minute.
- 7 THE COURT: Stay right there.
- 8 MRS. DAVIS: All right.
- 9 THE COURT: Cross-examination?
- 10 DEP. SOLICITOR THORNTON: No questions, Judge.
- 11 THE COURT: As to this witness, Ms. Smart-Gittings?
- 12 MS. SMART-GITTINGS: I ask that she be excused, Your
- 13 Honor.
- 14 THE COURT: Any objection to this witness being
- 15 excused, Mr. Thornton?
- 16 DEP. SOLICITOR THORNTON: No, sir.
- 17 THE COURT: Mrs. Davis, you may step down and you're
- 18 excused from the trial of this case. You may leave the
- 19 courtroom at this time or you may remain with us as you
- 20 desire.
- 21 Call your next witness, Ms. Smart-Gittings.
- 22 MS. SMART-GITTINGS: Vermill Morris.
- 23 WHEREUPON, MS. VERMILL MORRIS ENTERS THE COURTROOM AND
- 24 IS DULY SWORN.
- 25 THE COURT: Counsel approach.

1 (WHEREUPON, A BENCH CONFERENCE IS HELD OUT OF THE
2 HEARING OF THE JURY.)

3 THE COURT: Adjust that microphone. It's going to
4 amplify your voice. If you'll speak into that. Speak up so
5 my jurors on the back row can hear you. State your full
6 name and spell your last name for my court reporter.

7 MR. DAVIS: Vermill Morris, M-O-R-R-I-S.

8 THE COURT: Your witness, counsel.

9 DIRECT EXAMINATION

10 MS. SMART-GITTINGS:

11 Q Good morning, Ms. Morris. Where do you live?

12 A In Estill.

13 Q Do you know Julia Davis?

14 A My mother.

15 Q Do you know Joseph Davis?

16 A My nephew.

17 Q Do you know Shawn Davis?

18 A My nephew.

19 Q How are they your nephews?

20 A My sister's children.

21 Q When was the last time you spoke with Joseph?

22 A I ain't spoke to him since he went to jail.

23 Q What about Shawn?

24 A No.

25 Q Do you recognize any law enforcement officers in the

Direct Examination of Ms. Vermill Morris by Ms. Smart-Gittings

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- 1 courtroom?
- 2 A (Looks around courtroom.) Maybe, no. Singleton.
- 3 Q Oh, you know Officer Singleton?
- 4 A Uh-huh.
- 5 THE COURT: You have to sit back down and use that
- 6 microphone.
- 7 A Oh, okay. Singleton and Anthony.
- 8 Q How do you know Anthony?
- 9 A Oh, I been know him since a long time.
- 10 Q A long time?
- 11 A Uh-huh.
- 12 Q Did you ever talk to Anthony about this case?
- 13 A Well, we talked in Varnville.
- 14 Q Where did you go in Varnville?
- 15 A I don't know if that's his office. It's a place in
- 16 Varnville over there by the bank.
- 17 Q And why did you go over there?
- 18 A Because he called my aunt and my aunt called me and
- 19 said ---
- 20 Q Don't tell us what somebody said.
- 21 A Oh, okay. My aunt told me my mother that ---
- 22 THE COURT: You can't testify to what someone else
- 23 said. Let counsel ---
- 24 A Well, they called ---
- 25 THE COURT: Hold on a second. Let counsel ask you a

1 question. It's direct examination. Proceed counsel. Ask a
2 direct question.

3 Q You went to Varnville?

4 A I went to Varnville.

5 Q To see Anthony?

6 A To see Anthony.

7 Q Was anybody else there?

8 A Was two white guys.

9 Q Can you describe them?

10 A I think one was taller than the other.

11 Q Do you remember when that was?

12 A No.

13 Q Why did you go?

14 A We went over there for my sister's case.

15 Q When you say your "sister's case", who is your sister?

16 A Phoebe, Joseph's mother.

17 Q So why did you go there for the case?

18 A They was gonna open it up.

19 Q Did they?

20 A We ain't never heard nothing after that.

21 MS. SMART-GITTINGS: I don't have any other questions.

22 THE COURT: Cross-examination?

23 DEP. SOLICITOR THORNTON: Briefly, Your Honor.

24 CROSS-EXAMINATION

25 DEP. SOLICITOR THORNTON:

Cross Examination of Ms. Vermill Morris by Dep. Sol. Thornton
Redirect Examination of Ms. Vermill Morris by Ms. Smart-Gittings

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- 1 Q Ma'am, you said Joseph Davis is your nephew?
- 2 A Yes.
- 3 Q And Shawn Davis is your nephew, also?
- 4 A Yes.
- 5 Q Were you present when Joseph Davis confessed to the
- 6 murder of Ronnie Wooten?
- 7 A No.
- 8 Q Were you present when Shawn Davis, your other nephew,
- 9 confessed to his involvement in the murder of Ronnie Wooten?
- 10 A No.
- 11 Q Thank you.
- 12 DEP. SOLICITOR THORNTON: Nothing further, Judge.
- 13 THE COURT: Redirect?
- 14 REDIRECT EXAMINATION
- 15 MS. SMART-GITTINGS:
- 16 Q Why did the officers call you up there?
- 17 A Why they call us up there?
- 18 Q Yes.
- 19 A To open that case up.
- 20 Q Well, why would they open the case up?
- 21 A They promised Joseph that they was gonna open their
- 22 mother's case.
- 23 Q Okay.
- 24 MS. SMART-GITTINGS: No further questions.
- 25 THE COURT: Recross, limited to redirect?

25 **A** Hampton County Detention Center.

Direct Examination of Ms. Pecolia Mungin by Ms. Smart-Gittings

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- 1 Q And how long have you worked there?
- 2 A A little over two years.
- 3 Q What is your job at the detention center?
- 4 A I'm a nurse there.
- 5 Q And in order to be a nurse, what did you have to do?
- 6 A I went to school and I had to pass the State Board of
- 7 Nursing.
- 8 Q How long did you go to school?
- 9 A Two years.
- 10 Q And you said you passed the State Board?
- 11 A Correct.
- 12 Q What type of nurse are you?
- 13 A I'm an LPN.
- 14 Q And as an LPN, what are your duties?
- 15 A I carry out the doctor's orders. I will package
- 16 medication. I will see inmates if they have a sick call and
- 17 I will address their issues and refer them to whatever they
- 18 may need.
- 19 Q But you don't write prescriptions, do you?
- 20 A No, ma'am.
- 21 Q Are you responsible for prescriptions?
- 22 A Can you explain that?
- 23 Q Do you -- do you provide medication?
- 24 A I will order (sic) the medication that's been ordered
- 25 by a licensed personnel.

1 Q Do you have any training to dispense medication?

2 A Yes, ma'am, I do.

3 Q And can you explain to the Court what training that is?

4 A In nursing, we have pharmaceutical classes.

5 Q So you learned about different types of drugs?

6 A Correct.

7 MS. SMART-GITTINGS: I would like to offer Nurse Mungin
8 as an expert in the field of nursing.

9 THE COURT: Any objection as to nursing?

10 DEP. SOLICITOR THORNTON: I have an objection, Judge.
11 I think she would certainly be qualified.

12 THE COURT: I will permit you to cross-examine at this
13 point on qualifications.

14 CROSS-EXAMINATION

15 DEP. SOLICITOR THORNTON:

16 Q Ma'am, you said earlier that you are an LPN?

17 A Correct.

18 Q So you're -- if you were going to be qualified as an
19 expert, it would be as an LPN and not just nursing in
20 general, correct?

21 A Right.

22 Q In other words, there are things that an RN does that
23 you're not supposed to do, correct?

24 A Exactly.

25 Q Okay.

Direct Examination of Ms. Pecolia Mungin by Ms. Smart-Gittings

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1 **DEP. SOLICITOR THORNTON:** Your Honor, I have no
2 objection to her being qualified as an expert as to the
3 nursing duties of an LPN.

4 **THE COURT:** Counsel, as to an LPN; is that what you
5 want to qualify her in?

6 **MS. SMART-GITTINGS:** Yes, sir, Your Honor.

7 **THE COURT:** In that case, without objection, as an LPN,
8 Licensed Practical Nurse. You may proceed.

9 **DIRECT EXAMINATION CONTINUED:**

10 **Q** Do you know Joseph Davis?

11 **A** Yes, ma'am, I do.

12 **Q** And how do you know him?

13 **A** He's an inmate at the facility where I work.

14 **Q** Do you know him in the course of your duties?

15 **A** Yes, ma'am, he has been in my office on several
16 occasions.

17 **Q** Do you know if he takes any types of medication?

18 **A** Currently, no, ma'am, he's not.

19 **Q** Have you ever dispensed any medication to him?

20 **A** Yes, ma'am, I have.

21 **Q** Do you recall what medication you dispensed to him?

22 **A** He has been on some psychotropic medications. He's
23 been on antibiotics. He's been on cold medications.

24 **Q** What is a psychotropic medication?

25 **A** It's used in any type of psychological dysfunctions

1 that a doctor may feel that he may benefit from.

2 Q Do you recall when he might -- when you dispensed
3 psychotropic medication to him?

4 A It was in '08, he was on that medication.

5 Q What's the name of that medication?

6 A Thorazine.

7 Q Did you examine him in '08 regarding these types of
8 medications?

9 A When I initially saw him in '08, he was on that
10 medication and I just continued the medicine that he was on.
11 I see them if there are some issues or something that need
12 to be addressed or followed up.

13 Q Did he come to you with any issues?

14 A Yes, ma'am, he did.

15 Q Can you tell us what those issues were?

16 A He told me that he continued to hear voices. He was
17 having difficulty sleeping and he just elaborated that he
18 was having flashbacks of seeing his mother after she was
19 killed.

20 Q And as a result of that, what did you do?

21 A I referred him back to mental health.

22 Q I don't have any other questions, Nurse Mungin. Thank
23 you.

24 THE COURT: Cross-examination?

25 DEP. SOLICITOR THORNTON: Thank you, Your Honor.

Cross Examination of Ms. Pecolia Mungin by Dep. Sol. Thornton

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CROSS-EXAMINATION

1

2 **DEP. SOLICITOR THORNTON:**

2

3 **Q** Ma'am, just a couple of quick questions. When in '08
4 did you see him? Was it early in the year or late?5 **A** It was late in the year.6 **Q** Do you recall if it was about October or November of
7 that year?8 **A** Yes, sir, it was about that time.9 **Q** Okay. And is it unusual for inmates in the jail to
10 come to you with problems?11 **A** No, sir, it is not.12 **Q** And you said that currently Mr. Davis is not on any
13 medication; is that correct?14 **A** Correct.15 **Q** Thank you.16 **DEP. SOLICITOR THORNTON:** I have nothing further,
17 Judge.18 **THE COURT:** Redirect?19 **REDIRECT EXAMINATION**20 **MS. SMART-GITTINGS:**21 **Q** You said he came to you in October of '08?22 **A** (Looks through notes.) November.23 **Q** In November? Was that the first time that he was on
24 that medication?25 **A** I have no idea, ma'am. He was at another facility and

1 that is when I initially saw Mr. Davis, about that time.Q

2 Did you know whether or not he was on that medication
3 when he came to Hampton?

4 A I have to assume, but I really don't know. That's how
5 the prescription came.

6 Q Okay. Thank you. I'm sorry, he came with that
7 prescription?

8 A Yes, ma'am, he did.

9 THE COURT: Recross, limited to redirect?

10 DEP. SOLICITOR THORNTON: Nothing, Your Honor. Thank
11 you.

12 THE COURT: As to this witness, Ms. Smart-Gittings?

13 MS. SMART-GITTINGS: May she be excused, Your Honor?

14 THE COURT: Any objection to this witness being
15 excused?

16 DEP. SOLICITOR THORNTON: No, sir.

17 THE COURT: You may step down from the witness stand
18 and you're excused from the trial of this case and you may
19 leave the courtroom or remain with us as you desire.

20 Call your next witness.

21 MS. SMART-GITTINGS: Gordon Rhoden.

22 WHEREUPON, MR. GORDON RHODEN ENTERS THE COURTROOM AND
23 IS DULY SWORN.

24 THE COURT: Have a seat. Make yourself comfortable.

25 Pull that chair up to my microphone. If you would begin by

Direct Examination of Mr. Gordon Rhoden by Ms. Smart-Gittings

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1 stating your full name and spelling your last name for the
2 court reporter, please.

3 **WITNESS:** Gordon L. Rhoden, Sr. R-H-O-D-E-N.

4 **THE COURT:** Thank you. Your witness, counsel. Direct
5 Examination.

6 **DIRECT EXAMINATION**

7 **MS. SMART-GITTINGS:**

8 **Q** Where do you live, Mr. Rhoden?

9 **A** I live in Varnville.

10 **Q** Is that in Hampton County?

11 **A** It is.

12 **Q** What is your educational background?

13 **A** I graduated from high school in Walterboro in 1966, and
14 went on to mortuary school. I went to Cincinnati College of
15 Mortuary Science.

16 **Q** What is your profession?

17 **A** I'm a funeral director and served as Coroner for
18 Hampton County for 32 years.

19 **Q** Thirty-two years? What is your experience of being a
20 coroner.

21 **A** Well, through the years, the state enacted continuing
22 education requirements for the coroners throughout the state
23 and of course we've continued to keep up with the continuing
24 education year in and year out, and many, many seminars
25 throughout the years that the state has provided for us.

1 Q And what is your job description -- what was your job
2 description as coroner?

3 A Well, I had fulltime responsibility of investigating
4 any deaths that occurred within the county, outside of a
5 hospital setting or nursing home facility, and occasionally,
6 even in those facilities, we were called to investigate
7 deaths.

8 Q Were you called to the Lena Store in June of '07?

9 A I was.

10 Q And did you prepare a report as a result of that
11 investigation?

12 A I did.

13 Q Did you bring that report with you?

14 A I did.

15 Q In your report ---

16 THE COURT: Are you going to ask him to refer to it in
17 your questioning?

18 Q Do you need to refer to -- do you know what time, if
19 any, the time of death?

20 A I think we -- Mr. Wooten was found Sunday morning at
21 approximately 3:00 a.m., but we actually estimated the time
22 of death that Saturday night, which I think was the 23rd, at
23 approximately 9:00 p.m. That was the estimated time of
24 death.

25 Q And do you recall what, if anything, was found in Mr.

1 Wooten's pocket?

2 A Well, there were numerous articles there at the scene
3 of the incident that belonged to Mr. Wooten. And again,
4 when the body was moved after the scene investigation,
5 earlier that Sunday morning, nothing was bothered at the
6 scene until a complete scene investigation was conducted,
7 and we waited, of course, on the South Carolina Law
8 Enforcement Division to come down from Columbia. So, of
9 course, all of that took time as well. But we did not
10 disturb anything until they arrived at the scene. Then,
11 after the body was moved, after the scene investigation,
12 then the money that was on Mr. Wooten was documented.

13 Q So there was money found on Mr. Wooten?

14 A That's correct. I think it was in his left pants
15 pocket.

16 Q Thank you. No further questions.

17 THE COURT: Cross-examination?

18 DEP. SOLICITOR THORNTON: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 DEP. SOLICITOR THORNTON:

21 Q Mr. Rhoden, let me ask you a quick question. And I
22 think this may be referenced in your report, just in case
23 you need to refer back to it. Mr. Wooten was found on his
24 left side, laying on his left side; is that correct?

25 A That's correct.

1 Q And his right pant's pocket had actually been turned
2 inside out and there were papers all over the floor that
3 appeared to have been pulled out of that pocket; is that
4 correct?

