

 ORIGINAL

VOLUME I OF II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CLARENDON COUNTY

William Jeffrey Young, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JONATHAN CODY NEWMAN,

APPELLANT

APPELLATE CASE NO. 2015-000091

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON)

COURT OF GENERAL SESSIONS

Jonathan Cody Newman and)
Letroy Samuels,)

PLAINTIFF,)

v.)

State of South Carolina,)

DEFENDANT.)

TRANSCRIPT OF TRIAL

C/A No. 2013-GS-14-00293

Clarendon County Courthouse
Tuesday, January 6, 2015-
January 9, 2015

BEFORE:

HONORABLE W. JEFFREY YOUNG, PRESIDING JUDGE.

APPEARANCES:

Third County Solicitor Ernest Finney
Assistant Solicitor Christopher Durant
Attorneys for State of South Carolina

Eleazer Carter, Esquire
Attorney for Jonathan Cody Newman

Harry Devoe, Esquire
Attorney for Letroy Samuels

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1 (Court in session 1-6-15)

2 The Court: Well good morning ladies and gentlemen.
3 As we go through this week it looks like it will be
4 progressively cooler each day. So if you want to bring a
5 sweater or something like that, I see some of you have
6 your coats on. We will try to keep it as comfortable in
7 here as possible. One thing I did not tell you to do that
8 you will need to do. Is next time you all have a break,
9 please decide who you want to be the foreperson of your
10 jury. It needs to be one of the twelve primary jurors. It
11 can not be one of the alternates and the person who is
12 the foreperson of the jury will be the jury's
13 spokesperson here in court, and will foster the
14 deliberations once you are instructed to do so. So when
15 you go back to your next break and when you come back I
16 will ask who the foreperson is and they will sit right
17 where you are ma'am. Ms. Beulah would you please swear
18 the jury?

19 Ms. Beulah: Yes sir. Good morning ladies and
20 gentlemen. Will you please stand and raise your right
21 hand. You should well and truly try to and true
22 deliverance make between the State of South Carolina and
23 Jonathan Cody Newman and Letroy Samuel whom you shall
24 have the charge with a true verdict give according to the
25 evidence so help you God. Please say I will.

1 Jury: I will.

2 The Court: Alright ladies and gentlemen before we
3 begin this trial I want to tell you this trial will
4 probably be different from what you might expect. You
5 know most people do not have a chance to attend an actual
6 court session as you are today and may think from
7 watching T.V., movies, or reading books the trials are
8 always full of high drama, intense actions, and riveting
9 circumstances. Well you know while all these things might
10 be true at times. This trial is not for entertainment.
11 This is a real trial which is a fundamental part of our
12 democracy and it is a search for the truth in a effort to
13 make sure that justice is done. In searching for the
14 truth and ensuring that justice is done is often slow,
15 deliberate, and repetitive. The exact opposite of what
16 you may have seen on television, seen in movies, or read
17 in books. Now ladies and gentlemen even though we are in
18 a temporary court room here as your new one is rebuilt.
19 When is it suppose to be finished Ms. Beulah, May?

20 Ms. Beulah: May or June hopefully.

21 The Court: Even where we are at here, this is a
22 place of honor that is dedicated to the protection and
23 the preservation of our citizen's rights through what has
24 been called and I truly believe from the bottom of my
25 right the greatest justice system that has ever been

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1 created by man. Ladies and gentlemen the attorneys who
2 are appearing before you are advocates for the parties
3 they represent, but first and foremost they are officers
4 of this court who are sworn to uphold the integrity and
5 the fairness of our judicial system and to help you in
6 your search for the truth. Ladies and gentlemen you
7 should expect them to be professional, competent, and
8 ethical in the representation of their client's interest.
9 Ladies and gentlemen remember you just took an oath a few
10 minutes ago to listen to the evidence in this case and
11 reach a fair and just verdict. You are expected to be
12 professional, reasonable, and ethical as well. Again
13 thank you for excepting this important responsibility of
14 jury duty and for your contribution to our justice
15 system. Ladies and gentlemen what I am going to tell you
16 know is just intended to be, serve as an introduction of
17 the trial in this case. These remarks are not a charge on
18 the law. I will charge you the law that is applicable to
19 this case at the end of the trial. This is merely an
20 explanation of the procedures that we will be following
21 so that you may better understand what is happening.
22 Ladies and gentlemen let me say up front, that during
23 this trial you will not be allowed to take notes.
24 Therefore it is very important that you listen closely
25 throughout this trial. Ladies and gentlemen the defendant

1 are charged by indictments filed with this court, with
2 murder and burglary in the first degree. The specific
3 elements of these charges will be explained to you later,
4 but let me remind as I said before we selected you as
5 jurors. That the indictments charging the defendants are
6 simply the documents by which the case is brought into
7 court and are not in any sense evidence of any of the
8 allegations contained therein. The defendants have plead
9 not guilty to the charges in the indictment so the State
10 therefor has the burden of proving all the elements of
11 each charge in the indictment beyond a reasonable doubt.
12 It will be your duty as jurors to decide whether the
13 State has met that burden. Ladies and gentlemen your
14 purpose in this trial is to determine the facts in this
15 case. You will determine the facts from the testimony
16 that you will get from this witness stand and any other
17 evidence that is introduced here in court. It will be up
18 to you as juror to determine the inference which you feel
19 may be properly drawn from the evidence. Ladies and
20 gentlemen it is especially important that you perform
21 your duty diligently and consciously, because ordinarily
22 there is no way to correct an erroneous determination of
23 facts by a jury. Ladies and gentlemen on the other hand
24 but with equal emphasis. The same law that makes you the
25 judges of the facts, makes me the judge of the law. The

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1 law as given to you by me is the only law that you may
2 consider. You must except the law as I give it to you and
3 follow it even though you may disagree. I will make an
4 agreement with you right now, that I will not tell you
5 what the facts are and you will not disagree with me
6 about what the law is or what you think the law should
7 be. Your job is to take the law as I give it to you and
8 apply it to the facts as you find them from the testimony
9 and other evidence that is presented and after hearing
10 the evidence, you will deliberate and deliver a true and
11 just verdict under the solemn oath that you just took as
12 jurors. Ladies and gentlemen until I advise you to begin
13 your deliberations and the conclusion of the case, you
14 must not discuss the case with others including your
15 fellow jurors except when authorized to do so by me. You
16 may not use a computer, cellular phone, or other
17 electronic device with communications capability while
18 here in attendance at trial or during your deliberations,
19 but these devices may be used when you lunch breaks or
20 when you go home for the evenings. But even then they may
21 not be used to obtain or disclose any information about
22 the case when you are not here in court. Information
23 about the case would include but is certainly not limited
24 to the following. Any information about a party, a
25 witness, an attorney, or a court officer. Any news

1 accounts about the case, any information collected
2 through the juror research on any topic raised or
3 testimony offered by any witness or any information
4 collected through juror research on any topic that you
5 think might be helpful in deciding the case. Ladies and
6 gentlemen after the case is submitted to you, you must
7 discuss it only in your juror room with your fellow
8 jurors. Now the attorneys and the parties in this case
9 are advised, that they are not to talk to you at all. So
10 if you see any involved in this case around this small
11 school square that we are in and they do not even say
12 hello, well they are not being unfriendly they are just
13 following my instructions. Ladies and gentlemen it is
14 very important that you keep an open mind and not decide
15 any issue in this case until all of the evidence has been
16 presented, the attorneys have made their closing
17 arguments, and I have instructed you on the law of this
18 case. Ladies and gentlemen it is your solemn
19 responsibility to determine the guilt or innocence of
20 these defendants and your verdict must be based solely on
21 the evidence as it is presented to you during this trial
22 and on the law as I give it to you at the close of the
23 trial. Ladies and gentlemen in just a few moments the
24 solicitor will make what is called an opening statement,
25 in which he will explain to you what he believes issues

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1 are in this case. The attorneys for the defendant may
2 also make an opening statement, however they are not
3 required to do so. What the attorneys tell you during
4 their opening statement is not evidence, it is only their
5 contention as to what they believe the issues are in this
6 case. Ladies and gentlemen from time to time during this
7 trial you may hear one of the lawyers say something
8 like, Your Honor I believe we have a question or matter
9 of law to discuss with you or Your Honor may we approach
10 the bench or sometimes I may decide that it is necessary
11 to excuse you from the court room for a short while so
12 the attorneys and I can discuss the matter of law. The
13 reason for this as I said, I am not suppose to tell you
14 what the facts are since you are the judges of the facts
15 and sometimes when I am discussing matters of law with
16 the attorneys it may be necessary for me to make some
17 comment as to the facts, in connection with ruling on
18 whether or not a particular law applies. As I said I
19 am not suppose to tell you what I think the facts are so
20 I will excuse you from the court room while these
21 discussions take place. So you will in no way be
22 influenced by anything that I might say or do in
23 connection with the facts. Ladies and gentlemen also with
24 the trial you may hear one of the attorneys make an
25 objection to certain evidence that is about to be

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1 presented. Whether I sustain, would be to grant the
2 objection or deny the objection, which would be
3 overruling, should not be construed that I favor one side
4 over the other, I do not. Nor should you infer that the
5 objecting party is trying to hide something from you.
6 Ladies and gentlemen in this court room as in all
7 situations in life there are specific rules that must be
8 followed and the attorneys as officers of this court are
9 merely trying to follow the rules of evidence of this
10 court in making their objections and I am only ruling
11 based upon what I believe the law of the state of South
12 Carolina to be concerning the evidence being presented.
13 Ladies and gentlemen in determining what the true facts
14 are in this case you must decide whether or not the
15 testimony of a witness is believable. It will be my
16 responsibility to rule as a matter of law whether certain
17 testimony is admissible, but once the testimony is
18 admitted whether or not you decide to believe it is
19 solely for you to determine. In deciding whether to
20 believe a witness, you have the right to consider the
21 interest of any witness, the bias of any witness, the
22 prejudice of any witness, and the opportunity for the
23 witness to actually observed the things and matters about
24 which the witness may testify. Also you may consider the
25 way the witness acts on the witness stand. Ladies and

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1 gentlemen you have a right to consider anything that is
2 in the record that will help you evaluate the testimony
3 of the witness. That means that it is your responsibility
4 to pay close attention to the witnesses, to observe the
5 witnesses, and listen to the witness, and to pay close
6 attention to the attorneys and to the Court. Ladies and
7 gentlemen please do not let your thoughts wonder, but
8 give strict attention to the testimony in this case so at
9 the end of all the testimony, after the argument of
10 council, and the charge on the law by me. You will then
11 be in a position to determine what the true facts are and
12 to apply the law to those facts and thus render a true
13 and just verdict. Now in order to preserve everyone's
14 rights I will give the parties an opportunity to object
15 to anything that I have stated to you. Does the State
16 have any objection to anything that I stated to the jury?

17 State: Nothing Your Honor.

18 The Court: Does either defendant have any objection
19 to anything that I stated to jury?

20 Defense: No objection Your Honor. None Judge..

21 The Court: Thank you. Alright thank you ladies and
22 gentlemen. We will now begin the trial of the case.

23 Durant: Thank you Your Honor may I please the Court?

24 The Court: Mr. Durant, yes sir.

25 (Opening arguments)

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1 Mr. Durant: Mr. Carter, Mr. Devoe, Madam Clerk, and
2 ladies and gentlemen of the jury good morning. This case
3 is about lack of respect for human life. It is about
4 people with no value for human life, that would assault
5 and rob or take part in an assault and robbery of a
6 defenseless man in his own home and beat that man in his
7 own home. My name is Chris Durant I am Assistant
8 Solicitor here in Clarendon County. It is my pleasure to
9 present this case with the duly elected appointed
10 Solicitor Chip Finney. I work here in Clarendon County
11 and my job as an Assistant Solicitor is to represent the
12 interest of this community to represent your interest,
13 and is to represent the interest of the state of South
14 Carolina. The Supreme Court has said that our job as
15 prosecutors is not to just seek convictions but to ensure
16 that justice is reached, to seek justice, and make no
17 mistake about it that is your goal. Justice is the goal
18 in this case and that is what the Judge just told you a
19 few minutes ago. He told that your job was to, was to
20 render a verdict that speaks justice. That this was a
21 search for the truth and that is what it is. The burden
22 is on the State in this case to prove the evidence of the
23 crimes charged beyond a reasonable doubt. You will hear
24 that phrase a lot through out this trial and I will
25 explain it to you just briefly here, but before I do that

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1 let me tell you that if any point during this trial I say
2 something that contradicts what the Judge with the law is
3 then by all means disregard the law as I give it to you
4 and apply it as Judge Young tells you. I submit to you
5 that proof beyond a reasonable doubt is proof that will
6 leave you firmly convinced that these defendants guilty.
7 That proof will come to you in from several places. It
8 will come to you from investigators, the Manning Police
9 Department, to identify the players in this case,
10 identify who was there. It will come to you from
11 eyewitnesses who get on this stand and say I was there,
12 this is what happened, including one who has already
13 accepted responsibility for his role and is going to get
14 up here and say yeah this is what I did and these other
15 fellas did too. With that in mind I will go ahead and
16 tell you that you are not going to hear from the best
17 witness in this case, no the chair preserved for the best
18 witness in this case, was the man injured, because the
19 best witness in this case suffered a traumatic brain
20 injury when he was beaten to a pulp in his own home and
21 he never recovered. He was in the hospital for two
22 months, he never recovered and he passed away, about two
23 months after this happened. He will not be here today to
24 tell you what happened. He will not be here to tell you
25 who or why these fellas assaulted him and for that these

1 two guys are charged with murder and burglary in the
2 first degree and the Judge will tell you what those
3 charges mean what the elements of those charges are
4 later. Let me just kind of summarize the facts for you.
5 This thing happened back on May the 25th to the 26th,
6 2013. A group of people hanging out at a house here on
7 near Main right behind the Bank of
8 Clarendon. There is a duplex shared a common porch. Group
9 of people hanging at that house throughout the day
10 drinking. At some point during the late evening, early
11 morning hours of the 26th five people remained. One man
12 was the victim in this case he lived next door. He was
13 exactly friends with these people, but he lived next door
14 in this duplex and had been there throughout the day.
15 These fellas formulated a plan to rob him. The closes
16 individual to you Jonathan Newman in the blue shirt there
17 walked up on the porch and hit him, blind sided him,
18 knocked him out. He was drugged into the house, he was
19 beaten, kicked, stepped on, in his own home and his house
20 was ransacked. Now I will go ahead and tell you that you
21 are not going to see fingerprints in this case. You are
22 not going to see DNA in this case, but that does not mean
23 that justice is any less obtainable. This is not CSI,
24 sometimes those things are not practical. Sometimes it is
25 not practical to get DNA and fingerprints and sometimes

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1 it would not mean anything. If a group of people were
2 hanging out at a house, if a man were to assault his wife
3 his fingerprints in a home would not mean anything, if we
4 knew these people had been there throughout the day then
5 that kind of evidence does not mean anything. So you will
6 not see that kind of evidence in this case, but again
7 that does not mean that justice is any less obtainable. I
8 told you, you would not hear from the victim because he
9 is not here, but you will hear from eyewitnesses. You
10 will hear from investigators who spoke to those
11 witnesses. You will hear from doctors. You will hear from
12 a pathologist, that obtained the cause of this man's
13 death. You will have everything you need to render a
14 verdict that speaks the truth. To render a verdict that
15 speaks justice and that is your goal. Justice is your
16 goal. Do not fall short. Thank you.

17 The Court: Ok, Mr. Devoe or Mr. Carter.

18 Mr. Carter: Good morning ladies and gentlemen. As
19 Your Honor indicated to you that, there is no way to
20 correct erroneous said facts, findings that you all might
21 find if you rule unworthy without legitimately reviewing
22 are receiving all of the evidence and discussing it in
23 making your decision. I think that that is important, a
24 very important, thing for you guys to consider in
25 listening to that facts, in deliberating and making your

1 decision. The reason that that is important is because
2 you heard the solicitor talk about making a finding
3 beyond a reasonable doubt. What he is talking about is
4 you have to listen to the facts and got to make a
5 decision. Your decision that you make must be based on
6 sound facts. Now in a civil case when two parties, one
7 party is suing the other, the party that wins only has to
8 tip the scale plenty of you have heard the scales of
9 justice, there is these two scales here and one of them
10 weighing one way or the other. In a civil case the party
11 that tips the scale a little bit, prevails. They produce
12 the majority of the evidence, simple majority of the
13 evidence or simple majority that convinces a juror in a
14 civil case where somebody is suing somebody. Well that
15 differs from a criminal case because in a criminal case
16 you have to make a finding or your decision must be based
17 on facts that go beyond a reasonable doubt. That means
18 that a doubt where, I mean you have no doubt in your
19 mind. You are convinced that I have heard this witness I
20 have heard that witness. I received evidence, I received
21 documents, I received pictures, whatever, and upon
22 receiving all of those things it does not tip the scale,
23 it out ways the scale beyond a reasonable doubt. That
24 means that there is sufficient evidence. That means that
25 your are not left saying, I do not know, I do not know

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1 which witness to believe, I do not know who is telling me
2 the truth, I do not know. If you have got any of that in
3 your heart then you are not convinced beyond a reasonable
4 doubt. Now, most of the time nobody is going to be one
5 hundred perfectly convinced, one hundred percent
6 perfectly convinced because there is always something out
7 there but you have to come close to it with your
8 excepting of the facts. If you believe something is just
9 outrageously questionable not even outrageously
10 questionable, just questionable to you, you are not
11 convinced beyond a reasonable doubt and you got to bring
12 back a verdict in favor of wherever you make that finding
13 at. Our positions, the position of my client here,
14 Jonathan Newman is that, based on these factual scenario
15 is that on the date of this event as the solicitor
16 indicated. There off of , there was a
17 gathering and throughout the day a bunch of people
18 gathered at the house. The gathering at this house, it
19 was a duplex house, a door here and a door there, duplex,
20 two separate houses. In the process of that gathering
21 sometime throughout that day into the night an assault
22 occurred on a individual, the victim in this case and
23 from that assault as the solicitor indicated, the victim
24 died, or he died a couple of months later. My client's
25 position, Jonathan Newman's position is, he was there

1 earlier that day and he was there sometime between the
2 hours of two o'clock in the afternoon when he got up to
3 sometime around eighty thirty, nine o'clock that night he
4 was somewhere there about. In the process of that all he
5 did was drink a little bit of beer and sit around smoke
6 cigarettes and talk with several other persons that was
7 there and you will get some testimony to show that there
8 were women there were men there. Everybody just sort of
9 came through in passing. In the process of doing that
10 sometime during that night sometime during that day Mr.
11 Wimberly was attacked and again from that attack it
12 resulted in his death. You are going to hear what I
13 believe the State is going to present multiple witnesses
14 from all of these witnesses you are going to hear
15 different stories. You are going to hear different sets
16 of facts. When you are deliberating and observing those
17 persons based on their demeanor, I am comfortable you are
18 going to have some question about all of the different
19 stories that everybody is going to tell. You are going to
20 have some questions about why people are saying different
21 things at different times. Our position, Jonathan
22 Newman's position is, the State already got there man,
23 the one who committed this crime. They already have him
24 and in the process of getting their man they want to get
25 anybody else who might of been around the house. You make

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1 a decision, you will have the opportunity to make a
2 decision as for whether is sufficient facts to pull
3 anybody else into the scenario. The whole case of the
4 State is to just pull people in, whoever was around that
5 house, whoever went to that house. That is all, they got
6 there man. This man, the victim, was assaulted and he
7 died. They have the person and he has already admitted it
8 and the question is why are we still here. We are still
9 here because the State just wants to pull everybody else
10 in. Now and I am just going to be brief with this
11 statement opening statement by saying, I need you to just
12 listen to the facts. Listen to the testimony that each
13 and every person is going to bring. Ask yourself once
14 they have testified what do they have to gain from their
15 testimony. What is it that they are going to lose if they
16 do not testify in the way that they are testifying. Once
17 you have considered that, once you have considered that I
18 think you will be satisfied that the State have their man
19 who committed this crime. Thank you very much.

20 The Court: Mr. Devoe.

21 Mr. Devoe: May I please the Court?

22 The Court: Yes sir.

23 Mr. Devoe: My name is Harry Devoe, you can tell from
24 my accent that I am not from South Carolina originally,
25 my wife is. We moved back here, so I practiced law for

1 over twenty years. I look older than I am or I look
2 younger than I am old one of the two take your pick. I
3 meet my wife when she was teaching school at the law
4 school. I practiced as I said before in Philadelphia. I
5 am glad I came to South Carolina I am pleased to be here
6 and in South Carolina. Some people call me a damn Yankee,
7 I am, I am proud of it, but also proud to be living in
8 South Carolina. Most I am proud of representing my client
9 Letroy Samuels who is sitting alone right now at the end
10 of the table, dressed in his stripped shirt or whatever
11 you want to call it. He is pleading innocent to the
12 charges that he has been accused of in this case. I agree
13 with this decision and we are happy to go to trial. Mr.
14 Carter told you about some confusing matters in this
15 case. There were three people charged with. One who plead
16 yesterday, deserving so I think, the other two are
17 pleading not guilty. My client and the other co-defendant
18 have two different stories, so it is going to be two
19 trial. I hope it's not going to be to confusing because
20 it is to me a little bit because names go in and out,
21 back and forth, who did what when and how. The place, the
22 murder took place on in Manning. It is an
23 unusual house in an unusual situation. This house is set
24 up as a duplex. It had a screened in porch, the house.
25 This house is ten or twelve feet wide. I think the only

Jonathan Cody Newman/Letroy Samuels vs. State of SC 23

1 house right there next to it is a nice brick building.
2 Other side of the house there's a business by itself.
3 Behind the house is called Lincoln Park. As I understand,
4 it was a Holiday a lot of drinking was going on, minds
5 seemed to be fuddled, vague, confusing. The whole story
6 fits that way except finally it comes down to, we all
7 think we have the right facts of the case now. It took a
8 long time to get to that point. I think that what
9 happened to the victim is a real tragedy, it's hard to
10 read that he laid in the hospital in Columbia a few
11 months before he finally died. He never spoke a word
12 after the police and paramedics came. He was a friend of
13 everybody as I understand. Why do friends, drinking too
14 much, why does it happen. That's this whole mystery of
15 life. Why do tragic things happens and stupid tragic
16 things happen. My client stands in front of you saying he
17 is not guilty of the charges and that is why we want it
18 dropped. He said he had nothing to do with the beating of
19 the victim, Mr. Wimberly, nothing to do at all. Was he
20 there? Yes. Could he have intervened, perhaps. Was he to
21 scared to intervene? Maybe. Why do people stand by and
22 watch or know something is happening and not do anything?
23 It is a mystery. Why do some people do things and jump in
24 and help and stop things. Why do they turn there backs
25 and walk away or just stand still. Are they cowards?

1 Sometimes. Or they just do not want to get involved, just
2 don't want to get involved. Is that right? Maybe morally
3 wrong, but it is not legally wrong to not get involved.
4 So my client is, but not only saying that he is also
5 telling you that, he will tell you that there is no real
6 connection between him and the other two victims, the
7 other two co-defendants. We sit at the same table. Each
8 has his own lawyer, but there is no real connection other
9 that. Except they are both being charged for the same
10 thing. So it makes it a difficult trial when both Mr.
11 Carter and I have our own points of view and we have got
12 our own defense for our own clients. Hope that you do not
13 get it crisscrossed in your mind to which defense is for
14 which client. I think it is a tragic case and maybe the
15 worse case some of you would have heard but it's a tragic
16 case. It's tragic to think my client has been charged
17 with something he didn't do, we said that he plead not
18 guilty and that is why we are in trial. Thank you for
19 your attention.

20 The Court: Thank you Mr. Devoe. The State may call
21 it's first witness.

22 Mr. Durant: Thank you Your Honor. State calls Jason
23 Thompson.

24 (Clerk swears Mr. Jason Thompson)

25 Mr. Jason Thompson - Examination by Mr. Durant

Jason Thompson - Examination by Mr. Durant

25

- 1 Q: Mr. Thompson good morning. You are Jason Thompson?
- 2 A: Yes sir.
- 3 Q: Tell the jury where you work. Where do you work now?
- 4 A: Now I work at Piggly Wiggly.
- 5 Q: Before you went to work at Piggly Wiggly where did
- 6 you work?
- 7 A: I worked at the Manning Police Department.
- 8 Q: How long did you work for the Manning Police
- 9 Department?
- 10 A: Just under a year or just over a year I believe.
- 11 Q: Were you working for the police department back in
- 12 May of 2013?
- 13 A: Yes sir I was.
- 14 Q: In what capacity?
- 15 A: I was a corporal on shift.
- 16 Q: Is that kind of like a deputy, you out on the roads?
- 17 A: Yes sir.
- 18 Q: Did you have occasion to respond to a complaint of
- 19 an assault at in Manning in
- 20 the early morning hours of May the 26th, 2013?
- 21 A: Yes sir.
- 22 Q: Were you the first responding officer?
- 23 A: Yes sir.
- 24 Q: When you got there, do you remember what time it was
- 25 when you got there?

1 A: I do not remember exactly but I believe it was after
2 four A.M.

3 Q: I have a copy of it. Did you prepare an incident
4 report in this case?

5 A: Yes sir at the time.

6 Q: If I show you that will that refresh your
7 recollection?

8 A: Yes sir.

9 Q: Is that your incident report?

10 A: Yes sir it is.

11 Q: Does it refresh your recollection about what time
12 you arrived that morning?

13 A: Yes sir it was three AM.

14 Q: I asked you this earlier. Were you the first officer
15 to arrive?

16 A: Yes sir I was.

17 Q: Was anybody else at the house when you got there?

18 A: The victim was laying inside. Another officer
19 responded along with me.

20 Q: Was anybody else out there in the yard to meet you
21 when you go there?

22 A: No sir.

23 Q: Did you see anybody at the house other than the
24 victim that you found?

25 A: No sir.

1 Q: What kind of house was this?

2 A: A small duplex.

3 Q: When you say a duplex, I mean does this got a living
4 quarter, two living quarters one on each side of the
5 house?

6 A: Yes sir.

7 Q: They are separated? Adjacent doors?

8 A: Yes sir.

9 Q: Does the house share a porch?

10 A: Yes sir it does.

11 Q: Is that on the front or the back or the side?

12 A: The front.

13 Q: What street does the house face?

14 A:

15 Q: Is that here in Clarendon County?

16 A: Yes sir.

17 Q: In the city limits of Manning?

18 A: It is on . Yes sir in Manning.

19 Q: When you arrived how did you know which side of the
20 duplex to go in?

21 A: When we arrived at the scene we stepped onto the
22 porch and the doorway on the left side was open.

23 Q: Facing the house it is on the left side?

24 A: Yes sir.

25 Q: And the door was unlocked or it was cracked open?

1 A: It was like cracked open. When we knocked it swung
2 open.

3 Q: Tell the jury what you found when you walked inside.

4 A: When the door opened you could see the victim laying
5 on the floor in a pool of blood. He was still
6 breathing, we checked the house cleared the house
7 made sure nobody else was in there and EMS was
8 arriving at the same time. We advised them that it
9 was safe to come in. That is when...

10 Q: Did you attempt to communicate with the victim?

11 A: There was no way. He could not talk.

12 Q: How did he appear to you?

13 A: He appeared lifeless other than breathing.

14 Q: Did he have any visible injuries?

15 A: Yes sir.

16 Q: On what parts of his body?

17 A: The main concern was the head injuries. His head was
18 swollen, bleeding.

19 Q: And EMS arrived and they transported the body?

20 A: Yes sir.

21 Q: I want to show you some photographs.

22 Mr. Durant: May I approach, Your Honor?

23 The Court: Yes sir.

24 Mr. Carter: Your Honor we do not have any
25 objections, Jonathan Newman does not have any objection.

1 The Court: Mr. Devoe?

2 Mr. Devoe: No objections Your Honor.

3 The Court: What exhibits are these Mr. Durant?

4 Mr. Durant: State's one through and I am sorry a
5 little bit out of order. One through twenty.

6 The Court: Admitted without objection from the
7 defense. Thank you, you may be proceed.

8 Mr. Durant: I am going to show you what has been
9 marked as State's exhibit one and ask you if you
10 recognize that?

11 Mr. Thompson: Yes sir.

12 Q: What is it?

13 A: That is a duplex on

14 Q: The front of the residence?

15 A: The front of the residence.

16 Q: That is a fair representation of the duplex that
17 evening?

18 A: Yes sir.

19 Q: I am going to show you State's two. Can you tell me
20 what that is?

21 A: The front door to Mr. Wimberly's home.

22 Q: Ok and that is if you entered the porch which side?

23 A: The left side of the duplex.

24 Q: Is that the door that you said was open when you
25 arrived that evening?

1 A: Yes sir.

2 Q: I am going to show you State's exhibit three. Will
3 you tell me what that is?

4 A: That is the left side of the porch in front of Mr.
5 Wimberly's duplex, beginning of the doorway.

6 Q: The items on the porch there. Were they there when
7 you arrived that evening?

8 A: Yes sir.

9 Q: What is depicted in the photograph?

10 A: There is a set of keys, I believe a shirt or
11 sweater.

12 Q: Were they on the ground there when you arrived?

13 A: They are in the locations they were when we arrived.

14 Q: State's four. Can you tell me what that is?

15 A: This is a drop of blood entering the doorway of the
16 home?

17 Q: Was that drop of blood there when you arrived?

18 A: That drop of blood was on the floor of exiting the
19 home. After removing the victim.

20 Q: So it was made when removing the victim.

21 A: That drop of blood was made removing the victim, yes
22 sir.

23 Q: State's five. What is that?

24 A: That is a picture of the living room from the
25 doorway to the back wall.

1 Q: Is that from the porch looking into the residence?

2 A: Yes sir.

3 Q: State's six. Can you tell me what that is?

4 A: That is the shirt and more blood on the front porch?

5 Q: Was the blood depicted in State's six there when you
6 arrived?

7 A: Yes sir.

8 Q: Let me show you State's seven and eight. Would you
9 tell me what those show?

10 A: Seven is photographing the right side corner of the
11 living room. Eight is photographing the right front
12 corner of the living room towards the doorway.

13 Q: So if you walk in the front door of the residence
14 that on the right or the left side?

15 A: If you walk in the front door seven is going to be
16 your far right hand side. Eight is going to be right
17 beside you.

18 Q: The chair that is thrown on top of the couch. Was
19 that in that condition when you arrived?

20 A: Yes sir.

21 Q: Let me show you State's exhibit nine, ten, and
22 eleven. Would you tell me if you recognize those?

23 A: Yes sir.

24 Q: What is depicted in those photographs?

25 A: Photograph number nine is the left hand side of the

1 living room, far corner, including the couch and the
2 floor where Mr. Wimberly was laying when we found
3 him. Mr. Wimberly has been removed at this point.
4 Number ten is the blood of Mr. Wimberly, the blood
5 pool that was formed around his head and drains into
6 number eleven which is under the television in the
7 living room.

8 Q: Now this is the same living room that you
9 immediately enter when you walk in the residence?

10 A: Yes sir.

11 Q: Tell me why the body had been removed when the
12 photographs were taken?

13 A: Mr. Wimberly was still alive at that point and it
14 was more important to us to have his life sustained
15 than it was for us to take photographs of him.

16 Q: These photographs show the area that you found the
17 body?

18 A: Yes sir.

19 Q: Let me show you State' exhibits twelve through
20 seventeen. Would you tell the jury whether you
21 recognize those photos?

22 A: Yes.

23 Q: What is shown in them?

24 A: This was the second room of the home. The back
25 bedroom.

1 Mr. Carter: Could the witness identify the exhibit
2 that he is making reference to?

3 The Court: Yes please identify each picture by which
4 order.

5 A: Exhibit twelve is the back bedroom from the living
6 room towards that back of the home. You could see
7 the beds turned, rooms ransacked and the back door
8 was kicked in or appears to be kicked in. Number
9 thirteen is more of the back bedroom with drawers
10 pulled out of the dresser and ransacked. Fourteen as
11 well and fifteen. Picture sixteen is the back
12 bedroom as well, left hand side, it is showing where
13 all the items were sitting in the home. Where
14 seventeen here is showing the bed and the bathroom
15 area of the bedroom.

16 Q: So twelve through seventeen all show the back
17 bedroom in the home?

18 A: Yes sir.

19 Q: Is that the only bedroom in the home?

20 A: Yes sir.

21 Q: Those photographs show the condition that you found
22 the bedroom when you arrived that evening?

23 A: Yes sir.

24 Q: Had anything been removed when the photographs were
25 taken?

1 A: No sir.

2 Q: The drawers that had been pulled out of the dresser
3 in those photographs were in that condition when you
4 arrived?

5 A: Yes sir.

6 Q: The mattress was in that condition as well?

7 A: Yes sir.

8 Q: Let me show you State's eighteen through twenty and
9 if you would tell the jury was is depicted in those
10 pictures.

11 A: Picture number eighteen is a frontal shot of Mr.
12 Wimberly the victim in the condition he was when we
13 arrived at the scene. This is photographs of him at
14 the hospital. Number nineteen is a picture of him
15 from his chin to his forehead, just a different
16 angle. Number twenty is a side photo of him, profile
17 photo of Mr. Wimberly's face.

18 Q: Those pictures were taken that evening?

19 A: Yes that early morning.

20 Q: That morning. Is that the condition that you found
21 Mr. Wimberly in when you arrived on the 26th?

22 A: Yes sir other than the EMS equipment.

23 Q: Corporal Thompson were you able to, you testified
24 earlier that you could not communicate with the
25 victim when you got there. Could you give the jury a

1 description as to his physical characteristics. Was
2 he young or old?

3 A: He was middle aged to old I guess you would say.

4 Q: Give me an estimate as to his size?

5 A: Probably a hundred and thirty to a hundred and sixty
6 pounds. I can not give you an accurate.

7 Q: He was laying down when you got there?

8 A: Yes sir he was laying with his feet towards the
9 door. His head as you can see in the photos towards
10 the back room in the house. He was facing, he was on
11 his back and his face was facing to the right. Which
12 was towards under the couch.

13 Q: You testified earlier that EMS arrived shortly after
14 you?

15 A: Yes sir.

16 Q: Did you call EMS or they had already been notified?

17 A: They had been notified and that is why we were
18 notified to go to the house. They had been notified
19 for an assault victim and dispatched.