5 A That's correct.

6 Q His wallet had also looked like it had been pulled out
7 and gone through; is that correct?

8 A Yes, sir.

9 Q Now, when you give a time of death, Mr. Rhoden, you as
10 the coroner are giving an estimate; is that correct?

11 A That's correct.

12 Q All right. And some of that is actually based on what
13 they call historical data; is that correct?

14 A That's correct.

15 Q And historical data in a case like this may be what
16 other people on scene informed you; like, for instance, if
17 Mr. Wooten's brother was on scene and said, "Well, I last
18 saw him at such and such," then you would try to take that
19 time into account; would you not?

20 A That's correct, but we do rely on other information as
21 well.

22 Q Understood, sir, but that's why it's not a set in stone
23 time; is that correct?

24 A Yes, sir.

25 Q Would it be important for you to, sir, if after you had

1 looked into this matter when you were coroner, if you found
2 out that you had multiple people confessing and a defendant
3 that confessed and said he thought it was around 10 or
4 10:30, might that factor into your decision?

5 A Well, primarily, we rely heavily on the forensic
6 department at the Medical University that conducts
7 autopsies, and the condition of the body, also, really plays
8 an important role in determining the time of death.

9 Q I understand, sir. So, you would not be the one who
10 would be the final authority on any kind of time of death or
11 anything like that?

12 A Exactly. It's hard to pinpoint an exact time down to
13 the minute. We have to give an approximate time of death.
14 Again, from the information that we receive at the scene,
15 and primarily, a lot of that comes again from the condition
16 of the body.

17 Q Yes, sir.

18 A It was very, very hot. The store was, you know, not
19 air conditioned. It was just extremely warm. And again,
20 even in the autopsy report, it shows that and states that
21 the body showed early signs of decomposition.

22 Q Right, and that autopsy actually had to be delayed a
23 day, anyway; is that correct?

24 A Yes, sir. When we moved him from the scene, though, of
25 course, we brought him to the morgue here at the Hampton

1 Hospital, placed him in the morgue. So, of course, the body
2 was refrigerated at that point.

3 Q Yes, sir.

4 A And that, of course, hinders and slows down that
5 process, once that body is refrigerated.

6 Q Thank you very much, sir. I have no further questions.

7 THE COURT: Redirect?

8 MS. SMART-GITTINGS: None, Your Honor.

9 THE COURT: As to this witness, Ms. Smart-Gittings?

10 MS. SMART-GITTINGS: May he be excused, Your Honor?

11 THE COURT: Any objection, Solicitor?

12 DEP. SOLICITOR THORNTON: Without objection. Thank
13 you, sir.

14 THE COURT: Mr. Rhoden, you may step down and you are
15 excused from the trial of this case. Have a great day.

16 MR. RHODEN: Thank you, sir.

17 THE COURT: Call your next witness.

18 MS. SMART-GITTINGS: David Freeman.

19 WHEREUPON, DAVID FREEMAN ENTERS THE COURTROOM AND IS
20 DULY SWORN.

21 THE COURT: Have a seat. Make yourself comfortable.
22 Pull that microphone over to you. It's going to amplify
23 your voice. If you would begin by stating your full name
24 for the record and spell your last name for my court
25 reporter.

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1 **MR. FREEMAN:** David Madison Freeman, F-R-E-E-M-A-N.

2 **THE COURT:** Your witness, counsel.

3 **DIRECT EXAMINATION**

4 **MS. SMART-GITTINGS:**

5 **Q** Good morning, Mr. Freeman. Where are you from ?

6 **A** Yemassee, South Carolina.

7 **Q** How long have you lived there?

8 **A** For the past six months.

9 **Q** Where did you live prior to that?

10 **A** Brunson, South Carolina.

11 **Q** Now, is this the first time that you've ever been in
12 Court?

13 **A** No, ma'am.

14 **Q** When have you been in Court before?

15 **A** Several times for forgery, grand larceny, burglary.

16 **Q** Do you know Mr. Ronnie Wooten?

17 **A** I have known him in the past, Yes, ma'am.

18 **Q** And do you know anything about Mr. Ronnie Wooten's
19 case?

20 **A** No, ma'am.

21 **Q** Did you ever talk to anyone about Mr. Ronnie Wooten's
22 case?

23 **A** Just the detectives at the Hampton County Sheriff's
24 Department.

25 **Q** And why did you talk to them?

1 A They tried to say that I had something to do with this
2 murder.

3 Q And you said they "tried to say". Were you charged
4 with it?

5 A Yes, ma'am.

6 Q Why were you charged with it? Do you know?

7 A They tried to coerce me and a co-defendant to say we
8 had done it.

9 Q And when you say "they", who is they?

10 A Detective Chauncey Solomon and Anthony Russell.

11 Q And when you say they tried to coerce you to say that
12 you
13 did it; what do you mean by that?

14 A They coerced my co-defendant.

15 Q Well, you can't tell me what they said to anybody else.
16 Tell me about your case.

17 A Okay. They just tried to implicate me in the crime.
18 They tried to get me to admit; you know, pretty much,
19 confess.

20 Q Did you confess?

21 A No, ma'am.

22 Q Did you spend any time in jail?

23 A Yes, ma'am.

24 Q How much time did you stay in jail for this?

25 A I believe I was charged almost three years for the

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- 1 crime.
- 2 Q But how long did you stay in jail on this charge?
- 3 A I was in jail the whole time.
- 4 Q And who else do you know was charged with you?
- 5 A James Carter and Jeffrey Warren.
- 6 Q Do you know Otis Deloach?
- 7 A No, ma'am.
- 8 Q Do you know Jeffrey Warren?
- 9 A No, ma'am.
- 10 Q James Carter?
- 11 A Yes, ma'am.
- 12 Q Did you submit any written statements to the Sheriff's
- 13 Office?
- 14 A No, ma'am.
- 15 Q Were you ever asked to write a written statement?
- 16 A No, ma'am.
- 17 MS. SMART-GITTINGS: May I approach the witness, Your
- 18 Honor?
- 19 THE COURT: Show it to counsel.
- 20 (GATHERS DOCUMENTS.)
- 21 THE COURT: Ms. Smart-Gittings, show it to opposing
- 22 counsel.
- 23 Q Will you take a look at these documents for me?
- 24 A Yes, ma'am.
- 25 Q What is the date -- can you recognize that document?

1 A Yes, ma'am. It's a voluntary statement, continuation
2 sheet.

3 Q And have you ever seen it before?

4 A No, ma'am.

5 Q Is your name on it?

6 A Yes, ma'am.

7 Q What does it -- where is your name?

8 A Signature of person giving voluntary statement.

9 Q Did you sign that document?

10 A No, ma'am.

11 Q Are your initials on it?

12 A Yes, ma'am.

13 Q Did you initial that document?

14 A No, ma'am.

15 MS. SMART-GITTINGS: May I approach the witness, Your
16 Honor?

17 THE COURT: You may.

18 Q You testified that you've never seen this document
19 before?

20 A No, ma'am.

21 Q And that you did not sign this document?

22 A No, ma'am, that is not my handwriting.

23 MS. SMART-GITTINGS: Court's indulgence.

24 I don't have any further questions, Your Honor.

25 THE COURT: Very well. Cross-examination?

CROSS-EXAMINATION

2 DEP. SOLICITOR THORNTON:

3 Q You said you were charged, Mr. Freeman, originally,
4 involving Mr. Ronnie Wooten?

5 A Yes, sir.

6 Q And you pled guilty to a burglary you said; is that
7 right?

8 A Yes, sir.

9 Q All right. And that burglary was of Ronnie Wooten's
10 store after his death; is that correct?

11 A Yes, sir.

12 Q And is that why you were originally implicated and
13 potentially implicated in his murder?

14 A Probably so.

15 Q All right. And were you charged with his murder?

16 A Yes, sir.

17 Q And were those charges dismissed?

18 A In 2009.

19 Q All right, sir. So the answer would be yes?

20 A Yes, sir.

21 Q Now, you're a burglar and a forger; is that right?

22 A I mean, I was convicted of it, sir.

23 Q All right. You pled guilty; is that right?

24 A Yes, sir.

25 Q And when you pled guilty of burglary, you got up in

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1 front of the judge and you said, "I did it"; is that right?

2 A Yes, sir.

3 Q Now, did somebody coerce you to do that, too? Or is
4 that something that you actually did?

5 A No, that's something I did.

6 Q So, you are a burglar and you've been convicted of what
7 else?

8 A Forgery.

9 Q Forgery. And what else?

10 A Grand larceny.

11 Q So you're a liar, a thief, and a burglar?

12 A That's your words, not mine.

13 Q All right. Have you been convicted of those things?

14 A Yes, sir.

15 Q All right. Thank you.

16 DEP. SOLICITOR THORNTON: I have nothing further for
17 this witness, Judge.

18 THE COURT: Redirect?

19 REDIRECT EXAMINATION

20 MS. SMART-GITTINGS:

21 Q Are you telling the truth today?

22 A Yes, ma'am.

23 Q Are you lying?

24 A No, ma'am.

25 Q Did you forge today?

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1 **A** No, ma'am.

2 **Q** Did you steal today?

3 **A** No, ma'am.

4 **MS. SMART-GITTINGS:** No further questions, Your Honor.

5 **THE COURT:** Recross, limited to redirect?

6 **DEP. SOLICITOR THORNTON:** Nothing, Judge.

7 **THE COURT:** As to this witness, Ms. Smart-Gittings?

8 **MS. SMART-GITTINGS:** May he be excused, Your Honor?

9 **THE COURT:** Any objection?

10 **DEP. SOLICITOR THORNTON:** Absolutely not.

11 **THE COURT:** You may step down from the witness stand.

12 You're excused from the trial of this case. You may leave

13 the courtroom at this time.

14 Call your next witness.

15 **MS. SMART-GITTINGS:** Defense rests, Your Honor.

16 **THE COURT:** Is there any reply testimony from the

17 State?

18 **DEP. SOLICITOR THORNTON:** No, sir.

19 **THE COURT:** Counsel approach.

20 (WHEREUPON, A BENCH CONFERENCE IS HELD OUT OF THE

21 HEARING OF THE JURY.)

22 **THE COURT:** Madame Foreperson, ladies and gentlemen of

23 the jury, I've conferred with the attorneys, and we're going

24 to conclude this case with argument and charge right now.

25 I'm going to give you one last break and give them a break

1 to use the restroom and then we're going straight through to
2 argument and charge in this case. So, please do not discuss
3 the case. You may retire to your jury room. This will be
4 your last break, now, for about an hour and fifteen or
5 twenty minutes. I want you to understand that. I'm giving
6 them a break so we can work straight through. Please retire
7 to your jury room. I'll be right back with you in about 10
8 minutes.

9 (12:00 P.M., 06-29-11, WHEREUPON, THE JURY EXITS THE
10 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
11 RECORD.)

12 **THE COURT:** All right. Let the record reflect that
13 I've met with counsel in chambers and I have been over my
14 entire charge with counsel in chambers. They have agreed to
15 the verdict form in this case, which I've shown them in
16 chambers. They both advise me that they need 20 minutes to
17 argue. Ms. Smart-Gittings will argue first, followed by an
18 argument by the Solicitor. When you have reached the 15
19 minute mark, you will hear what, Ms. Smart-Gittings?

20 **MS. SMART-GITTINGS:** A tap with your pen, Judge.

21 **THE COURT:** The familiar tapping to let you know -- I
22 won't stop you at that point or anything like that, but to
23 let you know five more minutes, wrap it up. There'll be one
24 argument for each side. I want you both to have the
25 opportunity to use this break. This will be our last break,

1 because the arguments will take forty minutes; my charge
2 will take about twenty to thirty, so this will be the last
3 break for about an hour and ten minutes.

4 (OFF THE RECORD FROM 12:00 P.M.; BACK ON THE RECORD AT
5 12:11 P.M.)

6 **THE COURT:** Is the State ready to proceed?

7 **DEP. SOLICITOR THORNTON:** We are, Your Honor.

8 **THE COURT:** Is the defendant ready to proceed?

9 **MS. SMART-GITTINGS:** Yes, Your Honor. I'd like to also
10 renew my motion for directed verdict.

11 **THE COURT:** I was going to ask you that next. You
12 want to renew your motion for directed verdict, based on the
13 same grounds that you made at the close of the State's case;
14 is that correct?

15 **MS. SMART-GITTINGS:** That's correct, Your Honor.

16 **THE COURT:** And for the reason's that I enunciated at
17 the close of the State's case, your motion for directed
18 verdict at the close of all the evidence is respectfully
19 denied, Ms. Smart-Gittings. Is the defendant ready to
20 proceed?

21 **MS. SMART-GITTINGS:** Yes, Your Honor.

22 **THE COURT:** All right. Now, my understanding is and I
23 pointed out earlier that no one is to be allowed in or out
24 of the courtroom while the lawyers are arguing or during my
25 charge. We are going straight through. The lawyers have

1 requested twenty minutes, which I'm certainly willing to
2 give them. You will hear the familiar tapping after the
3 fifteen minutes to let you know that you've got five more
4 minutes to wrap it up. I will go straight into the charge
5 since we've taken this lengthy break prior to that, and I
6 expect everyone's cooperation. No one is in or out,
7 standing up or moving around during the argument and charge
8 so that the jury can focus on what the attorneys have to
9 say. Thank you very much. Bring us the jury.

10 (12:18 P.M., 06-29-11, WHEREUPON, THE JURY ENTERS THE
11 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
12 RECORD.)

13 **THE COURT:** Madame Foreperson, ladies and gentlemen of
14 the jury, we will now hear the closing arguments of the
15 attorneys, followed by my charge to you on the law on this
16 case. I ask that you give the attorneys your careful
17 consideration.

18 Ms. Smart-Gittings?

19 **MS. SMART-GITTINGS:** May it please the Court, Your
20 Honor?

21 **THE COURT:** Yes, ma'am.

22 **CLOSING STATEMENT**

23 Ladies and gentlemen of the jury, we've put in all the
24 evidence, and now it's your turn. As the judge told you
25 earlier, our closing arguments, nor our opening arguments,

1 are evidence. The only evidence presented in this case is
2 the evidence that you've already heard. Our job now is to
3 sum up our version of the facts that you've heard. But we
4 also have a record; there is a videotape that you are more
5 than welcome to see if you have any questions about the
6 things that we say in our closing argument. There are
7 pictures into evidence if you have any questions about
8 anything that you might have heard. Those documents and
9 those items are available to you for you to look at during
10 your deliberation.

11 As the defense sums up, the only evidence that we
12 believe the State has presented to you has been the
13 testimony of witnesses through statements written and
14 videotapes taken. The State brought in Shawn Davis, Derrick
15 Adkins, and Marquis Bryant, and those gentlemen were not
16 willing to be here. They did not want to be here. But
17 there were forced to be here and they told you what they
18 believed the versions of the facts were.

19 The State needed to get in what they had said to the
20 police so they put their statements into evidence. But from
21 the witness stand, they told you they weren't telling the
22 truth when those statements were written. Some of them
23 wrote the statement, other statements were written by law
24 enforcement officers. Some of them said they could read;
25 some of them said they couldn't read. But I told you

1 earlier in opening about the credibility of the witnesses.

2 As triers of the fact, you get to determine which
3 witness was telling the truth. If you believe a witness was
4 telling the truth when he said he could read or he couldn't,
5 then you use that to determine whether or not you believe
6 those statements might have been true or might not have been
7 true. You get to determine whether or not you believe the
8 written statement. You get to determine whether or not you
9 believe the statements that you heard on the witness stand.
10 All of that is evidence.

11 What I implore you to do is to use your life
12 experiences to analyze the evidence. That will be analyzing
13 the statements. Are the statements consistent? Are the
14 necessary facts consistent? If one committed the crime,
15 would he not know the details of the crime and the correct
16 details of the crime?

17 Would three people involved in the crime have the same
18 recitation of the facts? Would they say different things
19 about what happened if they were all there or would they say
20 the same thing about what happened?

21 And then you have to look at whether or not they had
22 the ability to do what they said they did. For example,
23 Joseph said that while standing outside of the Lena Store,
24 he was able to see Mr. Wooten playing the casino video game.
25 You have pictures into evidence. You can look at the

1 outside of the store. And you can look at the windows, and
2 you can decide for yourself whether or not he had the
3 opportunity to see Mr. Wooten playing a video game. He was
4 able to describe the steps to you and he said that he had
5 been at the Lena Store before. But that's a general
6 question. Describing the steps of the outside of a crime
7 scene is a very general question. But a crime specific
8 question would be "Did you take any money out of his
9 pockets?" And if he said he didn't take any money out of
10 his pockets, which the physical evidence clearly shows that
11 there was money in his pocket, and not just a little bit of
12 money, but a lot of money in his pocket. A lot of money in
13 his pocket.

14 But he said he turned the body over and he searched his
15 pocket. But there wasn't any money in his pocket. None of
16 the State's witnesses told you that there was money in Mr.
17 Wooten's pocket, but the coroner, my witness, told you there
18 was money in Mr. Wooten's pocket.

19 The State said that Shawn Davis said in his statement
20 that he stole one pack of cigarettes, but he searched
21 through the cash register on the counter. Lo and behold,
22 what does the evidence show? Several packs of cigarettes on
23 the counter. But he only took one pack of cigarettes. And
24 the State put into evidence a photograph of a trash can that
25 had a carton of cigarettes; just one carton of cigarettes.

1 But they didn't want you to see the other trash can that had
2 many cartons of cigarettes, because Shawn Davis took one
3 pack of cigarettes, and they want you to believe that he
4 took one pack of cigarettes that was in that carton in that
5 lone trash can.

6 But you need to see the full picture. That wasn't the
7 only carton of cigarettes in that store. Then, the State
8 wanted you to believe that the 22 that Saul Romero testified
9 that he got from, I believe, Derrick Adkins and Shawn Davis,
10 that that was the only gun that was similar to the gun, the
11 bullet, that they recovered. But when asked on cross
12 examination, Mr. Whitler said that "Yes, there was another
13 rifle, and yes, it was similar; but that was a different
14 case." That was a different case. That wasn't the same
15 case. It was a different case because there was another
16 suspect. So now, that brings the grand total to seven or
17 eight suspects, but one of the suspects had a similar gun
18 and that gun could have very well been the gun that spent
19 that round. But the State didn't want you to know that,
20 because they didn't tell you that.

21 They didn't ask the coroner whether or not there was
22 another gun that could have possibly spent that round. They
23 just wanted you to know that it was this gun that may have.
24 They didn't say conclusively that it was this gun, but it
25 could have. But so could the 22 Ivory Johnson Rifle. And

1 he also said there were other guns within the store that
2 could have been the gun.

3 So they said, okay, he's in a gang, and as a result of
4 being in a gang, this might have been gang related; but they
5 also admitted that gangs sell guns on the street. When
6 people burglarize businesses and homes, there are weapons
7 that they take and they sell on the street. So the State
8 would have you believe that these young men burglarized this
9 store, they left lots of cash, they left lots of packs of
10 cigarettes, and they left a hot commodity: thirteen guns.
11 Thirteen guns were left in that store. They didn't bother
12 to take them. They didn't take them. They just left them.

13 So then they said, he described the mask that he had
14 on. Joseph described the mask and he said that it was a
15 sweater cap. He said the sweater cap was pulled down over
16 his face. If Teddy Cone was somewhat suspicious, because he
17 said, "Did it have eyes cut out of it?" He said, "No, it
18 didn't. I just pulled it over my face." And then, I had a
19 stocking cap and the stocking cap was pulled over the
20 sweater cap. And he went in, but it rolled up and Mr.
21 Wooten saw him. But he said Mr. Wooten didn't know him. So
22 it wasn't an identity issue, because he said he didn't know
23 him. But later he said, "Well, from my knowledge, Mr.
24 Wooten smoked, or uses, cocaine." And Teddy said, "Well,
25 crack?" "No, no, he uses cocaine."

1 So if his motive was I had to shoot him because he knew
2 me, well he said he didn't know him. But he later said, "I
3 know what drug he uses." But what questioned me was the
4 notebook that was in front of Joseph while he was
5 confessing. Now, I noticed, and you have the opportunity to
6 view the tape again for yourself, but it's interesting that
7 strategically placed in front of him was a notebook that had
8 something on it, but we don't know what was on it. And when
9 he was reading his Miranda Rights to him -- when Captain
10 Russell was reading his Miranda Rights, he wasn't looking at
11 the Miranda document. He was looking at the document in
12 front of him. And he spent a lot of time looking at the
13 document in front of him. So when you take this into
14 totality, you have Agent Cone who said, "Oh, we didn't spend
15 a lot of time with him that morning, because he wouldn't
16 talk to us. He didn't want to talk to us." But a couple of
17 hours later, miraculously, he changes his mind from not
18 wanting to talk to you to confession. To confessing to
19 being the shooter of Mr. Ronnie Wooten. The State didn't
20 tell you that Joseph gave a statement on August 22nd,
21 denying being the shooter. The State didn't tell you that
22 after the video confession of September 4th, there was
23 another interview of Mr. Davis and he, again, denied it.
24 The State didn't tell you that. The State didn't introduce
25 any evidence of anything when he denied the charges, because

1 they just wanted you to know that he admits the charges.

2 So when I asked Agent Cone whether or not he had made a
3 promise to Joseph to get him to confess, he said, "No, no, I
4 didn't promise him anything, but I did tell him that I would
5 look into his mother's death. I did tell him that, but I
6 didn't promise him that," because of course to promise him
7 to open his mother's death if he confessed, you know, that
8 might not be so credible. So, of course, he didn't -- he
9 didn't promise him; but he did say he talked to him
10 grandmother. He did say that. But he said they didn't come
11 to the office. No, he went to their house to talk to them
12 because he wanted to talk to them about the death, because
13 he had promised Joseph, you know, so he wanted to talk to
14 them about his mother's death.

15 But what was interesting to me was that in his
16 confession, Joseph said he was sent to Mr. Wooten's store
17 for \$15,000. But who sent him? The person who found his
18 dead mother's body. Well, that's odd. Who else sent him?
19 The person who they want investigated for killing his
20 mother. Well, that's even more odd that you're going to go
21 to a store to collect \$15,000 dollars for someone who found
22 your dead mother and the person who you think killed your
23 mother.

24 He also said, which was interesting, that he went to
25 his cousin, Travis Field's house, to confess. Did any of

1 you see Travis Fields? Would that not have sealed the deal
2 if Travis Fields had come to this witness stand and said,
3 "Yeah, he sure did. He came and told me that he killed him.
4 He did, he came and told me." That would corroborate
5 Joseph's statement. But they didn't do that.

6 The only witnesses that they brought here were the law
7 enforcement officers who watched that confession, who were a
8 part of that confession. They didn't want me to talk about
9 David Freeman or James Carter or anyone else who might have
10 been charged with this crime before, because even though at
11 one time, they were certain that someone else did it; they
12 didn't want y'all to know that. They didn't want y'all to
13 know that they had arrested some other people. They didn't
14 want you to know that David Freeman spent three years in
15 jail on the same murder. They wanted to hide that from you.

16 **THE COURT:** Counsel, counsel approach.

17 WHEREUPON, A BENCH CONFERENCE IS HELD OUT OF THE
18 HEARING OF THE JURY.

19 **THE COURT:** Objection is sustained.

20 I apologize to the State. They did not try to hide
21 evidence from you. I submit that we, the defense, wanted to
22 paint a big picture for you. We wanted you to see
23 everything that happened from the time of death until today.
24 And as I told you earlier, people look at the same facts and
25 they see them totally different. Some people see the glass

1 half empty; some people see the glass half full. We see
2 things differently, and that's what we expect you to do.
3 Use your life experiences to think about everything that's
4 happened through the course of this trial and decide for
5 yourself what happened to Mr. Ronnie Wooten. Knowing every
6 testimony that has been made, looking at every document that
7 has been submitted, and just asking yourself, did he do it?
8 Was Derrick Adkins there? Was Shawn Davis there? Or did he
9 just say that? Or did they just say that because the police
10 promised them something? Because the police promised that
11 if you say this, you'll get a lighter sentence? Because the
12 police promised that if you say this, then I'll reopen the
13 investigation.

14 Ms. Davis and Ms. Morris told you that she hasn't seen
15 Joseph or Shawn since they were incarcerated. So they
16 hadn't talked to them and they hadn't seen them, but they
17 knew about the promise. They said that Agent Cone and Bubba
18 and Agent Evans had them come to the Sheriff's Office,
19 because they were going to investigate Ms. Phoebe's murder.
20 And they said that they never came to their house. Now,
21 Agent Cone admitted to making a promise, but he said they
22 didn't come to the Sheriff's Office. He said he went to
23 their house.

24 So ask yourself again, the credibility of the
25 witnesses. They didn't have time to get together and talk

1 about their stories, because the witnesses were sequestered.
2 They weren't allowed to be in the courtroom. So you have to
3 take every individual testimony as hmmm, they didn't know
4 what the other one was gonna say, so why did they say it?
5 Is it possible that it happened? That is what you have to
6 base your decision on, on Joseph's confession.

7 Is it true? You decide whether or not you believe the
8 confession. And I submit to you that if you do not believe
9 his confession, you do not believe that he confessed because
10 he wasn't promised, and you believe he confessed because he
11 did it, then you will find him not guilty.

12 But if there's any doubt in your mind that the only
13 evidence the State brought to you was this confession and
14 that confession is tainted, because he was promised
15 something, then you will find him not guilty. Take into
16 consideration Nurse Mungin. She told you he was taking some
17 type of drug. And he was taking that drug because he came
18 to her and he had visions of his mother. And this is all in
19 the Fall of 2008. He's having these visions of his mother,
20 so much so that he needs medication. He's talking about the
21 people who killed his mother, the people he thinks killed
22 his mother, the people that he thinks was involved with his
23 mother's death, and he's talking about this during his
24 confession. How heavily does that weigh on his confession?
25 Thank you.

1 THE COURT: Solicitor?

2 DEP. SOLICITOR THORNTON: May it please the Court? Ms.
3 Smart-Gittings, Ms. Jordan.

4 CLOSING ARGUMENT

5 You know, ladies and gentlemen, I told you in my
6 opening, that on or about June 23rd into the morning of June
7 24th, 2007, that Joseph Davis, along with Shawn Davis and
8 Derrick Adkins, went into Ronnie Wooten's store and put a
9 bullet in his head. That's what I told you happened and
10 that's what the evidence has shown in this case.

11 It's always entertaining to hear a defense lawyer talk
12 about that one thing that we didn't bring to you that would
13 have sealed the deal; Travis Fields, his cousin. If I'd
14 have brought Travis Fields in, says Ms. Smart-Gittings, that
15 would have sealed the deal. How much more of a deal do you
16 need? I have a videotape confession of the defendant that
17 is in evidence. There is a statement by his own brother
18 implicating himself. You know, that's an interesting thing
19 to think about, ladies and gentlemen. Which do you more
20 believe? I didn't do anything; they did something. Or yes,
21 I did this, but they were part of it as well. Those are the
22 types of things you have to decide.

23 Let's talk about the evidence in this case. It's
24 uncontested that Ronnie Wooten was in his store, in Lena,
25 which is in Hampton County. It's uncontested that sometime

1 in the evening of June 23rd into the morning hours of June
2 24th of 2007, it's uncontested that he was shot in the face
3 with a small 22 caliber round that went through his brain
4 and killed him. That is uncontroverted, uncontested
5 evidence. Okay?

6 What is also uncontested? Where was he located? As
7 you walk in the front door, what did everybody say? He's to
8 the right by the poker machines and the chair. Ladies and
9 gentlemen, you're going to have the evidence in this case.
10 I want you to look for me what the body of Ronnie Wooten is
11 laying next to. Those look like games, poker machines? Is
12 there a chair, some chairs, laid up next to him as he's
13 lying in his own blood?

14 You heard testimony that State's Exhibit Four that I
15 just showed you is inside and to the right of the door.
16 Where did Joseph Davis say Ronnie Wooten was when he walked
17 in right before he put a bullet in his head? He said he was
18 to the right of the door, by the poker machines, by a chair.
19 That's not me telling you that. That's Joseph Davis's own
20 statement. And the defense would have you believe, baffling
21 as this is, I don't know what the defense in this case is.
22 Is it that he didn't do it? Is it that he did it, but you
23 shouldn't believe his confession because he was made
24 promises? Is it yeah, he was made promises, but he really
25 didn't do it, he lied; and somehow, miraculously, there's a

1 masked conspiracy by the Hampton County Sheriff's Office, by
2 the South Carolina Law Enforcement Division, by Hampton
3 County EMS, by the coroner, and by all these other people to
4 pin a murder on somebody who just happens to give the
5 videotaped confession, whose brother gets up -- if you want
6 to talk about something that's interesting that Defense
7 counsel said. What did she say about the two individuals
8 that I brought from SCDC to come and see you? They didn't
9 want to be here. Well, if your brother was on trial for
10 murder and you knew he didn't do it, and the police tricked
11 all of you into confessing to something, wouldn't you want
12 to be here?

13 What would be the first words out of your mouth when
14 Tameka Legette with my office said, "Sir, what happened on
15 June the 23rd?" What's the first thing you would have said?
16 "Wait a minute. You've got the wrong guy. I've been
17 convicted wrongly. My brother's innocent. They tricked
18 him." Did he say that? No. What did he say? "I don't want
19 to be here. I got nothing to say. I don't remember. That
20 ain't my statement. I don't know what you talking about."
21 Did he once proclaim the innocence of his brother? No.

22 Did Derrick Adkins proclaim the innocence of his friend
23 and fellow gang member? No. If you want to talk about
24 credibility and believability of witnesses; if this is some
25 masked conspiracy and everybody has gathered together to

1 frame innocent men, wouldn't one of them have said that when
2 they got on the stand? Wouldn't that be the first thing out
3 of your mouth as your brother's on trial for murder? But it
4 wasn't.

5 Let's talk about the statements. You know, Ms. Smart-
6 Gittings wants to talk about all we brought you was a
7 statement. That's not true. I brought you a videotaped
8 statement. I brought you statements of the co-defendants
9 who have already been dealt with in this case, and they
10 match. Do they match to every single detail? No, of course
11 not, because they weren't all asked the same questions. Do
12 they match on the important stuff? Absolutely. What do
13 they match on? All of three statements say that Joseph went
14 in first. Both Joseph and Shawn Davis say that he had a 22
15 revolver. That he fired the one shot. Shawn Davis and
16 Derrick Adkins waited on the steps. Isn't it interesting,
17 ladies and gentlemen, that he talks about they wait on
18 steps? Do you remember what he said in the statement? What
19 kind of steps? Plastic? Wood? No, brick. You know,
20 that's another interesting thing. If this was all scripted
21 out for him, how in the world was he able to recall this
22 stuff? Was there any questioning by anybody about some
23 mystery pad where didn't y'all have that scripted out for
24 him?