20 Q: Tell me what did you do after you got to the scene
21 and realized what you had there. After the victim
22 had been removed what did you do?

23 A: Then we secured the scene by placing the tape around
24 it and notified investigators and command staff.

25 Q: Did investigator with the Manning Police Department

1 arrive on the scene later that evening?

2 A: Yes.

3 Q: Did you have any further involvement in this case
4 after that evening?

5 A: Just logging the information for the investigators
6 as they did there job.

7 Q: Alright sir. Thank you, please answer any questions
8 the defense might have.

9 The Court: Mr. Durant could you move the TV back. It
10 is interfering with the jurors. Mr. Carter.

11 **Mr. Thompson - Cross Examination by Mr. Carter**

12 Q: Corporal Thompson from the time you arrived to the
13 time you left. You did not have any idea who had
14 committed this crime did you?

15 A: No sir.

16 Q: From all of your looking around you did not see
17 anything that suggest who had committed the crime?

18 A: No sir.

19 Q: You mentioned that this individual was fairly looks
20 small guy?

21 A: He appeared that way; yes, sir.

22 Q: Other than the swelling that would be the only think
23 that would make him look larger in the face or
24 anywhere else but he was a small guy?

25 A: Yes.

Jason Thompson - Cross by Mr. Devoe

37

1 Mr. Carter: Thank you sir.

2 The Court: Mr. Devoe.

3 Mr. Devoe: Thank you Your Honor.

4 **Mr. Thompson - Cross Examination by Mr. Devoe**

5 Q: Do you have any idea who called in?

6 A: I believe I was told afterwards it was Mr. Lester
7 Lemon..

8 Q: Do you know who Mr. Lemon is?

9 A: Yes sir I do.

10 Q: Is he the neighbor behind the house?

11 A: A little ways back yes sir.

12 Q: Is he not the next building back?

13 A: No sir I believe there is another small house or two
14 behind this one and then through the fence is the
15 next one.

16 Q: Just the other side of the fence. Is that right?

17 A: Yes sir.

18 Q: Do you know who called in?

19 A: I believe it was Lester Lemon I am not sure.

20 Q: What was the height and weight of the victim?

21 A: I am not sure exactly. I believe he was about 5'5"
22 to 5'10", maybe one hundred and thirty to one
23 hundred and sixty pounds, would be my guess.

24 Q: It would be on the report I would think.

25 A: I have got 5'9", 160 pounds is what was in the

1 computer for his information.

2 Q: And what was his age?

3 A: Fifty years old.

4 Mr. Devoe: I have not further questions, thank you.

5 The Court: Any redirect Mr. Durant?

6 Mr. Durant: No sir Your Honor.

7 The Court: Thank you the witness may step down. I
8 want to take about a ten minute recess. Alright ladies
9 and gentlemen I am going to send you back to the jury
10 room. Remember now is when your are going to come up with
11 a foreperson of the jury and please do not discuss
12 anything about the case while you are back in the jury
13 room. Thank you.

14 **(Jury Break and Court Break)**

15 The Court: Anything before we start back?

16 Mr. Durant: No sir Your Honor.

17 Mr. Carter: Nothing Your Honor.

18 Mr. Devoe: Nothing Your Honor.

19 The Court: Alright let us bring our jury back.

20 **(Jury in)**

21 The Court: Alright you must be our foreman.

22 A: Yes sir.

23 The Court: What is your name sir?

24 A: Eddie Myers.

25 The Court: Eddie Myers. Mr. Myers thank you for being

1 the foreman and taking on this responsibility. Is the
2 State ready to call it's next witness?

3 Mr. Durant: Yes sir Your Honor.

4 The Court: You may call your next witness.

5 Mr. Durant: The State calls Leon Coleman.

6 Clerk: Would you raise your right hand and place hand
7 on the Bible and repeat your name please.

8 Mr. Coleman: Leon Coleman.

9 Clerk: Do you solemnly swear that the testimony you
10 are about to give is the truth, nothing but the truth so
11 help you God?

12 Mr. Coleman: Yes ma'am.

13 **Mr. Leon Coleman - Examination by Durant**

14 Q: Good morning Mr. Colman. Tell the jury where you
15 work.

16 A: I work for JC Witherspoon.

17 Q: How long have you been working for Mr. Witherspoon?

18 A: Probably about a year and two months now.

19 Q: You live in the Clarendon County community?

20 A: Yes sir.

21 Q: You lived there all your life?

22 A: Yes sir.

23 Q: Did you have occasion back on May 26, 2013 come in
24 contact with the defendants in this case Jonathan
25 Newman, Letroy Samuels, and Montag Webb?

1 A: Yes sir.

2 Q: How did that come about?

3 A: Tag was doing some work with the guy I work for Dale
4 Johnson.

5 Q: Who is Tag?

6 A: Montag Webb, that is my brother-in-law.

7 Q: He was charged in this case but he is not one of the
8 individuals on trial here today, he is the third one?

9 A: That is right.

10 Q: You say Taggy. Tell the jury again what happened.

11 A: Montag was doing some work for the guy I work for
12 Dale Johnson, I drove trucks and mechanic work. Tag
13 was doing some work at the shop for us. On that night
14 I got off from work. Went by the Sav Way where his
15 sister work at she was not working. That is when
16 Montag and the other guy Sin they approach me.

17 Q: Whose sister works at Sav Way?

18 A: Montag.

19 Q: Montag and you said Sin approached you. Is Sin
20 somebody's nickname?

21 A: Yes sir.

22 Q: Who's nickname is that?

23 A: I do not know their name all I know is most like the
24 name that they call them.

25 Q: Let me ask you this is Sin in the court room here

- 1 today?
- 2 A: Yes sir.
- 3 Q: Where is he?
- 4 A: Over here.
- 5 Q: Which one?
- 6 A: Right here.
- 7 Q: In the stripe shirt on the end of the table?
- 8 A: Yes sir, at during the time he had dreads, the time I
- 9 saw him.
- 10 Q: You met Montag and Mr. Samuels at the Sav Way that
- 11 evening?
- 12 A: Yes sir. Montag asked me to take him to Walmart to
- 13 get some pamper for his baby. I took him. We got to
- 14 Walmart they went inside and came back out. I drop
- 15 them back off at the house.
- 16 Q: At what house?
- 17 A: The house right down from Sav Way.
- 18 Q: Did you go into Walmart with them?
- 19 A: No sir.
- 20 Q: Were they in there for long?
- 21 A: No sir.
- 22 Q: Do you know what they got from Wal-Mart?
- 23 A: When he came back out he had a bag of pamper.
- 24 Q: So after that...You said Mr. Samuels rode with you?
- 25 A: Yes sir.

1 Q: Did you take them both back to the same house?

2 A: Yes sir.

3 Q: What house was that?

4 A: That was the little house, little white house right
5 down from Sav Way off the little side street. Like I
6 said where the old DSS building at, it sit right
7 beside it.

8 Q: Why did you take them to that house?

9 A: That is where they told me to take them to.

10 Q: Do you know who lived at the house?

11 A: No sir. I did not know who stayed there or what, all
12 I took them where they asked me to took them to.

13 Q: Did either one of the those boys live there?

14 A: I do not know I do not believe so.

15 Q: If you turn around on the screen is State's exhibit
16 one. Is this the house that you took them to that
17 evening?

18 A: Yes sir. Yes sir that is the house.

19 Q: Is that on ?

20 A: Yes sir.

21 Q: Do you remember about what time it was that you got
22 back from Walmart that evening?

23 A: I want to say maybe it was after six o'clock some
24 where like seven something like that.

25 Q: What time did you get off work that day?

- 1 A: I got off kind of late too. I got off probably like I
2 said probably around six o'clock, little after six.
- 3 Q: Met them at Sav Way after that?
- 4 A: Yes sir.
- 5 Q: Took them to Walmart and went back to this house?
- 6 A: Yes sir.
- 7 Q: Is that the Walmart here in Manning?
- 8 A: Yes sir.
- 9 Q: Out there on Paxville Highway?
- 10 A: Yes sir.
- 11 Q: When you got back did anybody else ride with you and
12 the other two boys to Wal-Mart?
- 13 A: No sir, nobody else rode.
- 14 Q: When you got back to the house did you go inside?
- 15 A: No sir. I did not get out the car.
- 16 Q: Did you drop them off on the street?
- 17 A: I pulled into the driveway.
- 18 Q: What happened when you got to the house?
- 19 A: When we got back to the house, that was when Tag told
20 guy to get out because me and him was talking, that
21 is when I was telling him about work and stuff like
22 that. You know he need money. I give Taggy money when
23 he need it. By that time what I know his name is J
24 White. He came to the window told Taggy there is a
25 guy inside that got a gun and some money and he was

1 going to rush, he was going to rush him and take it
2 from him. When Taggy told him I will talk to you
3 later, he left, and I told Taggy do not follow that
4 up. I said you got kids you working right now. I said
5 you need to go home. I will pick you up in the
6 morning and you can go to work with me. Taggy said
7 ok, he got out I left. Next morning came when I went
8 back to the same house to pick him up, because that
9 is where he told me to pick him up from. That is when
10 I saw the ribbon all around the house. Well by that
11 time I called his sister. She told me that the guy
12 got beat up. He was in the hospital they had to lift
13 him and all kind of stuff. I was like whoa. By that
14 time she say Taggy and Jonathan went out to her house
15 in the country. I called back and I told her they can
16 leave the house because don't want no mess there, I
17 got a little son there. That basically what happened.

18 Q: You said somebody came to your truck and told you
19 about the plan and I think you described him by, was
20 it a nickname J White?

21 A: Yes sir.

22 Q: Now who was J White?

23 A: J White that is the guy right there, the gentlemen
24 right there.

25 Q: Jonathan Newman?

- 1 A: Yes sir.
- 2 Q: Jonathan Newman came to your truck and tell me again
3 what did he say?
- 4 A: He told Taggy there was a guy in there that got a gun
5 and some money and he was going to rush him and take
6 it from him. That is what I heard.
- 7 Q: He was standing at your truck when he said that?
- 8 A: Yes sir.
- 9 Q: Did they have any further conversation after that?
- 10 A: That is when Taggy told him to go he would talk to
11 him later and that was it.
- 12 Q: Let me ask you this. When you met with and interacted
13 with, you call him Taggy, Montag Webb that evening.
14 Was he coherent I mean did he appear to have been
15 drinking?
- 16 A: No sir. I have seen Taggy drink. No sir to me he was
17 not. He was talking to me with a whole lot of sense.
18 I mean both of them was.
- 19 Q: He could of had a few drinks could he not?
- 20 A: Well he could because even Sin the other guy he asked
21 me for a job and I told him I say, I can see what
22 going on. He ask me about a job like I said that is
23 all we talk about was the job. We did not talk about
24 nothing else.
- 25 Q: The other guy Mr. Samuels. Was he in the truck still

1 when Jonathan came up and told him ...

2 A: No sir that when Taggy, when we got up got back to
3 the house that is when Taggy told him to get out and
4 me and Taggy was talking before Jonathan came up and
5 talked to him.

6 Q: Did you know Jonathan before that evening?

7 A: I have seen him around like I said as far as knowing
8 that guy I do not know that guy.

9 Q: There is no question in your mind that the fella in
10 the court room here today is the one that came up?

11 A: Yes sir, yes sir. No doubt about that.

12 Q: I just want to clarify a few things you said. You
13 mentioned, did you have some relationship to Montag
14 Webb?

15 A: Yes sir.

16 Q: How were you related to him?

17 A: I married his sister.

18 Q: So he is your brother in law?

19 A: Yes sir.

20 Q: Is that, you married his sister so is that your wife
21 that works at the Sav Way?

22 A: Yes sir.

23 Q: After, you mentioned later that Montag and Jonathan
24 had gone to a house that you had a son in. They went
25 to your house?

1 A: Actually me and her separated, we got separated. Like
2 I say that morning when I talked to her that is when
3 she said Taggy done when out to her house out in the
4 country.

5 Q: The following morning, your sister told you that?

6 A: Yes, sir. The same one I went by to pick Taggy up to
7 go back to work.

8 Q: She said that Montag and ...

9 A: Jonathan, J White, was out in the country.

10 Q: And your son lives at that house?

11 A: Yes sir.

12 Q: You told them, you told her to have the leave?

13 A: Yeah to have them leave there exactly right.

14 Q: Do you have any further conversation with Montag or
15 any other boys about what happened that evening?

16 A: No sir actually I did not even talk to Montag and
17 like I said the investigator Ms. Sander from the
18 Manning Police Department. I have talked to her on
19 the phone like a couple times after that and I was
20 going to come in to give a statement all this here,
21 but when it was said and done Taggy went up to prison
22 I guess on the wire and no one never contact me no
23 more.

24 Mr. Durant: Mr. Coleman I do not have any further
25 questions. We thank you for coming in today. Please answer

1 any questions that these defense lawyers might have for
2 you.

3 The Court: Mr. Carter.

4 **Mr. Leon Coleman - Cross Examination by Mr. Carter**

5 Q: What is the name of your wife?

6 A: Madeline Coleman.

7 Q: Madeline?

8 A: Coleman.

9 Q: Did they call her by some other name?

10 A: Midge.

11 Q: Midge?

12 A: Yes sir.

13 Q: In my opening statement I told the jury that some
14 people will come here and they will tell different
15 stories and some times they need to listen for why
16 somebody might tell a particular story. You said that
17 Montag, what is Montag's nickname?

18 A: Taggy.

19 Q: Taggy and you all call him something else? He is not
20 Sin?

21 A: No sir.

22 Q: So and being that he is your brother in law you do
23 not want him to get in trouble?

24 A: Can I answer that question to you. Taggy got a son
25 with my daughter. I try to get Taggy to go to work so

1 he can take care of him.

2 Q: He had a son with your daughter?

3 A: Yes sir. My daughter a lot of time to get money. I

4 try to get Taggy to go to work. I do not want him to

5 get in trouble. I want him to go out there and get a

6 job, work same thing I do.

7 Q: You did not want him to be in trouble so that is why

8 you told him originally do not follow that up?

9 A: That is right exactly right because he was working at
10 the time.

11 Q: But you know he did follow it up?

12 A: Yes sir.

13 Q: Because you know he plead guilty to this?

14 A: Yes sir.

15 Q: So you know that he committed this crime?

16 A: Yes sir.

17 Q: That would be a reason why you told your brother in
18 law Taggy not to follow up J White?

19 A: Yes sir.

20 Q: But you have other reasons for saying J White...

21 A: No sir I do not have no other reason say...

22 Q: Let me finish the question. You have other reasons

23 for saying J White said he was going to take a gun

24 from somebody, right? You have other reasons right?

25 A: No sir because he said it.

1 Q: You mentioned earlier that you and Madeline had a
2 period where you all broke up?

3 A: Yes sir.

4 Q: During that time Madeline had a boyfriend?

5 A: I mean I drove trucks. I mean it really did not
6 matter to me that she was seeing someone else I drove
7 trucks.

8 Q: I know but you know she had other boyfriends?

9 A: Yes sir. I had a friend on the side too.

10 Q: You know that J White was one of here friends right?

11 A: No sir because I heard J White was going with the
12 daughter, you know her daughter.

13 Q: Ok well that is what you heard but you also learned
14 that Madeline said that her seconds baby was J White,
15 and we talked about....

16 Mr. Durant: I am objecting, relevance.

17 The Court: Sustain, sustain do now answer the
18 question.

19 Q: You and J White, Jonathan, you all never got along to
20 well is that correct?

21 A: I have not said a word to him. Really I never talk to
22 J White. Like I said I only talk to Taggy and Sin the
23 guy that night.

24 Q: Did you have some reason to believe J White was a bad
25 guy?

1 A: No sir.

2 Q: You have some reason to believe Taggy should not have
3 been around him?

4 A: No sir, like I said I drove. What Taggy and them do
5 in the street I mean I did not bother me you know. I
6 try to get Taggy to do the same thing I done work.

7 Q: You did not see J White, Jonathan Newman, do anything
8 wrong that night or any other night?

9 A: No sir.

10 Q: You do not know him to have committed any crime?

11 A: No sir.

12 Q: But you do know about this victim Anthony Wimberly
13 being injured and ultimately died right?

14 A: Yes sir.

15 Q: This is the same person that you know Taggy plead
16 guilty for committing the crime?

17 A: Yes sir.

18 Q: You have no reason to believe that Jonathan aka J
19 White did anything?

20 A: All I know what he said that night to Taggy that is
21 all I know.

22 Q: You know he said he wanted the gun?

23 A: Yeah he want the gun and the guy had money. That is
24 all I heard.

25 Q: Did you know what guy he was talking about at the

1 time?

2 A: He was talking about the guy that was staying, see
3 Taggy recruited me I guess his friend that call Yo-Yo
4 on the street. She was they was all just hanging
5 there standing.

6 Q: They were all around there?

7 A: Yes sir they were all around there.

8 Q: And you saying around there and you saying around
9 that you talking about around this house?

10 A: Around that house yes sir. When I pulled up to drop
11 Taggy and them they came back behind the house.

12 Q: Were they living in that house, apartment or

13 A: I could not tell you who was staying with them, I
14 could not tell you that.

15 Q: But you know that everybody was there at that house?

16 A: Yes sir.

17 Mr. Carter: Thank you sir.

18 The Court: Mr. Devoe.

19 Mr. Devoe: Thank you Your Honor.

20 **Mr. Coleman - Cross Examination by Mr. Devoe**

21 Q: Mr. Coleman, I have known you in the past have I not?

22 A: Yes sir.

23 Q: When you picked up my client to go to Walmart. Was
24 that all it was is take him give him a ride to
25 Walmart and then back to where you picked him up?

1 A: Well I picked him up at Sav Way but I dropped them
2 back off at the house down from Sav Way.

3 Q: That is the house on ?

4 A: Yes sir.

5 Q: That is the only connection you had that night?

6 A: Yes sir.

7 Q: He make any comment to you about anything?

8 A: No sir he did not make no comment to me. The only
9 thing that me, him, and Tag was talking about was
10 working at the shop because he asked me for a job.

11 Q: Did you tell him that you might have a job for him?

12 A: I told him if the guy was going to push. See the guy
13 had fourteen trucks and I told him if the guy start
14 bringing trucks back on I could get him a job working
15 at the shop along with Taggy. Yes sir.

16 Q: Now you say you live in the county I take it you are
17 up near where I live is that correct?

18 A: Yes sir.

19 Q: That is the only connection we have together we have
20 together about this whole case?

21 A: Yes sir.

22 Mr. Devoe: I have no further questions, thank you.

23 The Court: Any redirect?

24 Mr. Durant: Just a couple Your Honor.

25 Mr. Leon Coleman - Redirect by Mr. Durant

1 Q: Just to clarify Mr. Coleman. When you talked about
2 Sin that you picked up that evening that is Letroy
3 Samuels. Again clarify for me. What house did Montag
4 Webb tell you to come and pick him up from to go to
5 work the following morning?

6 A: The same house I dropped him off at.

7 Q: The same house?

8 A: Yes sir.

9 Q: And they were not there when you got back the
10 following morning?

11 A: No sir.

12 Q: Mr. Carter asked you whether you had any reason to
13 believe that Montag should not stay around J White or
14 Jonathan Newman that evening. What was your reason to
15 believe he should leave?

16 A: Because I did not want him to get in trouble. Because
17 when...

18 Q: Why did you think some trouble might be coming?

19 A: Because what J White told me. Because he said that he
20 was going to hit the guy. I mean I heard him say it.
21 He said I am going to rush the guy and hit him and
22 take the gun from him and the money.

23 Q: And that what I have reasoned you told Montag...

24 A: That is when I told Tag he need to leave and go home
25 and so I could pick him up and go to work in the

Leon Coleman - Recross by Mr. Devoe

55

1 morning.

2 Mr. Durant: I do not have any further questions.

3 The Court: Any recross based upon his redirect?

4 Mr. Carter: None Judge.

5 Mr. Devoe: Just one question Your Honor.

6 The Court: Yes sir.

7 **Mr. Leon Coleman - Re-cross by Mr. Devoe**

8 Q: Did my clients name come up in any connections
9 concerning where to be dropped off what was going on.

10 A: He said he was riding with Taggy. He said he was with
11 Taggy and that is why he went with me and Tag to Wal-
12 Mart and back to the house.

13 Mr. Devoe: Okay no further questions.

14 The Court: Thank you. You may step down. Any
15 objection to this witness being excused.

16 Mr. Durant: No sir Your Honor.

17 The Court: Thank you.

18 Mr. Durant: Your Honor the State calls Montag Webb.

19 Clerk:

20 Mr. Webb:

21 **Mr. Montag Webb - Examination by Mr. Durant**

22 Q: Mr. Webb good morning. You are Montag Webb?

23 A: Yes sir.

24 Q: Some people call you Taggy?

25 A: Yes sir.

- 1 Q: How old are you?
- 2 A: I am only twenty three.
- 3 Q: Where do you live?
- 4 A:
- 5 Q: You were born and raised in Clarendon County?
- 6 A: Yes sir.
- 7 Q: Do you know the other defendants in this case,
- 8 Jonathan Newman and Letroy Samuels?
- 9 A: Yes sir.
- 10 Q: They seated at the defense table today?
- 11 A: Yes sir.
- 12 Q: How do you know them?
- 13 A: Both of them homies.
- 14 Q: Your homies?
- 15 A: Yeah we cool.
- 16 Q: Which one were you closer with?
- 17 A: Newman.
- 18 Q: That is Jonathan Newman?
- 19 A: Yes sir.
- 20 Q: Does he have a nickname?
- 21 A: We call him J White.
- 22 Q: How about Mr. Samuels, does he have a nickname?
- 23 A: Sin.
- 24 Q: Sin, ok. How long have you known Newman and Samuels?
- 25 A: I knew Samuel about three years and I knew Newman

1 about four or five, six.

2 Q: Obviously you came in here from the county jail. Is
3 that where you are housed right now?

4 A: Yes sir.

5 Q: You were charged in an incident in an assault that
6 occurred back on May the 26th 2013 on
7 here in Manning?

8 A: Yes sir.

9 Q: You had pled guilty to some charges related to that
10 incident?

11 A: Yes sir.

12 Q: You plead guilty in this court room?

13 A: Yes sir.

14 Q: What did you plead guilty to?

15 A: That burglary and murder charge.

16 Q: Burglary and what?

17 A: Manslaughter.

18 Q: Voluntarily Manslaughter.

19 A: Involuntary or was it voluntary.

20 Q: Voluntary manslaughter.

21 A: Yeah, yeah.

22 Q: So you have admitted that you were involved, that you
23 were on the scene that evening is that right?

24 A: Yeah.

25 Q: Why do you not tell the jury what happened that

1 night.

2 A: Where to start at?

3 Q: Lets start earlier that day on May the 25th of 2013
4 which was a Saturday is that right?

5 A: Yeah.

6 Q: Tell the jury what happened that day. Were you
7 hanging out with Jonathan Newman and Letroy Samuels?

8 A: Yeah.

9 Q: Where were you all hanging out?

10 A: At home, home where K stay at.

11 Q: K?

12 A: Slater house.

13 Q: Slater?

14 A: Yeah.

15 Q: Kevin Slater?

16 A: Yeah just drinking and stuff, getting drunk up.

17 Q: Where is Kevin Slater's house?

18 A: On

19 Q: If you can just turn around and look behind you there
20 is a picture on the TV, State's exhibit one. Is that
21 Kevin Slater's house?

22 A: On the right.

23 Q: On the right?

24 A: Yeah.

25 Q: That is a duplex?

- 1 A: Yeah.
- 2 Q: And Mr. Slater lives on the right hand side?
- 3 A: Yeah.
- 4 Q: What time did you all go over to Kevin Slater's house
- 5 that day?
- 6 A: I do not know. When we first went over there probably
- 7 about three something four something.
- 8 Q: In the afternoon?
- 9 A: Yeah.
- 10 Q: You all were drinking at the house? Did you know how
- 11 long Mr. Slater had lived there?
- 12 A: A couple day I guess I do not know.
- 13 Q: So it had not been long?
- 14 A: No.
- 15 Q: Had you been there before.
- 16 A: No hold up I do not know I do not think so yeah.
- 17 Q: Who was with you at Mr. Slater's house that day?
- 18 A: A good bit of people.
- 19 Q: Ok well I want you to tell the jury who all was
- 20 there. That afternoon who was there when you got
- 21 there, do you remember?
- 22 A: Slay girlfriend, my homeboy Troy, and me and Newman
- 23 came there together.
- 24 Q: You and Newman came there together that afternoon?
- 25 A: Yeah.

1 Q: Was Mr. Slater's neighbor Anthony Wimberly there that
2 day?

3 A: I think so, yeah I think so yeah.

4 Q: You mentioned Mr. Slater's girlfriend. Were there any
5 other females at the house?

6 A: Not when we first got there.

7 Q: Some of them come later?

8 A: Yeah.

9 Q: Who came?

10 A: Barbara and Yo-Yo.

11 Q: Who are Barbara and Yo-Yo?

12 A: Yo-Yo and Barbara Burgess she is a crack head.

13 Q: Did she live there?

14 A: I ain't know I think she live next door.

15 Q: She lived next door you mean in the other of the
16 duplex or in an old house?

17 A: With Anthony.

18 Q: With Mr. Wimberly. The other girl you said Yo-yo. Was
19 that Yolanda Torres?

20 A: Yeah.

21 Q: She came that day as well?

22 A: Yeah.

23 Q: Were they hanging out drinking with you all?

24 A: Yeah.

25 Q: Did you all stay at the house the entire day?

- 1 A: No, no sir.
- 2 Q: Tell when did you leave?
- 3 A: We just did going back and forth like we going back
- 4 and forth to the store, get some drinks.
- 5 Q: To get alcohol?
- 6 A: Yeah.
- 7 Q: What store did you go to?
- 8 A: The ABC.
- 9 Q: Where is that at?
- 10 A: By Piggly Wiggly.
- 11 Q: So you, you all kept coming back and forth did
- 12 anybody. Who went with you when you were going to the
- 13 store?
- 14 A: This time me and Newman walked. The last time we went
- 15 to the store was at night time. We had went to the
- 16 Sav Way the ABC was closed.
- 17 Q: Did you know anybody that worked at the Sav Way?
- 18 A: I know someone, I think.
- 19 Q: Your sister does not work there?
- 20 A: She was working she was not working there that night.
- 21 Q: When you got to the Sav Way what happened?
- 22 A: Me, Sin, Barbara, Yo-Yo walked to Sav Way to get some
- 23 beer. Ran into my brother in law as him to run to
- 24 Wal-Mart.
- 25 Q: What is your brother in law's name?

- 1 A: Leon Coleman.
- 2 Q: You asked him to go to Wal Mart?
- 3 A: Yeah I asked him to take me to Walmart to get the
- 4 baby some medicine.
- 5 Q: That is your child?
- 6 A: Yeah that is my child.
- 7 Q: How did you know that your baby needed medicine?
- 8 A: My girl called, well my baby momma, she been told me
- 9 that since about seven something that day but I never
- 10 have a chance to go..
- 11 Q: Seven something that evening?
- 12 A: Yeah she been tell me I did not want to walk to Wal-
- 13 Mart.
- 14 Q: What time was it when you were at Sav Way?
- 15 A: Ten something.
- 16 Q: At night?
- 17 A: Yeah.
- 18 Q: Did you have a cell phone?
- 19 A: No I do not have a cell phone.
- 20 Q: Jonathan have a cell phone?
- 21 A: Yeah.
- 22 Q: How did your girlfriend know, was it your girlfriend?
- 23 A: My baby momma.
- 24 Q: How did she, how did your baby momma know to call
- 25 Jonathan to get a hold of you?

- 1 A: I guess she know we be together a lot.
- 2 Q: Does she know Jonathan?
- 3 A: Yeah.
- 4 Q: How does she know him?
- 5 A: He use to smash her sister.
- 6 Q: So Jonathan had a relationship with your baby momma's
- 7 sister?
- 8 A: Yes sir.
- 9 Q: Did your cousin did he agree to take you to Walmart
- 10 that evening?
- 11 A: My brother in law?
- 12 Q: Yeah your brother in law I am sorry.
- 13 A: Yeah that night yes sir.
- 14 Q: Who went with you to Wal-Mart?
- 15 A: Me and Troy.
- 16 Q: That is Sin?
- 17 A: Yeah Sin.
- 18 Q: How about the girls did they go with you?
- 19 A: No we left them at the store.
- 20 Q: How long were you all gone to Wal-Mart?
- 21 A: I do not know I know we made there one side was
- 22 close. So I know it was late about closing time. When
- 23 in there went and had to look for a little ear drop
- 24 medicine and then we left. We was just riding talking
- 25 about work because we were working together then too.

1 Then we made it to the house.

2 Q: You all made it to what house?

3 A: Slick house.

4 Q: The same one you pointed to earlier?

5 A: Yeah.

6 Q: When you got back to Slater's house on
7 who was there?

8 A: Barbara, Yo-Yo, Slater, Newman.

9 Q: What were they doing?

10 A: Barbara and them was going in the house with that
11 dude Anthony and Slater he was just standing on the
12 porch texting and Newman was just standing in the
13 yard.

14 Q: Tell me what happened after you go to the house.

15 A: We pulled up and Sin jumped out the truck and I had
16 start walking over there toward the house I was
17 talking to my brother in law about picking me up in
18 the morning.

19 Q: You were talking to your brother in law and you were
20 still in the truck?

21 A: Yeah right before he pulled out he was talking about
22 picking me up in the morning.

23 Q: What happened after that?

24 A: After that I opened the door I just heard commotion
25 what not like arguing coming out of that house too. I

1 heard Newman say that dude, he came and tell me that
2 that dude saying I was white get from around here
3 something like that, saying he had a gun.

4 Q: Then he came in and told you that he had had an
5 altercation with the guy?

6 A: No the dude was telling him to run because he a white
7 dude. It was something like that.

8 Q: When you said the dude are you talking about the
9 victim Anthony Wimberly?

10 A: Yeah talking about him.

11 Q: Did Mr. Newman tell you anything else?

12 A: He said he got a gun that is what he tell me.

13 Q: He did not tell you anything else about the gun? What
14 happened after that?

15 A: Then I got out the truck I was like go ahead go but I
16 told my brother I was not going to ride he tell Tag
17 come on I was like no go ahead, I am good.

18 Q: Your brother in law tried to get you to come with
19 him?

20 A: Yes he was going to drop me off at home I just stay
21 right off the street so I could of walked because I
22 did not want to leave Newman so I was going to walk.

23 Q: So you stayed at the house. What happened after that?

24 A: I was just walking on the step I heard Barbara
25 yelling do not go back outside with that gun or

1 something she was in the house. Then I told I was --
2 - everybody else up so we could ride what not. Then
3 over in Slater house I put a little over there by a
4 little cooler what not and I came out Barbara and Yo-
5 Yo must of done gone because it was quiet that dude
6 was just standing on the porch talking to Letroy
7 then. K Slater was in the corner texting, he was
8 texting Newman was standing on the ground. Then I was
9 walking down the step walking down the steps what not
10 I was looking down the street I debating why I go to
11 Brian's house what not. Dude just walked past me what
12 not and he walked past me I was still just like
13 looking towards the pavement I did not even turn
14 right then look behind me what not see what was going
15 on behind me. Then I just heard a hit then when I
16 turned around I said oh shit excuse my language and I
17 just see the dude laying down.

18 Q: Where was the dude laying down?

19 A: On the steps.

20 Q: On the steps?

21 A: Like the porch, porch.

22 Q: And you said Jonathan Newman walked up?

23 A: He walked past me.

24 Q: Walked past you. Where were you?

25 A: I was standing on ground I done walked down the step

1 standing on the ground. I did not have looked back
2 until I saw the hit.

3 Q: Who hit him.

4 A: I do not know I just heard the hit. When I heard the
5 hit what not that what made me turn around and that
6 when I see Letroy and Kevin Slater they took off
7 running and what not they just ran off the steps and
8 I ran in the house. I was going to look for something
9 to steal not really looking for something to steal
10 but I was like he got a gun. They just took off
11 running.

12 Q: Letroy and Slater took of running. Is that what you
13 said?

14 A: Yeah they like just ran like oh shoot type junk. I
15 was just staring looking at the dude and I said if he
16 got the gun I am about to go look for it then. I was
17 telling myself that. I went in the house looking for
18 the gun.

19 Q: Where was the victim Mr. Wimberly when you went into
20 the house?

21 A: He was on the porch.

22 Q: I am going to show you a couple pictures. Is this the
23 entry way into the house?

24 A: Yeah that the entry way.

25 Q: With the Court's permission I will ask you to stand

1 up?

2 The Court: Certainly speak out as well since you will
3 not have a microphone.

4 Q: Mr. Webb this is the entry way to the house?

5 A: Yeah.

6 Q: State's exhibit six. What is that? What is shown in
7 that photograph?

8 A: A jacket, chair, some wood box.

9 Q: What area of the house is that?

10 A: I do not know. I need to see some more background.

11 Q: This is the picture that you looked at earlier and
12 you said that was the entry way into the house.

13 A: Oh yeah I see what you are saying.

14 Q: So what is shown on State's exhibit six?

15 A: Jacket, chair, a toolbox.

16 Q: This is the porch area of the house?

17 A: That is the porch.

18 Q: Can you see in this photograph where the victim was
19 laying when Mr. Newman hit him?

20 A: I can not honestly no.

21 Q: Lets show you tell me...

22 A: He was laying down, he was laying down I just walked
23 over him and went into the house.

24 Q: Well tell me how he was facing. Were his legs this
25 way or towards the door?

- 1 A: His head was by the chair.
- 2 Q: His head is over here and his legs which way are they
- 3 facing?
- 4 A: The steps.
- 5 Q: This way or that way, ok. Where did you go when you
- 6 ran in the house?
- 7 A: In the back room.
- 8 Q: In the back bedroom?
- 9 A: Back bedroom.
- 10 Q: Show you State's twelve. Is this the bedroom you ran
- 11 to?
- 12 A: Yeah that the room.
- 13 Q: What did you do when you got to the bedroom?
- 14 A: Mess all that up.
- 15 Q: You are the one that turned the mattress on its side.
- 16 How about the dressers were they in that condition
- 17 when you went into the bedroom?
- 18 A: I think so yeah. No I did that when I went in there
- 19 too.
- 20 Q: So you pulled all the drawers out?
- 21 A: Yeah but I put them back in I did not pull them fully
- 22 out.
- 23 Q: What were you looking for when you did all of that?
- 24 A: A gun.
- 25 Q: A gun and what else?