25 Did he just follow along? Every time they asked him a

1 question, was it just "yes"? Or did they say, "Tell us what
2 happened," and then he gives a narrative? "Did this also
3 happen?" Didn't Joseph Davis correct them when they got
4 stuff wrong? Think about it. What did he say? When they
5 were talking about who was in which position in the car, he
6 stopped them and corrected them. When he said, "No, you
7 gave the gun to Travis." Teddy Cone said, "Would Travis
8 have the gun?" and what he meant to say was Derrick Adkins.
9 Did Joseph Davis just stand there and say, "Yes, sir, yes,
10 sir"? No, he said, "No, no, no, Travis didn't get the gun.
11 Derrick had the gun."

12 All of them agree that Shawn Davis went to the
13 register. Now, this is interesting. Apparently, the
14 defense wants them to get a break because they didn't do a
15 good job of rolling the dead man's body, or breaking open
16 the cash register. Shawn Davis's statement says, "I went to
17 the register; couldn't open it." SLED told you, you
18 remember, the SLED Agent got up and told you that the
19 register was closed when we got there. We opened it and
20 took pictures of the money. And I dispute -- and if you
21 disagree with what I say the facts are, or what Ms. Smart-
22 Gittings does, you have the record. You have your own
23 memories. It can be replayed for you. But there was a lot
24 more than just one witness that said, "Yes, there was
25 money." And there's a picture of it. There's money in

1 Ronnie Wooten's left pants pocket. Where was his left pants
2 pocket? Laying down on the ground. Where was his right
3 pants pocket? Turned inside out. Where was the contents of
4 his wallet? Spread out all over the floor. So you're
5 supposed to give Joseph Davis a break on a murder charge and
6 an armed robbery charge because they forgot to check the
7 other pocket?

8 The cigarettes, there's a photo in evidence of an empty
9 carton of Newport cigarettes. All three defendants say, "We
10 got cigarettes." Some say one pack; some say more than one
11 pack, but all of them say they got cigarettes. The State
12 doesn't care how many cigarettes they took. All they had to
13 take was one cigarette out of that store and it's an armed
14 robbery. One cigarette -- when he's armed with a gun,
15 taking from another, and that's armed robbery. There's no
16 monetary requirement. It doesn't matter if he took one
17 cigarette or a thousand dollars. They all agree that Joseph
18 Davis gives the gun to Derrick Adkins. You know, this is the
19 interesting part when the defense wants to talk about all
20 these other guns. You know, the SLED Agent was very
21 credible. He got up on the stand and he said, "I can't tell
22 you for sure if it's that gun. I can tell you that it's
23 consistent with that gun." Ms. Smart-Gittings brings up a
24 couple of other guns, but I submit to you, ladies and
25 gentlemen, and once again, I let you know this gun has been

1 rendered safe and is not loaded. How many guns are
2 revolvers that are 22's, that are nine shots, that all three
3 statements say went to -- excuse me, all three statements
4 say went to Derrick Adkins? And Derrick Adkins and Shawn
5 Davis both said, "We took it to the Mexican guy named Sagoon
6 (sic)," is what Shawn Davis identifies him as. And Mr. Saul
7 Benitez-Romero got up and said, "Yep, this is the gun." And
8 it just so happens to be a nine shot revolver; which by the
9 way, is the gun that Joseph Davis admits that he killed
10 Ronnie Wooten with, a nine shot 22 revolver. Wow, what a
11 coincidence mounting on top of other coincidences.

12 What else do we have in this case, ladies and
13 gentlemen? Both Joseph Davis and Derrick Adkins talk about
14 Ronnie Wooten's injury. Joseph says on more than one
15 occasion, "I shot him in the face." Where was Ronnie Wooten
16 shot? In the face.

17 Derrick Adkins says that he shot him in the head.
18 Shawn Davis is silent on that point. Now, why would Shawn
19 Davis be silent on that point? Remember, where is Shawn
20 Davis? He's at the case register. Where is Derrick Adkins?
21 He's helping him rummage through Ronnie Wooten's dead body
22 looking for money.

23 You know, a lot of times, ladies and gentlemen, people
24 wonder, people that don't deal with these things on a
25 regular basis. Well, I don't understand, you know, why you

1 give a statement against your own brother.

2 There is no honor among thieves. You ever heard that
3 statement before? There ain't no honor among murderers
4 either. And that's exactly what Joseph Davis is. He's a
5 killer. He walked in dressed how? He's in all black. He's
6 got a mask on. He's got latex gloves on. He's armed with a
7 revolver. He ain't going to Sunday School, ladies and
8 gentlemen. He's going to rob somebody. And when he got in
9 the store, pulled that gun, and he killed Ronnie Wooten with
10 it. Do you know why? Because Ronnie Wooten saw his face.
11 It is no more complicated than that. It is no more
12 mysterious, as Ms. Smart-Gittings said in her opening
13 statement than that, it is one of the oldest reasons in the
14 book. Ronnie Wooten had something that Joseph Davis wanted
15 that he ain't willing to work for; but he is willing to kill
16 for.

17 You know, if this is a masked conspiracy, it is
18 absolutely unbelievable how good it was. Because let me
19 tell you, in order for this to be a conspiracy, and I'll ask
20 you to look at these. I'm going to try to find it for you
21 right now. Saul Benitez-Romero identifies the two people,
22 Shawn Davis and Derrick Adkins, that sold him State's
23 Fourteen, the nine shot revolver, which again,
24 coincidentally, just happens to be the same caliber, the
25 same style, and the same shot capacity that Joseph Davis

1 says he killed Ronnie Wooten with.

2 Well, if you look at Joseph Davis's statement, it's
3 9/4, that's the videotaped statement, September the 4th of
4 2008. There's a date up here, and I'm just going to pull
5 one of them; it's State Exhibit 16, where Saul Benitez-
6 Romero identified somebody in February of 2009. So, if this
7 is all a lie and a gigantic conspiracy against everybody,
8 they apparently just had to hope and pray there was a
9 Hispanic gentlemen named Saul, who just happened to have a
10 nine shot revolver, who would just happen to say that
11 Derrick Adkins and Shawn Davis sold it to him, because they
12 didn't get with him until February of '09.

13 So is it a masked conspiracy? Is it not a robbery
14 because there was money left and guns left? Is it a drug
15 deal gone bad? You know, the toxicology report said Ronnie
16 Wooten had no drugs in his system. The other thing that's
17 uncontroverted is he had no defensive wounds and it wasn't a
18 close contact wound. You know why that's important?
19 Because Ronnie Wooten didn't put up a fight. He didn't
20 struggle. He was executed. They walked into his store.
21 Joseph Davis walks in, he pulls out a gun, and he puts a
22 bullet in his head for no reason other than because he saw
23 his face. Those aren't my words. Those aren't Det. Cone's
24 words. Those aren't Chauncey Solomon's words. Those are
25 the words of a killer, Joseph Davis.

1 The Sherlock Holmes quote. You know you can't have it
2 both ways, ladies and gentlemen. Ms. Smart-Gittings got up
3 here in her opening and she talked about -- well, she gives
4 a vague quote, and basically says this: you shouldn't come
5 to a conclusion and then figure out what the facts are.
6 Then, she criticizes law enforcement for having other
7 suspects. Well, this isn't that the very thing you're
8 supposed to do? You get the big pool of suspects and then
9 you narrow it down to the ones that did it? Well, that's
10 what they did in this case. She can't have it both ways.
11 You can't fuss for a rush to judgment and then out of a
12 different side of your face and in the same breath say no,
13 they shouldn't have done that, because they had other
14 suspects first.
15 That's ridiculous. Law enforcement did exactly what they're
16 supposed to do. And I'll tell you something else, this
17 thing about this promise. It's not really relevant whether
18 they promised anything or not, unless you think that that
19 overcame his will to the point that he and his brother, and
20 somebody that's not even involved in the murder of his
21 mother, supposedly, all gave confessions to a murder case
22 that they didn't do.

23 The agents testified, yes, we did go out there and we
24 did tell the family we would look into it. Okay? They say
25 they didn't promise. It's a game of semantics. Do you

1 think Bubba would have lied to grandma? You know, if your
2 grandma won't stand up for you, then I don't know who will.
3 Okay? But do you think -- she knows Bubba. She calls him
4 by his name. Would he have gone out there and lied? Would
5 he lie about her grandson to try to convict him of a murder
6 that he didn't commit. It just so happens that all the
7 physical evidence lines up against them.

8 Madame Clerk. (HANDS DVD TO CLERK FOR PLAYING)

9 State's Exhibit Number Twenty begins playing at
10 12:47 PM; ends at 12:51 P.M.)

11 **DEP. SOLICITOR THORNTON:** Thank you, Madame Clerk.

12 Ladies and gentlemen of the jury, after you look at all
13 the evidence, not just the statement of Joseph Davis, but
14 the statement of everybody. The demeanor on the witness
15 stand. The demeanor of Monty Wooten on a 9-1-1 call when he
16 found Ronnie Wooten's dead body. When you look at all the
17 evidence, the gun, the photographs, the lineups, all the
18 testimony, there's only one true verdict, and I would ask
19 you to please return it. And that is a verdict of guilt on
20 all charges. Joseph Davis is a killer and he deserves to be
21 punished for it.

22 **JURY CHARGE**

23 **THE COURT:** Madame Foreperson, ladies and gentlemen of
24 the jury, it is now my duty to charge you on the law of this
25 case. The State of South Carolina has charged the

1 defendant, Joseph Davis, with three charges in three
2 separate indictments. Mr. Davis is charged with murder in
3 indictment 2008 at 588, second degree burglary in indictment
4 2008 at 589, and with armed robbery in indictment 2008 at
5 590. Now, I remind you, the fact that the defendant was
6 arrested, charged, and the fact that the defendant was
7 indicted in this case, is not evidence in this case, nor
8 does it create any presumption or inference of guilt. These
9 indictments, these documents are simply the formal written
10 instruments in which contain the charges made against the
11 defendant, and they are the formal documents by which the
12 case is brought into this Court.

13 Now, ladies and gentlemen, the defendant has pled not
14 guilty to these indictments. That plea of not guilty by the
15 defendant puts the burden on the State of South Carolina to
16 prove the defendant guilty beyond a reasonable doubt. A
17 person that is charged with committing a criminal offense in
18 South Carolina is never required to prove himself or herself
19 innocent.

20 I charge you, ladies and gentlemen, that it is an
21 important rule of law that the defendant in a criminal
22 trial, no matter what the seriousness of the charge may be,
23 will always be presumed to be innocent of the crime for
24 which the indictment was issued, unless guilt has been
25 proven by evidence, satisfying you of that guilt beyond a

1 reasonable doubt.

2 The presumption of innocence does not end, ladies and
3 gentlemen, when you begin your deliberations, but it
4 accompanies the defendant throughout the entire trial, until
5 you, as the jury, reach a verdict of guilt, based on
6 evidence satisfying you of that guilt beyond a reasonable
7 doubt.

8 The presumption of innocence is not just a mere legal
9 theory. It's not just a legal phrase. It is a substantial
10 right to which every defendant is entitled, unless you, the
11 jury, are satisfied from the evidence of the defendant's
12 guilt beyond a reasonable doubt.

13 What is a "reasonable doubt" in the law? A reasonable
14 doubt is the kind of doubt that would cause a reasonable
15 person to hesitate to act. The State has the burden of
16 proving the defendant guilty beyond a reasonable doubt.
17 Some of you may have served as jurors in civil cases, where
18 you were told that it is only necessary to prove that a fact
19 is more likely true than not true. We call that, in civil
20 cases, by the greater weight, or the preponderance of the
21 evidence in a civil case.

22 In a criminal case, ladies and gentlemen of the jury,
23 the State's proof must be more than that. It must be beyond
24 a reasonable doubt. Proof beyond a reasonable doubt is
25 proof that leaves you firmly convinced of the defendant's

1 guilt.

2 There are very few things in this world that we know
3 with absolute certainty, and in criminal cases, the law does
4 not require proof that overcomes every possible doubt. If,
5 based on your consideration of the evidence, you are firmly
6 convinced that the defendant is guilty of the crime charged,
7 you must find the defendant guilty. On the other hand, if
8 you think there's a real possibility that the defendant is
9 not guilty, you must give the defendant the benefit of the
10 doubt and find the defendant not guilty.

11 I remind you, ladies and gentlemen, and charge you that
12 during this trial, you and I have had certain duties to
13 perform. As a trial judge, it's been my responsibility to
14 preside over the trial of this case, and I also have the
15 duty to rule on the admissibility of evidence offered during
16 the trial of this case.

17 You, as a juror, are only to consider the competent
18 testimony, or evidence, before you. If there was any
19 testimony ordered stricken from the record in this case
20 during this trial, you should disregard that testimony. You
21 are to consider only the testimony which has been presented
22 from the witness stand, any exhibits which have been made a
23 part of the record in this case, and any stipulations of
24 counsel which occurred during the trial of this case, in
25 making your decision as a jury.

1 I, also, as the presiding judge have the additional
2 duty to charge you the law that applies to this case. As
3 the presiding judge, I am the sole judge of the law, and it
4 is your duty as jurors to accept and apply the law exactly
5 as I now state it to you.

6 If any of you already had any idea as to what you think
7 the law is, or what you feel the law ought to be, and it
8 does not agree with what I'm now telling you what the law
9 is, you must abandon any of your preconceived ideas, because
10 you are sworn in that oath which each of you took, to accept
11 and apply the law exactly as I state it to you, now.

12 In every case tried in this Courtroom before a jury,
13 the jury becomes the sole and exclusive judges of the facts
14 in the case. A trial judge, such as myself, cannot
15 intimate, state, comment on, or make any statement
16 whatsoever, to a trial jury, such as yourself, about the
17 facts in a case.

18 Since you, the jury, are the sole judge of the facts of
19 this case, you are not to infer from what I have said during
20 the progress of this trial, in ruling upon the admissibility
21 of evidence, or otherwise, or anything that I say now during
22 this instruction to you on the law, that I have any opinion,
23 whatsoever, about the facts in this case. The law does not
24 allow me to have an opinion about the facts in this case.
25 This is a matter solely for you, ladies and gentlemen of the

1 jury, to determine.

2 As jurors, it is your duty to determine the effect, the
3 value, weight, and the truth of the evidence presented
4 during the trial of this case.

5 Ladies and gentlemen, there are two types of evidence
6 that are generally presented during a trial, and like many
7 things in the law, ladies and gentlemen of the jury, we have
8 names for those types of evidence. We call the two types of
9 evidence, direct evidence and circumstantial evidence.

10 Direct evidence is the testimony of a person who claims
11 to have actual knowledge of a fact, such as an eyewitness to
12 an event. It is evidence which immediately establishes the
13 main fact to be proved.

14 Circumstantial evidence, as contrasted with direct
15 evidence, is proof of a chain of facts and circumstances
16 indicating the existence of a fact. Circumstantial evidence
17 is evidence which establishes collateral facts, from which
18 the main fact may or may not be inferred. Circumstantial
19 evidence is based on inference, and not on personal
20 knowledge or personal observation.

21 The law makes absolutely no distinction, ladies and
22 gentlemen, between the weight or the value to be given to
23 either direct or circumstantial evidence, nor is a greater
24 degree of certainty required of circumstantial evidence than
25 of direct evidence. You, as a jury, should weigh all of the

1 evidence in this case, both direct and circumstantial.