- 1 A: Money.
- 2 Q: Did you find anything?
- 3 A: No, I didn't find nothing.
- 4 Q: How about this did you do all of that?
- 5 A: Yeah that is the same.
- 6 Q: That is the same room?
- 7 A: Yeah the same room.
- 8 Q: Was anybody else in the bedroom with you?
- 9 A: No sir but me.
- 10 Q: How about the damage to the door frame there did you
- 11 do that?
- 12 A: No sir how that got like that.
- 13 Q: Nobody else went back in the bedroom with you?
- 14 A: Nobody but me.
- 15 Q: When you came out the bedroom. First of all tell me
- 16 how long were you in the bedroom?
- 17 A: I do not know enough, flip the mattress, look under
- 18 the bed, check the closet where that police standing
- 19 at right there, go in there check the bathroom and
- 20 that is when I came out.
- 21 Q: You did not find anything?
- 22 A: No I did not find nothing.
- 23 Q: Did you take anything out of his bedroom?
- 24 A: No I did not take nothing out of his bedroom.
- 25 Q: When you came out of the bedroom. What did you find?

- 1 A: I just see he was just laying on the floor somehow I
2 do not know how he got on the floor but he was in the
3 floor.
- 4 Q: He was inside the house?
- 5 A: Yeah he was inside the house I do not know if he
6 crawl or fall or what not I did not know.
- 7 Q: Was there anybody else in the house? Who else was in
8 the house?
- 9 A: Newman was in the house.
- 10 Q: Where was he?
- 11 A: He was just standing up.
- 12 Q: In the livingroom?
- 13 A: Yeah.
- 14 Q: In the same room that Mr. Wimberly was laying?
- 15 A: Yeah.
- 16 Q: Anybody else in the house?
- 17 A: No I did not see nobody else.
- 18 Q: I am going to show you State's exhibit nine. What is
19 that?
- 20 A: What is that?
- 21 Q: Is that the living room to the house?
- 22 A: Yeah, look like the livingroom.
- 23 Q: Can you tell me in that picture where Mr. Wimberly
24 was laying when you came out the bedroom?
- 25 A: That dude laying right there.

1 Q: Which way was he facing?

2 A: I do not know about long ways. That last bedroom I do
3 not know. Yeah I think so.

4 Q: So this is the bedroom door right here?

5 A: I think so.

6 Q: So if he was laying here. Which way where was his
7 head and where was his feet?

8 A: Look like right there and his feet was the other way.

9 Q: Feet were which way, down?

10 A: Yeah.

11 Q: And his head was up here?

12 A: Yeah.

13 Q: Where was Mr. Newman standing?

14 A: Close toward the door.

15 Q: Down?

16 A: By the door like the outside door closer that way.

17 Q: So the outside door is back this way?

18 A: Yeah.

19 Q: And Newman was back here?

20 A: Yes sir.

21 Q: Anybody else in the house?

22 A: No.

23 Q: Did you see how Mr. Wimberly got in the house?

24 A: No I did not.

25 Q: Did you see anybody else in the house beside Jonathan

- 1 Newman?
- 2 A: I did not see nobody else.
- 3 Q: Was Mr. Wimberly what kind of condition was he in
- 4 when you got there?
- 5 A: He was...
- 6 Q: The question was what condition was Mr. Wimberly when
- 7 you came out of the bedroom?
- 8 A: Blood on his face what not.
- 9 Q: Did you see what happened to him?
- 10 A: No I did not see what happened to him.
- 11 Q: Was he in worse condition when you came out the
- 12 bedroom than he was when you ran in the house?
- 13 A: I was so paranoid trying to hurry up and get out the
- 14 house I just went look over him I did took his wallet
- 15 I went in his pocket what not.
- 16 Q: So you went in his pockets after you came out the
- 17 bedroom?
- 18 A: Yeah.
- 19 Q: Did you find anything?
- 20 A: I had his wallet and cell phone.
- 21 Q: Then you took them?
- 22 A: I throw them in the house.
- 23 Q: You threw them in the house?
- 24 A: Yeah look and nothing ...
- 25 Q: How about Mr. Newman. Did he take anything?

1 A: I was but then I went dang he does not have no gun. I
2 was like I do not see the gun because I was really
3 trying to see if he had a gun on him.

4 Q: So you were looking on his person for the gun after
5 you came out the bedroom?

6 A: Yeah I was looking on him for the gun.

7 Q: How about the victim what was he doing at this time?
8 Was he fighting back was he just laying there what
9 was going on?

10 A: No he was just laying there.

11 Q: Did you find the gun on Mr. Wimberly?

12 A: No.

13 Q: How about did you or Mr. Newman ever find the gun?

14 A: I can not say something but I know I like he does not
15 have the gun. Newman said I got it now I just took
16 out running.

17 Q: Jonathan Newman told you he already had the gun?

18 A: Yeah he told me that.

19 Q: Did you see it? Did you see it?

20 A: No not I did not look back.

21 Q: Did you see the gun afterwards?

22 A: Yeah.

23 Q: When did you see it?

24 A: I say the next day.

25 Q: Who had it?

- 1 A: I had the gun not then but I seen I grabbed it.
- 2 Q: Where did you find it?
- 3 A: At my baby momma house.
- 4 Q: How did it get there?
- 5 A: They just take it there.
- 6 Q: Well who took it there?
- 7 A: Newman.
- 8 Q: What kind of gun was it?
- 9 A: .22
- 10 Q: Can you describe it for me?
- 11 A: .22 automatic I think.
- 12 Q: What color was it?
- 13 A: Black.
- 14 Q: What color was the handle?
- 15 A: Brown.
- 16 Q: It was a pistol you said it was a revolver?
- 17 A: Yeah.
- 18 Q: You did not just stumble across it at your baby
- 19 momma's house did you.
- 20 A: No.
- 21 Q: How did you find it?
- 22 A: I found it when I went in the room.
- 23 Q: When you went into who's room?
- 24 A: Baby momma sister room.
- 25 Q: Was there anybody else in there?

1 A: Newman, Newman was asleep. That when I went into
2 there.

3 Q: Did you ask Newman about the gun later?

4 A: I asked him but we really could not talk like that
5 because Sergeant Daniels was like down our back
6 trying to catch us.

7 Q: Where did the gun come from?

8 A: Wimberly.

9 Q: How do you know it came from Wimberly?

10 A: Because like I said when I was like he does not have
11 no gun. That when Newman said I got it and we just
12 took off running.

13 Q: Had you seen the gun? Had you seen the victim Mr.
14 Wimberly with the gun earlier that day?

15 A: No I did not see.

16 Q: You had not seen it before?

17 A: No.

18 Q: Mr. Newman told you he had gotten the gun?

19 A: Yeah.

20 Q: And he showed it to you later?

21 A: Later.

22 Q: You said that when this thing started Mr. Slater and
23 Mr. Samuels ran off?

24 A: Yeah.

25 Q: Where did they go?

Montag Webb - Examination by Mr. Durant

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- 1 A: I do not know where they went but they just left like
2 they never seen nothing like that before so they
3 left.
- 4 Q: How long after the hit did they run?
- 5 A: I guess about fifteen thirty seconds I do not know.
- 6 Q: Did you ever see them again?
- 7 A: Yeah I seen them when I left.
- 8 Q: When you left?
- 9 A: Yeah when we had left.
- 10 Q: So you and Newman left at the same. Did you all leave
11 at the same time?
- 12 A: Yeah.
- 13 Q: Did you all go out the front door or the back door?
- 14 A: Front door.
- 15 Q: Towards I mean towards .?
- 16 A: .
- 17 Q: Now when you all ran out the door where did you go?
- 18 A: We cut around the house. When I cut around the house
19 then I seen Slater and Sin walking up Letroy Samuel.
- 20 Q: Where did you see them?
- 21 A: At the corner of the house like at towards at the
22 back like coming up type way.
- 23 Q: On the back at the house that this thing happened at
24 that is where you saw them?
- 25 A: Like between that house and that house beside them.

1 Q: If you are looking at the house from the road on the
2 right or the left side?

3 A: Right.

4 Q: Did you have any conversation with Mr. Samuels and
5 Mr. Slater when you left?

6 A: When I left?

7 Q: Yeah.

8 A: Only one was like no.

9 Q: After you saw the gun the following day or whenever
10 did you. What happened to the gun?

11 A: I sold it.

12 Q: You sold it to who?

13 A: Well not sold it I give it away and tell my peeps to
14 hold it for me.

15 Q: So you gave it away to somebody here in Manning?

16 A: Not really Manning.

17 Q: You gave it to a friend of yours?

18 A: Yeah.

19 Q: How long after that, that same day or how long after
20 did you give the gun away?

21 A: That morning before I went to that day before I
22 turned myself in.

23 Q: Did you ever you use the gun after?

24 A: I had shoot it I had shoot it.

25 Q: Where did you shoot it?

1 A: On the dirt road.

2 Q: Dirt road here in Manning.

3 A: No.

4 Q: Out in the country?

5 A: Country.

6 Q: Was there anybody with you when you shot?

7 A: Nobody was with me when I shot it because I was on
8 the moped. I was on my homeboy moped.

9 Q: And you say when you left that evening you went to
10 your baby momma's house and you stayed there that
11 night?

12 A: Yeah I stayed there that night.

13 Q: And Jonathan Newman stayed there that night?

14 A: Yeah.

15 Q: And he was seeing your baby momma's sister is that
16 right?

17 A: Yeah.

18 Q: You mentioned a minute ago that at some point you
19 came and turned yourself in or came and had some
20 discussion with the investigators in this case. Where
21 did that take place?

22 A: Up there at jail house not the jail house city house.

23 Q: The Manning Police Department?

24 A: Yeah.

25 Q: You actually gave a few statement did you not?

1 A: Yeah.

2 Q: Three to be exact is that right?

3 A: Yeah.

4 Q: This is not exactly the story that you gave law
5 enforcement the first couple times is it?

6 A: No.

7 Q: Matter of fact the first time did you not tell law
8 enforcement you did not see anything?

9 A: Yeah.

10 Q: You told them that you left before any of this
11 happened?

12 A: Yeah.

13 Q: Why did you tell them that?

14 A: I did not want to get locked up.

15 Q: Ok so that was not true was it?

16 A: No that was not true.

17 Q: And the second time that you met with law enforcement
18 you gave them a little bit more information but you
19 did not tell them the full truth then did you?

20 A: No sir.

21 Q: The second time did you not tell them that you knew
22 what happened but you were not there?

23 A: I do not know. I think yes sir.

24 Q: That you told them that Sin and J White did it?

25 A: Yeah I lied.

- 1 Q: Why did you lie?
- 2 A: I do not know because, I do not know I guess I been
3 scared.
- 4 Q: When you told them you were not there that was a lie?
- 5 A: Yeah.
- 6 Q: You were there were you not?
- 7 A: Yeah. I lied when I said Letroy Samuels was there too
8 because he left he was not there.
- 9 Q: Why would you say I thought Letroy was your friend.
10 Why would you say Letroy was there if he was not?
- 11 A: I do not know I was trying to cut myself then.
- 12 Q: Were you telling the truth when you said Jonathan
13 Newman was there?
- 14 A: Hell yeah he was there. We always together.
- 15 Q: You told me earlier that Jonathan Newman is your
16 closes friend out of the two?
- 17 A: Yeah he my closes friend.
- 18 Q: Is he your closes friend in the world?
- 19 A: You could say that I do not know about now but we was
20 close.
- 21 Q: You told law enforcement that your closes friend was
22 a fella Team and right after that it was J White?
- 23 A: Yeah.
- 24 Q: Let me ask you this. In your second statement when
25 you told law enforcement that J White hit him on the

1 porch was that the truth?

2 A: I did not see him like hit I say I just heard a hit
3 then I turned around.

4 Q: Did J White tell you earlier that he was going to hit
5 him?

6 A: He tell but like he lie a lot but he did tell me.

7 Q: So he told you before that he was going to hit him?

8 A: Yeah.

9 Q: Did anybody else tell you that they were going to hit
10 him?

11 A: No.

12 Q: So nobody else came up with a plan to assault Anthony
13 Wimberly that day did they?

14 A: Like I tell earlier no.

15 Q: So you actually gave three statement to law
16 enforcement is that right?

17 A: Yeah.

18 Q: The third time that you came in did you not tell the
19 investigators that Letroy Samuels drug the fella in
20 the house?

21 A: I did tell them that but I lied about that too.

22 Q: You telling me that is not true now?

23 A: That is not true.

24 Q: So you lied to investigators and told them that your
25 friend drug this man in the house and now you are

1 saying that is not true?

2 A: I did lie and tell them that.

3 Q: Why would you tell them that if it was not true?

4 A: I was trying to cover myself.

5 Q: So you throwing your friends under the bus to cover
6 yourself?

7 A: Then yeah.

8 Q: Were you telling the truth when you said that
9 Jonathan Newman hit him on the porch?

10 A: I guess so like I said like he just walked past me
11 when I was walking down the steps I heard the hit. I
12 can not say that he did it but I just heard the hit.

13 Q: When you said that. Did you not tell law enforcement
14 in your last statement that Letroy Samuels was
15 standing in the living room along with Jonathan
16 Newman?

17 A: Yeah I did told them that.

18 Q: So now you are saying that Jonathan Newman was the
19 only one in the room?

20 A: Yeah. Letroy Samuel he been took off running he was
21 not there.

22 Q: Mr. Webb, you said that you and Jonathan stayed at the
23 same house that evening, you all stayed with your
24 baby momma. Did you have an opportunity to see Mr.
25 Newman's clothes that next day or that evening?

1 A: Yeah.

2 Q: Was there anything noticeable about his clothes?

3 A: I told him let me get his clothes so I could go stash
4 them or throw them away.

5 Q: Why did you think it would be a good idea to stash
6 his clothes and his shoes as you say?

7 A: Blood was on them.

8 Q: They had blood on them?

9 A: Yeah.

10 Q: And you saw Jonathan Newman wear clothes with blood
11 on them?

12 A: He had like dark stains on him but he had dark
13 clothes on too so I just tell him to go ahead and
14 hand it to me.

15 Q: So you saw blood on his shoes and his clothes and you
16 aid...

17 Mr. Carter: Your Honor I am going to object I think
18 he said he had on dark clothes with stains.

19 The Court: Rephrase your question.

20 Q: A minute ago you told me that you stashed that you
21 asked Mr. Newman for his clothes to go and to stash
22 them. Why did you do that?

23 A: I guess they had blood on them.

24 Q: What did you do with the clothes?

25 A: Take them throw them under a house.

Montag Webb - Examination by Mr. Durant

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1 Q: Under a house where?

2 A: In a trailer park.

3 Q: Anybody live at that house?

4 A: There was somebody living there but I do not know if
5 they living there not now if there was somebody I did
6 not see anybody.

7 Q: Did Mr. Newman go with you to stash those clothes?

8 A: No, no sir.

9 Q: Did your clothes have blood on them?

10 A: No sir.

11 Q: You did not stash your clothes from that night?

12 A: No I did not stash my clothes that night I turned
13 myself in with them same clothes on.

14 Q: Mr. Webb when I asked you a minute ago why you gave
15 these different statement to the officers you said
16 you were trying to protect yourself. Is that right?

17 A: Yes sir.

18 Q: Now that has something changed that you are willing
19 to tell this jury the truth about what has happened?

20 A: I tell the truth now. I know I lied I did wrong I
21 messed. I did not want to see nobody really get
22 locked up for something they did not do.

23 Q: But you know you had something to do with?

24 A: Yes sir.

25 Q: Do you know Jonathan Newman had something to do with

1 it?

2 A: Yes sir I guess yes sir. He was with me like I did
3 not ever see him swing.

4 Mr. Carter: I can not hear him. Yeah say that again.

5 The Court: Wait hold up you do not get to ask
6 questions right now. If you are going to object, object.

7 Rephrase your question if you have one.

8 Q: The question was do you know that Jonathan Newman was
9 involved in this assault?

10 A: Every time I turned around he was there.

11 Q: He is the one that came up to you with the plan to
12 assault this man?

13 A: I can not say it was no plan.

14 Q: He told you he was going to do it?

15 A: Yeah.

16 Mr. Durant: I do not have any further questions, Your
17 Honor.

18 The Court: Now Mr. Carter you may ask him questions.

19 Mr. Montag Webb - Cross Examination by Mr. Carter

20 Q: Montag you are incarcerated now is that correct?

21 A: Yes sir.

22 Q: Have you been incarcerated before?

23 A: Yes sir.

24 Q: What were you incarcerated before for?

25 A: In violation of probation.

1 Q: So you had some crime where you were put on
2 probation?

3 A: Yeah.

4 Q: What was that crime?

5 A: Unlawful carrying of a firearm, second degree
6 burglary, mis --- of property, grand larceny, failure
7 to stop blue light that is it.

8 Q: So you have a history of weapon, having weapons guns
9 is that correct?

10 A: Yeah unlawful carrying of a firearm.

11 Q: Which means you had a firearm or two.

12 A: Yeah, no one.

13 Q: I mean but you have had them before when you carried
14 them around right?

15 A: Right.

16 Q: What is that "K" for a kill?

17 A: No it stand for my cousin.

18 Q: Okay the two tear drops are for kill or murder?

19 A: No they stand for my momma and daddy.

20 Q: The tear drops are for your momma and your daddy?

21 A: Yeah.

22 Q: They are not for having killed some....

23 Mr. Durant: Objection Your Honor he has asked the
24 question.

25 The Court: Sustained.

1 A: No.

2 Q: You testified earlier that you have given previous
3 statements to law enforcement before you decided to
4 turn yourself in and tell that you committed this
5 crime right?

6 A: Yeah.

7 Q: You spoke with law enforcement, what four or five
8 times. How many times?

9 A: I do not know I think three.

10 Q: Three times and on three of those occasions you gave
11 a different story. Would that not be fair to say?

12 A: Yeah.

13 Q: You have never admitted to anything is that correct?
14 Is that correct was my question.

15 A: Yeah.

16 Q: In those stories you said that Sin, over there and
17 Slater committed this crime. Is that correct?

18 A: No.

19 Q: You never told them that Troy committed this crime?

20 A: You said Troy and Slater and I said no.

21 Q: Oh ok but you told law enforcement somebody else
22 committed the crime is that correct?

23 A: Yeah I told them somebody else committed.

24 Q: Who did you tell them committed the crime?

25 A: I told them Newman and Samuels did it.

1 Q: Did you ever say Troy and Samuels?

2 A: That is.

3 Q: That is Troy over there?

4 A: Yeah that is Samuels.

5 Q: You said that you have know J White for about six
6 years is that right?

7 A: I think that right.

8 Q: Or there about correct. Sometime in the past you said
9 that, well you said that Newman was your best friend
10 correct, correct?

11 A: Correct.

12 Q: You told law enforcement in one of these
13 conversations the Kem was your best friend. Is that
14 correct?

15 A: Yeah that what the "K" stand for.

16 Q: So you got a lot of best friend?

17 A: No that my first cousin and my best friend.

18 Q: You testified earlier that you never saw the assault
19 or the lick that hit Mr. Wimberly. Is that correct?

20 A: Yeah you right.

21 Q: Because your back was turned or facing the other
22 direction?

23 A: Yeah.

24 Q: Behind you was Troy and Slater. They were behind you
25 right?

1 A: Yeah all of them was.

2 Q: They were all behind you?

3 A: Yeah.

4 Q: While your back was turned you heard a pop or
5 something that struck the victim. Is that correct?

6 A: That is correct.

7 Q: Then when you heard that did you turn around
8 immediately or you took some time?

9 A: I ain't know I was drunk up, you drunk you stagger.

10 Q: So all you guys were drinking is that fair to say?

11 A: Yeah.

12 Q: And you were drunk?

13 A: Yeah.

14 Q: How about Troy over there?

15 A: Yeah.

16 Q: How about Slater?

17 A: He was drunk but he was not as drunk as us.

18 Q: Slater's girlfriend was drunk?

19 A: She been gone she left.

20 Q: You mentioned somebody was a crack head. Which one
21 was a crack head?

22 A: Oh, Barbara and Yo-Yo.

23 Q: They were drunk and high and everything?

24 A: Yeah they was high up.

25 Q: During the time of this punch, lick, hit were they

1 present?

2 A: No they was gone.

3 Q: They had already left, which one had already left?

4 A: Both of them.

5 Q: Barbara and Yo-Yo. Slater's girlfriend was still
6 there at the house?

7 A: She been gone by the time we got back from the store.
8 I do not know where she went.

9 Q: So at this time your testimony is that Slater was
10 present, Troy defendant over there was present?

11 A: Yeah.

12 Q: Of course yourself, J. White and the victim was there
13 at the house correct?

14 A: Yeah.

15 Q: Because it took you sometime, you were drunk, to turn
16 around after you heard that sound. Do you know
17 whether it was like a few seconds or what?

18 A: I do not know.

19 Q: But at some point when you got your body turned
20 around you saw Troy and Slater running away?

21 A: No as soon as I turn around I look at ... they just
22 took off running.

23 Q: Was your testimony they were on the porch when you
24 last saw them?

25 A: Yeah they were on the porch.

1 Q: When they took off running of course you do not mean
2 running on the porch you mean running off the porch
3 and heading down the street or on the side of the
4 house.

5 A: Around the corner yeah.

6 Q: You are not testifying that you saw any of them or
7 did not see any of them strike Mr. Wimberly correct?

8 A: No I did not see any of strike him.

9 Q: You did not see anybody strike him?

10 A: I just heard a lick and I turned around.

11 Q: But you do not know which one of those three persons
12 behind you struck him. Is that correct?

13 A: That is correct.

14 Q: And you are not telling this jury that J. White,
15 Jonathan Newman struck him correct, because you did
16 not see that right?

17 A: I guess you are right, I guess you are right.

18 Q: You already testified that you plead guilty to this
19 burglary, murder charge manslaughter charge correct?

20 A: Yeah I plead guilty to the murder and burglary.

21 Q: And you plead guilty to that because you are guilty
22 of it? You plead guilty right?

23 A: Yeah.

24 Q: You pled guilty because you are guilty. A person
25 plead guilty because they are guilty correct?

- 1 A: Yeah you right.
- 2 Q: What did you take away from the house?
- 3 A: I did not take nothing from the house.
- 4 Q: You did not take nothing from the house?
- 5 A: Nope.
- 6 Q: Was the house locked up or anything?
- 7 A: Nope.
- 8 Q: Was the house opened up?
- 9 A: It was wide open.
- 10 Q: Were people going in and out of both duplex A and
- 11 duplex B?
- 12 A: All day.
- 13 Q: All day and I mean all the way up until the time when
- 14 say Slater and Troy all the way up until the time
- 15 when you saw them running was people still going in
- 16 and out of the house?
- 17 A: No us there.
- 18 Q: That is what I am talking about with regards to you
- 19 guys being there were they still going in and out of
- 20 the house?
- 21 A: Yeah I think so.
- 22 Q: Speak up.
- 23 A: I do not know what you mean by that.
- 24 Q: You testified that after you got out the truck with
- 25 your brother in law. At that point in time you were

1 getting ready to leave that location is that correct?

2 A: You right, yeah that correct.

3 Q: At that time Troy and Slater and those other two
4 persons they were there at the house correct?

5 A: Yeah Barbara and Yo-Yo was there too but I guess they
6 left out the back door or went in Slater house
7 because when I came back they was not there.

8 Q: They were walking in and out of both side of the
9 house, duplex apartment duplex apartment ?

10 A: Yeah.

11 Q: While they were doing that in your mind you made a
12 decision that you were, it is time for me to leave?

13 A: Yeah.

14 Q: At that time when you decided to leave you were
15 walking out of the house or down the steps or what?

16 A: When I decided to leave?

17 Q: Yes.

18 A: When I was walking out dapping everybody up telling
19 them I was about to leave.

20 Q: Your Honor may approach the exhibits?

21 The Court: You may.

22 Q: You see the big tree here right?

23 A: Yeah.

24 Q: That big tree is in front of the steps?

25 A: Yeah.

- 1 Q: Can you see the steps behind the big tree?
- 2 A: Yeah.
- 3 Q: With me facing the house right here and that big
- 4 tree. Where did you notice J. White, Jonathan Newman,
- 5 where did you notice Jonathan to be standing when you
- 6 were getting ready to leave?
- 7 A: On the ground.
- 8 Q: On the ground ok. Now as I look at that picture
- 9 there. That is concrete up front on this side of that
- 10 yellow ribbon correct?
- 11 A: Yeah.
- 12 Q: So when you say ground are you making reference to
- 13 the concrete as the ground or the dirt?
- 14 A: I cannot remember I am not really sure he was on the
- 15 ground he was not on the steps.
- 16 Q: Was not on the steps but it could have been the
- 17 concrete or the dirt just not on the step?
- 18 A: Yeah.
- 19 Q: How far was he past that ribbon or on this side of
- 20 that ribbon?
- 21 A: Where the ribbon at?
- 22 Q: See the yellow ribbon right there.
- 23 A: He was on the other side of it.
- 24 Q: Yeah he was on the other side of the ribbon. You
- 25 decided that you were going to leave or you all

1 decided that you were going to leave correct?

2 A: Yeah.

3 Q: Because you had some medicine or something to carry?

4 A: Medicine and I had some beers.

5 Q: Medicine and pills?

6 A: Medicine and beers.

7 Q: Beers?

8 A: Alcohol.

9 Q: Where did you get that from?

10 A: Sav Way I got the alcohol from Sav Way. I got the
11 medicine from Wal-Mart.

12 Q: Leon earlier said you had some Pampers. Did you have
13 any Pampers?

14 A: He probably thought I had some Pampers in the bag but
15 it was a bag full of beers.

16 Q: A bag full of beers?

17 A: Yeah.

18 Q: When I heard you say and I kind of got lost so I
19 figured I would just wait. When you said you were
20 walking off and Jonathan walked pass you. You recall
21 saying that?

22 A: When I was walking down the steps.

23 Q: Huh?

24 A: When I was walking down the steps.

25 Q: You were walking down the steps, when you walked

1 down...

2 A: Yeah when I walked down the steps after I was walking
3 out I was debating. I was thinking about something, I
4 was debating whether I should go to BT or not.

5 Q: What is BT?

6 A: Brown Town.

7 Q: You were thinking about whether to go or not to go is
8 that correct?

9 A: Correct.

10 Q: How far did you walk from the steps toward the
11 street?

12 A: I do not know.

13 Q: Was it further than you and I are apart right now?

14 A: I do not know.

15 Q: But you were not on the steps?

16 A: I was not on the steps.

17 Q: Had you walked a few steps away from the steps even
18 though you do not know the difference had you made
19 one or two steps away from the steps?

20 A: Probably a little more, I do not know.

21 Q: Well you were drunk so you do not know how far you
22 were right?

23 A: Yeah I was not too far.

24 Q: But you were drunk and you do not know right. By the
25 same token you do not know exactly where Jonathan was

1 except he was just not on the porch and on the steps
2 correct?

3 A: Yeah.

4 Q: At some point and time in your walking you and
5 Jonathan passed each other. Did I understand you to
6 be saying that?

7 A: Yeah soon as I walked down he walked pass me.

8 Q: He walk pass you?

9 A: Yeah.

10 Q: How much time from when you walked down the steps and
11 Jonathan passed you that you heard and I want to say
12 the punch or the lick or the sound. How much time
13 went by do you recall?

14 A: No I do not recall.

15 Q: Do you know if it was instantly or was it like a few
16 seconds, one, two, three, four, five?

17 A: I do not know. That is a good question.

18 Q: It was your understanding that Jonathan was going to
19 be walking away from that building. Was going to be
20 leaving with you correct?

21 A: Yeah he was going to be leaving with me.

22 Q: And you were definitely planning to leave at that
23 time correct?

24 A: Yeah I was planning to leave at that time.

25 Q: Your understanding that he would be leaving with you,

1 but rather than leave at that time you heard a sound
2 a lick a punch or something correct?

3 A: Yeah.

4 Q: But you did not see who threw that lick or punch or
5 something correct?

6 A: You right.

7 Q: When you walked down the steps Mr. Wimberly the
8 victim here was he in his house or on the porch?

9 A: He was on the porch.

10 Q: And on the porch also at the same time was J. Slater,
11 is it K. Slater or J. Slater?

12 A: K. Slater.

13 Q: K. Slater and Troy, Sin?

14 A: They was on the porch too.

15 Q: They were on the porch with him?

16 A: Yeah.

17 Q: But Jonathan was not on the porch correct? J. White
18 he was not on the porch?

19 A: No.

20 Q: Then you heard this sound boom, punch, slap whatever
21 it was behind you correct?

22 A: Hold up now, you kind of getting my head messed up.

23 Q: Okay well let us do it slowly. You walked down the
24 steps and you were walking out toward the road
25 correct?

1 A: Yeah.

2 Q: And while you were doing that, walking down the steps
3 out toward the road, behind you on the porch was Mr.
4 Wimberly correct?

5 A: Yeah.

6 Q: Slater? Give me Slater's name again.

7 A: Kevin Slater.

8 Q: Kevin Slater also known as K. Slat but Kevin Slater
9 and then there was Letroy Samuels correct?

10 A: Yeah.

11 Q: While you were walking down the porch those three
12 persons was on the porch and as you walked a few
13 steps away, you heard a slap or a punch sound?

14 A: Yeah.

15 Q: And then because you were intoxicated it took you a
16 second or so to turn around and look correct?

17 A: Yeah.

18 Q: When you did that you saw Slater and you saw Letroy,
19 Sin, getting off the porch and running or running
20 away?

21 A: Running away.

22 Q: Running away. They had already come off the porch?

23 A: Yeah and they were gone.

24 Q: I see you turned to your left there so if you look at
25 that house did they go back toward that tree there

1 the small tree in terms of directions?

2 A: No, no.

3 Q: They went back toward the large tree in terms of
4 direction if I walked in between those two trees?

5 A: Turned by that house because when we left that was
6 where they was coming from.

7 Q: So they came and they turned by the house and went
8 down the back of the house?

9 A: That is the side.

10 Q: Well the side but they were headed toward because
11 they came off the front porch correct?

12 A: Yeah.

13 Q: And they were running correct?

14 A: Yeah.

15 Q: You said that once you saw that you thief mode your
16 crook mode kicked in, is that correct?

17 A: Yeah.

18 Q: The crook mode was let us go in and steal, correct?

19 A: Yeah.

20 Q: With the crook mode the first thing you did was walk
21 over him and went on in the house correct?

22 A: Yeah.

23 Q: And you were not looking behind you once you went in
24 the house correct?

25 A: No I was trying to get what I.

1 Q: Full thief mode kicked in?

2 A: Yeah.

3 Q: And you started ramshacking the house and you went in
4 the room and you looked in the drawers, flipped the
5 bed mattress over?

6 A: Yeah.

7 Q: You were looking for money, jewelry, or anything?

8 A: I was looking for a gun that they said he had and
9 money.

10 Q: While you were doing that your back was to everything
11 else correct?

12 A: Correct.

13 Q: By the way. How many times did you kick or hit Mr.
14 Wimberly?

15 A: None.

16 Q: You did not ever kick or hit him? So you never
17 assaulted him?

18 A: I never assaulted him.

19 Q: You just thief mode all the way?

20 A: Yeah.

21 Q: And then you went in the house search around then you
22 came back out and you approached the body, Mr.
23 Wimberly's body laying down there?

24 A: Yeah.

25 Q: When you approached the body coming back out of the

1 bedroom. Was he in the house or on the porch or what?

2 A: He was in the house.

3 Q: He was in the house and then you started searching
4 the body, pockets and all?

5 A: Yeah I just looked down like and then I went in.

6 Q: Let me ask you a little clearer. Did you search the
7 body physically?

8 A: I went in the pockets. I did not touch his body but
9 yeah.

10 Q: To go in the pockets you kind of got to touch him a
11 little bit right?

12 A: Yeah you say that.

13 Q: You took out the wallet?

14 A: Yeah.

15 Q: Took out the telephone?

16 A: Both of them came out at the same time both of them
17 in his front pocket.

18 Q: You said he was in the house?

19 A: Yeah.

20 Q: This is what got me mixed up a little bit. Council
21 asked you about did you still a wallet or take the
22 wallet or phone or anything else, and you said no I
23 just got and I just throw it back into the house.

24 A: Yeah.

25 Q: So you walked out of the house with the wallet?

1 A: No, got it and tossed it. Toss it out of my hand type
2 thing.

3 Q: I thought I heard you say, I throw it back in the
4 house.

5 A: Back in the house mean in the house.

6 Q: So you were in the house?

7 A: Yeah I was in the house.

8 Q: You did not see J. White searching the house did you?

9 A: No.

10 Q: Ok, Jonathan. You did not see him searching the mans
11 body did you?

12 A: No, see I was in the back room. I was searching the
13 back room.

14 Q: But i just want to establish you never saw him
15 searching the man body?

16 A: No.

17 Q: Of course you never saw him physically make contact
18 with the man?

19 A: No.

20 Q: Never saw him lifting the man up or moving him did
21 you?

22 A: No sir.

23 Q: All you know is that somebody hit the man right?

24 A: Right.

25 Q: Whoever hit him knocked him down?

1 A: Yeah.

2 Q: And you did stay to watch him after he got knocked
3 down correct?

4 A: No I just ran in the house.

5 Q: So you cannot tell this jury that he did not limp
6 back into the house, could you or carried himself
7 back into the house could you?

8 A: You messing with my head but no.

9 Q: Let me not try to mess with your head now. I am using
10 the word a lick or blow. Somebody struck the man and
11 knock him down correct?

12 A: Yeah.

13 Q: You thief mode ran into the house correct?

14 A: Yeah.

15 Q: That means you left the man behind you?

16 A: Yeah.

17 Q: And you did not look back out there no more until you
18 finished in the room right?

19 A: Right.

20 Q: You are not saying that the man did not get up and
21 walk or crawl into the house correct?

22 A: I am not saying that.

23 Q: When you stepped over the man or went around the man
24 to go into the house. Did you see blood or you did
25 not see any blood?

1 A: When? On the porch?

2 Q: Yeah you were out on the ground when you heard the
3 lick and then you went back into the house correct?

4 A: Yeah.

5 Q: So that means you passed the man the victim?

6 A: Yeah.

7 Q: Did you look at him when you passed him?

8 A: I looked down at him yeah.

9 Q: So you looked down at him you did not see any blood
10 then correct?

11 A: I see where stuff was leaking out his mouth.

12 Q: Something was leaking out his mouth?

13 A: Yeah.

14 Q: But by the same token, now by the same token after
15 you went into the house you do not know whether he
16 was able to get up or walk or crawl or anything do
17 you?