2 After weighing all of the evidence, if you are not convinced
3 of the guilt of the defendant beyond a reasonable doubt, you
4 must find the defendant not guilty.

5 On the other hand, after weighing all of the evidence
6 in this case, both direct and circumstantial, if you are
7 convinced of the guilt of the defendant beyond a reasonable
8 doubt, you must find the defendant guilty.

9 Necessarily, ladies and gentlemen of the jury, you as a
10 jury must determine the credibility of the witnesses who
11 have testified during this case. Credibility simply means
12 believability. It becomes your duty as jurors to analyze
13 and to evaluate the evidence and determine which evidence
14 convinces you of its truth.

15 In determining the believability of witnesses who have
16 testified in this case, you may believe one witness over
17 several witnesses, or several witnesses over one. You may
18 believe a part of the testimony of a witness, and reject the
19 remaining part of the testimony of that same witness. You
20 may believe the testimony of a witness in its entirety or
21 you may reject the witness's testimony in its entirety.

22 You may consider whether any witness has exhibited to
23 you any interest, any bias, any prejudice, or other motives
24 in this case. You may also consider, as I told you at the
25 outset, the appearance, or the manner, of the witness while

1 on the witness stand. We call that the demeanor of the
2 witness while the witness is on the witness stand in judging
3 the credibility, or the believability, of the witnesses who
4 have testified during the trial of this case. Anything that
5 is in evidence, ladies and gentlemen of the jury, you, as a
6 jury, have the right to consider in evaluating the
7 credibility or the believability of the witnesses who have
8 testified during the trial of this case.

9 Now, I instruct you, ladies and gentlemen, and I
10 emphasize the fact, that the defendant did not testify, and
11 that is not a factor to be considered by you, the jury, in
12 any way in your deliberations and in your consideration of
13 the guilt or the innocence of the defendant. It must not be
14 considered by you in any manner whatsoever in your jury
15 room. A defendant has a constitutional right to remain
16 silent and the assertion of this right to remain silent must
17 not be considered by you in your deliberations.

18 I repeat that under that oath which each of you took,
19 you are to draw no conclusions whatsoever as a juror, from
20 the fact that the defendant in this case did not testify.
21 The fact that the defendant did not testify should not even
22 be discussed in your jury room.

23 The burden of proof, as I have stated to you, is on the
24 State of South Carolina. The defendant is not required to
25 prove his innocence. The burden of proof remains on the

1 State of South Carolina to prove guilt beyond a reasonable
2 doubt.

3 I told you during the trial, and I charge you, ladies
4 and gentlemen, that the Rule of Evidence normally do not
5 permit a witness to testify on the witness stand to a
6 conclusion, or to an opinion. An exception to this rule
7 exists for those witness whom we call expert witnesses. A
8 witness who by education, training, or experience, claims to
9 have become an expert in some art, science, or profession
10 may give an opinion as to the subject that the witness
11 claims to be an expert in and they also give the reasons for
12 his or her opinion, if qualified by the Court.

13 You should consider any expert opinion given by a
14 witness and like any other evidence, you, as a jury, give it
15 the weight you think it deserves. If you think that an
16 expert witness's opinion is not based on sufficient
17 education and experience, or if you decide that the reasons
18 given in support of the opinion were not sound, or that the
19 opinion is outweighed by other evidence, you may disregard
20 the opinion entirely. An expert witness's testimony is to
21 be given no greater weight than that of other witnesses
22 simply because the witness is an expert.

23 I charge you, ladies and gentlemen, that a statement,
24 or statements alleged to have been made by the defendant
25 have been admitted into evidence in this case. While the

1 Court has determined as a matter of law that the statements
2 are admissible, I instruct you, ladies and gentlemen of the
3 jury, that you make the ultimate decision of whether or not
4 the defendant made any statements. If the defendant did
5 make the statement, or statements, you must determine
6 whether the statement, or statements, were made by the
7 defendant voluntarily and of his own free will. This means
8 that the statements were not caused by pressure, force,
9 fear, threats, coercion, or intimidation, or by hope, or a
10 promise of leniency, or a reward of any kind.

11 In determining whether the statement or statements were
12 voluntary, you, as a jury, should consider both the
13 characteristics of the defendant and the details of the
14 questioning. Some factors, based on evidence introduced
15 during the trial of the case you may consider are the age of
16 the defendant, the defendant's education, the defendant's
17 mental ability, the defendant's intelligence, the
18 defendant's background and environment, the place and length
19 of detention, the nature of the questioning, and the advice,
20 or lack thereof to the defendant to this constitutional
21 rights; including, but not limited to, the right to remain
22 silent, that any statement could be used against him in a
23 court of law, the right to have a lawyer present. That if
24 he could not afford a lawyer, a lawyer would be appointed to
25 represent him without any costs, and that he could stop

1 making a statement at any time. You, as a jury, must
2 carefully consider all of the surrounding circumstances
3 before you give any weight to an alleged statement.

4 The State has the burden of proving beyond a reasonable
5 doubt that the alleged statement or statements were
6 voluntary. If you as a jury determine they were, you may
7 give the statement, or statements, any further consideration
8 that you as a jury deem proper. You must decide as a jury
9 what weight, if any, should be given to any alleged
10 statement or statements. If you determine the statements
11 were not the free and voluntary statement of the defendant,
12 you should not consider the statements at all.

13 The indictment in this case, ladies and gentlemen of
14 the jury, charges different offenses of the indictments,
15 plural, charging different offenses against the defendant.
16 The offenses are, first, that the defendant, Joseph Davis,
17 is charged in Indictment 2008 at 588 with murder. The
18 second Indictment, the defendant, Joseph Davis, is charged
19 in Indictment 2008 at 589 with second degree burglary.
20 Finally, and thirdly, the defendant, Joseph Davis, is
21 charged in Indictment 2008 at 590 with armed robbery.

22 Each of those charges, which I'm going to explain to
23 you, is a separate and distinct offense. You must decide
24 each charge separately on the evidence and the law that
25 applies to it, uninfluenced by your decision as to any other

1 charge. If you find the defendant guilty of one charge,
2 then you can also find the defendant either guilty or not
3 guilty of another charge. You will be asked to write a
4 separate verdict of guilty or not guilty for each charge
5 following the instructions on the verdict form, which I will
6 give to you, Madame Foreperson.

7 Now, ladies and gentlemen, in order to establish
8 criminal liability, criminal intent is required. For
9 example, the mental state required to be proven by the State
10 for a particular crime, and I'm going to give you examples
11 of criminal intent. It might be purpose. It might be
12 intent. It might be knowledge. It might be recklessness.
13 It might be what we call criminal negligence. Those are
14 examples of criminal intent. Criminal intent must be proven
15 by the State beyond a reasonable doubt. Criminal intent is
16 always a matter that must be determined by the jury from the
17 circumstances surrounding the situation based on evidence
18 introduced during the trial of the case.

19 Now, ladies and gentlemen, there is no way to prove
20 intent to a mathematical certainty. There is no way that
21 medical science can dissect a person's brain and tell what
22 that person had in mind.

23 So, the law says criminal intent may be inferred from
24 the circumstances shown to have existed based on evidence
25 introduced during the trial of the case. This, ladies and

1 gentlemen, is how you, as a jury, make a determination of
2 whether or not any element required intent for any crime to
3 be present. It is not necessary to establish criminal
4 intent by direct evidence, but intent may be established by
5 inferences, the same way as any other fact; by taking into
6 consideration the acts of the parties and all the facts and
7 circumstances of the case based on evidence introduced
8 during the trial of the case. This, ladies and gentlemen,
9 is how you, as a jury, make a determination of whether or
10 not any element required intent for any crime to be present.

11 It is not necessary to establish criminal intent
12 by direct evidence, but intent may be established by
13 inferences, in the same way as any other fact; by taking
14 into consideration the acts of the parties and all the facts
15 and circumstances of the case based on evidence introduced
16 during the trial of the case.

17 Criminal intent is a mental state. It is a conscious
18 wrongdoing. It is up to you, the jury, to determine what
19 the defendant intended to do based on the circumstances
20 shown to have existed from evidence introduced during the
21 trial of the case.

22 I charge you, ladies and gentlemen, that if a crime is
23 committed by two or more people who are acting together in
24 committing a crime, the act of one is the act of all.

25 A person who joins with another to commit an unlawful

1 act is criminally responsible for everything done by the
2 other person which happens as a probable or a natural
3 consequence of the acts done in carrying out the common plan
4 and purpose.

5 For example, two people can be guilty of killing
6 another person when only one of the two had a gun. There
7 was only one bullet and only one of the two fired the shot
8 that caused the death. If two or more people are together,
9 acting together, assisting each other in committing the
10 offense, the act of one is the act of all; or as it is
11 sometimes said, the hand of one is the hand of all.

12 Prior knowledge to the crime that is going to be
13 committed without more is not sufficient to make a person
14 guilty of that crime. Mere knowledge that another person is
15 going to commit a crime, even if the defendant is present
16 when the crime is committed, is not sufficient to convict
17 the defendant as a principle in the crime. Guilt is a
18 principle in the crime is shown by actual or constructive
19 presence at the scene as a result of prior arrangement.
20 Therefore, a finding of a prior arranged plan or common
21 scheme is necessary for a finding of guilt as a principle.

22 The State must prove beyond a reasonable doubt by
23 competent evidence the theory of the hand of one is the hand
24 of all. A principle in a crime, ladies and gentlemen of the
25 jury, is one who either actually commits the crime or who is

1 present aiding, abetting, or assisting in committing the
2 crime. When a person does an act in the presence of and
3 with the assistance of another, the act is done by both.
4 When two or more, acting with a common plan or intent, are
5 present at the commission of a crime, it does not matter who
6 actually commits the crime; all are guilty. The hand of one
7 is the hand of all.

8 Present at the commission of a crime means to be
9 sufficiently near to aid and abet and assist in the
10 commission of a crime. However, mere presence at the scene
11 of a crime is not sufficient to convict one as a principle
12 on the theory of aiding and abetting.

13 Intent is also a necessary element. There must have
14 been a common design or intent to commit the crime, and the
15 crime must have been committed pursuant thereto with the
16 person aiding and abetting by some overt act. Intent means
17 intending the result which actually occurs, not accidentally
18 or involuntarily. Intent may be shown by acts and conduct
19 of the defendant and other circumstances by which you, as a
20 jury, may naturally and reasonably infer intent based on
21 evidence introduced during the trial of the case. The State
22 must prove these elements beyond a reasonable doubt.

23 Now, in this case, ladies and gentlemen, the first
24 indictment that I told you about, the defendant is charged
25 with the offense of murder. For this offense, the State

1 must prove beyond a reasonable doubt that the defendant
2 killed another person with malice aforethought. Malice is
3 hatred, ill-will, or hostility towards another person. It
4 is the intentional doing of a wrongful act without just
5 cause or excuse and with an intent to inflict an injury, or
6 under circumstances that the law will infer an evil intent.

7 Malice aforethought does not require that malice exist
8 for any particular time before the act is committed, but
9 malice must exist in the mind of the defendant just before
10 and at the time of the act being committed. Therefore,
11 there must be a combination of the previous evil intent and
12 the act.

13 Malice aforethought may be express or implied, or
14 inferred. These terms express and inferred do not mean
15 different kinds of malice, but merely the manner in which
16 malice may be shown to exist. That is, either by direct
17 evidence or by inference from the facts and circumstances
18 which are proved, based on evidence introduced during the
19 trial of the case.

20 Express malice is shown when a person speaks words
21 which express hatred or ill-will for another, or when a
22 person prepared beforehand to do the act which was later
23 accomplished. For example, lying in wait for another person
24 or any acts of preparation going to show the deed was within
25 the defendant's mind would constitute express malice if

1 proven beyond a reasonable doubt by evidence introduced
2 during the trial of the case.

3 Malice may be inferred by inference from conduct
4 showing a total disregard for human life. Inferred malice
5 may also arise when the deed is done by a deadly weapon. A
6 deadly weapon is any article, instrument, or substance which
7 is likely to cause death or great bodily harm.

8 I charge you, ladies and gentlemen, that the defendant
9 in this case is also charged with the offense of armed
10 robbery in the second indictment. In order to prove this
11 offense, the State must first prove beyond a reasonable
12 doubt that the defendant took personal property from the
13 person or presence of another person. Property is in the
14 presence of a person if it is within the person's reach or
15 person's inspection, of the person's observation or control
16 so that the person could not, if overcome with violence or
17 prevented by fear, keep possession of their property.

18 The State must also prove for armed robbery beyond a
19 reasonable doubt that the defendant carried the property
20 away intending to permanently deprive the owner of the
21 property and to keep the property for the defendant's own
22 use. The slightest removal of the property, or the complete
23 possession of the property, even for an instant, by the
24 defendant, is sufficient to show a taking a carrying away of
25 the property.

1 The taking and carrying away of the property must have
2 been done for armed robbery with violence or by putting the
3 owner of the property in fear of violence.

4 And finally, for armed robbery, the State must prove
5 beyond a reasonable doubt that the defendant was either
6 armed with a deadly weapon during the robbery or alleged
7 either by action or words he was armed while using a
8 representation of a deadly weapon, or an object which a
9 person present during the commission of a robbery reasonably
10 believed to be a deadly weapon.

11 The display of a deadly weapon, therefore, is not
12 required to prove armed robbery. Words, coupled with a
13 representation that the defendant possesses a deadly weapon
14 are enough if it leads the victim to reasonably believe that
15 the defendant is armed. A deadly weapon is any article,
16 instrument, or substance, which is likely to cause death or
17 great bodily harm.

18 I charge you, ladies and gentlemen, that the third
19 indictment in this case charges the defendant with second
20 degree burglary. In order to prove second degree burglary,
21 the State must prove beyond a reasonable doubt that the
22 defendant entered a building without consent, with the
23 intent to commit a crime in the building. A building is any
24 structure that includes vehicles, watercraft, or aircraft
25 where a structure and possibly goods can be stored, whether

1 it be for any purpose.

2 Finally, the State must prove beyond a reasonable doubt
3 for second degree burglary that when entering, or while in
4 the building, or when fleeing, the defendant or an
5 accomplice was armed with a deadly weapon or explosive. A
6 deadly weapon, as I have instructed you, is any article,
7 instrument, or substance which is likely to cause death or
8 great bodily harm; or when entering, or while in the
9 building, or when fleeing, the defendant or accomplice cause
10 physical injury to anyone not participating in the crime, or
11 when entering, while in the building, or when fleeing, the
12 defendant or an accomplice, use or threaten to use a
13 dangerous object. Or when entering, while in the building,
14 or when fleeing, the defendant or accomplice displayed what
15 was or appeared to be a knife, pistol, revolver, shotgun,
16 machine gun, or other firearm; or the defendant entered or
17 remained in the building in the nighttime. Nighttime is the
18 period between sunset and sunrise, during which there is not
19 enough daylight to recognize facial features.

20 Now, Madame Foreperson, I told you I would prepare a
21 verdict form for you. Ladies and gentlemen, pay absolutely
22 no attention to the order in which I wrote the forms of
23 verdict, because I obviously had to write one before the
24 other. So, the order has no significance whatsoever.

25 I have placed on your verdict form, Madame Foreperson,

1 the caption of this case. The State of South Carolina,
2 County of Hampton, Court of General Sessions, which means
3 criminal court. I put the three indictment numbers: 2008-
4 GS-15-588, 2008-GS-15-589, and 2008-GS-15-590. I then put
5 the State of South Carolina v. Joseph Davis, defendant, and
6 I wrote the word verdict.