18 A: No.

19 Q: How long were you back there in the bedroom?

20 A: I do not know.

21 Q: Were you back there in the bedroom long enough for
22 him to get up or crawl or get back into the house?
23 Well honestly he got in the house so you must of been
24 back there some period of time right?

25 A: Yeah. Yeah he got there some period of time. I was

1 just on stealing mode.

2 Q: Ok I understand, that thief mode only lets you focus
3 on what you are doing. The porch where everybody was.
4 Did you see Jonathan on the porch? I mean clearly did
5 you see him on the porch or did you assume he was on
6 the porch. Did you see him inside the living room or
7 did you assume he was in the living room what?

8 A: No I see him.

9 Q: You saw him where?

10 A: I see him on the porch in the living room on the
11 steps.

12 Q: On the steps that right in front of the house there?

13 A: Yeah in the living room.

14 Q: Did you see him on the porch?

15 A: All that is part of the porch is it not?

16 Q: So the porch makes up the living room?

17 A: No I am talking about the steps.

18 Q: I am really not trying to mix you up I just want to
19 make sure I see a clear picture. Now it is fair to
20 say that the steps is not on the porch. The steps
21 walk you onto the porch?

22 A: Yeah.

23 Q: First question is did you see him on the steps?

24 A: I seen him on the steps.

25 Q: From the steps a person would be on the porch. Did

1 you see him on the porch?

2 A: No.

3 Q: The next thing I am going to ask I asked about the
4 steps, I asked about the porch. So from the porch it
5 leads into the house, which is in this case the
6 living room?

7 A: Yeah.

8 Q: And the porch doors is all open to everybody because
9 it is a duplex house correct?

10 A: Correct.

11 Q: I heard you testified that you looked Jonathan was
12 standing at the front door?

13 A: Yes.

14 Q: While he was at the front door of course Mr. Wimberly
15 the victim was already in the house when you saw him
16 right?

17 A: Yeah.

18 Q: If he is standing at the front door and the porch is
19 the common area to a duplex house I mean he had not
20 done anything wrong that you saw at that point. Is
21 that correct?

22 A: Correct.

23 Q: You mentioned earlier that Barbara who stayed at that
24 house she left earlier?

25 A: Yeah I do not know how they left I think they went

1 out the back door.

2 Q: But you do not know when whether it was earlier or
3 whatever do you? I mean they did not go out the back
4 door when you heard the lick or nothing you would not
5 know that?

6 A: I would not know that.

7 Q: When Leon brought you back to the house from Walmart
8 or wherever it was. Did at some point in time you all
9 drove back up to the yard in the truck correct,
10 Leon's vehicle correct?

11 A: Yeah.

12 Q: Then at some point in time you looked out and you saw
13 Jonathan, J. White, up there in the yard correct?

14 A: Yeah.

15 Q: Did he walk up to the truck or he just wait on you to
16 get out?

17 A: He walk up to the truck and I opened the door.

18 Q: Did you all talk or you just got out or did you talk
19 to him in the truck or what?

20 A: No I still like sitting down in the truck shaking my
21 hand like do not forget to come pick me up in the
22 morning.

23 Q: He told you that hey this guy wanting me to get away
24 from this house because I am a white boy? What did he
25 say to you?

1 A: Yeah; he was saying this mother f'er what not mf
2 talking about get away from around here because I am
3 a white boy and talking about he got a gun.

4 Q: Now that is the victim you are talking about right?

5 A: Yeah. No he telling me what the victim said.

6 Q: He told you what the victim said?

7 A: Yeah.

8 Q: Supposedly he knew the man had a gun?

9 A: Yeah.

10 Q: If you know somebody got a gun it is unusual to just
11 go up and attack them would that be fair to say?

12 Mr. Durant: Objection Your Honor.

13 The Court: Sustained. Require speculation.

14 A: I guess so.

15 The Court: Do not answer.

16 Q: Do you know if Mr. Wimberly had a gun on him?

17 A: Yeah.

18 Q: You saw a gun on Mr. Wimberly?

19 A: Talking that day no.

20 Q: How did you know he had a gun on him then?

21 A: Two more people said it I heard a boy around here
22 arguing in the house telling go outside with that gun
23 leave that boy alone. After I walk up the steps going
24 to shake K. Slate hand.

25 Q: But you never saw it or anything? You did not see a

1 gun on Mr. Wimberly's possession did you?

2 A: No.

3 Q: As a matter of fact you never saw a gun at all at
4 that house there did you? At the time of this
5 incident or the day of this incident did you see a
6 gun at that house?

7 A: No.

8 Q: So at the time or soon there after this incident
9 before he was struck you never saw a gun is that
10 correct?

11 A: I never did.

12 Q: After he was struck you never saw a gun while you
13 were there is that correct?

14 A: While I was there?

15 Q: Yes sir.

16 A: That is correct.

17 Q: Had you gone back there after this incident?

18 A: After that no.

19 Q: So then in reality you have never in your life seen a
20 gun at that house correct?

21 A: Correct.

22 Q: And you definitely did not see it on Jonathan Newman
23 at that house correct?

24 A: Correct.

25 Q: Why were you lying so much about how this incident

1 happened?

2 A: I do not know I guess trying to cover myself I was
3 scared I do not know choke up.

4 Q: You were afraid for what you might have done?

5 A: Yeah what do you mean by that.

6 Q: You said you were afraid. What were you afraid of?

7 A: Going to jail.

8 Q: What would you have gone to jail for?

9 A: I can go to jail for the burglary.

10 Q: What did you know you have to done the night of this
11 incident that would have send you to jail?

12 A: Went and rampaged his house without the consent of a
13 adult.

14 Q: Did you break in the house?

15 A: No the door was wide open.

16 Q: That led onto the porch that you were all on is that
17 correct?

18 A: Yeah.

19 Q: You said earlier in your testimony that J. White
20 said, did he say he hit the guy or he was going to
21 hit the guy, Jonathan?

22 A: He was going to.

23 Q: He was going to hit him?

24 A: Yeah.

25 Q: You told us earlier the jury earlier that he loved to

1 lie about that kind of stuff right? That he going to
2 do something or he did something.

3 A: I just said he loved to lie.

4 Q: What did you say he loved to lie about just anything?

5 A: Yeah.

6 Q: So more like bragging that you are talking about?

7 A: Yeah.

8 Q: Yeah I punched that guy and I dared him to say
9 anything. You talking about that kind of bragging
10 correct?

11 A: Yeah.

12 Q: So that fact that he say I am going to punch this guy
13 does not necessarily mean that he did it, is that
14 fair to say? From your relationship with him.

15 A: Does not necessarily mean he going to do it but yeah.

16 Q: And you did not take that to mean he did strike the
17 guy?

18 A: What do you mean by that.

19 Q: You said the guy got punched even though your back
20 was turned. You do not take that to mean well he
21 necessarily hit the guy because he said that because
22 you know he lies a lot?

23 A: I guess so.

24 Q: Let me ask you a little bit about the blood because I
25 was not sure. I know blood is a stain and all so, but

1 so is coffee so is anything else that is on your
2 clothes. Did you see actual blood on Jonathan Newman
3 or did you see a stain that you thought or took to be
4 blood?

5 A: Thought or took to be blood.

6 Q: So you never saw blood?

7 A: I did not sit there and examine it.

8 Q: What color was his clothing?

9 A: Black and blue.

10 Q: Black and blue?

11 A: Yeah.

12 Q: Black and blue clothes at, what time of night was
13 this eleven, twelve?

14 A: About eleven something about twelve, eleven
15 something.

16 Q: So a water spot on the clothes would have been a
17 stain is that correct?

18 A: I did not get the clothes until the next day the next
19 morning.

20 Q: So you did not see any stains on the clothes at that
21 night, that night?

22 A: I was tired, exhausted, and drunk I went to sleep.

23 Q: I understand that, I appreciate that but my question
24 was. Did you see any stains on his clothes that
25 night?

1 A: I did not look that night.

2 Q: Ok alright well I wanted to make sure that I was
3 understanding what counsel was asking you. So at the
4 time of this incident or right after this incident
5 you did not see any stains on his clothes but you
6 knew that they were all out there being luscious,
7 drink and everything correct?

8 A: Yeah.

9 Q: Drinking beer, correct?

10 A: Yeah.

11 Q: Were they drinking anything else.

12 A: Yeah we had some Henney and some gin.

13 Q: Some Henney?

14 A: Yeah.

15 Q: Help me out a little bit.

16 A: Hennessy.

17 Q: And some gin ok. From there I kind of want to move
18 along a little bit from there from the incident.

19 After you were through searching the house did you
20 all leave together or did you all leave separately?

21 A: Samuel and Slater they been gone. Then I took of
22 running then Newman took off running then when we
23 left we ran into them.

24 Q: My question was did you guys take off running at the
25 same time?

- 1 A: Me and him?
- 2 Q: You and J. White?
- 3 A: Sound like the same time.
- 4 Q: Were you all running side by side or did you all go
- 5 different directions?
- 6 A: No I am faster then him so he was behind me.
- 7 Q: Where did you go?
- 8 A: With my aunt, with Troy he done jumped behind us now.
- 9 too. We went to my aunt house, my aunt house as junk
- 10 I was like no we got to leave here and we left and
- 11 went down to ...
- 12 Q: Alright Troy and Slater had left earlier correct?
- 13 A: Yeah and they ran.
- 14 Q: After you thief mode went in the house look around
- 15 did what you are going to do check the body out,
- 16 search the body. At this point you are finished now
- 17 you are leaving correct?
- 18 A: Yeah.
- 19 Q: And with process of leaving you running ahead of
- 20 Jason you came back and met up with Troy again
- 21 correct. Give me words now, yes.
- 22 A: Yeah.
- 23 Q: Then you all went to your aunt house is that Lisa?
- 24 A: Yeah.
- 25 Q: You all went to here and she said can not stay here

1 got to go?

2 A: No we never went in we just stopped at the --- behind
3 the house. Then I was like we got to leave here so we
4 turned around and left.

5 Q: So you said hey we got to go?

6 A: Yeah then we turned around left.

7 Q: Where did Troy go?

8 A: He followed us.

9 Q: Where did you all go?

10 A: To the trailer park.

11 Q: Who's trailer did you go to?

12 A: My baby mama's.

13 Q: Your baby mama's. Is it not true that Jonathan lives
14 there at that location?

15 A: Yeah he lives there too.

16 Q: So you did not just go to just stay there and
17 Jonathan did not go to just stay there. Jonathan went
18 home is that correct?

19 A: I was there.

20 Q: I understand that but I want to establish that he
21 went home that was his house?

22 A: Yeah.

23 Q: You were the one who was just coming there to stay
24 because you did not live there?

25 A: I lived there too I was back and forth I lived there

- 1 too.
- 2 Q: You lived there too?
- 3 A: Yeah.
- 4 Q: Now does your baby mama have a boyfriend?
- 5 A: Yeah but they was like I still stayed there though.
- 6 Q: He lived there too did he not?
- 7 A: Yeah after we fought. After me and her had got into
- 8 it he had left.
- 9 Q: On the night of this incident was he leaving there
- 10 then?
- 11 A: No. Was he I do not know.
- 12 Q: You went there to stay you. I mean you did not go to
- 13 stay with her boyfriend there did you?
- 14 A: No I slept on the chair that night though.
- 15 Q: The next morning you testified that is who you
- 16 thought you saw a stain of some kind?
- 17 A: Yeah.
- 18 Q: That has been a couple of hours later is that fair to
- 19 say?
- 20 A: Yeah.
- 21 Q: Eight, nine hours or more?
- 22 A: Less.
- 23 Q: Or less?
- 24 A: Yeah.
- 25 Q: Jonathan has already been home?

1 A: Yeah.

2 Q: Did he cook did he do anything?

3 A: No.

4 Q: He went and he slept in his room?

5 A: Went straight to sleep.

6 Q: His girlfriend lives there too right?

7 A: Yeah.

8 Q: He slept in his room with his girlfriend. When did
9 you go looking for his clothes?

10 A: I woke up that morning I walk in the room what not
11 wake him up because my baby mama woke me up yelling
12 up the street. I kicked J. White bed like man wake up
13 and he was like what. He still had sleep and whatnot.
14 I said man you remember what happened. He said yeah
15 Conner just came and told me, some girl just came and
16 tell him a hood rat that stay around the way. Then I
17 look down man let me get your clothes out of here I
18 put them in a bag and walked out the door.

19 Q: You just went and got the clothes or did you get the
20 clothes because you saw something or what made you
21 just reach for the clothes, just to reach for it?

22 A: Yeah I just grabbed them yeah.

23 Q: I mean what I am asking is. You just grabbed them
24 because you saw a stain or you just grabbed because
25 of what?

1 A: Just in case a stain.

2 Q: Just in case a stain was there?

3 A: Yeah I see a stain on his pants but I did not know
4 what stain it was it was grease or whatever. Dude had
5 got beat up last night and all that.

6 Q: So you thought it could have been Jonathan?

7 A: Yeah I just grabbed his clothes and left out.

8 Q: Why did you not tell the police or show the police
9 where those supposed clothes were?

10 A: Why?

11 Q: You decided that you were going to come clean and
12 tell everything why did you not tell them about that?

13 A: I do not know.

14 Q: Were they your clothes?

15 A: No those are not my clothes. You can go back to the
16 camera at Walmart and Sav-a-lot those the same
17 clothes I got locked away with.

18 Q: In deciding to come clean and pleading to this
19 incident you had an agreement with the solicitor and
20 the police?

21 A: Yeah.

22 Q: That agreement allowed you to get a plea for a lesser
23 time?

24 A: Yeah.

25 Q: So that you would not have to spend the rest of your

1 life in jail?

2 A: Yeah.

3 Q: In the process of doing that. That is why you here
4 testifying so you can fulfill your part of the
5 obligation?

6 A: I do not mean none of it so yeah. Yeah.

7 Q: You knew that you said something about Sonia was
8 harassing you guys. Sonia is the officer is that
9 correct?

10 A: Yeah I know here.

11 Q: She was harassing you guys?

12 A: Not harassing like looking for us.

13 Q: Looking for you hard, hardcore?

14 A: Yeah.

15 Q: She caught up with you and talked with you on
16 multiple occasions?

17 A: I turned myself in.

18 Q: She was looking for you, you heard about and turned
19 yourself in?

20 A: Yeah.

21 Q: When you turned yourself in you gave her all of these
22 different stories of incidents that happened?

23 A: Yeah.

24 Q: At some point in time you did tell Sonia that you
25 struck the victim?

1 A: No.

2 Q: You did not tell her that? How do I know you are not
3 lying about that now?

4 A: You got the paperwork look and see did I tell her
5 that.

6 Q: That is why I am asking you.

7 A: And I am telling you no.

8 Q: Since you decided to come clean about this assault
9 and murder, you pleading guilty to it as being
10 responsible, liable, guilty right?

11 A: I guess so.

12 Q: I did not hear your answer?

13 A: Yeah.

14 Mr. Carter: Beg the courts indulgence Your Honor I
15 think I am through. Mr. Webb you do not really have any
16 close friends that is real friends to you do you?

17 A: Yeah.

18 Q: Who would that be?

19 A: Makisha's son.

20 Q: Ma.. Who?

21 A: My home girl Makisha.

22 Q: So she is your best friend now?

23 A: Yeah.

24 Q: It does not take much to be your best friend.

25 Mr. Carter: Thank you Judge nothing further.

1 The Court: We are going to take a, we are going to
2 break for lunch now. Then you can have your cross
3 examination and then we can have a redirect after that.
4 Ladies and gentlemen please do not discuss anything about
5 this case with anyone and if you see anybody involved in
6 this case do not speak to them. We will take, if you all
7 could be back here at 2:30 we will resume the testimony of
8 this witness.

9 **(Jury excused for lunch/Court in recess)**

10 **(Jury in/Court in session)**

11 The Court: Alright ladies and gentlemen I hope you
12 had a nice lunch I meant to tell you before you went to
13 lunch to be careful about having huge lunches. When you
14 come back and get warm in here and then what happens I
15 look over there and a couple of you all will be sound
16 asleep. One time I had a trial and we were watching a
17 video deposition and there was one juror just his head was
18 down. I made everybody standup that juror did not wake up
19 and then I told the jury in Berkeley County that same
20 story and that very day juror right on the front passed
21 out. If I have to direct one of the bailiffs to give you
22 some water you will know you were getting heavy headed.
23 Alright let us bring the witness back out and we will
24 commence the process. Alright Mr. Devoe.

25 Mr. Devoe: May I please the court.

1 The Court: Yes sir.

2 Mr. Montag Webb - Cross Examination by Mr. Devoe

3 Q: On your testimony and your cross examination given to
4 you so far. You know I represent Letroy Samuels. Are
5 you aware of that?

6 The Court: I think you are going to want to put the
7 microphone up there. You speak softly and I need to hear
8 you up here.

9 Q: I listened this morning with interest to your
10 testimony. I think I have known you for quite a while
11 have I not?

12 A: Yes sir.

13 Q: My goal is to be a public defender here for twenty
14 years that correct?

15 A: Yes sir.

16 Q: Your father and your mother the whole clan?

17 A: Yes sir.

18 Q: I live in the Zion area in Clarendon County which is
19 where you were basically raised?

20 A: Yes sir.

21 Q: Your father have a store in Sardina, right?

22 A: Yes sir.

23 Q: In part of the testimony you were asked this morning
24 where you talked about this morning you said that,
25 you were afraid of Mr. Newman. Is that correct?

- 1 A: No.
- 2 Q: You are not afraid of him?
- 3 A: No.
- 4 Q: No one is afraid of him?
- 5 A: No I am not.
- 6 Q: Is my client here to your knowledge Letroy Samuels is
- 7 he afraid of him?
- 8 A: No not that I know of him.
- 9 Q: Were you at a drinking party with Letroy Samuels?
- 10 A: He was one of them.
- 11 Q: One of them. Were there many or were there few?
- 12 A: There was few.
- 13 Q: Can you name some of the other few who you were
- 14 drinking buddies with?
- 15 A: Them three. Samuel and Newman and Slater, them my
- 16 drinking buddies back then.
- 17 Q: Your drink was to much probably too did you not?
- 18 A: Yeah I always drink yes sir.
- 19 Q: Let me ask you be clear with this situation of this
- 20 case. You saw Mr. William hit anybody at the house?
- 21 In the B section of the house. House on .?
- 22 A: You said did I see him?
- 23 Q: Yes.
- 24 A: No sir.
- 25 Q: You never saw?

1 A: My back was turned.

2 Q: Your back was turned to who?

3 A: Yes sir.

4 Q: Who was it turned on?

5 A: Everybody else behind me. That Wimberly, Newman,
6 Letroy, Slater my back was turned.

7 Q: Were you the first person going up, the last person
8 going up or what?

9 A: What?

10 Q: In the group of people coming back to the house were
11 you the first person coming up the steps or the last
12 person or in between or what?

13 A: I do not know.

14 Q: You do not know where you were?

15 A: I know I was when I went up the stairs, but I do not
16 see what you are saying though.

17 Q: But you never saw anybody hit anybody?

18 A: No I was looking down the street like, debating?

19 Q: You were looking down the street?

20 A: Yeah.

21 Q: Were you climbing the stairs before he climbed the
22 stairs or what? Did you not all come back to the
23 house from Wal-Mart?

24 A: Yeah.

25 Q: And Leon dropped you off?

- 1 A: Yes sir.
- 2 Q: When you got there were you the first coming out of
- 3 the car coming in or last?
- 4 A: I was last out the truck.
- 5 Q: Out of the truck?
- 6 A: Yeah Samuel got out the truck before I did.
- 7 Q: And you went to the stairs and started climbing them?
- 8 A: Yeah as I got out when I went up.
- 9 Q: Did you see anybody hitting anybody?
- 10 A: No the dude was not even outside when I went up
- 11 stairs. He was in the house him and Barbara was
- 12 arguing in the house about something.
- 13 Q: Your part of the house?
- 14 A: Slater part of the house. I went over there.
- 15 Q: You went to Slater's house?
- 16 A: Yeah, his duplex.
- 17 Q: Why did you not go to Wimberly's house?
- 18 A: They was in there arguing.
- 19 Q: Pardon me.
- 20 A: They was in there arguing and Slater's my home boy so
- 21 I just went to his house.
- 22 Q: Slater's your home boy?
- 23 A: Like we cool like social put it like that.
- 24 Q: So you go to Kevin Slater's to the house on the right
- 25 side, the B house right?

1 A: Yeah.

2 Q: So you did not see any hit going on?

3 A: Ain't nothing happened then..

4 Q: When did it happen?

5 A: When I went in the house, then stay in house putting
6 beers and stuff into a cooler thing. When I came back
7 out what not Slater text me on his phone them dudes
8 outside. Him and Troy been talking at them, walked
9 down the steps. I was just looking debating whether I
10 should go to Browntown or not. I was thinking I might
11 go to Browntown.. Then I saw Newman he standing like a
12 little bit further from me but he was walking like
13 walking up toward the steps what not. I heard a lick
14 and I was drunk up and I just turned around.

15 Q: Walking toward the steps from where?

16 A: From the ground.

17 Q: How many steps are there, four steps?

18 A: I do not know.

19 Q: There are not ten steps are there?

20 A: No there is not ten.

21 Q: So it was at two or three or four steps something
22 like that?

23 A: I do not know probably so.

24 Q: It was almost at not quite ground level but pretty
25 close to ground level was it not?

- 1 A: I guess so.
- 2 Q: You did not see a hit by anybody?
- 3 A: No sir.
- 4 Q: Pardon me?
- 5 A: No sir.
- 6 Q: I thought you stated earlier you saw the hit.
- 7 A: No think you got it wrong because I did not say I
- 8 stated seeing anyone getting hit.
- 9 Q: But you ran?
- 10 A: Who ran where? I did not run.
- 11 Q: After he got hit.
- 12 A: No I did not ran after he had got hit I stayed.
- 13 Q: Stayed where?
- 14 A: Stayed right there and went in his house. Samuel and
- 15 Slater took off running.
- 16 Q: Pardon me?
- 17 A: They ran.
- 18 Q: Who is they?
- 19 A: Slater and Samuel.
- 20 Q: They ran?
- 21 A: Yeah.
- 22 Q: Do you have any idea where they ran? Did they tell
- 23 you where they were running?
- 24 A: No.
- 25 Q: You did not run with them?

1 A: No.

2 Q: Did you leave the house?

3 A: Not right then.

4 Q: When did you leave the house?

5 A: When I was going in the house looking for his gun.

6 Q: Looking for what?

7 A: His gun.

8 Q: A gun?

9 A: Yeah.

10 Q: Who's gun?

11 A: Wimberly.

12 Q: Wimberly had a gun?

13 A: I guess so that what I say I was looking for yeah.

14 Q: You were looking because you know he had or thought
15 he had or what?

16 A: I figured he had.

17 Q: You figured he had. Is it not why you went there to
18 get the gun?

19 A: No, it is not why I went there.

20 Q: You just said you were looking for the gun.

21 A: Well you said that why I went there to look for a
22 gun, no.

23 Q: Why did you look for a gun?

24 A: Because I heard he had a gun. I heard he had a gun
25 when I first pulled up.

1 Q: What were you going to do when you look for a gun,
2 take it?

3 A: Yeah take it.

4 Q: And do what with it?

5 A: I did not know.

6 Q: Sell it?

7 A: I did not know what I would do with it.

8 Q: Did you sell it or use it or give it to somebody or
9 what?

10 A: You said what did I did with it or what would I do
11 with it?

12 Q: What were you planning to do with it?

13 A: I was trying to keep it I guess I do not know.

14 Q: You are a convicted felon right?

15 A: Yes sir.

16 Q: You know it is illegal for you to have a gun, you
17 know that?

18 A: I know.

19 Q: You did not care?

20 A: Then, yeah, yeah I did, but I did not know no better
21 under the influence of alcohol and cocaine.

22 Q: Everybody seems to have those excuses that does not
23 make it legal does it? Everybody seems to have those
24 excuses but does not make it legal does it?

25 A: Yeah you right. Does not make it legal.

1 Q: Were you involved with the Mr. Newman at that point?

2 A: What is that word you said?

3 Q: Were you involved with the co-defendant at that
4 point?

5 A: What does that involved mean?

6 Q: Involved.

7 A: Oh involved. Yeah we were cool.

8 Q: Were you planning to steal the gun together?

9 A: No.

10 Q: No?

11 A: It was like something just happened.

12 Q: Were you scared of him?

13 A: No.

14 Q: You are not?

15 A: No.

16 Q: My client he ran did he not?

17 A: Yes sir.

18 Q: Along with Kevin Slater he ran also?

19 A: Yes sir.

20 Q: Did you run with them?

21 A: No sir.

22 Q: But he went to some other place?

23 A: Who?

24 Q: My client.

25 A: You talking about when they took off running?

1 Q: Yeah.

2 A: I do not know where he went to I stayed at the house.

3 Q: Did they not call you back?

4 A: No they did not call me back.

5 Q: You went to Tina Nesbit's house you know her?

6 A: That was way later on.

7 Q: Way later?

8 A: Yeah.

9 Q: How much later is way later?

10 A: I do not know that about two hours I guess I do not
11 know.

12 Q: Two hours?

13 A: Yeah later no matter of fact. It was after the police
14 was up there. Because I called him matter of fact
15 he called phone he called the phone about seven or
16 eight times because that morning I see the missed
17 calls on Newman's phone because I had his phone.

18 Q: Seven or eight times and you finally called him back
19 is that what it was?

20 A: Yeah in the morning I called him back.

21 Q: You did not hear your phone he called seven or eight
22 calls?

23 A: Yeah.

24 Q: You called back. Did you meet with him?

25 A: No, I did not see him no more.

1 Q: You did not meet with him and drink after that?

2 A: No.

3 Q: You still drinking the rest of the night?

4 A: Oh you talking about that night. What day you talking
5 about?

6 Q: I am talking about that day Mr. Wimberly was killed.

7 A: Oh that day he was killed. When we left we came
8 around the house him and Slater had just walking up
9 but kept on going. Slater stayed but I guess he went
10 I do not know he just stayed and I left and Newman
11 them behind me Troy behind me too.

12 Q: So you all left?

13 A: Yeah.

14 Q: You all ran that night?

15 A: Yeah.

16 Q: You said you did not hit him at all right?

17 A: No I was just searching for stuff.

18 Q: You just searching?

19 A: Yeah.

20 Q: Are you searching with Mr. Newman beating him up or
21 something or what?

22 A: I do not know what he was doing he was in the living
23 room I was in the back bedroom.

24 Q: It was the two of you?

25 A: Yeah.

- 1 Q: Just the two of you?
- 2 A: Yeah that was there together.
- 3 Q: He got killed that night?
- 4 A: No he died two months later.
- 5 Q: He did not ever wake up from being beat up that night
- 6 did he?
- 7 A: I see some pictures his eyes and stuff were open I do
- 8 not know.
- 9 Q: You heard that he never woke it all happened that
- 10 night. You heard that did you not?
- 11 A: He woke up I heard he was brain dead.
- 12 Q: Pardon me?
- 13 A: I heard he was brain dead or something.
- 14 Q: Brain dead that is correct.
- 15 A: He woke up I guess.
- 16 Q: You heard that?
- 17 A: Yeah I heard it.
- 18 Q: Somebody beat him that night?
- 19 A: It was not me.
- 20 Q: Somebody you know?
- 21 A: I do not know. I guess it was.
- 22 Q: Who was in the house beside you, who else?
- 23 A: Me and Newman.
- 24 Q: Newman right.
- 25 A: Yeah. I was in the back room when I came in I did not

1 see him.

2 Q: Was my client in the house with you?

3 A: No, Troy was gone.

4 Q: Was Slater in the house with you?

5 A: No.

6 Q: But they were the joined house, the joining unit?

7 A: No they were not there they left.

8 Q: They left already left?

9 A: Yeah they ran.

10 Q: After they ran did you not make contact with them
11 again?

12 A: Yeah.

13 Q: How did you make contact with them?

14 A: When we left, when we ran.

15 Q: But how did you make contact? By a phone call or meet
16 somewhere or what?

17 A: Beside the house like right there beside the house
18 that is where we meet them at we see them at.

19 Q: They came back to the house?

20 A: Yeah like just walk back up as we were going out.

21 Q: Did they go back in or did they leave again?

22 A: No Troy left with us. No Troy left with us.

23 Q: Did Slater leave with you too?

24 A: No Slater stayed his foot messing with him that
25 night.

- 1 Q: I am sorry I could not hear you.
- 2 A: His foot messing with him that night he had something
3 wrong with his foot all day that day.
- 4 Q: He had a cut on his foot?
- 5 A: I do not know I do not thing so.
- 6 Q: Hurt him walking or running right? It hurt him
7 running and walking correct?
- 8 A: I guess so but he took off running or limping I
9 guess.
- 10 Q: Did you call Troy at his sister's house that night?
- 11 A: No because when I seen Troy when we were at my baby
12 mama's house Troy went there to give my baby mama
13 some medicine in the house.
- 14 Q: You did not coordinate a rendezvous back at your
15 sister's house?
- 16 A: No.
- 17 Q: Did Newman also come back over to the house?
- 18 A: What house?
- 19 Q: Your sister's house?
- 20 A: You talking about my baby mama's?
- 21 Q: Yeah.
- 22 A: He was staying there too.
- 23 Q: But he showed up?
- 24 A: All of us showed up there together.
- 25 Q: All of you showed up?

1 A: Yeah.

2 Q: Were you drinking together?

3 A: Yeah.

4 Q: Doing drugs together?

5 A: I was doing drugs I do not know if they was doing
6 them.

7 Q: Were you aware of the extent of Wimberly injuries?

8 A: No I just know he had brain trauma blunt force
9 trauma to the head or something like that.

10 Q: But you knew he was injured?

11 A: Yeah he was injured.

12 Q: Wimberly?

13 A: You said do I know what?

14 Q: You know he was injured?

15 A: I know he injured, yeah.

16 Q: Which you only thought it was from one hit, what
17 you said back earlier?

18 A: Yeah.

19 Q: You never hit him?

20 A: No I never hit him.

21 Q: Who else could of hit him beside you? Newman?

22 A: I do not know I was looking down the street like
23 toward the street.

24 Q: Who was there beside you?

25 A: Me, Slater, Samuel, and Newman all us was there.

Montag Webb - Redirect Examination by Mr. Durant

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1 Q: Who was in your house part of the house though?

2 A: Nobody was in the house everybody was outside.

3 Q: I have no further questions thank you.

4 The Court: Any redirect?

5 Mr. Durant: Yes sir Your Honor.

6 **Mr. Montag - Redirect Examination by Mr. Durant**

7 Q: Mr. Webb some question early about you having been
8 drinking and being under the influence of alcohol.
9 You were not to drunk to tell your brother-in-law
10 that you were going to work the next morning were
11 you?

12 A: No I tell him I was going to work the next morning.

13 Q: You were not to drunk to have the sense of mind to
14 go in this house with the intent to steal something
15 were you?

16 A: No that was what made me get there that state of
17 mind.

18 Q: You were not to drunk to go in there and look for
19 that gun?

20 A: No. I guess so that is what made me all do the
21 alcohol.

22 Q: You told Mr. Carter that you were getting ready to
23 leave the house but had not your brother-in-law
24 already offered to give you a ride a home that
25 night?

1 A: Yeah.

2 Q: So if you wanted to leave the house you could have
3 already is that not right?

4 A: Yeah I stayed right there though.

5 Q: You were pretty clear in your testimony to me and
6 these defense lawyers that after the first punch on
7 the porch that everybody else beside you and
8 Jonathan Newman ran is that right?

9 A: Yeah.

10 Q: You all were the only two there?

11 A: Yeah.

12 Q: And you just told Mr. Devoe a minute ago that
13 Jonathan Newman walked past you up the steps is
14 that right?

15 A: No I was going down the steps. Whenever I went down
16 the steps then he like walked past me. I did say
17 that.

18 Q: And he walked past you up the steps is that not
19 what you said?

20 A: Yeah.

21 Q: You understand that if you and Jonathan Newman were
22 the only two people there Mr. Carter is trying to
23 suggest that you the person that inflicted these
24 wounds. That you are the person that assaulted
25 Anthony Wimberly that day. Is that what happened?

1 Well you understand that is what these lawyers are
2 trying to suggest do you not? Was there anybody
3 else at the house?

4 A: No.

5 Q: Just you and Jonathan Newman?

6 A: Yes sir.

7 Q: Did you assault Mr. Wimberly?

8 A: No sir.

9 Q: Did you kick him?

10 A: No sir.

11 Q: Who was in the living room when you came out?

12 A: Newman was in the living room.

13 Q: Who was standing beside the victim in the living
14 room?

15 A: Newman.

16 Q: Was anybody else in there?

17 A: No sir.

18 Q: Was Mr. Wimberly injured?

19 A: Who said was he injured.

20 Q: Was he injured at that time?

21 A: Yeah he was injured.

22 Q: He was laying in a pool of blood?

23 A: Yeah he was laying in blood.

24 Q: Who was standing by Mr. Wimberly on the porch after
25 you heard the hit?

1 A: Newman.

2 Q: He was the only person on the porch at that time?

3 A: Yeah because Slater and Samuel took off running
4 yeah.

5 Q: So you turned around and you testified earlier that
6 you had to walk across the victims body to get
7 inside the house. Is that right?

8 A: Yeah.

9 Q: Who was the only person on the porch when you
10 walked across the victim's body?

11 A: Newman.

12 Q: What was he doing?

13 A: Just standing up.

14 Q: Just standing up over the victim.

15 A: Standing up where the steps at.

16 Q: Did you not tell the officers in your interview
17 earlier that he was standing over the victim. Do
18 you remember saying that?

19 A: I said he was standing by the victim in the house.

20 Q: Do you remember telling the officers that Jonathan
21 Newman hit him? Do you remember telling them that?

22 A: No.

23 Q: You do not remember saying that?

24 A: I remember I said I heard a hit. A hit behind me.

25 Q: You were in the house?

1 A: Yeah I am in the house.

2 Q: Mr. Carter asked told you earlier that you never
3 admitted to anything in these interviews, but the
4 truth of the matter is you admitted to these
5 detectives that you went into the house to rob the
6 place did you not?