7 Question One, under the verdict, "We, the jury, by
8 unanimous consent, find the defendant, Joseph Davis, in
9 Indictment Number 2008 at 588, and the first form of verdict
10 under Question 1 is guilty of murder." If that be your form
11 of verdict, Madame Foreperson, you would check on the line
12 beside that form of verdict. The second form of verdict
13 under Question One, "We, the jury, by unanimous consent,
14 find the defendant, Joseph Davis, in Indictment Number 2008
15 at 588, is not guilty of murder." If that be your form of
16 verdict, Madame Foreperson, you would check on the line
17 beside that form of verdict.

18 You must find one form of verdict or the other; you
19 cannot find both.

20 Question Two, "We, the jury, by unanimous consent, find
21 the defendant, Joseph Davis, in Indictment Number 2008 at
22 589, and the first form of verdict is guilty of second
23 degree burglary." If that be your form of verdict, you
24 would place a check mark on that form of verdict. The
25 second form of verdict under Question Two on this verdict

1 form, "We, the jury, by unanimous consent, find the
2 defendant, Joseph Davis, in Indictment Number 2008 at 589,
3 is not guilty of second degree burglary." If that be your
4 form of verdict, you would check on the line beside that
5 form of verdict. You must find one form of verdict or the
6 other. You cannot find both.

7 Question Three on the verdict form, "We, the jury, by
8 unanimous consent, find the defendant, Joseph Davis, in
9 Indictment Number 2008 at 590, under question three, the
10 first form of verdict is guilty of armed robbery. If that
11 be your form of verdict, you would check on the line beside
12 that form of verdict.

13 The second form of verdict under the Question Three,
14 "We, the jury, by unanimous consent, find the defendant,
15 Joseph Davis, in Indictment Number 2008 at 590, not guilty
16 of armed robbery. If that be your form of verdict, you
17 would check on the line beside that form of verdict. You
18 must find one form of verdict or the other. You cannot find
19 both.

20 When you have checked the appropriate lines, Madame
21 Foreperson, for the entire jury on the verdict form, on the
22 second page you will sign your name where it says
23 "Foreperson", and you will fill in today's date which I have
24 left blank for you. I have put in italics, instructions for
25 you on the verdict form. It says indicate your findings by

1 checking the appropriate line and certify the findings by
2 the Foreperson's signature. Please inform the bailiff when
3 you've reached a verdict. That means knock on your jury
4 room door and tell the bailiff that you've reached a verdict
5 when you have completed the verdict form.

6 I instruct you, ladies and gentlemen, that your verdict
7 must be unanimous. That is, it must be the verdict of each
8 and every one of you. All twelve of you must agree on a
9 verdict. I do not, however, want you to begin your
10 deliberations quite yet when I send you to your jury room.
11 It may be necessary for me to bring you back in the
12 courtroom for some brief additional instruction.

13 Ladies and gentlemen, I've now charged you on the law
14 in order to help guide you to a fair and just result in this
15 case. You're the sole judges of the facts in this case,
16 based on evidence introduced during the trial of this case
17 and based on your determination of the facts in this case,
18 and the law as I have explained it to you.

19 Now, ladies and gentlemen, I remind you that each of
20 you were selected as fair and impartial jurors. You were
21 sworn to apply and you were sworn to impartially try and
22 determine the facts in this case, and when you comply with
23 that oath to be fair and impartial, no one can criticize
24 your verdict.

25 You are to decide the case, ladies and gentlemen, based

1 solely on the testimony that you've heard from the witness
2 stand and any exhibits, which you will have with you in your
3 jury room, during your deliberations, with the exception of
4 State's Exhibit Twenty, the DVD, which will require the
5 equipment in the courtroom if you wish to see that again.
6 If you wish to do so, Madame Foreperson, you will let me
7 know through a note and I will bring you back into the
8 courtroom and we will be happy to play anything that is in
9 evidence by way of a DVD before you here in the courtroom
10 where we have the equipment.

11 You must decide the issues in this proceeding without
12 any bias, or prejudice, towards either party. You cannot
13 allow yourself as a juror to be governed by prejudice for or
14 against any person by public opinion, by emotion, by
15 sentiment, or any other arbitrary factor not in evidence in
16 the trial of this case. Both the defendant and the State of
17 South Carolina have the absolute right to expect that each
18 of you on the jury will carefully and each of you will
19 impartially consider all of the evidence in this case, and
20 that each of you will follow the law as I have instructed it
21 to you to be in reaching your verdict in this case.

22 Now, ladies and gentlemen, I'm going to ask you to
23 retire to your jury room. Do not begin your deliberations.
24 It may necessary for me to bring you back into the courtroom
25 for some brief additional instructions. When it is time for

1 you to begin your deliberations, I will have the bailiff
2 bring you your verdict form, along with all the exhibits
3 which have been introduced into evidence that do not require
4 the equipment in the courtroom to play the exhibit, and have
5 the bailiff inform you that you may then commence your
6 deliberations. But do not begin your deliberations until I
7 have instructed you to do so.

8 Will my alternate jurors remain in the courtroom with
9 me. Ladies and gentlemen of the jury, would you please
10 retire to your jury room and await instructions from me
11 through the bailiff.

12 (1:30 P.M., 06-29-11, WHEREUPON, THE JURY EXITS THE
13 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
14 RECORD.)

15 **THE COURT:** My alternate jurors, first of all, on
16 behalf of Hampton County, I want to thank you for your
17 service. No one became ill or for some reason could not
18 continue their service as a juror in this case, so we did
19 not have to use your services. Although I have had to do so
20 many times in my career both as a lawyer and as a judge.

21 This also includes your service for the week, ladies
22 and gentlemen, so I'll be sending you back to your homes.
23 You know, all a judge can do is ask a jury to listen and
24 listen carefully, and I watched each of you during the trial
25 of this case and each of you did that. So, I want to thank

1 you for your service. Now, if either of you need a work
2 excuse -- Mylinda, where do they need to go?

3 **MADAME CLERK:** To my office downstairs.

4 **THE COURT:** If you'll go to the Clerk's Office
5 downstairs, we'll be happy to provide a work excuse for you
6 for serving on the jury. If you would like to discuss your
7 feelings about the case, even though you're not part of the
8 deliberations, if you would like to discuss your feelings
9 with someone, you may do so. However, if you don't want to
10 discuss your feelings about the case with anyone, just tell
11 them that, and if somebody persists in wanting to talk to
12 you, you get their name and give it to me and I'll handle
13 that problem for you.

14 Now, if you've listened carefully to my instructions,
15 you will know that you're exempt from jury service for the
16 next three years, should you choose to claim your exemption.
17 So, this concludes your service for the week and you are now
18 exempt for three years and we'll be happy to give you a work
19 excuse if you need it. On behalf of Hampton County and this
20 Court, I thank you for your service. You are now excused
21 from the trial of the case and you may leave the courtroom
22 at this time. Thank you very much.

23 (REMAINING ALTERNATE JURORS EXIT COURTROOM.)

24 **THE COURT:** Any exceptions or additions to the charge
25 from the State of South Carolina?

1 **DEP. SOLICITOR THORNTON:** No, sir.

2 **THE COURT:** Any exceptions or additions to the charge
3 from the defendant?

4 **MS. SMART-GITTINGS:** No additions, Your Honor, but we
5 do take exception to your example of hand of one, hand of
6 all regarding there being one bullet, one gun, many
7 suspects.

8 **THE COURT:** Well, that's the example that's in the
9 standard charge, Solicitor, and I don't believe there was
10 any intent on my part -- it's been in my charge book the
11 entire time I've been a judge, and I understand that. How
12 do you propose that I cure it? Would you like for me to
13 bring the jury back and tell them to disregard the examples
14 I gave? Because I try to give them examples on. I
15 understand you're objecting to it. Tell me what relief you
16 seek.

17 **MS. SMART-GITTINGS:** A curative instruction, Your
18 Honor, to disregard the one bullet, one gun, and many
19 suspects.

20 **THE COURT:** Well, I can't tell them to disregard one
21 bullet, one gun, because that would be a comment on the
22 evidence. I can tell them to disregard any examples I may
23 have given in regards to illustrating any principle of law
24 as being conclusively proved. Does that satisfy you?

25 **MS. SMART-GITTINGS:** It does, Your Honor.

1 **THE COURT:** Very well. Bring me the jury.

2 (1:36 P.M., 06-29-11, WHEREUPON, THE JURY ENTERS THE
3 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
4 RECORD.)

5 **THE COURT:** Madame Foreperson, ladies and gentlemen of
6 the jury, I told you that I may have to bring you back for
7 some additional instruction. Please understand that when I
8 am charging you the law, sometimes the Court in the charge
9 gives illustrations. Any illustration on any principle of
10 law that I charge you about, understand that that is by
11 illustration only and does not mean that any particular
12 fact, which may or may not be in controversy in this case
13 has been conclusively proved for purposes of this trial.
14 Thank you. You may retire to your jury room again.

15 (1:38 P.M., 06-29-11, WHEREUPON, THE JURY EXITS THE
16 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
17 RECORD.)

18 **THE COURT:** Any exceptions or additions to the
19 supplemental charge from the State of South Carolina?

20 **DEP. SOLICITOR THORNTON:** No, sir.

21 **THE COURT:** From the defendant?

22 **MS. SMART-GITTINGS:** No, sir, Your Honor.

23 **THE COURT:** Very well. I ask you both to come forward
24 and satisfy yourselves that the court reporter has all the
25 exhibits and then each of you state on the record

1 affirmatively that you have no objection to the bailiff
2 taking the exhibits and the verdict form into the jury and
3 the bailiff informing the jury they may now commence their
4 deliberations. Please come forward.

5 **DEP. SOLICITOR THORNTON:** Your Honor, may we approach?

6 **THE COURT:** You may.

7 WHEREUPON, A BENCH CONFERENCE IS HELD OUTSIDE THE
8 HEARING OF OTHERS.

9 (ATTORNEYS FOR THE STATE AND DEFENDANT GO THROUGH THE
10 EXHIBITS.)

11 **THE COURT:** Is the State satisfied that the court
12 reporter has all the exhibits?

13 **DEP. SOLICITOR THORNTON:** Yes, sir.

14 **THE COURT:** Does the State have any objection with
15 you've agreed to let the jury go to lunch. We had planned
16 this yesterday to take them out today for lunch. We had no
17 idea the trial was going to be finished in time for lunch.
18 You've agreed to let them go to lunch. Do you have any
19 objection to once they get back from lunch that the bailiff
20 take the verdict form, which I've got on the bench, which
21 you've approved, along with the exhibits into the jury room,
22 and telling them to commence their deliberations once they
23 return from lunch.

24 **DEP. SOLICITOR THORNTON:** The State has no objection,
25 but has a question, Your Honor.

1 **THE COURT:** Yes, sir.

2 **DEP. SOLICITOR THORNTON:** Defense counsel and I have
3 got the gun, it's in the box. You know it's been rendered
4 safe. There is no ammunition. I would ask that it go back
5 with the other exhibits.

6 **THE COURT:** Absolutely. Once it's got a lock on it and
7 there's no ammunition, I'm not concerned that it can't go
8 back. It's in evidence and they're entitled to it.

9 **DEP. SOLICITOR THORNTON:** That's the only thing the
10 State has, Judge.

11 **THE COURT:** Now, Ms. Smart-Gittings, is the defendant
12 satisfied that the court reporter has all the exhibits?

13 **MS. SMART-GITTINGS:** Yes, sir.

14 **THE COURT:** And you've agreed, also, to let the jury
15 have lunch and not begin their deliberations until they get
16 back. Do you have any objection to the bailiff taking the
17 verdict form and all the exhibits, including the gun, into
18 the jury room, except for the exhibits which require the
19 equipment in the courtroom to play out here in the
20 courtroom, do you have any objection to the bailiff taking
21 those in to the jury room when they return from lunch and
22 telling the jury that they may then commence their
23 deliberation?

24 **MS. SMART-GITTINGS:** No objection, Your Honor.

25 **THE COURT:** Very well. Mr. Jimmy, I'm giving you the

1 verdict form. The second page is just instructions. Becky
2 has the exhibits. If you would get all those together and
3 take those in once the jury comes back in from lunch, take
4 to the jury form and tell the jury they may begin their
5 deliberations.

6 MR. JIMMY WOOTEN: All right, sir.

7 THE COURT: Now, on the record, I had a conference --
8 first of all, there was an objection during the argument. I
9 want to make a record of it. Mr. Thornton -- I sustained
10 it. Mr. Thornton made an objection because defense counsel
11 argued that the State was trying to hide the evidence. I
12 agree there was absolutely no evidence to support that
13 argument and that's the reason I sustained the objection and
14 Ms. Smart-Gittings apologized to the jury for making that
15 argument after I sustained the objection.

16 For the record, also, I will say that counsel had a
17 problem with the equipment at the very beginning of the
18 trial playing the 9-1-1 tape. Counsel have conferred about
19 that tape, and if the jury wants to hear it, we will try to
20 play it and hopefully won't have a problem. However,
21 they've made another duplicate, which is going to be
22 reviewed by defense counsel if we need to play an exact
23 duplicate of it, because the quality of the CD might have
24 been the problem as opposed to the equipment; we're not
25 sure, but there was a problem during the trial and both

1 sides have agreed that they may be able to substitute a copy
2 should the jury find the need to hear that evidence in the
3 courtroom; is that correct, from the State?

4 **DEP. SOLICITOR THORNTON:** It is, Your Honor.

5 **THE COURT:** Correct from the defendant?

6 **MS. SMART-GITTINGS:** It is, Your Honor.

7 **THE COURT:** All right. It is now 1:45. You are
8 excused for lunch and Court will be in recess at this time.

9 (OFF THE RECORD AT 1:45 P.M.; BACK ON THE RECORD AT
10 2:10 P.M.)

11 **THE COURT:** All right, counsel, Let the record reflect
12 that I received a note from the jury. The note says, "May
13 we have the copy of the definition you charged us with
14 concerning murder." I advised counsel in chambers of the
15 request. They have both agreed that they will allow me to
16 submit my written charge on murder to the jury. One copy
17 satisfied both counsel, and write the following on their
18 request -- which, Mr. Jimmy, I want you to keep as we'll
19 make this a court exhibit. My response will be, "I am
20 attaching the Court's answer to your request. If you need
21 further information, please let me know in writing." Signed
22 Perry Buckner, presiding judge. My understanding is that
23 the State has no objection to that response or that
24 procedure or to sending one copy into the jury; is that
25 correct?

1 **DEP. SOLICITOR THORNTON:** No objection, Judge.

2 **THE COURT:** Is that correct from the defendant?

3 **MS. SMART-GITTINGS:** That is correct, Your Honor.

4 **THE COURT:** All right. If you'll send this back to
5 them. One other thing, let's go ahead and mark their note
6 and my response as a Court's Exhibit. Any objection from
7 the State?

8 **DEP. SOLICITOR THORNTON:** No, sir.

9 **THE COURT:** From the defendant?

10 **MS. SMART-GITTINGS:** No, sir.

11 **THE COURT:** Without objection, Becky. It will be
12 Number Three.

13 (COURT EXHIBIT NUMBER THREE, JURY NOTE AND THE COURT'S
14 ANSWER IN REGARDS TO THE WRITTEN CHARGE ON MURDER, IS
15 RECEIVED.)