7 A: I messed up yeah I did yes sir.

8 Q: You told those detectives a year and half ago when
9 they interviewed you that you went into the house
10 to look for that gun?

11 A: Yes sir.

12 Q: Is that what you did?

13 A: Yes sir.

14 Q: And in the same interview did you not tell those
15 officers that Jonathan Newman is the one that hit
16 Mr. Wimberly on the porch?

17 A: Yeah I told a lot of stuff in them interview yeah I
18 did.

19 Q: Is the truth, is what you say in here today the
20 truth? That you and Newman were the only people
21 there?

22 A: Yeah we were the only people there, but he was
23 where the stairs at. My back was turned.

24 Q: Again who was standing by the victim on the porch
25 when you walked into the house?

1 A: Newman.

2 Q: Who was standing by the victim in the living room
3 when you came out the bedroom?

4 A: Newman.

5 Q: Inside the house?

6 A: Yeah.

7 Q: I am going to ask you about the gun again. Who told
8 you in the living room that they had the gun?

9 A: Newman.

10 Q: That is when you decided to leave?

11 A: Yeah we ran.

12 Q: He told you he found the gun.

13 A: Yeah.

14 Q: Who had the gun later when you first saw it?

15 A: It was under the radio and I grabbed it?

16 Q: In whose room?

17 A: Silvia own his girlfriend's room.

18 Q: In Newman's girlfriend's room?

19 A: Yeah.

20 Q: Was Newman in there?

21 A: Yeah.

22 Q: Tell me about the clothes with the blood. You told
23 me blood you told Mr. Carter it could have been
24 another stain. What was it?

25 A: I do not know what it was I just grabbed them.

1 Q: Did you not tell me it was blood?

2 A: Yeah I said I figured I guess it was blood.

3 Q: Whose clothes were they? Were they your clothes?

4 A: No I got nothing with my clothes on.

5 Q: Whose clothes were they?

6 A: Those were Newman's clothes.

7 Q: They were Newman's clothes with what you believed
8 to be blood on them?

9 A: Yeah.

10 Q: You would not have taken them and stashed them as
11 you said if you thought it was coffee would you?

12 A: Yeah.

13 Q: If you thought that was coffee on his pants you
14 would have taken them and thrown them away?

15 A: Oh no no I did not get what you was saying, yeah,
16 no.

17 Q: Is it not the reason you took and throw away is
18 because believed there was blood on his clothes and
19 on his shoes?

20 A: Yeah.

21 Q: No further questions Your Honor.

22 The Court: Any recross redirect?

23 Mr. Carter: Yes Your Honor.

24 **Mr. Montag Webb - Recross Examination by Mr. Carter**

25 Q: Mr. Devoe asked you a question Montag about who

1 else could have been there and so did the
2 Solicitor's Office ask about who could have been
3 there to hit the victim. You and the victim earlier
4 had gotten into an argument about beer it that
5 correct?

6 A: Yeah.

7 Q: And you all were arguing because you thought he
8 knocked you beer over?

9 Mr. Durant: I am going to object this outside the
10 redirect.

11 The Court: Sustain.

12 Q: As a result of that beer I am not asking you about
13 it but as a result of that beer you guys you were
14 angry with the victim is the correct?

15 A: No because we had plenty more beer I go get another
16 beer after I picked mine up.

17 Q: When you talked with the officers after this
18 incident and during an interview. You indicated to
19 them that you have a reputation for fighting a lot
20 is that not correct?

21 A: I said I have a reputation for fighting a lot. I
22 said that?

23 Q: Yeah. On page 34 of your statement.

24 A: I probably did.

25 Q: Because it is true. You have a reputation for

1 fighting a lot right or was that a lie?

2 A: Again Your Honor.

3 The Court: Sustain, this is nothing brought up in
4 his redirect. You are limited in what he brought up on
5 redirect. No do not say anything.

6 Q: You were asked about a gun by both Mr. Devoe and
7 the Solicitor's Office is that correct?

8 A: Yes sir.

9 Q: You were being asked about where you got the gun
10 from is that correct? You spoke with the law
11 enforcement and you told them Short Lock gave you
12 the gun. Is that not correct?

13 A: No.

14 Q: Do you know Short Lock?

15 A: No.

16 Q: You never had any discussion about a person named
17 Short Lock?

18 A: I have not ever said no Short Lock gave me no gun.

19 Q: The question is do you know Short Lock?

20 A: Do I know a Short Lock yes sir I do know a Short
21 Lock.

22 Q: You never discussed that with Officer Daniels about
23 the pistol?

24 A: Yes sir that was my first interview.

25 Q: In your first interview do you remember who you

1 told officer Daniels you saw the gun with?

2 A: Yeah a dude named Short Lock. I said I heard but I
3 did not say Short Lock gave me no gun.

4 Q: You heard that Short Lock had the gun?

5 A: Yeah that is what I told her.

6 Q: Counsel asked you about who else was at the house
7 with you and could of done the beating on the
8 victim. You mentioned that after you ran off and
9 Newman ran off you all met up with Slater, Troy?
10 What happened with Slater?

11 A: I do not know I guess he limped back to his house.

12 Q: His house is the door that is right beside the
13 victim's door?

14 A: Yes sir.

15 Q: Counsel asked you about who was standing over the
16 victim and beating and punching the victim. It is
17 your testimony that you only heard one punch or hit
18 is that correct?

19 A: That is right.

20 Q: Did you see anybody kicking the victim?

21 A: No sir.

22 Q: Do you know anybody to have kicked the victim?

23 A: I did not see nobody kick nobody I was in the back
24 room.

25 Q: Did anybody tell you that the victim was kicked?

1 A: No sir.

2 Q: Besides law enforcement?

3 A: No sir.

4 Q: Do you know if the victim sustained more than one
5 punch or hit?

6 A: From what the pictures look like.

7 Q: I am asking you what you know.

8 A: No.

9 Q: To the best of your knowledge the victim sustained
10 only one hit is that correct?

11 A: I guess so.

12 Q: Did Slater get arrested the next day after this
13 incident? Do you know if Slater got arrested?

14 A: Yeah I think so.

15 Q: Do you know if it was for lying about this
16 incident?

17 Mr. Durant: Objection.

18 The Court: Sustain, sustain do not answer.

19 Mr. Carter: That is all I need from him.

20 The Court: Mr. Devoe any recross limited.

21 Mr. Devoe: No recross Your Honor.

22 The Court: Ok thank you. This witness may step
23 down.

24 Mr. Durant: Please the Court?

25 The Court: Yes sir.

1 Mr. Durant: The State calls Kevin Slater.

2 Bailiff: Raise your right hand and place your left
3 hand on the Bible and state your name please.

4 Mr. Slater: Kevin Slater.

5 The Court: Go ahead and swear him in.

6 Bailiff: Do you solemnly swear to tell the truth,
7 the whole truth, and nothing but the truth so help you
8 God?

9 Mr. Slater: I do.

10 The Court: Alright Mr. Durant you may proceed.

11 Mr. Durant: Thank you Your Honor.

12 **Mr. Kevin Slater - Examination by Mr. Durant**

13 Q: Afternoon you are Kevin Slater?

14 A: Yes sir.

15 Q: Mr. Slater how old are you?

16 A: 34.

17 Q: Do you work?

18 A: Yes sir.

19 Q: Where do you work?

20 A: Bonnie Plant Farm.

21 Q: How long have you been working there?

22 A: This will be my second season.

23 Q: Where do you live?

24 A:

25 Q: Here in the city limits of Manning?

1 A: Yes sir.

2 Q: Did you formerly live at . . . ?

3 A: Yes sir.

4 Q: When was that?

5 A: Time of the incident a year ago I do not know.

6 Q: So this incident happened on May 26, 2013. You were
7 living there then?

8 A: Right.

9 Q: How long had you been there?

10 A: Maybe a week.

11 Q: Maybe a week. We have seen pictures of the house.
12 It is a duplex is that not right?

13 A: Yes sir.

14 Q: The two apartments or residents they share a common
15 porch?

16 A: Yes sir.

17 Q: Is it that screened porch?

18 A: Yes it is screened in.

19 Q: Your neighbor was Anthony Wimberly is that right?

20 A: Yes sir.

21 Q: Had you known Mr. Wimberly before you moved into
22 that house?

23 A: No. The only thing I knew of him was he did like
24 the maintenance for the landlord.

25 Q: Were you aware of the fact that Mr. Wimberly was

1 assaulted on May 26, 2013?

2 A: Yes sir.

3 Q: I want you to tell the jury what happened that day.

4 A: I had a couple of friends over and there was a lot
5 of drinking and stuff going on and.

6 Q: What time did your friends come over?

7 A: I say like afternoon maybe sometime after 12.

8 Q: Tell me who were the friends that came over to
9 visit?

10 A: I had a couple of friends over but...

11 The Court: How about move the microphone a little
12 bit closer to you so we can hear your testimony.

13 A: I had a couple of friends over but Jonathan, Troy,
14 Montag, Barbara, and Yolanda, a couple more people
15 just bouncing in and out.

16 Q: Let me ask you this. Did anybody else live with you
17 in your side of the duplex?

18 A: Yeah actually I was dating a girl it was really
19 here apartment but just me and her.

20 Q: Was she there during the day?

21 A: At the beginning before she went to work.

22 Q: She went to work that day?

23 A: Yeah.

24 Q: Do you remember what time?

25 A: I think it was around 2.

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- 1 Q: Do you know what time she got off work that
2 evening?
- 3 A: She usually got off about 12.
- 4 Q: Midnight?
- 5 A: Yes sir.
- 6 Q: What side of the house was your duplex on?
- 7 A: If you are facing it it would be the right side.
- 8 Q: If you are looking at the house from the road it is
9 on the right hand side?
- 10 A: Yes sir.
- 11 Q: Mr. Wimberly lived on the left?
- 12 A: Yes sir.
- 13 Q: Did anybody live with Mr. Wimberly on the left hand
14 side?
- 15 A: Well I know I guess he was dating Barbara. She was
16 over there staying nights and stuff with him.
- 17 Q: Was she over there during the day when you all were
18 hanging out?
- 19 A: Yeah she was.
- 20 Q: You said Mr. Newman, Mr. Samuels, and Montag Webb
21 had come over to hand out?
- 22 A: Right.
- 23 Q: Had you known those fellas for long?
- 24 A: For a little while I knew them.
- 25 Q: Who did you know the best out of the three?

1 A: Letroy.

2 Q: Are you related to Letroy?

3 A: Yes sir.

4 Q: How so?

5 A: We are cousins, first cousins.

6 Q: So you had known him for a while through family?

7 A: Yes sir.

8 Q: Had you known him the longest of the three?

9 A: Yes sir.

10 Q: The other two guys did you just were they mutual
11 acquaintances or had you did you meet them through
12 Letroy how did that come about?

13 A: Yeah I basically met them through Letroy.

14 Q: Do you know how old Letroy is?

15 A: Yes sir.

16 Q: How old?

17 A: 33 right now.

18 Q: So you and him are pretty close to the same age?

19 A: Yes sir.

20 Q: You all grow up together?

21 A: Yes sir.

22 Q: The other two guys a little bit younger than you?

23 A: Yes sir.

24 Q: When you all were. You said you all were hanging
25 out at your house drinking that day?

- 1 A: Yes sir.
- 2 Q: What were you drinking?
- 3 A: Bud Light, there was a variety of beers mixed with
- 4 some liquor and Gin.
- 5 Q: Was Mr. Wimberly was he hanging out with everybody
- 6 or was he keeping to himself?
- 7 A: Actually I think he was off during the day in the
- 8 middle of some stuff then when he got off he came
- 9 home with his beers and stuff and you know he got
- 10 his drink.
- 11 Q: Do you know what time he came home that day?
- 12 A: I could not tell you the exact time.
- 13 Q: Is he the type of person that would keep to
- 14 himself? Did you all go hang out in his apartment
- 15 too?
- 16 A: No mainly kept to himself.
- 17 Q: Did he ever come out of his apartment to speak with
- 18 you all that day?
- 19 A: Yeah he came out of his apartment. It was the time
- 20 during the day like when everybody be out there in
- 21 evening on the porch. He did not really mingle with
- 22 us.
- 23 Q: Was he ok with you all hanging out on the porch? He
- 24 did not get upset with the noise of anything?
- 25 A: Yeah he did, he did. I guess a moment during the

1 day he told us to keep it down. There was some
2 horseplay going on.

3 Q: There was some horseplay going on?

4 A: Yeah.

5 Q: Between who?

6 A: Yolanda and either Jonathan or Montag one or the
7 other.

8 Q: Yolanda is a girl?

9 A: Yeah.

10 Q: What kind of horseplay?

11 A: Just a bunch of loud talking and you know conflict
12 talking but it was just joking.

13 Q: So at some point Mr. Wimberly came outside and told
14 them to keep it down?

15 A: Yeah.

16 Q: You do not remember whether it was Jonathan Newman
17 or Montag Webb that he told that to?

18 A: Right I do not remember.

19 Q: Do you remember what the conversation, how the
20 conversation went?

21 A: No it was real quick you know like I just hear him
22 a little bit of loud talking and yelling you know
23 and he was just like keep it down and it ended real
24 quick.

25 Q: Was there any confrontation during that?

- 1 A: You talking about between Mr. Wimberly?
- 2 Q: Yeah.
- 3 A: No not right then.
- 4 Q: Did you all stay at the house the entire day?
- 5 A: Beside the trips to the store and stuff like that
- 6 for the most part yeah I did.
- 7 Q: You all go to the store to get beer?
- 8 A: Yeah.
- 9 Q: Were you with I mean these guys the entire day?
- 10 A: Yeah except for some trips they made to the store I
- 11 did not go.
- 12 Q: So there were some trips to the store that you
- 13 stayed back from?
- 14 A: Right because my foot was hurting.
- 15 Q: Do you know whether or not Letroy and then Montag
- 16 ever left to go to Walmart?
- 17 A: To be honest I do not remember I do not remember
- 18 that.
- 19 Q: Do you remember whether a truck ever brought them
- 20 back to the house?
- 21 A: I do not remember that either.
- 22 Q: Did everybody all of the people that you named
- 23 earlier. Did everybody stay at the house for the
- 24 rest of the day with the exception of those trips
- 25 to the store. I mean did everybody stay at the

1 house?

2 A: No I mean we left during the day we went to
3 Montag's aunt house.

4 Q: Who did?

5 A: I know me and Letroy was there for sure and I think
6 Montag was there. That is all I remember right at
7 the moment.

8 Q: Do you remember what time you all came back to your
9 house?

10 A: I am thinking it was around it was like late
11 afternoon then.

12 Q: Let me ask you this. Do you remember your neighbor
13 Mr. Wimberly being assaulted?

14 A: I remember the incident when everything happened or
15 whatever but I did not see it I only heard it.

16 Q: You remember when it started. Tell me do you
17 remember what time of day or night it was?

18 A: It was late like probably around 10:30 or 11:00
19 something like that maybe even 12:00.

20 Q: Who was at the house when it started?

21 A: Me, Montag, Letroy, and Jonathan and Mr. Wimberly.

22 Q: How about the girls?

23 A: No they were not there.

24 Q: They had already left?

25 A: Yeah.

- 1 Q: Barbara and Yo-Yo had left?
- 2 A: Yeah.
- 3 Q: How about your girlfriend she was not home from
- 4 work yet?
- 5 A: I think no she was not home yet.
- 6 Q: Do you remember what led to I mean was there any
- 7 arguing that led to the assault?
- 8 A: Not that I know of, I mean I think it just
- 9 happened.
- 10 Q: Had you all been at the house for some time now or
- 11 did somebody just get back?
- 12 A: Me and Letroy we had came back and he was on the
- 13 porch. He was out drinking by himself and he just
- 14 stopped Troy and talked to him about his father.
- 15 Q: When you said he was drinking by himself?
- 16 A: Mr. Wimberly.
- 17 Q: Mr. Wimberly and he started talking to Letroy
- 18 about?
- 19 A: About his father.
- 20 Q: About whose father?
- 21 A: About Letroy's father.
- 22 Q: Was that a pleasant conversation? Was there
- 23 arguing?
- 24 A: No there was not no arguing because his father had
- 25 just passed, Letroy's father had just passed like a

1 little while ago. Mr. Wimberly was telling him that
2 he knew him and they were talking about that.

3 Q: Do you know... Let me just back up briefly. Do you
4 know whether any of you all had been in Mr.
5 Wimberly's apartment that day?

6 A: No.

7 Q: You do not know?

8 A: I do not know, I know I was not.

9 Q: Let me get back to. Letroy and Mr. Wimberly were
10 talking on the porch?

11 A: Yes sir.

12 Q: Were they standing by the doorway, by the door to
13 the steps, or in the middle of the porch what part
14 of the porch?

15 A: They were like in the middle of the porch you know
16 like close to the porch doorway.

17 Q: Was anybody else on the porch at that point?

18 A: No sir.

19 Q: Where were you?

20 A: On the steps. Sitting on the steps.

21 Q: You said Mr. Newman and Mr. Webb were there too
22 right?

23 A: Not right at first.

24 Q: The were not there. Where were they?

25 A: I do not know they came from the side of the house.

1 Q: I thought that you said they were there when the
2 assault happened there right?

3 A: Yeah....

4 Q: Moments before the assault they were not there?

5 A: Right.

6 Q: Where did they come from?

7 A: Between the houses. There is a yellow house. If you
8 are facing the house there is a yellow house to the
9 left. They came up between the duplex and the
10 yellow house.

11 Q: Do you know where they had been?

12 A: No sir.

13 Q: Had they been with you all earlier?

14 A: Yeah throughout the day yeah. You mean like moments
15 before?

16 Q: Moment before yeah.

17 A: No, no.

18 Q: So moments before the assault Letroy is standing on
19 the porch talking to Mr. Wimberly, it is a pleasant
20 conversation. Your testimony is that Mr. Newman and
21 Mr. Webb came from the side of the house?

22 A: Right.

23 Q: Tell me what happened then. You were sitting on the
24 steps?

25 A: On the steps on the side of the steps.

1 Q: Tell me what happened.

2 A: I mean like when they showed up it was like moments
3 you know it was just out there and then from what I
4 remember Montag he set down on the steps beside me
5 and then Jonathan came up, up the steps.

6 Q: He came up the steps onto the porch?

7 A: Right.

8 Q: You saw him come up the steps onto the porch?

9 A: Right.

10 Q: What happened after that?

11 A: I heard a smacking noise.

12 Q: Did you know what the smacking noise was?

13 A: I looked back and the guy was laid out.

14 Q: Mr. Wimberly laying on the porch?

15 A: Yes sir.

16 Q: How was he facing on the porch?

17 A: If you were in the doorway in the porch, on the
18 porch standing in the doorway he was like a little
19 to the left with his head facing the corner and his
20 feet facing the doorway.

21 Q: Facing towards the doorway to his apartment or to
22 the doorway to the step?

23 A: To the steps.

24 Q: What happened after that?

25 A: I told Troy let us go and we left.

1 Q: Why did you all, why did you think that you needed
2 to leave at that point?

3 A: I mean something had already happened you know and
4 before it got worse I did not want to be any part
5 of it and I did not want my cousin to be apart of
6 it neither.

7 Q: How long after the hit did you say tell Troy lets
8 leave?

9 A: Like right then, like when I looked back and I seen
10 the guy stretched out I am like let us go.

11 Q: When you looked back and say that the guy stretched
12 out who was standing over him?

13 A: Jonathan.

14 Q: You said you turned around and you told Troy let us
15 go. Did you all leave then?

16 A: Yes we left.

17 Q: Right then?

18 A: Right then.

19 Q: Where did you go?

20 A: Well we cut up through the back of the I guess it
21 is like a nursing home or something on the other
22 side of the duplex. We ran up through the back.

23 Q: If you are looking at the duplex from the road on
24 the right hand side?

25 A: Right.

1 Q: Is that the council agent or something?

2 A: Something I do not know exactly.

3 Q: You all ran that way?

4 A: Right.

5 Q: Where did you go?

6 A: Well we ran up through the back yard because there
7 is a fence right there. We ran between the fence
8 and the building. Then we came up to
9 the road. Then we went to his sister's house.

10 Q: Letroy's sister's house?

11 A: Letroy's sister's house.

12 Q: What is his sister's name?

13 A: Tammy.

14 Q: Did you all stay there?

15 A: We stayed there for probably about five minutes.

16 Q: Then where did you go?

17 A: We went on through the path and came up by Montag's
18 aunt house.

19 Q: Where is that?

20 A: I do not know the name of the road but it is like,
21 it is right on the curb like going toward Lincoln
22 Park.

23 Q: How long did you all stay at Montag's sister's
24 house?

25 A: We did not even go to the house we just was in the

1 road, stood in the road. I told him I had to go
2 back to the house because I live there so I headed
3 back.

4 Q: You headed back. What did Letroy do?

5 A: He did not go with me.

6 Q: You left him there?

7 A: Yes sir.

8 Q: When you went back to the house did you ever see
9 Jonathan Newman and Montag Webb again?

10 A: No.

11 Q: Let me ask you this. When you and Letroy ran off
12 you said Newman was standing on the porch by Mr.
13 Wimberly. Where was Mr. Webb?

14 A: Right at by the steps.

15 Q: He was still at the steps. Did you see either one
16 of them go inside the house?

17 A: No sir.

18 Q: You said a minute ago that after you all ran around
19 you stopped at Letroy's sister's house for a few
20 minute. Then left there, then at some point you
21 leave Letroy in the pathway and you go back to your
22 house by yourself?

23 A: Yes sir.

24 Q: Tell me what did you find when you got back to your
25 house?

1 A: When I got back to the house coming up on the steps
2 I see his doorway open like cracked open. Then I
3 seen him on the ground on the floor Mr. Wimberly.

4 Q: Mr. Wimberly's doorway, the doorway inside into his
5 residence into his house inside of the house?

6 A: Yes sir.

7 Q: It was unlocked or cracked open?

8 A: It was open.

9 Q: So you could see inside the house?

10 A: Yes sir.

11 Q: Where was Mr. Wimberly?

12 A: He was on the living room floor.

13 Q: Do you remember where exactly on the living room
14 floor where he was?

15 A: If you stand in front of his door looking in, it
16 was like off to the left beside a couch if I
17 remember in front of the couch.

18 Q: Did you talk to him at that point?

19 A: I called for him.

20 Q: Did he respond to you?

21 A: No.

22 Q: Did you go over to check on him?

23 A: Well no not actually, at that moment Yolanda came
24 up she came up looking for Barbara she had some
25 beers and stuff I guess she came to drink with

1 her. Then she was like what is going on. I was like
2 he hurt he need some help. She went in, she was
3 kind of drunk she went up to him like grabbed him
4 picked him up. I guess she seen the blood then she
5 started freaking out.

6 Q: What did she grab him by, did she grab him by his
7 feet by his shoulder?

8 A: She might like by his shoulders his arms.

9 Q: Where, were his shoulders facing the couch or
10 facing the doorway?

11 A: He was on his back lying on his back so she grabbed
12 his arms and put them up.

13 Q: You were standing there? You witnessed this?

14 A: Right.

15 Q: Was he able to respond to Yolanda?

16 A: No sir.

17 Q: What happened after that?

18 A: Well she ran and got Lester her boyfriend Lester.

19 Q: Where does he live?

20 A: Like right in the back. It is a house back behind
21 the duplex and he lives in the next house behind
22 that one.

23 Q: She went to get him to do what?

24 A: I have no idea. I guess to help.

25 Q: Did he come over?

1 A: Yeah he came over.

2 Q: What did he do?

3 A: He looked and he said he did not want anything to
4 do with it.

5 Q: He did not want anything to do with it?

6 A: Yes sir.

7 Q: So what happened after that?

8 A: Well he kind of started going back to his
9 apartment, I mean his house. I was like I do not
10 want nothing to do with that and I went in my
11 house. From what I understand he indeed up calling
12 the ambulance and police and everything.

13 Q: Mr. Wimberly was laying in the floor, was he
14 breathing?

15 A: Yeah he was breathing, he was breathing but it was
16 a gargle.

17 Q: Gargle?

18 A: Like something wet was in his throat.

19 Q: You do not know what that was?

20 A: No I do not know what it was, like it was blood.

21 Q: Tell me what he looked like.

22 A: Well he was swollen, his face was swollen and
23 bloody.

24 Q: Was there a lot of blood, a little bit of blood?

25 A: It was a pretty good bit of blood.

- 1 Q: Mr. Lemon he did not call police right then as far
2 as you know?
- 3 A: Not right at the moment when he saw him.
- 4 Q: Your understanding is that he called them later?
- 5 A: Right.
- 6 Q: You did not call them?
- 7 A: No sir.
- 8 Q: Because you did not want to get involved?
- 9 A: Right.
- 10 Q: Where did you do after that?
- 11 A: I went in the house.
- 12 Q: Into your house?
- 13 A: Yes sir.
- 14 Q: And did what?
- 15 A: Kind of just sitting there.
- 16 Q: What is the next thing you remember after that?
- 17 A: Girlfriend ended up coming home. After that I heard
18 police came I heard when the police was over there.
19 Then after they was knocking on the door.
- 20 Q: And you went in after the police came. You went
21 into the Manning Police Department and you were
22 interviewed by some detective they asked you
23 questions about this case did they not?
- 24 A: Right.
- 25 Q: You were interviewed by them several time were you

1 not?

2 A: Yes sir.

3 Q: The first couple of times they talked to you, you
4 did not tell officers that you had been present
5 when this thing started did you?

6 A: No I did not.

7 Q: You did not tell them that you saw Mr. Newman walk
8 up on the porch and that is when Mr. Wimberly was
9 knocked out?

10 A: No I did not.

11 Q: In fact it was not until the third time that they
12 interviewed you that you finally gave law
13 enforcement that information?

14 Mr. Carter: Your Honor I am going to object, he is
15 leading the witness.

16 The Court: Over ruled.

17 Q: Why did you not tell officers the first two times?

18 A: Because I did not want them to be in my business.

19 Q: Mr. Slater has anything changed since the first two
20 times that you lied to the police to lead you to
21 tell the truth today?

22 A: No nothing has changed.

23 Q: What happened to make you decide to tell police the
24 truth later on?

25 A: Because I had already got locked up. I do not want

Mr. Slater - Cross Examination by Mr. Carter

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1 to go to jail for nothing I did not do. If I was
2 part of it at least I want them to have the correct
3 part of it you know.

4 Q: What you are telling the jury here this morning is
5 what happened that day?

6 A: Yes it is exactly what happened.

7 Q: Of course you are aware of the fact that Mr.
8 Wimberly he did not recover from his injuries?

9 A: Right.

10 Q: I beg the Court's indulgence.

11 The Court: Yes sir.

12 Q: Mr. Slater after you got back to your house that
13 night did you hear from Jonathan Newman or Montag
14 Webb or Letroy Samuels again?

15 A: No sir.

16 Q: After that day did you get any phone calls from
17 them?

18 A: No sir. Well I seen Letroy after that. I seen him
19 when we was locked up.

20 Q: Your Honor I do not have any further question.

21 The Court: Mr. Carter.

22 **Mr. Slater - Cross Examination by Mr. Carter**

23 Q: Exactly how drunk were you Mr. Slater the day of
24 this incident?

25 A: I was tipsy I was not drunk drunk it is not like I

1 was throwing up or nothing.

2 Q: You were drinking beer, gin, what other kind of
3 drinks were you drinking?

4 A: Mainly that is it.

5 Q: Mainly that is it, just those two. You started
6 drinking what time of day? Did you say two o'clock
7 or you met the guys at two o'clock?

8 A: Well it was somewhere around two. It was early
9 afternoon, it was early afternoon came over with
10 beer.

11 Q: Around two o'clock they started coming over. You
12 had some beer and alcohol at your house right?

13 A: Not at first.

14 Q: Did you go get some?

15 A: No they brought some. I did not go, I went one
16 time, went one time.

17 Q: You went one time?

18 A: Right.

19 Q: They went multiple times and brought alcohol to
20 your house?

21 A: Right.

22 Q: We talking they we are talking about who, Troy?

23 A: Yeah Jonathan, Montag and I mean there was other
24 people at the house too so.

25 Q: What I am saying is a lot of beer and alcohol was

1 brought to your house. Would that be fair to say?

2 A: Right, right.

3 Q: Along with everybody else you drank it?

4 A: Right.

5 Q: Like most people feel they just tipsy. You do not
6 know how much you drink am I understanding that?

7 A: I mean yeah I guess.

8 Q: So you could have drink a lot and in your mind you
9 just tipsy?

10 A: No I mean because I know. Ok yeah I was tipsy I
11 guess yeah.

12 Q: You believe this incident happened correct me if I
13 did not hear you correctly, around ten , ten
14 thirty-ish did I hear that?

15 A: That night.

16 Q: Ten, ten thirty that night?

17 A: That is what time we got back to the house, some
18 time around there. That is what time me and Letroy
19 came back to my house.

20 Q: But the incident happened when you all got back to
21 your house right?

22 A: Yeah.

23 Q: That was around ten, ten thirty-ish right?

24 A: Yes.

25 Q: Law enforcement got there two thirty, three, four

1 o'clock in the morning?

2 A: I guess.

3 Q: What time did they knock on your door see if you
4 can guess at that?

5 A: I do not know the only thing I know....after I got
6 back and they knocked on the door.

7 Q: You had drank so much alcohol that you could not
8 measure the time?

9 A: No I just did not look at the clock.

10 Q: You know the difference between a minute and a
11 hour?

12 A: Right.

13 Q: So more than a hour went by after the incident when
14 law enforcement came right?

15 A: Yeah I am pretty sure.

16 Q: Would you say more three hours went by?

17 A: I would tell you more than two.

18 Q: More than two before law enforcement came by?

19 A: Right.

20 Q: To your recollection is you know it is at least two
21 hours no less than two hours?

22 A: I am guessing it is about two hours I do not know.

23 Q: It could be more you just do not know correct?

24 A: Correct.

25 Q: Were you sleeping when they knocked on your door?

1 A: No sir.

2 Q: If law enforcement arrive there around three
3 o'clock or four o'clock if we have some testimony
4 about that you would not question that would you?

5 A: Say again.

6 Q: If law enforcement said they arrived there around
7 three o'clock in the morning you would not question
8 that would you?

9 A: No I would not.

10 Q: If that is true then we are looking at four or five
11 hours later is that correct. From your belief time
12 of the incident of ten thirty to about three
13 o'clock in the morning?

14 A: I said it was around, me and him arrived around
15 that time. They were talking for a while before the
16 guys came up.

17 Q: You are losing me with these pronouns, they, who
18 are you talking about?

19 A: Well before Montag and Jonathan came up. Letroy and
20 Mr. Wimberly were outside you know they were
21 already talking for a while.

22 Q: When this supposed punching or hitting occurred
23 that was at ten thirty, ten o'clock or was it
24 eleven or twelve or what?

25 A: Between eleven and twelve, twelve thirty something

1 like that.

2 Q: So you believed that the physical exchange happened
3 between eleven and twelve, correct?

4 A: I guess.

5 Q: I know you are speculating based on your
6 recollection of the time right?

7 A: Right.

8 Q: Even if it was twelve o'clock. Twelve to three in
9 the morning would have been three hours right?

10 A: Yeah it would.

11 Q: And if it was eleven o'clock that we are talking
12 four hours?

13 A: Right.

14 Q: Assuming that law enforcement got there at the
15 three, three thirty time. In that time period a lot
16 of things can happen in that time period right?

17 A: Yeah.

18 Q: Council asked you about the time of this supposedly
19 punching by Jonathan which you never saw correct?

20 A: You are right.

21 Q: You did not see no kicking him?

22 A: No sir.

23 Q: No pushing or shoving him or anything?

24 A: No sir.

25 Q: From the time that you supposedly took off and ran

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1 away and the time that you came back to your house.

2 What kind of time are we talking?

3 A: Maybe...

4 Q: An hour?

5 A: No not that long maybe about twenty minutes.

6 Q: Twenty minutes. Let us just assume that it is
7 twenty minutes. So from that twenty minute time
8 period you got back to your house and you just did
9 not worry about anything because, was it Yo-Yo that
10 came by?

11 A: Yes.

12 Q: Yo-Yo?

13 A: Yolanda.

14 Q: Yolanda Topaz?

15 A: I do not know her last name.

16 Q: Well she that person came by and sort of took over
17 from the scene, start trying to wake Mr. Wimberly
18 up?

19 A: Right.

20 Q: You just went on about your business in your room
21 according to your testimony?

22 A: After he laid there yeah I went in the house.

23 Q: You did not have any grudges with Mr. Wimberly did
24 you?

25 A: No.

1 Q: So how much time went by from the time you got back
2 there and the time Yolanda arrived there?

3 A: Maybe ten seconds.

4 Q: Ten seconds?

5 A: Yeah, no maybe like thirty seconds I guess.

6 Q: Thirty seconds. You kind of got there, looking...

7 A: She came right up with a bag of beer.

8 Q: With a bag of beer for more partying?

9 A: Yeah.

10 Q: Did you get any, beer that is?

11 A: She came to see Mr. Wimberly's friend I guess they
12 was going to drink.

13 Q: After the morning four o'clock when law enforcement
14 arrived you mentioned earlier that you got, spoke
15 with them on several occasions. Was it three times,
16 four times?

17 A: Something like that.

18 Q: How many different lies did you tell them? It was
19 enough to get you arrested right?

20 A: Yeah.

21 Q: You gave them different versions of where you were
22 and things you knew that happened. Is that correct?

23 A: There was...

24 Q: Let me ask it this way. Did you give them different
25 versions?

1 A: To be honest I do not remember what I told them. I
2 was lying to them about was I was not there, I did
3 not know anything about it.

4 Q: But they ultimately found out that you were lying
5 about that?

6 A: Right.

7 Q: You were arrested for that?

8 A: Yes sir.

9 Q: In your house you got that front door. You are door
10 A is that correct?

11 A: I think it was B if I am not mistaken.

12 Q: You were door A or door B correct?

13 A: Right.

14 Q: Your house is sort of like walk through the front
15 door you can go straight on out through the back
16 correct?

17 A: Well it is like walk through the front door then
18 the next door way is on the right side through the
19 wall. Walk through that and it leads you to the
20 kitchen, straight up there is another doorway leads
21 you into the bedroom and then in the back door is
22 the bedroom.

23 Q: Then you go on out is that correct?

24 A: Right.

25 Q: That is facing the house the right side of the

1 building?

2 A: Right.

3 Q: Then on the left side is done the same way is that
4 correct?

5 A: I guess I do not know, well yeah I guess because I
6 only seen the living room part of his house.

7 Q: I mean the doors are the same. Your front door is
8 the same as his front door is that correct?

9 A: Right.

10 Q: The back door is the same. What was your back door
11 made of?

12 A: I do not know it was not wood. I guess it is like
13 the styrofoam aluminum.

14 Q: Ok it is a light door and you could kick it in or
15 out one way or the other if you wanted to do that I
16 am sure you did not do that right?

17 A: Yeah.

18 Q: You do not have no reason to believe the other door
19 is not the same way is that correct?

20 A: Right.

21 Q: Do you know if Mr. Wimberly, do you know if he had
22 any enemies of any kind?

23 A: No.

24 Q: The whole time that you saw Jonathan and Troy
25 coming up there. Nobody displayed animosity toward

1 Mr. Wimberly between the two of them is that
2 correct?

3 A: No.

4 Q: You did not notice any?

5 A: I did not notice any.

6 Q: You do not have no reason to believe that there
7 were any is that correct?

8 A: Right.

9 Q: Were you there at the time when Montag was arguing
10 about the beer being knocked over?

11 A: I do not remember that. The only thing I remember
12 is it was not even arguing just horseplay.

13 Q: Horseplay?

14 A: Yeah.

15 Q: You do not remember who was horse playing or do
16 you?

17 A: Only thing I remember is it was Yolanda.

18 Q: With one of the guys?

19 A: Right.

20 Q: Assuming law enforcement arrived at what they said
21 three o'clock, three thirty. So between eleven or
22 twelve or whatever time it was that Yo-Yo showed up
23 there and three o'clock in the morning was the door
24 to the building open to Mr. Wimberly's building
25 open the entire time?

1 A: I believe so, I believe so.

2 Q: You just did not have any emotions to whatsoever?

3 A: I had a lot of emotions.

4 Q: Well why did you leave the man bleeding over there
5 if he was bleeding?

6 A: Like I said I did not want to be a part of it.

7 Q: Because you did not want to be a part of it you
8 would risk letting him die sitting there bleeding
9 if he was bleeding? That is what you did you risked
10 it right, and he did die correct?

11 A: Right.

12 Q: Why should we have any faith in your word at this
13 time?

14 A: I mean I can only tell you what I know and my part
15 of the story. I mean you do what you need to do.

16 Q: It is on us to decide to believe you or not believe
17 you correct?

18 A: Right.

19 Q: We would have to do pretty much what like police
20 did, arrest you to get the truth?

21 A: I guess.

22 Q: What does it take to get the truth out of you?

23 A: It does not take much man. This is what I am
24 saying. I did not want to be a part of it, I done
25 had an incident with Clarendon County before. I sat

1 in jail for three months for nothing so I am not
2 trying to be. I did not have nothing to do with it.

3 Q: Because you did not want to have a conversation
4 with law enforcement you risked allowing a man to
5 die is that not true sir?

6 A: Yeah.

7 Q: He died is that not true?

8 A: Yeah he died.

9 Q: He died two month later but he died is that
10 correct?

11 A: That is correct.

12 Q: Do you know if there was anybody beating the man?

13 A: No I do not know.

14 Q: Do you know if anybody was kicking the man and
15 putting multiple injuries about his body?

16 A: No sir.

17 Q: In that time that you came back that twenty minutes
18 later assuming you are right and telling the truth
19 about that. In that twenty minutes when you came
20 back to the time law enforcement knocked on your
21 door, that three or four hour time period. Anybody
22 could have come through there correct?

23 A: I do not know, yeah anybody could have came through
24 there, but I do not know if anybody came because
25 before when officers came I had been _____. I did

1 not hear nobody in there.

2 Q: Three or fours hours that Yo-Yo was there
3 supposedly when you came, assuming that to be true.
4 That three or four hours Yo-Yo did nothing?

5 A: She went and got Lester.

6 Q: She went and got Lester, and so Yo-Yo and Lester
7 came and looked and like you they did not care they
8 just went on because they did not want to get
9 involved right?

10 A: Well I am not going to say we did not care I just
11 did not want to get involved.

12 Q: But you did not care enough to do something is that
13 not correct?

14 A: I guess so. No that is not correct.

15 Q: That is not correct. So you did do something?

16 A: I called out for him, she went and got Lester you
17 know I thought he was going to call right then.

18 Q: Are you telling me you believe calling out was
19 sufficient? Hey wake up Mr. Wimberly!

20 A: If he respond. I did not even have time she came up
21 right behind me with some beer. She walked in there
22 and picked him up and he feel. I do not know I
23 guess you could say, I do not know you are trying
24 to say I do not care but it is not like that I just
25 did not want to be involved.

Mr. Slater - Cross Examination by Mr. Devoe

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1 Q: At the risk of somebody's life you did not want to
2 be involved?

3 Mr. Durant: Asked and answered Your Honor.

4 The Court: Move on.

5 Mr. Carter: I am through with the witness judge.

6 The Court: Mr. Devoe.

7 Mr. Slater - Cross Examination by Mr. Devoe

8 Q: We have talked before have we not?

9 A: Yes sir.

10 Q: Give me a little bit of history of your background.
11 Did you serve in the military?

12 A: Yes sir.

13 Q: What service?

14 A: Army.

15 Q: How long did you serve?

16 A: I did four and a half years.

17 Q: What rank did you have when you were discharged?

18 A: E-4

19 Q: Is it a honorable discharge?

20 A: Yes sir.

21 Q: From what year to what year did you serve in the
22 Army?

23 A: 2009 to 2011.

24 Q: You did most of your service where?

25 A: Fort Bragg in North Carolina.

1 Q: What was your speciality in the service?

2 A: I was a oil well mechanic.

3 Q: Were you also an airborne trooper?

4 A: Yes sir.

5 Q: Did you have any jumps?

6 A: Yeah I had about twelve.

7 Q: Twelve parachute jumps?

8 A: Yes sir.

9 Q: In the service did they give you training on
10 emergency or first aid?

11 A: Yes sir.

12 Q: When you were out of service you came back to your
13 home town of Manning?

14 A: Yes sir well I stayed in Marlboro County for a
15 little while.

16 Q: For how long?

17 A: For maybe about two years before I came to Manning.

18 Q: Then you came back here?

19 A: Right.

20 Q: You got back here when?

21 A: About the beginning of 2013.

22 Q: How long had you been living here when this whole
23 situation happened?

24 A: I was at the house for about a week.

25 Q: Where did you live before that, in North Carolina?

Mr. Slater - Cross Examination by Mr. Devoe

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1 A: Well no I stayed with my brother and my dad in
2 Alcolu.

3 Q: For how long?

4 A: About a month.

5 Q: So your recent arrival back in South Carolina.

6 A: Right.

7 Q: I blame the service you get obviously first aid
8 training is that correct?

9 A: Yeah.

10 Q: So when this all happened, did you ever go over to
11 see Mr. Wimberly see what was going on with him?

12 A: You said did I ever go over.

13 Q: Did you go next door?

14 A: When I first got here. Then I caught up when Yo-Yo
15 came but I have never seen him put no hands on him
16 or nothing.

17 Q: Do you have a phone?

18 A: Yes sir.

19 Q: You did not thing to use it to call emergency help?

20 A: No sir.

21 Q: When you had hold of Lester Lemon and he went back
22 did you think he was going to call for emergency
23 help?

24 A: Yeah I just had thought he did then Yo-Yo she ran
25 off. I was pretty sure she was going to call them

1 then. She came back with Lester and them, when I
2 was there.

3 Q: With retrospect Mr. Carter is sort of trying to
4 imply that you failed in your civil civic duty to
5 call for help do you feel that way?

6 Durant: Judge I am going to object to the question.

7 The Court: Sustain, sustain. His opinion to that in
8 irrelevant.

9 Q: The other thing came up I do not think you ever
10 direct. Did you not have a hurt foot last time?

11 A: Right.

12 Q: You had trouble walking?

13 A: Yes sir.

14 Q: Which foot was it?

15 A: It was the right foot.

16 Q: You cut it on something I guess?

17 A: Yeah I was walking and stepped on a piece of glass
18 it was under some leaves and went through my shoe
19 and went in my foot.

20 Q: Would that hinder you with helping anybody else?

21 A: Yeah probably but no.

22 Q: You testified that my client, I believe he is your
23 first cousin?

24 A: Yes sir.

25 Q: Was not in Mr. Wimberly's house is that correct?

1 A: No sir.

2 Mr. Devoe: I have no further questions thank you.

3 Mr. Durant: No redirect Your Honor.

4 The Court: You may step down. Ladies and Gentlemen
5 of the jury based upon discussion with the attorneys we
6 are going to go ahead and break for today. The
7 instructions first off that you not discuss this case
8 with anyone. Do not use your internet, see something in
9 the paper tomorrow morning do not do that. I would
10 advice you to do not even look at your paper. I do not
11 know if the media is here, but anyway let us just not
12 take any chances. Also what we are anticipating is that
13 testimony tomorrow but it will not be a real long day
14 tomorrow. So ladies and gentlemen have a nice, get a
15 good nights rest bundle up. Come in here about nine
16 thirty tomorrow morning ready. Thank you ladies and
17 gentlemen.

18 **(Jury excused for the evening)**

19 The Court: Anything from the State or Defendants
20 before we break for the evening.

21 Mr. Durant: Nothing from the State.

22 Mr. Carter: Nothing Judge.

23 Mr. Devoe: Nothing Judge.

24 The Court: Until nine thirty in the morning.

25 **(Court dismissed)**

1 **(Court in session 1-7-15)**

2 The Court: Good morning ladies and gentlemen. I
3 hope you had a good nights rest it was not to long a day
4 yesterday and I do not think it is going to be a real
5 long day today. Mrs Welch you are now a primary juror.
6 Mrs. Connors who was a primary juror had a conflict with
7 one of her children needed to go to a doctor so you are
8 now a primary juror. Anything before we begin gentlemen?

9 Mr. Finney: Nothing Your Honor.

10 The Court: State ready to call?

11 Mr. Finney: State is ready Your Honor.

12 The Court: Call your next witness.

13 Mr. Finney: Dr. Amy Durso.

14 Bailiff: Raise your right hand place your left hand
15 on the Bible, state your name please.

16 Ms. Durso: Amy Durso.

17 Bailiff: Do you solemnly swear that the testimony
18 you are about to give is the truth, the whole truth, and
19 nothing but the truth so help you God?

20 Mr. Durso: I do.

21 **Dr. Amy Durso - Examination by Mr. Finney**

22 Q: Good morning Doctor?

23 A: Good morning.

24 Q: Your name is Amy Durso?

25 A: Yes.

1 Q: You are a medical doctor?

2 A: Yes.

3 Q: Do you have a specialty in your profession?

4 A: Yes I specialize in forensic pathology.

5 Q: Tell the ladies and gentlemen in the jury what is a
6 forensic pathologist.

7 A: A forensic pathologist is a medical doctor that
8 specializes mainly in determining the cause of
9 death in deceased people and also performing
10 autopsies. Which is a thorough examination of the
11 body after death. To document injuries, illnesses,
12 any abnormalities and again in the end to determine
13 the cause and in many times the manner of death.

14 Q: If you do not mind I would like to take you through
15 your educational background. You are a native of
16 North Carolina is that correct?

17 A: Yes.

18 Q: Did you go to college?

19 A: I went to college at Emory University which is in
20 Atlanta. Where I received my Bachelor's Degree in
21 psychology. After that I moved back to North
22 Carolina and I went to University of North Carolina
23 Chapel Hill, I went to medical school there. I got
24 my M.D., spent four years there. After that I went
25 to Wake Forest University also in North Carolina

1 where I spent four years doing a residency in
2 general pathology. Which includes forensic
3 pathology but also many other areas of pathology
4 including blood banking, microbiology, surgical
5 pathology looking under a microscope at things.
6 Then I spent an additional year at Wake Forest
7 doing a fellowship which is a year of highly
8 specialized training in the field of forensic
9 pathology.

10 Q: After your completion of your studies. Did you have
11 to take a test to become board certified?

12 A: Yes I took three separate so I could be board
13 certified in anatomic pathology, clinical
14 pathology, and then forensic pathology.

15 Q: I understand you are working for a group now called
16 Professional Pathology Services, PC?

17 A: Yes.

18 Q: Where is that located?

19 A: That is located in Columbia, SC and it is a group
20 of pathologist. Two of us do specifically forensic
21 pathology where we do the autopsies and what not.

22 Q: How long have you been working for the agency?

23 A: About four and a half years now.

24 Q: How autopsies have you performed in that time?

25 A: Over 1,500 autopsies completed.

Dr. Amy Durso - Examination by Mr. Finney

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1 Q: Have you testified in courts across South Carolina
2 before as an expert witness?

3 A: Yes.

4 Q: You have been qualified approximately how many
5 times?

6 A: I would say around ten times.

7 Q: Your Honor at this time I would offer Dr. Durso as
8 an expert witness in the field of forensic
9 pathology?

10 The Court: Would you all like to voir dire her? Mr.
11 Carter?

12 Mr. Carter: No Judge.

13 Mr. Devoe: No Your Honor.

14 The Court: Any objection to her being deemed an
15 expert in forensic pathology?

16 Mr. Carter: We have no objection.

17 Mr. Devoe: No objection.

18 The Court: Ladies and gentlemen I am going to deem
19 here to be an expert in forensic pathology. Ladies and
20 gentlemen the rules of that is ordinarily do not permit
21 a witness to testify to opinions or conclusions, however
22 there is an exception to this rule that exist for
23 witnesses that we call expert witness. Normally a
24 witness has to testify as to what they saw, heard,
25 smell, tasted, or felt. However when someone is deemed

1 to be an expert witness because they have additional
2 education and experience they can may state an opinion
3 as to relevant and material matters which the witness
4 claims to be an expert, and may give there reasons for
5 their opinion. You do not have to except her opinion and
6 you should give it no greater weight just because she is
7 an expert but give it the weight that you deem, that you
8 believe it should have in this case. She may proceed as
9 an expert in forensic pathology.

10 Mr. Finney: Thank you Your Honor.

11 Q: Dr. Durso did you have an occasion to perform an
12 autopsy on August 1, 2013 in Columbia, SC on the
13 body of Anthony Wimberly?

14 A: Yes I did.

15 Q: Where did you receive the body from?

16 A: It was in the morgue at Palmetto Health Richland
17 Hospital.

18 Q: According to the records you have. Where was Mr.
19 Wimberly when he expired?

20 A: He was at Palmetto Health Richland Hospital.

21 Q: How long had he been there to your knowledge?

22 A: I believe he was admitted the end of May, May 26,
23 2013.

24 Q: So on August 1st his body was transported to your
25 agency for an autopsy?

1 A: Yes.

2 Q: Did you perform an autopsy at that time?

3 A: I did.

4 Q: What were your conclusions as a result of your
5 findings, in terms of what caused Mr. Wimberly to
6 expire?

7 A: He expired due to blunt force injuries to his head
8 due to an assault.

9 Q: Can you tell us, ladies and gentlemen of the jury
10 about how, his physical size was weight, height,
11 things like that?

12 A: Sure, he weighed 191 pound and he was 69 inches
13 tall so 5'9".

14 Q: Do you have approximate age on that gentlemen?

15 A: He was 50 years old.

16 Q: Did you find as a result of your autopsy that he
17 had closed head injuries?

18 A: Yes.

19 Q: Would you tell the ladies and gentlemen what that
20 mean?

21 A: So a closed head injury is when you receive trauma
22 to your head but you do not have any open skull
23 fractures. In the head you know our brain is
24 encased in bone, the skull and so without skull
25 fractures you just have bleeding inside of the

1 head. That is actually a pretty bad thing to have
2 because your brain really has no place to go when
3 it bleeds around your head ___ to the inside of the
4 skull and it is just a lot of pressure on the brain
5 that causes severe brain defect. There is not
6 enough blood in the area. He had two areas of
7 bleeding. One area of bleeding was in the space
8 between, so over your brain there is a layer this
9 thick kind of fibrous layer called your dura. It
10 lies between your skull and brain, and between your
11 dura and brain are these thin little blood vessels
12 that kind of add more blood flow to your brain but
13 if you have a really rough blow to your head you
14 actually start ripping these veins. Its starts to
15 bleed in between the dura and your brain and so it
16 puts a lot of pressure on your brain. It had been
17 about two months since his initial injury and it
18 looked like his body was attempting to heal some of
19 the bleeding there so it had a different look than
20 it would have looked right away instead of liquid
21 blood there it would actually turn into this dry
22 yellow membrane and it was the body's way of trying
23 to absorb the blood and get rid of it. But he also
24 had bleeding in his corpus callosum which is the
25 part of your brain that kind of connects your right

1 and left hemisphere so. There is a little part of
2 your brain that lies between the two hemispheres
3 and allows your right and left brain to communicate
4 with each other and there is actually a lot of
5 bleeding in this area as well. Where parts of the
6 brain were torn. Blood vessels inside of the brain
7 were torn and this also bleed and also caused
8 significant injury to his brain.

9 Q: Did you also find Doctor, evidence of a bruised or
10 contusion or injury to his facial area, nose, mouth
11 area?

12 A: Well he had a nasal fracture well documented in his
13 medical records but I did not peel down in order to
14 view that in order for them to have an open casket.

15 Q: That nasal fracture was it occasioned at the time
16 of his assault?

17 A: Yes it was documented in the medical records the
18 facial swelling and the nasal fracture were acute
19 which means they had just happened when he was
20 admitted back at the end of May. So he was
21 obviously struck in the face at least once if not
22 several times.

23 Q: Would you be able to determine from your autopsy
24 report whether or not Mr. Wimberly suffered
25 multiple strikes to the head area?

1 A: I can not tell if it was one massive or multiple
2 blows, but if it was one it had to one really
3 strong massive blow. Typically these cases it is
4 multiple blows, but I can not tell for sure from my
5 autopsy.

6 Q: It is true that when you received Mr. Wimberly's
7 remains he had already been in the hospital several
8 months under doctors treatments?

9 A: Yes.

10 Q: Did you also review the Doctor's notes that were
11 being generated every day that he was in the
12 hospital?

13 A: Yes I went back and reviewed those.

14 Q: Did Mr. Wimberly ever regain consciousness after he
15 was admitted to the hospital?

16 A: He was able to open his eyes in response to painful
17 stimulus. So they kind of rubbed their hand on
18 their chest until it hurt and he would open his
19 eyes some to that at some point and eventually he
20 became completely unresponsive to any kind of
21 stimulus. He never regained consciousness where he
22 was able to communicate. Really the most I think he
23 ever did was open his eyes.

24 Q: Would you say that because of the brain injury
25 other systems in his body began to be affected?

1 A: Right, so because of his brain injury he had a lot
2 of problems with his breathing and he actually
3 ended up being completely dependent on a ventilator
4 which is a tube going down your throat basically
5 breathing for you. After being on a ventilator
6 after a week or two your lungs actually get damaged
7 from the air being forced in and out and so he had
8 what we call adult respiratory distress syndrome.
9 Which is pretty much an end stage for a lung and
10 it is very hard to recover from that and along with
11 his brain injuries. Between his lungs not
12 functioning and his brain lack of consciousness
13 those both highly contributed to his death or
14 caused his death.

15 Q: Doctor you said with the sub-dural membrane that is
16 the yellow membrane that forms once the brain is
17 injured?

18 A: Yeah as body tries to absorb and get rid of the
19 blood yes.

20 Q: So that membrane it is something that the body
21 produces and you saw evidence of that?

22 A: Yes I actually looked at it, I took a little piece
23 and looked at it under the microscope and I was
24 able to tell that it was some where between one and
25 three months old.

1 Q: So the body had been processing this membrane for
2 at least a couple months before you saw him August
3 1st?

4 A: Yes.

5 Q: You could tell that by the size of the membrane?

6 A: Yeah and just from the microscopic features we look
7 for that are specific to that yes.

8 Q: The last thing I want to ask you is. You said in
9 your report that the dura, would you tell us again
10 what the dura is?

11 A: Again it is that fibrous layer between your skull
12 and your brain.

13 Q: You said that the greatest did I understand that
14 there was something over the right posterior fossa?

15 A: Right so the greatest area where the most bleeding
16 was, was in the right, that part of the brain. That
17 does not necessarily mean that he was hit in that
18 area, but that is where those vessels tore when he
19 was struck. You know the brain can be jarred so it
20 is not necessarily where they were hit. It is just
21 wherever the force was that tore those vessels as
22 your brain moves within your skull.

23 Q: Again for the jury's information. Based on the
24 evidence that you found in the autopsy report you
25 characterize his death as due to what?

Dr. Amy Durso - Cross by Mr. Carter

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1 A: Blunt force injuries to the head due to an assault
2 and that would be considered a homicide.

3 Q: Doctor please answer any questions defense lawyers
4 may have.

5 The Court: Mr. Carter.

6 **Dr. Durso - Cross-Examination by Mr. Carter**

7 Q: Dr. Durso I will brief with you. Let me start out
8 asking you about the nasal fracture and then we
9 will come back to the head injury. Did I understand
10 you to say that there was evidence of a nasal
11 fracture, were you able to determine the age of
12 that fracture?

13 A: No it is, we can not really date fractures in
14 adults very well. People heal at different rates as
15 far as fractures go. I know within the medical
16 records that document it as an acute nasal fracture
17 what he presented at the end of May.

18 Q: Other than that you are not prepared to tell this
19 jury with your expert opinion that that nasal
20 fracture was three or fours months old?

21 A: Not from my autopsy, no.

22 Q: As opposed to a year or ten years?

23 A: No based on my autopsy.

24 Q: It could have occurred ten years earlier?

25 A: Well according to the medical records it happened

1 at the end of May.

2 Q: You are not testifying that you know it happened
3 then, correct?

4 A: I know it because I reviewed the medical records.

5 Q: It was not a finding or an examination of yours?

6 A: No it was not part of my autopsy but as part, when
7 ever I get a case and they have been in the
8 hospital I always make it a point to review the
9 medical records and in this case since he had been
10 in the hospital for so long and some of his
11 injuries had started to heal. In these case in
12 particular it is really important for a pathologist
13 to go back and review the medical records. It is
14 basically part of my autopsy I would consider
15 reviewing.

16 Q: You did not review any medical records before May
17 is that correct?

18 A: Actually there were some records there before May
19 but it did not mention a nasal fracture.

20 Q: So you do not know his medical history before May
21 of 2013?

22 A: There were records I think from 2012 in there but
23 it did not mention the nasal fracture then.

24 Q: The nasal fracture just asking you about that. The
25 nasal fracture injury in and of itself was not

1 enough to cause any death or anything, would that
2 be fair to say?

3 A: No not the nasal fracture itself no.

4 Q: The nasal fracture in and of itself, any injury is
5 injury and is significant but it is not such that
6 it would have put him to be unconscious for a
7 period of time. Would that be fair to say?

8 A: Well if the blow to the nasal fracture also caused
9 the head injuries, yes it would cause him to become
10 unconscious. But just a broken nose, lots of people
11 get broken noses so no and that nasal fracture
12 itself. Just that specific part of the injury no
13 did not cause his death.

14 Q: It would not have caused him to be unconscious for
15 several months?

16 A: A nose fracture no.

17 Q: Did I understand you earlier to say that he
18 multiple injuries to his head, explain that for me
19 a little bit?

20 A: So he had different areas of bleeding in his head.
21 Again withing the brain the corpus callosum that we
22 talked about between the two hemispheres and the
23 sub-dural hemorrhages, you know the bleeding
24 between the dura and the brain and this could have
25 been caused all by one massive blow or multiple

1 blows I can not tell from the autopsy how many
2 blows there were to his head.

3 Q: So you are not able to tell this jury if he
4 sustained just one blow or fifty blows.

5 A: No..

6 Q: Just for clarification again you are talking about
7 the two hemisphere, you are making reference to the
8 right side of the brain versus the left side?

9 A: Yes I am talking about the corpus callosum which
10 sits right between them.

11 Q: Put the two brain side together.

12 A: Yeah kind of holds them together.

13 Q: Are you able to determine whether there was a blow
14 on one side or the other side?

15 A: I believe all the facial all the swelling was in
16 the face it sounds like most of the trauma was to
17 his face.

18 Q: Meaning the trauma meaning a blow.

19 A: A blow, so blunt force is some kind blow as opposed
20 to something sharp. A fist, a foot, a wall,
21 something hard and relatively flat striking.

22 Q: Could it have been a metal instrument that could of
23 caused it?

24 A: Sure.

25 Q: Could it have been say the metal part on a chair.

Dr. Durso - Recross Examination by Mr. Devoe

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1 Somebody lift up a chair and crashed it down on
2 him?

3 A: Sure, yes.

4 Q: Could it have been from a bat or shoe, or a stump?

5 A: Anything any kind of hard blow yes.

6 Q: But you can not tell this jury whether it was one
7 or fifty?

8 A: No.

9 Mr. Carter: Thank you very kindly.

10 The Court: Mr. Devoe?

11 Mr. Devoe: I have no questions Your Honor.

12 The Court: Any redirect?

13 Mr. Finney: One question Your Honor.

14 **(Redirect by Finney)**

15 Q: Doctor?

16 A: Yes.

17 Q: Relative to the question as to whether it was one
18 blow or fifty.

19 A: Right.

20 Q: Are you pretty sure that it was one blow was to the
21 nasal cavity and then there were other blows that
22 caused the sub-dural hemorrhages?

23 A: I can not, there was definitely at least one blow
24 that broke the nose but I can not tell if that was
25 the one that caused the head injury or not.

1 Q: Would it be inconsistent that there was a nasal
2 fracture and other injuries, is that consistent
3 with what you saw?

4 A: Yes.

5 Mr. Finney: Thank you Doctor. Nothing further ask
6 that the Doctor be excused.

7 The Court: Any recross.

8 Mr. Finney: He already asked the question. He
9 already said he did not have any.

10 The Court: He did not have any.

11 Mr. Devoe: I do now Your Honor.

12 **Dr. Durso - Recross Examination by Mr. Devoe**

13 Q: Can you tell the age of the nasal injury?

14 A: Well it was an acute fracture on May 26th when he
15 was admitted so I assumed it happened on or around
16 May 26th.

17 Q: Was it a recent fracture or an old fracture?

18 A: Acute means it was a recent fracture on May 26th.

19 Q: Same day you think?

20 A: I can not, the day of or the day before I do not
21 know. Acute means like within that day or with a
22 day or two.

23 Mr. Devoe: Thank you I appreciate it.

24 The Court: Thank you. You may step down. Any
25 objection of this witness being excused.

Lt. Sonia Daniels - Examination by Mr. Finney

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1 Mr. Carter: None Judge.

2 Mr. Finney: None Your Honor.

3 Mr. Finney: Call Lieutenant Sonia Daniels.

4 The Court: Come forward and be sworn.

5 Bailiff: Raise you right and place your left hand
6 on the Bible. State your name please.

7 Ms. Daniels: Sonia Daniels.

8 Bailiff: Do you solemnly swear that the testimony
9 you are about to give is the truth and nothing but the
10 truth so help you God?

11 Ms. Daniels: Yes.

12 **Lt. Sonia Daniels - Examination by Mr. Finney**

13 Q: Good morning Lieutenant.

14 A: Good morning.

15 Q: Tell the ladies and gentlemen a little bit about
16 you. Where you were born and raised and went to
17 school.

18 A: I was born here in Manning, South Carolina. I was
19 raised mostly in Florida and I came back after
20 being an adult.

21 Q: Tell us what you do for a living.

22 A: At this point I am a detective with the Manning
23 Police Department.

24 Q: How long have you been in law enforcement?

25 A: Ten years.

1 Q: Did you work up from a patrol officer to the
2 detective status?

3 A: Yes I did.

4 Q: How long have you been a detective?

5 A: Roughly five years.

6 Q: Tell us a little bit about what you do as a
7 detective on the city police department.

8 A: Mostly investigate crimes. I would be one of the
9 officers, excuse me one of the detectives that,
10 respond to scenes, collect evidence, do interview
11 with suspects or victims or witnesses.

12 Q: Did you get trained at the South Carolina Criminal
13 Justice Academy?

14 A: To be a law enforcement officer but for, to be a
15 detective I took numerous of other classes else
16 where.

17 Q: Do you have to re-certify every year or two or
18 three to keep the status that you have as a law
19 enforcement officer?

20 A: That is correct.

21 Q: Lieutenant, taking your attention to the case at
22 hand. Did you have occasion to go to the scene of
23 the house that was occupied by Mr. Wimberly?

24 A: That is correct.

25 Q: When did you first go there?

It. Sonia Daniels - Examination by Mr. Finney

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1 A: Officers responded if I am not mistaken around
2 roughly three o'clock that morning. Investigators
3 and our chief and our major were called out roughly
4 five ten minutes after.

5 Q: Were you part of that group that responded to the
6 house?

7 A: After the initial response from the patrolmen yes.

8 Q: Did you have occasion to go all the way around the
9 house and through the house that Mr. Wimberly lived
10 in?

11 A: Yes.

12 Q: Tell us what you did to start the investigation.
13 Mr. Wimberly was not there when you got there?

14 A: That is correct.

15 Q: Once you found out that he was in the hospital, did
16 you have occasion to go and see him and try to talk
17 to him?

18 A: I did respond to the hospital however he was unable
19 to communicate with us.

20 Q: What was some of the things you did preliminarily
21 to start putting the case together?

22 A: First as I showed up to the scene of course we
23 spoke with responding patrol officers and once they
24 told us what they had we started out initial scene
25 process. Which first I started taking photos at the

1 crime scene. After that we spoke with witnesses or
2 individuals that either lived in the area or
3 passing through the area.

4 Q: In that regard would you say that the next door
5 neighbor to Mr. Wimberly, Mr. Slater is one of the
6 first persons you talked to?

7 A: That is correct.

8 Q: Did you take him to your office to have a formal
9 interview?

10 A: If I am not mistaken the first time we spoke with
11 Mr. Slater it was actually on the scene. Once we
12 found out that he was indeed in his duplex which is
13 next door to Mr. Wimberly. So the first initial
14 interview was there.

15 Q: Tell the ladies and gentlemen of jury as this case
16 unfolded for the first week or two or three. Did
17 you have occasion to talk to Kevin Slater?

18 A: That is correct.

19 Q: Did you talk to his girlfriend?

20 A: I do not recall speaking with his girlfriend.

21 Q: Do you know whether she was home during the time
22 that the events took place that led to Mr.
23 Wimberly's assault?

24 A: From what we gathered I do not believe that the
25 girlfriend was home during, prior to the incident,

1 during the incident, shortly is believed that she
2 did return home?

3 Q: And so that was information you gathered?

4 A: Yes.

5 Q: You were gathering information from a lot of people
6 at the same time?

7 A: That is correct.

8 Q: Did you talk to Montag Webb?

9 A: I did.

10 Q: How did his name get involved in this?

11 A: Montag Webb was one of the individuals through
12 speaking with witnesses and again people in the
13 area. We knew at that time he was one of
14 individuals that had been to that residence through
15 out the day.

16 Q: Did you talk to Jonathan Newman?

17 A: I spoke to him on one occasion.

18 Q: Did he also come to you as a person who had been in
19 the area of duplex on that day?

20 A: That is correct.

21 Q: How about Mr. Letroy Samuels?

22 A: That is correct, same he was one of the individuals
23 at the duplex throughout that day.

24 Q: Tell the ladies and gentlemen of the jury based on
25 your experience did you have occasion to feel that

1 you getting good information from Kevin Slater,
2 Montag Webb, Jonathan Newman, and Letroy when you
3 interviewed them the first time.

4 A: During my initial interviews with each subject, I
5 believed that at times of the interview there were
6 things that they were telling me I knew to be true
7 and again there were things that clearly were not
8 accurate based on everything else that we had
9 gathered.

10 Q: Based on your experience as an investigator. Is it
11 unusual for people to come in and sit down in your
12 office and not tell the truth the first time?

13 A: That occasionally happens.

14 Q: Tell us why that happens.

15 A: The majority of the times I believe that when I
16 interview or speak with an individual and they are
17 not being truthful, is because they are trying to
18 either hide something, protect someone or not
19 incriminate themselves.

20 Q: Let us take each one of these gentlemen that has
21 been charged in this case. Montag Webb was charged
22 in this case. He was charged by your office?

23 A: That is correct.

24 Q: With the death, excuse me, with the assault of Mr.
25 Wimberly and the burglary of Mr. Wimberly's house?

It. Sonia Daniels - Examination by Mr. Finney

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1 A: That is correct.

2 Q: Did Mr. Webb tell you the truth the first time you
3 talked to him?

4 A: No sir.

5 Q: How many times would you say you spoke with him
6 before he gave his final statement?

7 A: I believe I spoke with Mr. Webb roughly three to
8 four times and of course the first interview he was
9 not honest, I would not say at all, but throughout
10 the next couple of interviews he began to tell more
11 of the truth.

12 Q: Did Mr. Webb tell you about the incident where he
13 caught a ride from Sav-Way store to the Walmart?

14 A: He did.

15 Q: Who did he say he caught a ride from?

16 A: His brother-in-law, Leon Coleman.

17 Q: Did you follow that up and talk to Leon Coleman?

18 A: I did.

19 Q: Did you learn events and facts from Leon Coleman
20 that helped you put the case together?

21 A: He gave me some help with information yes sir.

22 Q: Did you hear him testify, Leon Coleman testify
23 earlier...

24 Mr. Carter: Your Honor he is just leading this
25 witness, it is hearsay.

1 The Court: Rephrase. If he has already testified it
2 is not hearsay, overruled.

3 Q: Did you hear Leon testify earlier this week?

4 A: I did.

5 Q: Did you consider his testimony to be consistent
6 with what he told you during your investigation?

7 A: That is correct.

8 Q: As a result of his statement, was he a key person
9 in getting the other people Mr. Newman, Mr.
10 Sanders, Mr. Webb to come back and change their
11 story?

12 A: From what Mr. Coleman informed me of gave me more
13 reason to speak with them on other occasion.

14 Q: At the time that you talked to Mr. Webb, you had
15 not talked to Mr. Coleman yet?

16 A: Not at first no.

17 Q: Did you know that there was a statement that was
18 reportedly made by one of the defendants when they
19 returned from the store regarding Mr. Wimberly's
20 gun?