16 All right. We'll go ahead and begin other non-jury
17 matters, now, while we await the jury's verdict.

18 (WHEREUPON, THE COURT RESUMES OTHER NON-JURY MATTERS
19 WHILE THE JURY CONTINUES THEIR DELIBERATIONS.)

20 (4:20 P.M., 6-29-11, THE COURT IS INFORMED THAT THE
21 JURY HAS ANOTHER NOTE.)

22 **THE COURT:** All right. Let the record reflect it's
23 now about 4:20. I received this second note from the jury
24 in the Joseph Davis case. The note is as follows: May we
25 also have the definition of second degree burglary and armed

1 robbery. We are not sure if one is guilty if he or she is
2 present.

3 I conferred with counsel. They've looked over the
4 question. They've agreed that I can respond in writing.
5 Attached is my response to your question. If you need any
6 further information, please let me know in writing. Signed
7 Perry Buckner, presiding judge. We will make this Court's
8 Exhibit Four. Attached to that response would be my
9 definition of second degree burglary, which they have both
10 reviewed. Also attached to the response is my definition of
11 armed robbery in writing, which counsel has reviewed and
12 agreed is what I charged the jury. Finally, attached to the
13 response is my definition of the hand of one is the hand of
14 all, which was requested that I charge in this case. They
15 both have reviewed that and agreed that it is exactly what I
16 charged. They are satisfied that this is the proper way to
17 handle the response to the jury. Have I accurately stated
18 what occurred in chambers, as far as the State is concerned?

19 **DEP. SOLICITOR THORNTON:** You have, Your Honor.

20 **THE COURT:** As far as the defendant is concerned?

21 **MS. SMART-GITTINGS:** Yes, Your Honor.

22 **THE COURT:** I understand neither one of you have any
23 objection to making this Court's Exhibit Number Four, which
24 is their request for my written response as well as the
25 attachments of the charges in writing; is that correct, from

1 the State?

2 DEP. SOLICITOR THORNTON: Yes, sir, that's correct.

3 THE COURT: From the defendant?

4 MS. SMART-GITTINGS: Yes, sir.

5 THE COURT: All right. Mr. Jimmy, take that into the
6 jury and tell them to continue their deliberations.

7 (COURT EXHIBIT NUMBER FOUR, JURY NOTE AND THE COURT'S
8 RESPONSE IN REGARDS TO ARMED ROBBERY AND THE HAND OF ONE IS
9 THE HAND OF ALL, IS RECEIVED.)

10 THE COURT: As to this matter, the jury will continue,
11 but I'm ready now to start with probation matters.

12 (WHEREUPON, THE COURT RESUMES OTHER NON-JURY MATTERS
13 WHILE THE JURY CONTINUES THEIR DELIBERATIONS.)

14 THE COURT: All right. Ladies and gentlemen that are
15 in the courtroom, I understand the jury has reached a
16 verdict in the case we've been trying this week. Let me
17 assure you right now that I will not tolerate any type of
18 emotional outburst when the verdict is published. If you
19 cannot control your emotions, you need to get up and leave
20 the courtroom now. I'll enforce that rule with the contempt
21 powers of this Court. No one in our out of the courtroom
22 while the verdict is being published until I release people
23 to leave. I need the defendant.

24 WHEREUPON, THE DEFENDANT IS BROUGHT INTO THE
25 COURTROOM.)

1 **THE COURT:** Solicitor, I understand the jury has
2 reached a verdict. Anything from the State before we bring
3 the jury in and publish the verdict?

4 **DEP. SOLICITOR THORNTON:** No, sir.

5 **THE COURT:** Ms. Smart-Gittings, anything from the
6 defendant before we bring the jury in and publish the
7 verdict?

8 **MS. SMART-GITTINGS:** No, sir, Your Honor.

9 **THE COURT:** Bring us the jury.

10 (5:00 P.M., 06-29-11, WHEREUPON, THE JURY ENTERS THE
11 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
12 RECORD.)

13 **THE COURT:** Madame Forelady, have you reached a
14 verdict?

15 **MADAME FORELADY:** Yes, we have.

16 **THE COURT:** Madame Clerk, you may publish the verdict.
17 The defendant will please rise with his attorney.

18 **MADAME CLERK:** The State of South Carolina, County of
19 Hampton, Indictment numbers 2008-GS-25-588, 2008-GS-25-589,
20 2008-GS-25-590. The State v. Joseph Davis. We, the jury,
21 by unanimous consent, find the defendant, Joseph Davis, in
22 Indictment Number 2008-GS-25-588, guilty of murder.

23 We, the jury, by unanimous consent, find the defendant,
24 Joseph Davis, in indictment number 2008-GS-25-589, guilty of
25 second degree burglary.

1 We, the jury, by unanimous consent, find the defendant,
2 Joseph Davis, in indictment number 2008-GS-25-590, guilty of
3 armed robbery. Signed by the Foreperson, Christine H. James
4 in Hampton, South Carolina, on June 29th, 2011.

5 **THE COURT:** Ladies and gentlemen of the jury, if this
6 be your verdict, would you each indicate by raising your
7 right hand?

8 **THE COURT:** Thank you. Let the record reflect, twelve
9 hands were raised. Is there anything further from the
10 defendant concerning the jury before I release the jury?

11 **MS. SMART-GITTINGS:** Nothing further, Your Honor.

12 **THE COURT:** Madame Foreperson, and ladies and gentlemen
13 of the jury, on behalf of Hampton County, and this Court, I
14 want to thank you for your service in this case. This
15 concludes your service for the week. I am now going to be
16 excusing you for the balance of the week.

17 If you listened to my instructions, you know that you
18 are now exempt if you choose to claim your exemption for
19 jury service for three years as a result of your service
20 this week. If any of you need a work excuse from serving on
21 the jury this week, if you will go downstairs to the Clerk's
22 office, we will have representatives of the Clerk's Office
23 downstairs.

24 Ladies and gentlemen, very often people believe from
25 talking to jurors that they can learn about how to improve

1 even trying a case or how things were presented by a
2 witness. If you would like to discuss your deliberations
3 with anyone, you may do so; however, if you do not wish to
4 discuss your deliberations with anyone, you do not have to
5 do so. Just tell the person inquiring that you do not want
6 to talk about it. If they persist, you give me the name and
7 I'll handle that problem for you as well.

8 On behalf of Hampton County and this court, I want to
9 thank you for your service. I've watched each and every one
10 of you during the trial, and all that I can ask of a jury is
11 that you listen and listen carefully, and each of you did
12 that.

13 Now, sentencing in this case will take place in just a
14 couple of moments. After we fill out the sentencing sheets,
15 the defendant and his attorney will come before the Court
16 and I will sentence the defendant. However, I would like
17 for you to be aware that if you would like to stay and watch
18 the sentencing, I'll allow you to remain in the jury box and
19 my bailiffs and deputies will escort you out of the
20 courtroom at the conclusion of the sentencing. If you would
21 like to leave now, that will be fine. Your service has been
22 concluded. You get to decide whether you want to stay or
23 not. That's entirely up to you. I thank you for your
24 service. For those of you who would like to leave, you may
25 leave through this door at this time; for those of you who

1 would like to remain, you may remain in the jury box.

2 Everyone else remain seated while the jury is leaving.

3 (BRIEF PAUSE IN COURTROOM WHILE SOME JURORS LEAVE.)

4 THE COURT: Any post-verdict motions from the
5 defendant?

6 MS. SMART-GITTINGS: None, Your Honor.

7 THE COURT: Very well. If you and your client will
8 come around for sentencing. Solicitor, if you will prepare
9 the sentence sheet.

10 DEP. SOLICITOR THORNTON: Yes, sir, Your Honor. It
11 will take us just a couple of minutes.

12 THE COURT: I understand that.

13 (BRIEF PAUSE IN THE COURTROOM WHILE SENTENCE SHEETS ARE
14 PREPARED.)

15 THE COURT: Yes, sir?

16 DEP. SOLICITOR THORNTON: Your Honor, I would like to,
17 while the sentence sheets are being filled out, I want to
18 apologize to the Court. I know we had somewhat of an
19 outburst, but I've gone back to talk to the family.

20 THE COURT: I realize that you have.

21 DEP. SOLICITOR THORNTON: It's been very emotional and
22 I apologize on behalf of the State.

23 THE COURT: Very well. (TO JUROR.) Yes, sir, do you
24 have a question?

25 JUROR: May I speak with you privately?

1 **THE COURT:** I can't do it privately. It has to be on
2 the record if it's anything about this case.

3 **JUROR:** All right. Come up there or stand here or what
4 you want me to do?

5 **THE COURT:** Well, hold on. We're in the middle of
6 sentencing. Can it wait until after sentencing?

7 **JUROR:** Yes, sir. That's okay. Yes, sir.

8 **THE COURT:** Counsel approach.

9 WHEREUPON, A BENCH CONFERENCE IS HELD OUT OF THE
10 HEARING OF THOSE IN THE COURTROOM.)

11 **DEP. SOLICITOR THORNTON:** Your Honor, may I approach?

12 **THE COURT:** You may.

13 **DEP. SOLICITOR THORNTON:** I've given a copy of the
14 documents that I'm going to hand Your Honor. The family had
15 prepared these for Your Honor. I know a few of them will
16 want to speak at the appropriate time. I've given defense
17 counsel a copy.

18 **THE COURT:** Very well. Is that correct, Ms. Smart-
19 Gittings?

20 **MS. SMART-GITTINGS:** That is correct, Your Honor.

21 **THE COURT:** Solicitor, I have now gone through and read
22 everything in the packet that you've provided to defense
23 counsel and to me in connection with this matter. I have
24 the sentence sheets in front of me, and all three
25 indictments have been signed by the foreperson of the jury.

1 Ms. Smart-Gittings, I think I know a good bit about the
2 case, because I've presided over the trial of the case.
3 However, I'll be happy to hear and be willing to listen. I
4 want the family to know that I've read every letter and
5 reviewed every photograph that you've provided me.

6 **DEP. SOLICITOR THORNTON:** Yes, sir, and the family has
7 indicated that there are two people who would like to speak
8 to the Court at the appropriate time.

9 **THE COURT:** That will be fine. I will give them the
10 opportunity if they so desire. Please express to them that
11 I know this is difficult, but I will not tolerate emotional
12 outbursts while we're doing this. You understand?

13 **DEP. SOLICITOR THORNTON:** Yes, sir, I have, Your Honor.
14 And the State will be brief at the appropriate time, Judge.

15 **THE COURT:** Ms. Smart-Gittings, I'll be happy to hear
16 from you.

17 **MS. SMART-GITTINGS:** May it please the Court, Your
18 Honor? You've presided over this case for a year or so,
19 almost two years now, so I'm -- I know that you're quite
20 familiar with Joseph and you know what it has taken for us
21 to get here. You've met his grandmother and his aunt. You
22 know the circumstances of his life, so we won't go into that
23 into great detail. But we would ask the Court to consider
24 that he has been in jail for quite some time and we know
25 that the maximum sentence that he could receive for this

1 offense is a life sentence. But we would ask that the Court
2 be lenient and not sentence him to a life sentence, and
3 certainly not a consecutive sentence. But we ask the Court
4 to punish him for the crimes that he has been convicted of;
5 but we ask that you not sentence him to a life sentence,
6 Your Honor.

7 **THE COURT:** Very well. Mr. Davis, is there anything
8 you would like to tell the Court prior to sentencing?

9 **MR. DAVIS:** Yes, sir.

10 **THE COURT:** Be happy to hear from you.

11 **MR. DAVIS:** First, I want to apologize to the victim's
12 family. Even though I still say that I'm innocent and I
13 want to first thank God and all of my lawyers and my family
14 and friends who are concerned about me. I want to apologize
15 to the Court. Thanks.

16 **THE COURT:** Very well. Solicitor, I understand that
17 you have some family members who wish to be heard prior to
18 sentencing?

19 **DEP. SOLICITOR THORNTON:** I do, Your Honor. Would you
20 like for me to present the State's brief case and then do
21 them?

22 **THE COURT:** Happy for you to do so, if you'd like to do
23 that first.

24 **DEP. SOLICITOR THORNTON:** I would, Judge. Your Honor,
25 this case, I'm not going to belabor the facts. You've heard

1 all the facts of this case. There are a couple of matters
2 that I wanted to bring to the Court's attention. I have
3 informed Ms. Smart-Gittings that I was going to bring these
4 matters up, so she knew ahead of time. Your Honor, two
5 things.

6 You heard in the confession of Joseph Davis some
7 references to gangs: bloods, crypts, folks, things of that
8 nature. Mr. Davis has been interviewed in a field interview
9 by a gang agent with the Hampton County Sheriff's Office.
10 He self-admitted, Judge, to being a member of the Blood's
11 gang, the pyro set. He goes through and lists -- it's a
12 pretty short document. It's one page with some checked
13 boxes on the second side. He talks about who sells drugs
14 for his gang. He talks about who holds the guns for his
15 gang and interestingly enough is Derrick Adkins, his co-
16 defendant, who is currently doing 30 years in prison.

17 All right, Judge, he also talks about some of the
18 enemies of his gang, and he lists -- and it's basically a
19 who's who of the criminal element in Hampton County, Your
20 Honor. With all due respect to Ms. Smart-Gittings, who is
21 making a plea on behalf of her client, I am asking the Court
22 for a life sentence in this case.

23 Judge, this is someone who has now been convicted of
24 basically executing a man in his own store, who did nothing
25 other than be in his own store. They robbed him. You know,

1 they didn't rob him for everything he had, but they
2 certainly took merchandise out of his store. He killed a
3 man. He's got a prior record, Judge, including a
4 shoplifting from 1999. He's got an attempted grand larceny
5 from 1999. He's got a grand larceny from 2004, another grand
6 larceny from 2008. This is not Joseph Davis's first time at
7 the rodeo, Judge. He has been a repeat offender here in
8 Hampton County.

9 Additionally, Your Honor, he is currently charged in a
10 murder, which is gang related, occurring in Jasper County
11 where the victim was taken from Hampton County and dumped
12 over the line into Jasper County. I, myself, went out to
13 that scene, Your Honor, and saw the body which had been
14 laying in the woods for about three months, after having
15 five bullets put in the back, and one bullet to the head.

16 Joseph Davis, Your Honor, is a danger to the community.
17 He has proven that over and over again; and the State is
18 respectfully asking Your Honor in this case for a life
19 sentence. At this time, Your Honor, with the Court's
20 permission, I will bring up, first, Ron Wooten, who is the
21 son of the victim, Ronnie Wooten.

22 **RON WOOTEN:** I just wanted to say, there were some co-
23 defendants in here earlier, and we were talking about how
24 they had received 30 years, which is a long time. But me,
25 my family, now have a lifetime sentence of living without

1 him. You know, he had hobbies outside of the business life.
2 He enjoyed fishing. He loved carrying me fishing. Now, I
3 go fishing; there's no more him. My fishing trips are
4 alone. I have a daughter and he never got to meet her. Two
5 months away from being born when this happened. And I was
6 really looking forward to him meeting her and to spoiling
7 her and doing everything that they could. Now, that can't
8 happen. We'd like to recommend -- we're going through such
9 a tough time. I mean, every day. We'll always remember
10 this and it's just -- we recommend a life sentence because
11 we're dealing with it, too. That's all I got to say. I'm
12 sorry.

13 **DEP. SOLICITOR THORNTON:** Your Honor, at this time, I
14 ask Donna Wooten, who is the daughter of the victim, Ronnie
15 Wooten.