21 A: Yes.

22 Q: Who had given you that information?

23 A: Can you rephrase it again?

24 Q: Let us say this again. Before you talked to Mr.
25 Green you had talked to Mr. Webb, Montag Webb.

1 A: Mr. Coleman.

2 Q: Pardon me?

3 A: You said Green.

4 Q: I said Green I meant Mr. Coleman.

5 A: Prior to me speaking to Mr. Coleman I spoke to Mr.
6 Webb correct.

7 Q: Did Mr. Webb tell you that he had gone to the
8 store, caught a ride and come back, and that when
9 he came back he had a conversation, with one of the
10 defendants, Mr. Newman?

11 A: That is correct.

12 Q: He did tell you that?

13 A: Yes.

14 Q: Mr. Coleman confirmed that conversation?

15 A: That is correct.

16 Q: So Mr. Coleman was somebody outside of the people
17 you were dealing with that confirmed some of the
18 facts for you?

19 A: That is correct.

20 Q: As a result of that did you get more information
21 from Mr. Montag Webb about the events that happened
22 after they came back from the Walmart?

23 A: Yes.

24 Q: After you talked to Mr. Webb, did you also have a
25 conversation I believe, there were three

1 interviews, excuse there were two interviews with
2 Letroy Samuels?

3 A: I am not sure how many total.

4 Q: I want to show you. Do you have a tape recorder in
5 your office that you tape record this interviews
6 with?

7 A: I did.

8 Q: After the tape recording has been made. Do you send
9 it to a court reporter to make a transcript on
10 paper?

11 A: I do not. What I did with this case is I turned
12 everything that I had to the Solicitors and I
13 believe that they had everything transcribed.

14 Q: Have you reviewed those transcriptions to see if
15 they are accurate?

16 A: Yes.

17 Q: Could you tell us wether on the one that is marked,
18 can you look at them and tell which one is the
19 first interview you had with Mr. Letroy Samuels?
20 Can you base that on the what is on printed form?

21 A: Yes.

22 Q: Which one is the first interview with Mr. Sanders?

23 A: The first interview if I am not mistaken is going
24 to be the one that is marked number 2. The reason
25 being is the second, the one that I am going to say

1 is the second interview, detective Rosdail at the
2 time was on that interview and when we initially
3 started this investigation detective Rosdail was
4 not here.

5 Q: Based on the interviews that you had with Mr.
6 Sanders can you remember or can you tell from the
7 transcripts how far apart they were? In other words
8 when you talked to him the first time when was it
9 in relation to your being called to the Wimberly
10 house and then how later was the second interview?

11 A: The next day.

12 The Court: Please be precise as to which interview.

13 Q: Would you check your file and see if you have an
14 additional conversation with Mr. Letroy Samuels or
15 whether it was just two?

16 A: Yeah I have four interviews with Mr. Samuels.

17 Q: When you were talking with Mr. Samuels was he in
18 your office?

19 A: Yes.

20 Q: All four occasions?

21 A: Yes.

22 Q: Had he been read his Miranda Rights?

23 A: Yes.

24 Q: Was it by you or by officer, your partner?

25 A: Both.

1 Q: Did he understand his Miranda Rights, did he say he
2 understood them?

3 A: He stated that he understood.

4 Q: Did at anytime he ask to stop the conversation or
5 ask to speak with an attorney?

6 A: No sir.

7 Q: During the talks that you had with Letroy Samuels
8 did he say that he had been at the house during the
9 time actually talking to Mr. Wimberly?

10 A: Yes he stated that he was there throughout the day.

11 Q: Did he say that he saw the attack or assault of Mr.
12 Wimberly that day?

13 A: Not in the first interview but throughout the
14 interviews he did state that he saw.

15 Q: At first did he say he saw Mr. Wimberly get hit in
16 the nose?

17 A: I believe Mr. Samuels first told me that when Mr.
18 Wimberly was struck he immediately ran from the
19 scene.

20 Q: That is what Mr. Samuels told you in his first
21 statement?

22 A: Yes.

23 Q: That as soon as he saw Mr. Wimberly get struck he
24 left the scene?

25 A: Yes.

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1 Q: Did you follow that up with other interviews with
2 Mr. Samuels where that story changed?

3 A: It eventually changed.

4 Q: What did that story come to after you went through
5 these interviews with him? What did Mr. Samuels
6 change the story to say later on?

7 A: Mr. Samuels later stated that this incident had
8 been discussed amongst the three of them earlier in
9 the day and he stated that another individual
10 stated that they wanted, Mr. Wimberly had a gun and
11 they wanted to get that gun. His role was to
12 distract Mr. Wimberly on the porch until this could
13 be carried out.

14 Q: Based on the conversation you had with Mr. Samuels.
15 Did he see Mr. Wimberly get struck by the other
16 individual on the porch?

17 A: Eventually he stated he did.

18 Q: Did he eventually state to you that after Mr.
19 Wimberly got down that Montag Webb drug Mr.
20 Wimberly in the house off the porch into the living
21 room area?

22 A: That is correct.

23 Q: Once Mr. Samuels reported that to you, did he tell
24 you that he witnessed the assault on Mr. Wimberly
25 by Montag and other individuals?

1 A: That is correct.

2 Q: Were you able to find out information from Mr.
3 Samuels about the event that you did not know from
4 other people, from other things at the scene?

5 A: Mr. Samuels informed me again that he witnessed who
6 struck Mr. Wimberly, he witnessed Mr. Wimberly
7 being drug into the resident and he witnessed who
8 assaulted Mr. Wimberly so yes he gave me some
9 information that I did not have prior.

10 Q: As a result of this information from Mr. Samuels,
11 did you also learn about him knowing things about
12 the gun?

13 A: That is correct.

14 Q: Him seeing the gun after the assault on Mr.
15 Wimberly?

16 A: That is correct.

17 Q: What about other personal items that belong to Mr.
18 Wimberly that Mr. Samuels told you about?

19 A: You want to know the other items?

20 Q: Yes.

21 A: He mentioned the wallet and the cell phone.

22 Q: These were all events that took place during the
23 time Mr. Wimberly was down on the ground, down on
24 the floor?

25 A: If I remember correct Mr. Samuels did not state to

Lt. Sonia Daniels - Examination by Mr. Finney

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1 me that he saw the wallet or the cell phone being
2 taken during the assault but later on when he met
3 back up with the other individuals. They showed him
4 those items at that time.

5 Q: Did Mr. Samuels report to you at any time during
6 one of these statements that he actually was still
7 in the room when one of the people who had been
8 involved in the assault left the room, left the
9 living room going out the front door?

10 A: I can not remember if he said that they went out
11 the front door but he did put himself in the living
12 room with the individuals.

13 Q: Based on the information that you had from Mr.
14 Samuels. Did you subsequently file warrants against
15 him and charge him with being involved in this
16 assault and this burglary?

17 A: Yes that is correct.

18 Q: If you do not mind I would like to switch now to
19 talk about your interviewing of Mr. Jonathan
20 Newman. How did Mr. Newman's name get in the
21 investigative file that you had going on at that
22 time?

23 A: Throughout our different interviews and
24 conversations with the defendants and witnesses we
25 were given a name of J. White, and throughout the

1 investigation I was informed that J. White was
2 going to be Mr. Jonathan Newman so that is how his
3 name first came up. He was an individual that was
4 present at that location.

5 Q: Mr. J. White, Mr. Newman, came in and talked to
6 you?

7 A: He did.

8 Q: Do you have a copy of the transcript of his
9 recording interview?

10 A: I do.

11 Q: Can you tell us when that interview took place?

12 A: That interview took place on May 27, 2013 at 12:36
13 PM.

14 Q: That would have been in your office at the police
15 station?

16 A: That is correct.

17 Q: Was he advised of his rights to under the Miranda
18 case?

19 A: Not at that time it was just a conversation.

20 Q: Did Mr. Newman ever give another conversation where
21 he had been sat down and tape recorded?

22 A: I believe I spoke with Mr. Newman on another
23 occasion and he immediately asked for an attorney.

24 Q: Based on the information that you were able to
25 determine from your investigation. Was Mr. Newman

1t. Sonia Daniels - Examination by Mr. Finney

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1 at the scene of the house at the time Mr. Wimberly
2 suffered his injuries?

3 A: Yes.

4 Q: Was that information brought to you by other
5 individuals, witnesses, and suspects?

6 A: That is correct.

7 Q: Would you tell the ladies and gentlemen of the jury
8 that you found other people who were there, who
9 were not charged in this case?

10 A: That is correct.

11 Q: Was there a lady name Barbara who had been at the
12 house?

13 A: She was at the house throughout the day.

14 Q: Based on your investigation was she at the house
15 when the assault took place?

16 A: From my initial investigation it was believed that
17 Ms. Burgess was at the residents.

18 Q: After you got into the case more did that
19 information change?

20 A: It changed to that she was there and she left prior
21 to the incident happening.

22 Q: So was she ever charged?

23 A: She if I am not mistaken she was charged with
24 giving false information to law enforcement.

25 Q: But not with the assault or the burglary?

1 A: No sir.

2 Q: How about a lady named Yolanda?

3 A: Torres yes.

4 Q: Was she interviewed and questioned?

5 A: She was.

6 Q: Was she charged?

7 A: No she was not.

8 Q: Was it determined by your investigation that she
9 was not at the house during the assault or the
10 burglary?

11 A: That is correct.

12 Q: What about a man named, Mr. Lemon?

13 A: Lester Lemon.

14 Q: Was he a neighbor?

15 A: He lived behind the duplex.

16 Q: Was he investigated?

17 A: He was.

18 Q: Was he charged?

19 A: He was charged.

20 Q: With?

21 A: Giving false information to law enforcement.

22 Q: But not as a principle in the assault or the
23 burglary?

24 A: No.

25 Q: So we have people that were being talked to. People

It. Sonia Daniels - Cross Examination by Mr. Carter

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1 that were being interviewed and soon you had
2 witnesses on one side and you had suspects on the
3 other side.

4 A: That is correct.

5 Q: Eventually after the investigation was completed
6 the suspects were charged, I am talking about the
7 suspects in the assault and burglary.

8 A: Yes.

9 Q: And that was Mr. Newman, Mr. Webb, and Mr. Samuels?

10 A: That is correct.

11 Q: May I have the Court's indulgence?

12 The Court: Yes sir.

13 Q: Lieutenant I am taking you back to the
14 investigation at Mr. Wimberly's house. When you
15 talked to Mr. Montag Webb and you got statements
16 from him, did he ever tell you who hit Mr. Wimberly
17 on the porch?

18 A: Yes.

19 Q: Who did he say did that?

20 A: Mr. Jonathan Newman.

21 Q: Did he say he witnessed that?

22 A: He did.

23 Q: He did not hear it from somebody else?

24 A: No he stated he witnessed it.

25 Q: Did Mr. Webb ever tell you that he drug Mr.

1 Wimberly inside the house off the porch and took
2 his body into the living room? Did Mr. Webb ever
3 tell you that?

4 A: No.

5 Q: Did Mr. Webb ever tell you that he assaulted or was
6 part of the assault on Mr. Wimberly in the living
7 room area of the house that afternoon?

8 A: No.

9 Mr. Finney: Thank you lieutenant. Answer any
10 question the defense may have.

11 The Court: Mr. Carter.

12 **Lt. Sonia Daniels - Cross Examination by Mr. Carter**

13 Q: Good morning lieutenant.

14 A: Good morning.

15 Q: I want to clear up some of the things that you
16 testified to just a little while ago. You said that
17 you believe law enforcement responded around, did
18 you say three or three thirty-ish?

19 A: I would say three o'clock.

20 Q: Three o'clock and in your investigation of this
21 matter, and speaking with all of these individuals
22 which seems like they all got arrested for lying.
23 Seems like all of them got arrested for perjury or
24 something.

25 A: Majority of them.

1 Q: The majority of them got arrested, and everyone of
2 them lied. Would that be fair to say.

3 A: These were the ones that got arrested.

4 Q: Some of them got arrested for lying, obviously that
5 is because they lied. Others got arrested and they
6 lied.

7 A: Ok yes.

8 Q: Everybody that got arrested lied?

9 A: I would say yes.

10 Q: The time period you guys got there. In your
11 investigation did you learn approximate time period
12 where the assault initially occurred?

13 A: Yes, I am going to say roughly, I know it was
14 before midnight.

15 Q: Before midnight? So you are saying ten o'clock is
16 before midnight?

17 A: Ten thirty-ish.

18 Q: Ten thirty-ish and if it happened at that hour and
19 law enforcement arriving at three o'clock so then
20 we would be looking at four or five hours from the
21 time of the incident to when law enforcement got
22 there, would that be fair to say?

23 A: Yes.

24 Q: If the assault started at that hour could you tell
25 this jury that the assault did not or the assaults

1 did not occur more that one time or at different
2 time periods?

3 A: I can not say that.

4 Q: So you do not know if anybody else went back in
5 there and beat him a little while or anything do
6 you?

7 A: Through my investigation I did not find that to be
8 true.

9 Q: My question was do you know if that occurred?

10 A: No.

11 Q: In your investigation when you arrived on the scene
12 as the detective, were you able to determine any
13 part of the house as being broken into. Back door
14 kicked in or anything of that nature?

15 A: The back door appeared to have been ajarred. I can
16 not remember, I know it was not kicked out I am not
17 sure whether it was kicked in or not I can not
18 remember. I know something was different about the
19 back door.

20 Q: Help me with that word ajarred, what does that
21 mean?

22 A: It means opened.

23 Q: Meaning that open where somebody came in or went
24 out or something to that affect?

25 A: Correct.

1 Q: The way this house is situated if somebody was
2 trying to get out without being seen they would
3 have gone through the back door, would that be fair
4 to say? Because the front door you have another
5 door right there and it is on the street where
6 anybody passing by or walking by could see you?

7 A: That is correct.

8 Q: The back of the house, there is not a light back
9 there correct?

10 A: You mean street light.

11 Q: In the back of the house?

12 A: I do not recall.

13 Q: You do not recall there being a porch light
14 connected back there?

15 A: I do not recall.

16 Q: You certainly do not recall a porch light being on
17 at that time of morning when you went back there,
18 correct?

19 A: I believe that there was not a porch light on.

20 Q: That door being ajarred or open, somebody could
21 have come in through the back and gone back out
22 through the back, or come in through the front and
23 gone out through the back?

24 A: That is correct.

25 Q: I heard the doctor just testified that from

1 whatever that, the brain that blood kind of
2 expanded in there and caused some swelling and what
3 not. She said that swelling would come because the
4 brain is inside a bone or skull. Did you examine
5 the body when you arrived on the scene or had it
6 already been gone?

7 A: The body had already been moved.

8 Q: At some point in time did anybody tell you that
9 they saw blood coming from the head or the brain?

10 A: The officers that initially responded to the scene.

11 Q: They did not say where... strike that. You do not
12 know where the blood came from, whether it was the
13 head, the mouth, the nose or whatever?

14 A: Not exactly no sir.

15 Q: Do you know where the blood came from?

16 A: I can not tell you absolutely where the blood came
17 from?

18 Q: Do you have approximation using conditional
19 awareness?

20 A: From the head area.

21 Q: That would, you would include that to be anyway
22 part of the face because it is part of the head?

23 A: That is correct.

24 Q: You do not necessarily mean the back of the head?

25 A: No sir.

- 1 Q: You were here yesterday when Mr. Webb testified,
2 Montag testified. Did he ever tell you or prior to
3 yesterday, I committed this crime? I mean prior to
4 here in court that is.
- 5 A: Yes.
- 6 Q: Prior to coming here in court?
- 7 A: Yes.
- 8 Q: When did he tell you that?
- 9 A: I would have to look through like which particular
10 interview.
- 11 Q: Can you give me a time period was it, the day after
12 the incident or was it closer to his trial date?
- 13 A: It was not the day after the incident. It was
14 closer to the date of his arrest.
- 15 Q: Closer to the date of his arrest. You do not recall
16 when you arrested him?
- 17 A: I do not have warrants in front of me.
- 18 Q: When you spoke with him he said, yes I punched a
19 man?
- 20 A: No he did not say he punched anybody.
- 21 Q: What did he tell you he did to commit the crime?
- 22 A: He informed me that once Mr. Wimberly was drug into
23 the resident he did go into the residence and
24 search the residence for weapons and or money.
- 25 Q: Did you tell counsel that Mr. Webb, Montag said

1 that he drug the guy into the house?

2 A: I think I said no.

3 Q: So he did not tell you that then?

4 A: I do not recall him telling me that.

5 Q: Did your investigation reveal that he may have been
6 the one that drug back into the house?

7 A: It is possible throughout the investigation I may
8 have been told that.

9 Q: Did you conclude that from your investigation? In
10 other words did you determine that that to be what
11 actually happened?

12 A: No not necessarily.

13 Q: Do you believe he drug the guy back into the house
14 from your investigation?

15 A: I am not sure. I believe someone drug him in I am
16 not sure.

17 Q: What time I am just asking you about Montag.

18 A: I can not necessarily he did.

19 Q: Montag told you that he took the man's wallet and I
20 am speaking prior to his trial testimony because we
21 know what he said in the trial?

22 A: I can not remember.

23 Q: Did anybody tell you Montag took the man's wallet?

24 A: I can not remember.

25 Q: Do you know if the man's wallet was taken away from

1 the scene?

2 A: By statements yes.

3 Q: Do you know who took the man's wallet away from the
4 scene?

5 A: I do not.

6 Q: There were about five or six persons that went
7 through that house after this assault occurred? Did
8 Barbara go back to the house?

9 A: It was not determined that she went back to the
10 house after the assault.

11 Q: Were you able to determine if Yolanda went back to
12 the house?

13 A: Yes.

14 Q: Were you able to determine if Mr. Slater went back
15 into the house?

16 A: Yes.

17 Q: Were you able to determine anybody other than those
18 three went back into the house after the assault?

19 A: Mr. Lemon.

20 Q: Mr. Lemon, ok. I think it was his wallet and the
21 telephone. Were you able to determine if his
22 telephone was removed from the house?

23 A: Prior to law enforcement arriving?

24 Q: Yes ma'am.

25 A: Throughout the investigation it was determined that

1 the cell phone and the wallet had been removed.

2 Q: How do you know that there was a cell phone?

3 A: It was told from one or two of the defendants that
4 a cell phone and a wallet was removed.

5 Q: Did you ultimately find the cell phone?

6 A: We did not.

7 Q: Were you able to find the wallet?

8 A: No sir.

9 Q: Besides those two things were you able to determine
10 if anything else with specificity was actually
11 taken from the house?

12 A: It was stated that a gun was taken?

13 Q: Were able to determine if a gun ever existed?

14 A: Yes.

15 Q: Did you find a gun?

16 A: We have not located the gun.

17 Q: In your discussion with Montag, I asked yesterday
18 Montag about Short Lock, you know who Short Lock
19 is?

20 A: I do not know who that is but I have heard that
21 name.

22 Q: In the process of talking with Montag did you have
23 a discussion about Short Lock?

24 A: Yes.

25 Q: What is Short Lock's connection to this?

1 A: He was someone that I think either they attempted
2 to sell the weapon to Short Lock is it or he tried
3 to sell the weapon.

4 Q: Well in your interview with Montag, did Montag tell
5 you Short Lock tried to sell him the gun?

6 A: I would have to look back but I know that it was in
7 Montag's statement that the Short Lock and the gun
8 came about.

9 Q: I mean for Montag to be talking about Short Lock it
10 would have to be there was some conversation or
11 some exchange is that correct?

12 A: You mean between Montag and Short Lock. As stated
13 by Mr. Webb yes.

14 Q: On yesterday you heard Montag say that he was asked
15 about what were you going to do with a gun because
16 you are a convicted felon. He said he was just
17 going to keep the gun, would that be fair?

18 A: I heard that.

19 Q: So he would not be trying to sell it though would
20 he?

21 A: That is correct.

22 Q: So chances are Short Lock was trying to sell it to
23 him, would you agree with that?

24 A: I can not say either way.

25 Q: Did you learn that Short Lock was a drug dealer?

1 A: No one ever told me that Short Lock was a drug
2 dealer.

3 Q: No even Montag from your interview?

4 Mr. Durant: Your Honor I object to the relevancy of
5 this.

6 The Court: Sustained.

7 Q: In your testimony and you heard Montag who was
8 here. Montag said that he heard a lick, a punch, a
9 hit and while he was walking away from the step.
10 Did Montag tell you something different from that?

11 A: You mean, prior to what he said yesterday. Yeah he
12 told me something different.

13 Q: Did he tell you somebody else struck Mr. Wimberly?

14 A: He told me that Mr. Newman struck Mr. Wimberly.

15 Q: You interviewed him about four or five, three or
16 four times?

17 A: Mr. Webb?

18 Q: Mr. Webb correct.

19 A: That is correct.

20 Q: Because you did interview Wimberly we are talking
21 about Webb. In the process of your interviews with
22 Mr. Webb, we are talking about Montag. He gave you
23 in each one of your interviews with him, multiple
24 lies. Would that be fair to say?

25 A: That is correct.

1 Q: You determine the things he told you to be multiple
2 lies, is that correct?

3 A: The is correct.

4 Q: How were you able to determine when he was telling
5 the truth versus when it was a lie?

6 A: Everything that he told me in one interview as for
7 instance the first interview. Each story was
8 checked out I did not just listen to his story and
9 not follow through with it.

10 Q: Naturally you know when you say each story is
11 checked out. We want to know how you check it out.
12 Did you check it out with stories from everybody
13 else?

14 A: If he during one of our conversations if he
15 mentioned, an individual and what that individual
16 where that individual was. I spoke with the
17 individual and or witnesses to determine if that
18 indeed took place or did not take place.

19 Q: So if he told you a story about Troy, you spoke
20 with Troy to check it out?

21 A: That is possible yes.

22 Q: We already know everybody told you a lie so how do
23 you know who is telling the truth? How did you
24 check it out that is what I am asking to determine
25 the truth when everybody is lying to you?

1 A: What particular incident are you asking me how did
2 I determine if it was the truth or not?

3 Q: You said if Montag told you something about
4 somebody you would check with that person.

5 A: It was a possible chance that I spoke with that
6 person and or witnesses or anybody that could
7 confirm yay or nay to that story.

8 Q: We already said that just about everybody you
9 talked to you arrested them for lying to you or you
10 arrested them for this crime. So how are you able
11 to determine who was telling you the truth? If I
12 say it is red and somebody else said it was blue
13 how do you know which one of us is telling the
14 truth when all of us are lying to you?

15 A: In that particular case depending on what was red
16 or blue I could actually go see if it was red or
17 blue.

18 Q: Were able to go see who struck Mr. Wimberly?

19 A: I was not.

20 Q: In most occasions you were not able to go see which
21 one was telling you a lie you just know they were
22 all lying?

23 A: At times yes.

24 Q: You were informed by one of the witness that Montag
25 struck Mr. Wimberly with a machete? Is that

1 correct?

2 A: That was one of the stories I have heard.

3 Q: Were able to determine if that person was telling
4 the truth?

5 A: I was not.

6 Q: Did you ask Montag about the machete?

7 A: I do not recall.

8 Q: Did Montag tell you he used a machete during the
9 incident?

10 A: No.

11 Q: Now under your questioning and answering with
12 council you said that you spoke with Letroy Samuels
13 and he like everybody else four or five times he
14 lied to you throughout the whole thing. Would that
15 be fair to say?

16 A: That is correct.

17 Q: Did you ever reach a point where you thought he was
18 telling you the truth? After four or five different
19 interviews.

20 A: At times yes.

21 Q: At times, at times during each interview or at
22 times toward the third interview or the fourth
23 interview or the fifth interview?

24 A: I believe there were times that I spoke with him
25 again that he, some of what he said was true, some

1 of what he said was not true.

2 Q: How were you able to determine when it was true?

3 A: Based on what he previously told me.

4 Q: So if he told you something before you would look
5 to hear it another time or if the story changed
6 then you would think it to be true?

7 A: No not necessarily, if I spoke with Mr. Samuels and
8 he gave me a statement again I did not just take
9 his word for it, it depends on what it included.

10 Q: You asked Troy, did he see the attack or the
11 assault on Mr. Wimberly the first time and his
12 answer was no, correct?

13 A: That is correct.

14 Q: You asked him in a second interview and his answer
15 was no, correct?

16 A: I would say yes.

17 Q: So the first and the second interview he confirmed
18 what he said the first time. Did you accept it as
19 the truth or did you believe it to be the truth?

20 A: I did not believe it to be the truth.

21 Q: Then you met with him a third time and you asked
22 the same question again. Is that correct?

23 A: That is correct.

24 Q: So the first and the second time he did not tell
25 you what you wanted to know so you asked him the

1 question the third time? Did you have a set answer
2 that you wanted?

3 A: I wanted the truth, I did not have a set answer I
4 just wanted the truth.

5 Q: Ok so if he told you I did not see Mr. Wimberly
6 assaulted, how do you know that it was true or not
7 true? That he did not see it that is.

8 A: Again Mr. Samuels stated that he did not see who
9 assaulted Mr. Wimberly because he immediately ran
10 off the porch. Throughout the investigation it was
11 determined certain spots that he was located on the
12 porch. There were different people were located
13 different places. Some were located where they
14 actually could of said they could not see how he
15 was assaulted or who assaulted him. Mr. Samuels on
16 the other hand where he was located, I thought that
17 he was in a place that he could actually see who
18 assaulted Mr. Wimberly. So therefore I questioned
19 him more on that.

20 Q: Let me see if I can follow you up now. It is your
21 belief that Mr. Wimberly was assaulted on the
22 porch, somebody hit him on the porch or on the
23 step?

24 A: That is correct.

25 Q: So anybody on the porch, you are saying definitely

1 saw it or could have seen it?

2 A: Could have seen it. I did not say definitely.

3 Q: Ok I just wanted clarification. So from your
4 investigation you concluded that Troy definitely
5 saw the assault or could have seen that assault?

6 A: By Mr. Samuels statement along with other
7 statement, where they placed Mr. Samuels on the
8 porch it was a possible chance that he saw who
9 struck Mr. Wimberly.

10 Q: So he could have seen it. You did not conclude he
11 definitely saw it?

12 A: I concluded that he definitely saw it.

13 Q: You said you based that on Montag's story?

14 A: No what I said I based that on Mr. Samuel's
15 statement along with witnesses statement.

16 Q: Mr. Samuels who lied to you in four different
17 interviews?

18 A: I interviewed him a couple time I am not sure which
19 interviews, which one lied or which one he started
20 to lie.

21 Q: But based on where he was on the porch. If his back
22 was turned if he was looking in apartment and Mr.
23 Wimberly is up at the step on the porch it is
24 possible he still did not see the assault.

25 A: That is not where I am placing him. He by his own

1 statement stated that he was speaking with Mr.
2 Wimberly.

3 Q: At the time that, ok. In your last interview with
4 Mr. Samuels I think you and detective Rosdail spoke
5 with him, is that correct? In that interview the
6 answer, the questions that was asked and the
7 answers that came to those questions was mostly uh-
8 huh. Would that be fair to say. Because you would
9 ask a question and he would give you affirmative or
10 negative responses in that last interview right?

11 A: Throughout reading it those were some of the
12 answers.

13 Q: Well as a matter of fact those were most of the
14 answers, uh-huh. You would ask a question and I
15 read it. Some of your questions was a page long.

16 A: Can you give me which statement you are speaking
17 on?

18 Q: Actually I can. Do you have the 28th interview pages
19 13 and 14?

20 A: Is it going to be the 28th at 12:11?

21 Mr. Finney: Which interview are you talking about
22 council?

23 Mr. Carter: The last interview.

24 Mr. Finney: With who?

25 Mr. Carter: Letroy Samuels.

1 A: What page was that?

2 Q: You have an interview sheet there and I guess the
3 reason I got lost is because one of your interview
4 sheets had May 13, 2013 and they just got really
5 mixed up to me.

6 A: You said May 13?

7 Q: May 13 yes.

8 A: I do not have one.

9 Q: May I approach the witness Your Honor. If you look
10 at... well first of all did an interview occur on
11 May 13, we got these from you guys.

12 A: The front of it says May 27th so I am going to it is
13 safe to say the interview occurred on May 27th.

14 Q: Why does the interview sheet say that it is
15 occurring on the 13th?

16 A: I am not sure I did not do the transcript.

17 Q: You did not do the transcript?

18 A: No I did not.

19 Q: Who did the transcript?

20 A: The solicitors had someone do that.

21 Q: But we know an interview did not occur on that date
22 because the crime did not occur until almost two
23 week later?

24 A: That is correct.

25 Q: What I was asking you about was when you guys

1 interviewed him on this interview you said it was
2 the 27th. A lot of the questions were questions that
3 both you and officer Rosdail asked and a lot of Mr.
4 Samuels answers were a lot of uh-huh. I guess what
5 I am getting to is when you all questioned him you
6 showed him a picture of the victim beat up or
7 something from the autopsy do you recall that?

8 A: I did not show him anything from the autopsy. It
9 might have been pictures prior to him leaving
10 Manning.

11 Q: Do you remember what Mr. Samuels response was?

12 A: When he was shown the pictures?

13 Q: Yes. Was it something like oh Lord Jesus oh Jesus
14 God?

15 A: That sounds about right.

16 Q: Just something that blew his mind is that correct?

17 A: He did not actually want to look at the photos.

18 Q: After that you all started asking him questions.

19 You were satisfied with his responses. Do you
20 recall the responses that he was giving to you?

21 A: To the questions?

22 Q: Yes to your questions.

23 A: I can not say if I was satisfied or not.

24 Q: Do you recall an occasion where you thought he was
25 lying after looking at that picture? Do you recall

1 an occasion where you believe him to be lying?

2 A: I can not say.

3 Q: If your conversations with Mr. Samuels is he the
4 one that who talked with you about the machete? Do
5 you recall a conversation with he where he
6 discussed the machete with you?

7 A: I can not recall.

8 Q: Now of all the persons that you spoke with,
9 Jonathan Newman you only interviewed him on one
10 occasion, is that correct?

11 A: That is correct.

12 Q: In your interview with him, did conclude Jonathan
13 to be telling you a lie as everybody else after
14 five or six interviews?

15 A: Yes.

16 Q: You only met with him on one occasion is that
17 correct?

18 A: On one occasion that he voluntarily spoke with me
19 that is correct.

20 Q: So you only met with him on one occasion?

21 A: I actually met with him twice.

22 Q: You met with him twice. Where did you met with him
23 on the second occasion?

24 A: At the Manning Police Department.

25 Q: At the Manning Police Department, but you did not

1 interview him the second time?

2 A: No I did not.

3 Q: Was he arrested at that time?

4 A: He was.

5 Q: So that is why he asked for the lawyer?

6 A: I can not tell you why he asked for an attorney but
7 he was arrested.

8 Q: When you interviewed the others three or four
9 times. Were they arrested at that time?

10 A: I have interviewed all of the defendants once they
11 were arrested, so yes.

12 Q: But you interviewed them before they were arrested?

13 A: That is correct.

14 Q: With the other individuals you interviewed them
15 three or four times before they were arrested,
16 correct?

17 A: I am not sure how many times before they were
18 arrested. I can only tell you how many times I
19 interviewed them I do not remember.

20 Q: But with Jonathan Newman you interviewed him one
21 time, did not arrest him?

22 A: That is correct.

23 Q: Then the next time you interviewed him it was after
24 he was arrested?

25 A: That is correct.

1 Q: So when he requested, said I want a lawyer that is
2 because he was already arrested, correct?

3 A: He was arrested at that time.

4 Mr. Carter: I beg the Court's indulgence Your Honor
5 I think I might be through with the witness I just need
6 another second. Thank you.

7 The Court: Mr. Devoe.

8 Lt. Sonia Daniels - Cross Examination by Mr. Devoe

9 Mr. Devoe: May I please the Court?

10 The Court: Yes.

11 Q: Lieutenant Daniels we have talked several times
12 during this case have we not?

13 A: Yes sir we have.

14 Q: How many times did you talk to my client Letroy
15 Samuels? Looks like a lot of time does it not?

16 A: What I have here in front of me is four. I have
17 four transcribed interviews.

18 Q: In one of those interviews was one of those dated
19 May 27th was that the last date you talked to him?

20 A: No sir.

21 Q: What dates did you talk to him?

22 A: We have the 27th, 28th, and I believe that it was
23 more time than what I have in front of me.

24 Q: The 13th also? What interview dated, my paper says
25 May 13th but it actually was May 27th on the front

1 page of it. You asked my client saying well do ---
2 I already told you that the person that said you
3 were there already said you did not touch the guy.
4 You did not hit him...

5 Mr. Finney: Excuse me could he give us the page and
6 line.

7 Mr. Devoe: Page 13 it says actually I think it is
8 page 12 it is six pages on one page with the transcript
9 that I have.

10 Q: It states you know we try myself and then you say
11 well do not save yourself by not I already told you
12 that the person that said you were there already
13 said you did not touch the guy. You did not hit
14 him. You did not do anything to hurt him. You did
15 not do anything of that and you did not take
16 anything. You did not try to take anything. That is
17 what they have told us but they said because you
18 can confirm who did and did not hit this man. Do
19 you remember that?

20 A: Yes sir.

21 Q: You said you believe what he said was that correct?

22 A: Yes sir.

23 Q: Do you still believe that?

24 A: Yes sir.

25 Q: Did my client eventually cooperate with you

1 eventually?

2 A: Yes sir.

3 Q: With the fourth interview?

4 A: I can not remember on which interview.

5 Q: He did not cooperate fully the first time did he?

6 A: No he did not.

7 Q: Or the second, he came with a little bit at a time
8 he finally came forward with interview. That is
9 when he made bond basically that is about the same
10 time he made bond. Let me refresh our memories that
11 whole situation took place on in the
12 B unit of that duplex. Facing the building in on
13 the right and is on the left.

14 A: If is going to be on the left that would be
15 correct.

16 Q: Leon Coleman who testified earlier that took my
17 client and took others to Walmart to buy things and
18 brought them back and dropped them off.

19 A: I know Mr. Samuels rode with him to Walmart but I
20 believe that Mr. Webb was the one that needed to
21 shop at Walmart.

22 Q: Tag, you call him Tag or Montag Webb?

23 A: Yes.

24 Q: He is related to Mr. Coleman?

25 A: That is his brother-in-law.

It. Sonia Daniels - Cross Examination by Mr. Devoe

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1 Q: So my client I guess he was considered kind of
2 nervous when he talked to you was he not?