16 **DONNA WOOTEN:** Your Honor, we've waited four long
17 years. We've went through a lot of pain and suffering.
18 We've had to come through hearings after hearings after
19 hearings with him. Not once until today has he ever shown
20 any kind of remorse at all, and I think the only reason why
21 he's showing any now is because of him being found guilty.

22 He took away a lot. He took away not only people's
23 family, people's friend, like my brother said, you know, he
24 had other hobbies and stuff. He used to take my daughter
25 every year to certain things, certain events. She misses

1 those. Ron's little girl. Those pictures that you saw, the
2 last one was him and my daughter, was the last picture he
3 had taken two weeks before he was killed.

4 Now, my daughter -- you know, he was a father figure to
5 her. And the picture with all the grandkids with him and my
6 mother; the only one missing is Ron's little girl. So,
7 every day we have to tell her that her granddaddy is with
8 the angels, because people made stupid decisions, you know.
9 They knew my dad. They knew that they didn't have to go in
10 there and kill him. They knew that he had a bad hip. All
11 he had to do was knock him down. He could have took
12 anything they wanted and left the store. It's a tragedy for
13 his grandmother and them, but the pain that we feel, you
14 know, there's a void. My daddy was 62 years old. He still
15 had a lot of life yet. My children, Ron's kids, they're
16 young. I don't think he should ever be allowed to be on the
17 streets again for my kids or Ron's children to ever have to
18 worry about if this guy is going to come and bother us. So
19 I think he should get a life sentence, because what he did
20 was he took somebody's life and it should be the same thing
21 for him. Thank you.

22 THE COURT: Anything else from the State?

23 DEP. SOLICITOR THORNTON: Thank you, Your Honor.

24 That's all from the State.

25 THE COURT: Let the record reflect, Mr. Davis, that I

1 take into consideration, and I listened carefully to the
2 testimony, as did the jury in this case, and I certainly
3 think the jury had clearly sufficient evidence to reach the
4 verdict that they did.

5 I also take into consideration your prior criminal
6 conviction record. I take into consideration the manner in
7 which this crime was performed. There is absolutely no
8 reason that you need to take a human life under these
9 circumstances. I wish that we had the power to restore
10 human life, because once it is lost, no court can restore
11 it.

12 On Indictment 2008-GS-25-0588, the State v. Joseph
13 Davis, the sentence of this court is the defendant is
14 committed to the State Department of Corrections for the
15 term and remainder of your life. On Indictment 2008-GS-25-
16 0590, armed robbery, the sentence of this court is defendant
17 is committed to the State Department of Corrections for a
18 term of 30 years. On Indictment 2008-GS-25-0589, burglary
19 second degree, violent, the sentence of this court is the
20 defendant is committed to the State Department of
21 Corrections for a term of 15 years. This concludes
22 sentencing in connection with this matter. Members of my
23 jury, I understand, sir, that you have a question. If you
24 give me one moment after a break, you can take the defendant
25 out, please.

1 (WHEREUPON, THE DEFENDANT IS TAKEN OUT OF COURTROOM.)

2 THE COURT: Ms. Smart-Gittings and Solicitor, I want to
3 thank you both for the professional manner in which you
4 handled yourself in the trial. I realize you both were
5 advocates for your prospective parties. The Court
6 appreciates the courtesy that you extended to each other and
7 to the Court in carrying out your duties in connection with
8 this. And I thank you for that; for being an advocate both
9 for your client and for the State of South Carolina. As far
10 as the Court is concerned, the case was well tried on both
11 sides, and I want you both to know that. I pray that
12 justice was done in this case. I believe the sentence is
13 extremely appropriate for the offense committed. This Court
14 stands adjourned. I need to see counsel in chambers. Stay
15 with me, sir, and we will go on the record after the break.

16 OFF THE RECORD FROM 5:43 P.M.; ON THE RECORD AT 5:45
17 P.M.)

18 THE COURT: All right. Becky, this is juror -- would
19 you give me your name for the record?

20 MR. GLASS: Jimmy Glass, Your Honor.

21 THE COURT: Mr. Glass. Mr. Glass indicated to me it
22 could wait until after we finished sentencing. He had a
23 question and I told him it would have to be on the record
24 with the court reporter with the attorneys present. What is
25 your question, Mr. Glass?

1 **MR. GLASS:** There was one of the defendants that came
2 up on the stand that lived in Yemassee. They said he was a
3 burglar and a liar and writes -- forges checks. I live in
4 Yemassee.

5 **THE COURT:** Yes, sir.

6 **MR. GLASS:** I have my family in Yemassee, and I would
7 like his name, his address, whatever. I know the judge in
8 Yemassee. I know the mayor of Yemassee, and also the Chief
9 of Police in Yemassee, and I would like to present this to
10 them to be advised that he is in the Yemassee area, and to
11 protect my family.

12 **THE COURT:** I understand, Mr. Glass. Please sit down.
13 You don't have to remain standing. I understand your
14 question. Mr. Glass, rather than give you information,
15 that's a matter for law enforcement, and I understand your
16 concerns. Now, I've got the Sheriff of Hampton County right
17 on my left and I've got Captain Russell with the Sheriff's
18 Department on my right. They're very familiar with the law
19 enforcement in Yemassee, including Chief Hagee of the
20 Yemassee Police Department, and they will see to it that
21 your concerns are addressed to law enforcement, which your
22 concerns need to be handled by law enforcement and not by
23 citizens. Do you understand?

24 **MR. GLASS:** Yes, sir.

25 **THE COURT:** And I will see to it -- the Sheriff is

1 nodding his head in the courtroom right now. He will handle
2 that and, Captain, I expect you to handle that. I do not
3 want you, because of your service on the jury, to be
4 concerned that law enforcement will not be made aware of
5 your concerns.

6 MR. GLASS: Thank you, sir.

7 THE COURT: Yes, sir.

8 MR. GLASS: I just wanted to make sure everything's
9 okay.

10 THE COURT: Now, any objection to the way the Court
11 handled the juror's question, from the State?

12 DEP. SOLICITOR THORNTON: None at all, sir.

13 THE COURT: From the defendant?

14 MS. SMART-GITTINGS: None, sir.

15 THE COURT: All right. Mr. Glass, I want to thank you
16 for your service in this case. I appreciate your
17 attentiveness, your willingness to serve. You're exempt for
18 three years, as I told you. You may leave the courtroom at
19 this time and I thank you for your service.

20 MR. GLASS: Anytime. I like doing this.

21 THE COURT: Thank you, sir.

22

23

24

25

STATE OF SOUTH CAROLINA)
)
COUNTY OF COLLETON)

CERTIFICATE

I, REBECCA H. HILL, Official Court Reporter for the
Judicial Department of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had in the
trial of the captioned case, in the Court of General
Sessions for Hampton County, South Carolina, on the 26TH 27TH
and 28th days of June in 2011.

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

September 22, 2011



Rebecca H. Hill,
Official Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF HAMPTON

The State of South Carolina,

Plaintiff

v.

Defendant.

IN THE COURT OF GENERAL SESSIONS
Indictment No.(s): 2008-GS-25-588, 2008-GS-25-589, 2008-GS-25-590

A/Warrant No.(s): I-813726, I-813727, I-813728

**ORDER FOR COMPETENCY TO STAND
TRIAL EVALUATION PURSUANT TO
STATE V. BLAIR**

EVALUATION BY:
(Select Only One)

☒ Department of Mental Health (Mental Illness)

OR

☐ Department of Disabilities and Special Needs
(Mental Retardation or Related Disability)

FILED
2008 MAY 20 PM 2:27
MYLINDA D. HATTLES
CLERK OF COURT
HAMPTON COUNTY, S.C.

#1
P.16
This matter is before me for an order requiring defendant Joseph Davis, charged with Murder, Burglary 2nd, and Armed Robbery while armed with a deadly weapon, to submit to an evaluation for competency to stand trial pursuant to State v. Blair, 275 S.C. 529, 273 S.E.2d 536 (1981) and S.C. Code Ann. § 44-23-410 (1976).

BASIS FOR ORDER. I have considered the showing made in support of the motion requesting this evaluation and have reason to believe defendant may lack the competency to understand the criminal proceedings or to assist with the defense as a result of a lack of mental competence.

This order is issued for the following reasons:

Based on the conversations between the defendant and his attorney, the nature of the charges, and the aggravating circumstances the Defense and the State opined that it would be in the best interest of the defendant to have a competency evaluation. The defendant has a pending Murder charge in Jasper county as well.

THEREFORE, IT IS ORDERED: Defendant shall be examined and observed at an appropriate facility by two examiners of the Department of Mental Health if suspected of having a mental illness or by two examiners designated by the Department of Disabilities and Special Needs if suspected of having mental retardation or a related disability, to render an opinion.

FILED
2008 MAY 20 PM 2:27
MYLINDA D. HATTLES
CLERK OF COURT
HAMPTON COUNTY, S.C.

whether defendant is competent to stand trial.

COMPLIANCE DEADLINE/TRANSPORT FOR EVALUATION. The examining facility shall schedule the ordered examination no later than thirty (30) days from the examining agency's receipt of this order. If defendant is currently free on bond or personal recognizance, defendant is responsible for making transportation arrangements to attend the examination. In the event defendant does not appear at the scheduled examination, upon written notice of such failure by the examining agency to the Sheriff of the county in which this case arose, defendant shall be taken into custody by the Sheriff and held until an examination can be scheduled and completed, and thereafter shall be released. Defendant's bond or bail is hereby revoked to the extent necessary to carry out the provisions of this order, and upon completion of the examination and release of defendant, any previous bail or bond issued by the Court shall remain in effect. If defendant is in custody at the time of the scheduled examination, the Sheriff is hereby authorized and required to transport defendant to and from the examination, arriving at the examining facility at the time established by confirmed appointment with the staff of the examining facility. In the event defendant is in custody of a law enforcement agency other than a Sheriff's department, nothing herein prevents such agency from carrying out the provisions of this order.

TRANSFER TO ALTERNATE AGENCY. If the initial examination is performed by the Department of Mental Health, and examiners find indications of mental retardation or a related disability but not mental illness, the Department of Mental Health shall not render an opinion on mental competency, but shall inform the Court, prosecutor, and defense counsel that defendant is "not mentally ill" and shall provide a copy of such notification and a copy of this order to the Department of Disabilities and Special Needs. Likewise, if the initial examination is performed by the Department of Disabilities and Special Needs, and examiners find indications of mental illness but not mental retardation or a related disability, the Department of Disabilities and Special Needs shall not render an opinion on mental competency, but shall inform the Court, prosecutor, and defense counsel that defendant does "not have mental retardation or a related disability" and shall provide a copy of such notification and this order to the Department of Mental Health.

In either case, the examining agency shall make copies of any records gathered or created in connection with its examination available to examiners designated by the alternate agency, and the alternate agency shall thereafter designate examiners to evaluate defendant as to competency to stand

Handwritten signature
CLERK OF COURT FOR
CLAY COUNTY, N.C.
DATE 1-23-14

trial within thirty (30) days of receipt of the notification from the initial examining agency.

FINDING OF DUAL DIAGNOSIS. If examiners of either the Department of Mental Health or the Department of Disabilities and Special Needs find an indication of a dual diagnosis of mental illness and mental retardation or a related disability, no opinion on defendant's mental competency shall be rendered, and the dual diagnosis must be reported to the Court, prosecutor, and defense counsel. The examining agency shall also provide notification of the finding and a copy of this order to the other agency. Thereafter, the Department of Mental Health and the Department of Disabilities and Special Needs shall arrange for an examiner from each agency to further evaluate defendant to render a final report on defendant's mental competency. Both agencies are authorized and required to make copies of all relevant records within their possession or control available to examiners for purposes of completing the dual evaluation.

AUTHORIZATION FOR INPATIENT EVALUATION. In the event examiners from either agency determine defendant requires an inpatient examination, upon written notice to this Court from the director of the examining agency or his designee, defendant shall be committed to an appropriate facility of the requesting agency for no more than fifteen (15) days for examination and observation related to defendant's mental competency to stand trial.

REQUEST FOR EXTENSION. Before the expiration of the examination period or the examination and observation period, the Department of Mental Health or the Department of Disabilities and Special Needs, as appropriate, may apply to a judge designated by the Chief Justice of the South Carolina Supreme Court for an extension of time up to fifteen (15) days to complete the examination or the examination and observation.

DETENTION BEYOND EVALUATION PERIOD. If, in the judgment of the designated examiners, defendant is in need of immediate hospitalization or inpatient treatment, upon written request to this Court from the director of the examining facility or his designee, defendant may be detained by the requesting agency in a suitable facility for so long as deemed clinically necessary or until a hearing required and provided by S.C. Code Ann. § 44-23-430 (1976) may be conducted by this Court. An additional Court order shall be necessary for ongoing pre-trial inpatient detention of defendant as discussed in this paragraph.

ISSUANCE AND ADMISSIBILITY OF WRITTEN REPORT. Within ten (10) days of all examinations or the conclusion of the observation period, a written report shall be made to the

A TRUE COPY
 Clerk of Court for
 CLAYTON COUNTY, SC
 DATE 1-23-14

Court pursuant to S.C. Code Ann. § 44-23-420 (1976). A copy of the report shall also be forwarded to the prosecutor and defense counsel. This evaluation report shall be admissible as evidence in subsequent hearings pursuant to S.C. Code Ann. § 44-23-420(c) (1976); thus, the report is a statutory exception to the rule against hearsay and shall be admissible without need for foundational testimony. However, the report shall be inadmissible in any other proceedings except as expressly permitted by South Carolina law.

OWNERSHIP AND DISCOVERABILITY OF EXAMINING AGENCY FILES. The examining agency is an independent entity, conducting this evaluation pursuant to Court order, and is not aligned with any party before the Court. To promote full disclosure and to assure the cooperation of defendant during the evaluation process, ownership of the examining agency's files shall be vested with the examining agency, including clinician's notes, staff reports, evaluation documents, memoranda, test results, etc. Neither these files nor any of their contents shall be provided to any party except upon presentation of a Court order authorizing such or a release authorization signed by defendant. In the event the examining agency's evaluation opinion is contested, an examiner may be appropriately and fully questioned as to the basis for the examiner's opinion at any hearing pursuant to S.C. Code Ann. § 44-23-430 (1976). However, examiners and agency staff may not be compelled to testify regarding statements made during the competency examination for any purpose other than to establish competency. Also, statements made during the examination may not be used to impeach defendant at trial. Hudgins v. Moore, 337 S.C. 333, 524 S.E.2d 105 (1999).

MEDICAL PROVIDERS/SCHOOLS MUST RELEASE NECESSARY RECORDS. State agency examiners conducting the evaluation may need clinical and school records concerning defendant to assist in forming an opinion. It is therefore ordered, upon presentation by the examining agency of this order with a written request for specific records attached thereto, that any physician or clinician, licensed health care facility, licensed health care provider, or any school district is hereby authorized and required to furnish copies of all records concerning defendant to the Department of Mental Health or the Department of Disabilities and Special Needs, or both.

COUNSEL REQUIRED TO FURNISH NECESSARY RECORDS. Upon written request from the examining agency, counsel for the prosecution and defense shall furnish to the agency such records and information in counsel's possession as the agency requests, including but not limited to copies of law enforcement reports, investigations, witness statements, statements by

THIRTY COPY
JUDGE D. W. WOODS
CLERK OF COURT FOR
SOUTH CAROLINA
DATE 1-2-3-14