3 A: I would say he was.

4 Q: He try and get out of trouble?

5 A: Yes.

6 Q: Trouble you said he was in. Which was killing the
7 victim.

8 A: It depends on which interview you are speaking
9 because the first initial interview were he was
10 assaulted he was not deceased at the time.

11 Q: Well he was in pretty bad shape.

12 A: Yes sir.

13 Q: They did not think he was going to live did they?

14 A: I am not sure. I do not think that was the case.

15 Q: He never revived himself he never revived he never
16 said anything.

17 A: That is correct.

18 Q: Do you consider Mr. Trey Samuels to be a nervous
19 individual?

20 A: The first couple of interviews he seemed to be
21 nervous.

22 Q: He was a little scared.

23 A: He appeared to be nervous.

24 Q: Was he trying to cooperate and staying out of
25 trouble at the same time?

1 A: Do you have a particular interview.

2 Q: He seemed to be trying to cooperate but also scared
3 and trying to stay out of trouble.

4 A: The very first interviews I would not say that he
5 was cooperative, but he was definitely trying to
6 stay out of trouble.

7 Q: Finally by the third or fourth interviews he
8 cooperated?

9 A: More so than he did in the beginning yes sir.

10 Q: Did he give you information that was essential to
11 this case?

12 A: He did.

13 Q: What would you say he gave you that was essential
14 to the case?

15 A: Mr. Samuels at one time informed us of the incident
16 that had took place inside Mr. Wimberly's
17 apartment.

18 Q: That was it.

19 A: I would say that was very important.

20 Q: He was trying to keep himself out of trouble and
21 also not getting anybody else into trouble would
22 you say that is a fair statement?

23 A: I just know he was trying to keep himself out of
24 trouble.

25 Q: As most people do.

It. Sonia Daniels - Redirect by Mr. Finney

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- 1 A: As most do.
- 2 Q: Were you surprised?
- 3 A: No I was not.
- 4 Q: Tag in his testimony said that my client did not
5 hit the victim. Do you believe that to be true?
- 6 A: I believe that to be true because he stated that to
7 me previous.
- 8 Q: Did Montag, I mean did Letroy Samuels come to see
9 you voluntarily or did he come at your request or
10 what?
- 11 A: He voluntarily came to speak with me after I think
12 I requested that he come speak with me.
- 13 Q: Was he under arrest at that time?
- 14 A: He was not.
- 15 Q: How many times did he come to see you?
- 16 A: I can not remember exactly how many times but it
17 was a few times.
- 18 Q: Did the truth come out slowly, eventually, slowly
19 but eventually?
- 20 A: Eventually I believe that he gave more truth in the
21 end then he did in the beginning.
- 22 Q: You feel what he was telling you was helpful in
23 your case?
- 24 A: Yes sir.
- 25 Q: I have no further questions thank you.

1 The Court: Any redirect?

2 Mr. Finney: Please the court..

3 **Lt. Sonia Daniels - Redirect by Mr. Finney**

4 Q: Lieutenant?

5 A: Yes sir.

6 Q: Do you have an interview in front of you that is
7 dated on the front page May 27th? By a Mr. Samuels.

8 A: I have two in front of me on the 27th.

9 Q: Mr. Devoe was just reading from the one where he
10 said that on page 12 and 13 you all were having a
11 conversation with Mr. Samuels during the interview.
12 In that, look on page 10 of that interview. A
13 little bit earlier in your conversation you were
14 talking to Mr. Samuels about whether or not he had
15 been in the vehicle with Montag going to the
16 Walmart. You had already talked to Leon Coleman
17 about who he took to the Walmart that night did you
18 not?

19 A: That is correct.

20 Q: And you asked Mr. Samuels to tell you the truth
21 about that and he told you he had not been to the
22 Walmart.

23 A: That is correct.

24 Q: That was on the 27th right?

25 A: Yes.

1 Q: Now two days later on the 29th do you have that
2 interview where you talked to Mr. Samuels? I am I
3 am sorry wrong person. Let me ask you another
4 question. That is just one of the details that you
5 knew that you had in your hand when you interviewed
6 Mr. Samuels that he did not tell you the truth
7 about?

8 A: That is correct.

9 Q: And there were other details that came along with
10 these different interviews that you knew he was not
11 telling you the truth about?

12 A: That is correct.

13 Q: He did not tell you that he was in the house at the
14 time the attack was taking place on Mr. Wimberly in
15 the living room did he?

16 A: Not at first no.

17 Q: But he did eventually?

18 A: Yes.

19 Q: Because you showed him that you had other people
20 and other things that put him in that house?

21 A: That is correct.

22 Q: Is that the reason that he was charged with the
23 assault and the burglary on Mr. Wimberly?

24 A: That is correct.

25 Q: Let me take you back and ask you to review a

1 statement given by Mr. Montag Webb on the 29th of
2 May. I am going to ask you to look at page 7.
3 Review that please, let me ask you a question or
4 two. When Mr. Samuels was telling you that he was
5 not in the house during the time the attack, you
6 did not just believe that and right it down and
7 keep on going did you?

8 A: No sir.

9 Q: You checked it out with other peoples statements
10 and other things that you had.

11 A: That is correct.

12 Q: Did Montag Webb make a statement to you about who
13 was in the house, concerning the attack on Mr.
14 Wimberly?

15 A: That is correct.

16 Q: And was that on the, I think I said the 29th of May?

17 A: It was the 29th.

18 Q: What did he say Montag Webb? About who was at the
19 house?

20 A: He stated that Sin, who is going to be Letroy
21 Samuels was in the house also.

22 Q: During the assault?

23 A: Yes.

24 Q: Did he say that Sin took the body in the house?

25 A: He did say.

Lt. Sonia Daniels - Recross by Mr. Devoe

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1 Q: Of Mr. Wimberly he dragged him from the porch into
2 living room?

3 A: He said Sin was the one that took the man in the
4 house.

5 Q: Based on that information Sin was a suspect, a
6 primary suspect in the assault on Mr. Wimberly?

7 A: Yes that along with Mr. Samuels own statement.

8 Q: Thank you nothing further.

9 The Court: Any recross Mr. Carter?

10 Mr. Carter: No Your Honor.

11 The Court: Mr. Devoe any recross? Mr. Devoe any
12 recross?

13 Mr. Devoe: Yes Your Honor.

14 **Lt. Sonia Daniels - Recross Examination by Mr. Devoe**

15 Q: The day in question, to my client the last day we
16 are talking about, the first question I had of you.
17 Did my client tell you that he had been in the
18 house?

19 A: Yes sir.

20 Q: That house is that same porch and he was next door
21 with Mr. Slater, Kevin Slater.

22 A: At times he was next door with Mr. Slater yes.

23 Q: Was he on the porch of the house but was he also in
24 the house itself?

25 A: In Mr. Wimberly's apartment?

1 Q: Yes.

2 A: Yes he was.

3 Q: Where was Mr. Wimberly?

4 A: Are we talking about before he was assaulted or
5 after?

6 Q: Before.

7 A: He was in Mr. Wimberly's by his statement, he at
8 time that he were in Mr. Wimberly's apartment and
9 they had been drinking and doing whatever yes sir.

10 Q: That is the same day that he was basically
11 assaulted?

12 A: Yes.

13 Q: So he was there before he was assaulted. Was he
14 there after he got assaulted?

15 A: By his statement yes.

16 Q: How about during the assault was he witness the
17 assault or involved or what?

18 A: By his statement he was in the duplex apartment
19 during the assault.

20 Q: The duplex apartment being the one next door or
21 Wimberly's?

22 A: Mr. Wimberly's.

23 Q: Or both?

24 A: During the assault he was in Mr. Wimberly's
25 apartment based on his statement.

1 Q: Did he say to you that he had actually participated
2 in the assault?

3 A: No he did not.

4 Q: Did you ask him?

5 A: I did.

6 Q: What did he say?

7 A: He said he did not.

8 Q: No further questions thank you.

9 The Court: You may step down. Alright ladies and
10 gentlemen I think it is time for us to take our morning
11 break so please retire to your jury room. Please do not
12 discuss the case with each other. Thank you.

13 **(Jury break)**

14 The Court: Alright court will be in recess until
15 11:25.

16 **(Court break)**

17 **(Court in session/Jury in)**

18 The Court: Alright, court come to order let us
19 bring in our jury back in. You all can sit any where you
20 want to. I found after a couple of time the jurors get
21 real territorial about their seats. The State ready to
22 proceed?

23 Mr. Durant: Yes sir Your Honor.

24 The Court: You may call your next witness.

25 Mr. Durant: The State calls Detective Eric Rosdail.

1 Bailiff: Raise your right hand place your left hand
2 on the Bible and state your name please.

3 Mr. Rosdail: Eric Rosdail.

4 Bailiff: Do you solemnly swear that the testimony
5 you are about to give is the truth and nothing but the
6 truth so help you God?

7 Mr. Rosdail: I do.

8 **Investigator Eric Rosdail - Examination by Mr. Durant**

9 Q: Mr. Rosdail I called you Detective Rosdail and I
10 believe now you are Investigator Rosdail?

11 A: Correct.

12 Q: I do not know if there is a whole lot of difference
13 but you work for the Sheriff's Office now?

14 A: Correct.

15 Q: How long have you been working for the Sheriff's
16 Office?

17 A: I have been with the Sheriff's Office since I
18 believe March of last year.

19 Q: You are an investigator at the Sheriff's Office?

20 A: I am.

21 Q: Prior to going to work with the Clarendon County
22 Sheriff's Office where did you work?

23 A: For the Manning Police Department.

24 Q: How long were you there?

25 A: I had been there since 2003.

1 Q: How long have you been in law enforcement?

2 A: Since 2003?

3 Q: When you were working at the Manning Police
4 Department, what capacity were you?

5 A: At this particular time I was a detective but I
6 have worked as patrol and detective at Manning
7 Police Department.

8 Q: Is your job as a detective essentially the same as
9 your job as an investigator at the Sheriff's
10 Office.

11 A: Correct, follow up on crimes as they are reported.

12 Q: Were you working in that capacity with the Manning
13 Police Department back on May 26, 2013?

14 A: I was.

15 Q: You assisted Detective Daniels in the investigation
16 of this case?

17 A: Yes.

18 Q: Were you present and did you have occasion to
19 respond to the scene that evening?

20 A: I did not.

21 Q: Were you on call that day or not?

22 A: I was not, I was actually working another detail
23 out of town that particular night. When we came
24 back the next day.

25 Q: So your job is to essentially follow up and assist

1 Detective Daniels in this investigation?

2 A: Yes.

3 Q: During the course of your investigation of this
4 case did you have occasion to conduct an interview
5 with Letroy Samuels?

6 A: I did.

7 Q: Were you present for interview, specifically with
8 Letroy Samuels on May 28, 2013?

9 A: I believe I was.

10 Q: Do you have a copy of the transcript of that
11 interview?

12 A: Which, is that CD 9?

13 Q: CD 8 I believe.

14 A: There are several here so let me get the correct
15 one. I do have a copy of it.

16 Q: Your Honor we have made reference to this interview
17 several times I would like to pass up a certified
18 copy of a transcript for the Court's review and
19 make this a Court's exhibit.

20 The Court: Let this transcript of Letroy Samuels,
21 under indictment 2103-GS-14-0293, this was completed on
22 5/28/2013 at 12:11 PM by Doris Tomas. Thank you, you may
23 proceed.

24 Q: Investigator Rosdail, you conducted this interview?

25 A: I did.

1 Q: Where was it conducted?

2 A: At the Manning Police Department.

3 Q: Any other officers present with you during the
4 interview?

5 A: Lieutenant Daniels.

6 Q: Did you, who began questioning Mr. Samuels
7 initially in the interview?

8 A: I did.

9 Q: Prior to questioning did you advise Mr. Samuels of
10 what are commonly referred to as Miranda Rights?

11 A: I did.

12 Q: And did you tell him that he had the right to
13 remain silent?

14 A: I did.

15 Q: Did you tell him that anything he said could and
16 would be used against him in the court of law?

17 A: I did.

18 Q: Did you tell him that he had a right to have an
19 attorney present with him during questioning if he
20 so pleased?

21 A: I did.

22 Q: Did you tell him if he could not afford to hire an
23 attorney that one would be appointed to represent
24 him prior to being questioned?

25 A: I did.

1 Q: Did you advise him that if anytime he decided to
2 exercise those rights and not answer any questions
3 or make any statements, he had the right to do so?

4 A: I did.

5 Q: Did he indicate to you that he understood those
6 rights?

7 A: He said yes sir.

8 Q: Did he voluntarily participate in the interview
9 after having been advised of those right?

10 A: He did.

11 Q: I want to, well first let me ask you. In your
12 opinion did Mr. Samuels implicate himself as being
13 involved in this crime during the interview?

14 A: He did.

15 Q: Did he indicate to you that he was aware of a plan
16 to rob the victim in this case Anthony Wimberly?

17 A: He did.

18 Q: What did he tell you his role in this robbery and
19 assault was to be?

20 A: Specifically he stated he was a lookout, was the
21 words he used initially.

22 Q: Lookout during the course of the assault?

23 A: He was asked his role. He initially stated lookout.
24 We asked him to explain that further and he stated
25 his job was to lookout and make sure nobody else

1 went in.

2 Q: Make sure nobody else went into the residence?

3 A: Correct.

4 Q: Did he indicate to you whether or not he was in the
5 residence?

6 A: He did during an interview.

7 Q: Did he ever tell you whether or not he had any role
8 in setting this robbery and assault up prior to the
9 assault beginning?

10 A: Yes he did.

11 Q: What did he say about that?

12 A: He said his job was to be a distraction. Since he
13 knew Mr. Wimberly his job was to speak to Mr.
14 Wimberly and actually draw him out on the porch.

15 Q: Did he tell you where he was speaking with Mr.
16 Wimberly?

17 A: On Mr. Wimberly's porch in front of the door.

18 Q: Based upon that information and other information
19 gathered in your investigation, was Mr. Samuels
20 arrested and charged with these crimes?

21 A: He was.

22 Q: Did Mr. Samuels indicate to you during the
23 interview whether or not he actually witnessed the
24 assault of Mr. Wimberly?

25 A: He stated he did.

1 Q: Let me just kind of change course here
2 Investigator. After meeting with these witnesses
3 and you conducted interviews with other witnesses
4 as well?

5 A: Correct.

6 Q: Did you have occasion or make an attempt to
7 interview the victim in this case Anthony Wimberly?

8 A: I did.

9 Q: Where did you go to do that?

10 A: I went to the hospital he was in, the ICU unit at
11 Richland.

12 Q: That is Palmetto Richland in Columbia?

13 A: Correct in Columbia.

14 Q: Do you remember when it was that you went to see
15 him?

16 A: I do not remember the specific date, but it was
17 after it was days after the assault.

18 Q: When you went to visit Mr. Wimberly was he able to
19 communicate with you?

20 A: He was not.

21 Q: Did you go into the room and see him and observe
22 his body?

23 A: I did I spent a good amount of time, probably close
24 to thirty minutes in the room with Mr. Wimberly of
25 course and the attending nurse. During that time I

1 took several photographs and attempted to speak to
2 Mr. Wimberly which begat no response. Also of
3 course asked questions about his medical condition
4 with the nurse.

5 Q: Are you aware of whether or not Mr. Wimberly ever
6 regained consciousness or the ability to
7 communicate?

8 A: It is my understanding he did not.

9 Q: So you were never able to actually get his side of
10 the story and find out what happened to him?

11 A: No sir.

12 Q: Your Honor I beg the Court's indulgence for a
13 moment. Again Investigator you conducted interviews
14 of not just Letroy Samuels but several other
15 witnesses in this case?

16 A: Correct.

17 Q: Based upon and of course that and the other aspects
18 of your investigation you arrested and charged
19 three individuals with this crime?

20 A: Yes.

21 Q: Who were those individuals?

22 A: Letroy Samuels, Montag Webb, and Jonathan Newman.

23 Q: Are those the three individuals that your
24 investigation led you to believe were responsible
25 for this crime?

1 A: Yes.

2 Mr. Durant: Your Honor I do not have any further
3 questions.

4 The Court: Thank you. Mr. Carter.

5 **Investigator Rosdail - Cross Examination by Mr. Carter**

6 Q: Investigator Rosdail, you were part of the original
7 questioning of all the defendants who was charged
8 for this crime correct?

9 A: No sir.

10 Q: You were not part of it?

11 A: Not the initial no.

12 Q: Were you present? How many interviews did you
13 participate with Letroy?

14 A: With Letroy?

15 Q: Yes.

16 A: I could not say off the top of my head I know it
17 was more than one.

18 Q: More than one?

19 A: Yes.

20 Q: Do you know if it was more than two?

21 A: I could not say off the top of my head.

22 Q: Whenever you got involved with the investigation
23 you learned about witnesses, the defendants here
24 and other witnesses how everybody was telling
25 right?

1 A: Correct.

2 Q: You learned that no matter who which one of them
3 were before you, you were suspecting that they were
4 going to be lying to you about something correct? I
5 mean you wanted them to tell the truth right?

6 A: Correct.

7 Q: But you were suspecting any answer they give could
8 potentially be a lie?

9 A: That is a fair statement yes.

10 Q: With most probably likely a lie?

11 A: I do not know I would categorize it most probably
12 but yes several people did give us untruths during
13 the investigation.

14 Q: Were you able to conclude with any one of the
15 individuals whether they was somebody was arrested
16 for this crime or arrested for lying. Were you able
17 to conclude that any one of them was telling you
18 something you believed to be the truth?

19 A: When we could verify that information through
20 either the physical evidence, photographs or
21 through other statements yes.

22 Q: So when you are asking them questions I mean
23 naturally you could not verify it at the time that
24 you were asking it but take for example Letroy.
25 When you were questioning him I mean you did not

1 have anything to verify his answers at that time
2 did you?

3 A: If we had previous information from somebody else
4 and or at some point multiple were interviews were
5 going on at the same time, we could verify
6 information almost immediately sometimes, with
7 another person that was being interviewed.

8 Q: When you say multiple meeting going on at the same
9 time. You are not making reference to you
10 questioning somebody in this room and another going
11 on in another room right?

12 A: It is potentially some times yeah.

13 Q: I understand that but that did not happen in this
14 case?

15 A: I can not say for sure but there were sometimes
16 when we were able to almost immediately speak with
17 another party and get good information.

18 Q: Well let us explore it. Which officers were doing
19 the questioning of the witnesses? Yourself, Sonia
20 Daniels Investigator Detective Daniels, who else?

21 A: Initially Major Ridgeway.

22 Q: Major Ridgeway.

23 A: Was in some of the interviews.

24 Q: Do you have any transcripts of anybody Major
25 Ridgeway interviewed?

1 A: I do not know, I believe there might be one or two.

2 Q: You think there is one?

3 A: I believe so.

4 Q: Who do you believe he interviewed?

5 A: Off the top of my head I could not tell you. I
6 think, I saw his name on one. I was not present
7 during the initial time people were being talked
8 with.

9 Q: To your knowledge you did not know of any
10 interviews going on with yourself and somebody else
11 at the same time do you?

12 A: Specific knowledge no I do not have a specific one.

13 Q: Now with regards to your interview were you in an
14 interview with Montag Webb?

15 A: I was in an interview with Montag.

16 Q: In any of your interviews with Montel, Montag Webb,
17 prior to him coming here today and testifying were
18 you able to get any statements that you believed to
19 be the truth at the time that he gave them?

20 A: Yes.

21 Q: What statement did you get? I mean in a summary
22 what did he say that you thought he was telling the
23 truth about?

24 A: He had stated in one instance that he had gone in
25 the house, gone in the back bedroom and had

1 actually turned over a mattress when he was
2 searching for items which could be confirmed by the
3 pictures from the crime scene that night. So
4 information he was giving at that point being
5 present during that time and the information about
6 the assault that was taking place.

7 Q: Did he tell you he assaulted the man?

8 A: He did not.

9 Q: Did he told you he saw somebody assault the man?

10 A: He did.

11 Q: Of course you were here in court today, yesterday
12 when he said he did not see the actual blow,
13 correct?

14 A: Yes I did hear him testify.

15 Q: Is that what he told you when you interviewed him?

16 A: No.

17 Q: So he told you something that day and which in
18 court your saying he tell a different lie?

19 A: Correct.

20 Q: So in actuality we never know when he is telling
21 the truth correct?

22 A: I do not think that is a fair statement.

23 Q: Was there an occasion where you thought he was
24 telling the truth about something?

25 A: Like I said when it could be confirmed with the

1 pictures and the physical evidence I thought he was
2 telling the truth.

3 Q: I agree with because if we looked at that room we
4 saw things turned over, the pictures showed,
5 correct?

6 A: Correct.

7 Q: Whatever the pictures showed if he testified to it
8 you could confirm it. The pictures did not show a
9 blow or a punch correct?

10 A: No sir.

11 Q: You could not confirm that?

12 A: Correct.

13 Q: So if he said that, we know that we can not rely on
14 it because you could not confirm it?

15 A: I would agree with.

16 Q: Let me ask you. In your interview with Letroy
17 Samuels over here and I read it. I saw a lot of the
18 questions where you start out asking a question and
19 you continue to tell Letroy do not tell me what I
20 want to hear tell me the truth. Do you recall that?

21 A: Correct.

22 Q: When you said that normally that would come after
23 the question you wanted to ask and then you would
24 say do not tell me what I want to hear tell me the
25 truth correct?

1 A: Correct.

2 Q: On quite a bit of your questions once you asked a
3 question if there was something that should have
4 been added to that question Officer Daniels would
5 come in and add it, to that question correct?

6 A: Correct, follow up yes correct.

7 Q: Then Letroy would sit there for a little bit and
8 then he would say something like huh, uh-huh to
9 quite a bit of those questions.

10 A: Several of his answers yes would be.

11 Q: In one of your interviews I do not know if it was
12 the last one or second to the last one you guys
13 showed him some pictures?

14 A: Correct.

15 Q: Do you recall that incident where you showed him
16 the pictures?

17 A: I do.

18 Q: He kind of freaked out I guess for a lack of a
19 better word right this moment?

20 A: Correct.

21 Q: When you continued with the questioning him after
22 that did he kind of go with flow or answered your
23 questions to where you thought he might of been
24 telling the truth or you believed it to be the
25 truth?

1 A: I can not say for sure that everything he said
2 after that was the truth.

3 Q: That was because when I read your questions I saw
4 that you guys sort of indicated what you wanted an
5 answer to. I mean you filled in your questions with
6 a lot of facts and he gave the uh-huh through out
7 the whole period. You are saying despite him giving
8 the uh-huh or the answers you could not confirm a
9 lot of it to be true but not the truth in and of
10 itself on those last interviews.

11 A: On several occasions I noticed when I was scanning
12 back through, he would use words like they and
13 things like that and we would have to or uh-huh and
14 we would have to ask for more information instead
15 of just like a yes or no.

16 Q: In your questioning of Letroy you said on multiple
17 occasions we know you did not hit the man. Do you
18 recall that?

19 A: I recall stating that.

20 Q: We know you did not take nothing from the man. Do
21 you recall that?

22 A: Right.

23 Q: Was that the truth? Did you know that?

24 A: From information we had from other individuals we
25 believed that was probably the truth.

1 Q: You recall telling him we know you did not do
2 anything?

3 A: I may have said that I do not know.

4 Q: I read it a lot that is why I am asking.

5 A: It is possible.

6 Q: The reason I asking about whether you asked him
7 those questions, and I do not represent him. If you
8 ask him those questions why did you arrest him for
9 the crime?

10 A: Because he stated he was a lookout and he stated he
11 had knowledge of the assault prior to the assault.
12 He was actually part of what you would call the
13 plan of the assault. So because he was part of it
14 and he actually went in, he stated he went in the
15 residence while the assault and what you would call
16 a burglary was taking place he was charged.

17 Q: Let me see if I understand this for everybody to
18 understand it. Now you said he stated those things.
19 Did you ask him those questions and his answers
20 were uh-huh or yes or did he use those words in
21 making a statement, I was a lookout I went into the
22 house or did you ask those questions and he said
23 uh-huh?

24 A: He specifically used the word lookout.

25 Q: But everything else was your facts and his words

1 was uh-huh except for the lookout part, he said
2 lookout?

3 A: To tell you the truth I can not honestly verbatim
4 say what he said. Except for the lookout I do know
5 that I read that part in the transcript again.

6 Q: All of this came after his mind was blown from
7 looking at those pictures is that correct?

8 A: I can not say that was before or after to tell you
9 the truth.

10 Q: Letroy told you and Investigator Daniels that he
11 never saw any punch from Mr. Newman, J. White, Mr.
12 Newman. He told you that a couple of time quite a
13 bit of times correct?

14 A: Initially yes I believe that is true.

15 Q: Initially?

16 A: Yes.

17 Q: At some point you got him to where he gave you a
18 different answer?

19 A: Correct.

20 Q: That was after looking at those pictures of Mr.
21 Wimberly is that correct?

22 A: Like I said I can not tell you for sure at what
23 point he looked at the pictures. It may have been I
24 can not say.

25 Q: Ok well let me ask this question and this questions

1 is intended to solicit an answer after looking at
2 the pictures. After looking at the pictures did he
3 appear outrageously afraid and scared and nervous?

4 A: I can not say if he was afraid, nervous I would say
5 is a good description.

6 Q: Did he appear to be so nervous that he appeared to
7 be freaking out with his responses. Let me tell you
8 what I am talking about and then you can answer.
9 When you ask him a question to where he is uh-uh-
10 uh-uh-huh.

11 A: Are you referring to a specific question.

12 Q: Actually it is several of them and the transcripts
13 are so long to try to go through that is why I am
14 asking do you recall it. If you do not recall it I
15 just..

16 A: If you have a specific incidence I can probably
17 tell you more about that incident. But in general I
18 can not say that is true.

19 Q: Did he appear super calm when he gave an answer
20 that you believed to be the truth, on any of the
21 ones that you believed to be the truth?

22 A: I would not categorize it as. I would categorize
23 him as nervous, through the entire process.

24 Q: You read all of his or listened to his statements
25 before you interviewed him each additional time

1 after you interviewed him or did somebody tell you
2 about his prior statements?

3 A: Somebody had given me information on prior
4 statements. I did not hear any prior statements.

5 Q: So you knew you were going into an interview to
6 talk with a liar?

7 A: I knew he had told untruths in the initial
8 interviews correct yeah.

9 Q: Just as everybody else had been telling?

10 A: Correct.

11 Q: Again with Mr. Newman you only participated with
12 one interview with him?

13 A: I did not interview him at all. I met with him one
14 time.

15 Q: Of course that would have been after you guys
16 arrested him?

17 A: Correct it was after his arrest.

18 Q: That is when he said if I am arrested I want a
19 lawyer?

20 A: I was not part of that interview.

21 Q: Thank you very much for your time.

22 The Court: Mr. Devoe.

23 Investigator Rosdail - Cross Examination by Mr. Devoe

24 Q: Good morning.

25 A: Good morning.

1 Q: I have transcripts of what is to be your interview
2 with Mr. Samuels on May 28th, is that correct?

3 A: Which time are you referring to?

4 Q: 11 PM.

5 A: Ok.

6 Q: It does not say interview at all I guess it was
7 about an hour or so?

8 A: I am not sure it was a relatively long interview as
9 you can say.

10 Q: There is time at the top of it but it says the same
11 time every page but that can not be so. I am
12 assuming that 12:11 is not the right time that it
13 finished.

14 A: That is probably the starting time I would guess.

15 Q: You introduced yourself to my client at the time.
16 Were you there with Mrs. Daniels?

17 A: Correct.

18 Q: Who got the interview you or Mrs. Daniels?

19 A: I started the interview but we worked together on
20 the interview.

21 Q: But she brought you up to speed before the
22 interview started?

23 A: For the most part correct.

24 Q: So you knew what she sort of wanted to ask or what?

25 A: I knew about the incident so I kind of knew what

1 information they were trying to get.

2 Q: Did my client seem to be wanting to cooperate this
3 interview? Was he reluctant or what?

4 A: Initially he was reluctant as the interview went on
5 and certain facts were brought out he became a
6 little cooperative. After he started giving
7 information about the actual incident.

8 Q: Did he tell you that he was at the scene of the
9 crime, is that correct?

10 A: He did.

11 Q: That he participated in it?

12 A: He stated he was the lookout.

13 Q: Lookout for what?

14 A: He stated his job was to be the lookout to make
15 sure nobody else went in, was specifically what he
16 said.

17 Q: Any body else in the same building or strangers or
18 what do you mean by lookout for what?

19 A: For the theft of the gun and the assault and the
20 subsequent burglary of the house.

21 Q: The subsequent burglary was there burglary after
22 the theft of the gun?

23 A: The items that were taken from the house along with
24 the assault that took place would qualify as a
25 burglary.

1 Q: What was taken from the house?

2 A: From our understanding a cell phone or wallet
3 specifically and a handgun.

4 Q: They were the victims?

5 A: Correct that is our understanding.

6 Q: In your opinion did my client take the wallet or
7 the gun?

8 A: No sir.

9 Q: In this small house he was a lookout through the
10 screens for who, for what?

11 A: For the other individuals involved in the crime.

12 Q: Who is that?

13 A: He specifically name Montag Williams, and Jonathan
14 Newman, J. White.

15 Q: That was that he was there and you say he stayed to
16 look around to make sure nobody else came in?

17 A: That was what he initially said his job was.

18 Q: That was it?

19 A: Correct.

20 Q: That is what it was at the beginning and ending.
21 Did he benefit in any way from being a lookout?

22 A: I do not know if he did. I do not know if he got
23 anything or not.

24 Q: Well he did not get the gun.

25 A: My understanding he did not.

Investigator Rosdail - Redirect by Mr. Durant

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1 Q: He did not get the wallet.

2 A: My understanding he did not.

3 Q: He did not get the cell phone.

4 A: No sir.

5 Q: I got no further questions.

6 The Court: Any redirect?

7 Mr. Durant: Just a few Your Honor.

8 **Investigator Rosdail - Redirect by Mr. Durant**

9 Q: Detective Rosdail there were some questions asked
10 to you about whether or not there were any did your
11 investigation or details that may verify
12 individuals stories specifically Mr. Samuels story.
13 Let me ask you this, generally as an investigator
14 is it common for individuals to give you
15 information to implicate themselves, to confess to
16 a crime which they had no involvement?

17 A: No.

18 Q: Is it common for individuals to minimize their
19 involvement in crimes during interviews?

20 A: Yes.

21 Q: Is that something you see in a regular bases as an
22 investigator?

23 A: Yes.

24 Q: Let me ask you specifically about Mr. Sanders.
25 There was question about whether or not anything

1 was taken from the house and did he indicate to you
2 whether or not he saw a gun that had been removed
3 from this house later on?

4 A: He did.

5 Q: He told you that he saw the gun. Of course if you
6 arrested and charged these three individuals
7 together and you indicated earlier that you
8 arrested Mr. Samuels based upon in part his
9 statement that he was a lookout?

10 A: Correct and that he had prior knowledge that it was
11 going to happen.

12 Q: You are aware of the hand of one is hand of all law
13 in the state of South Carolina?

14 A: Yes.

15 Q: Is that part of your bases in charging Mr. Samuels?

16 A: Yes.

17 Mr. Durant: Your Honor I do not have any further
18 questions.

19 The Court: Any redirect Mr. Carter?

20 Mr. Carter: Nothing Judge.

21 The Court: Mr. Devoe?

22 Mr. Devoe: Nothing further Your Honor.

23 The Court: Thank you. You may step down.

24 Mr. Finney: Your Honor at this time the State would
25 ask for a recess for the afternoon. We have a medical

1 doctor that we have to get from Columbia and we will not
2 be able to get him here until the morning.

3 The Court: Ladies and gentlemen this is a good time
4 to break and we will reconvene tomorrow morning at
5 10:30. I have got to do some other things here tomorrow
6 morning at 9:30 so I am going to send you home for the
7 day with instructions that you not speak with anyone you
8 are going to get tired of me saying that you not speak
9 with anyone, that you not look at any news media, that
10 you not do any in private investigation or anything like
11 that, but have a nice afternoon but be back here at
12 10:30 tomorrow. Thank you ladies and gentlemen.

13 **(Jury excused)**

14 The Court: Since the State has not rested I will
15 not question your clients at this point. I will wait
16 until they rest and then I will question your clients as
17 to whether or not they are going to testify. Court is
18 adjourned until 10:30 tomorrow morning for you all, the
19 rest of us Mrs. Buelah for 9:30.

20 **(Court dismissed)**

21 **(Court in session 1-8-15)**

22 The Court: Bring the jury in. I see everybody
23 survived the cold night last night so and your cars
24 cranked and everything. We are glad to have you back
25 here this morning. State ready to proceed?

1 Mr. Durant: Yes sir Your Honor.

2 The Court: You may call your next witness.

3 Mr. Durant: The State calls Dr. Mark Jones.

4 The Court: Mark Jones come forward.

5 Bailiff: Raise your right hand place your left hand
6 on the Bible and state your name please.

7 Dr. Jones: Mark Allen Jones.

8 Bailiff: Do you swear the testimony you are about
9 to give will be the truth and nothing but the truth so
10 help you God?

11 Dr. Jones: Yes.

12 **Dr. Mark A. Jones - Examination by Mr. Durant**

13 Q: Dr. Jones if you would please tell the jury a
14 little bit about your education and training.

15 A: Yes sir. I am a board certified general surgeon and
16 certified critical care specialist. I am a full
17 time trauma surgeon at Palmetto Health Richland
18 Level 1 Trauma Center. I completed medical school
19 in Tennessee and my surgery and trauma training
20 here in Columbia South Carolina.

21 Q: When did you complete medical school?

22 A: 2004.

23 Q: Tell me a little bit about your experience, where
24 did work since then? Where did practice since
25 graduating from medical school?

1 A: After graduating medical school we go to residency.
2 I did five years of general surgery training at
3 Palmetto Health Richland followed by an additional
4 year... and since then I have been on staff as a
5 full time trauma surgeon at the Trauma Center in
6 Columbia.

7 Q: Is it fair to say that the nature of your practice
8 is specialized in trauma surgery?

9 A: Absolutely.

10 Q: Tell the jury what classifies, what is meant by the
11 term trauma surgery?

12 A: Trauma surgery incorporates the care of critically
13 injured patients. That could be anything from, we
14 consider blunt trauma and penetrating trauma. Blunt
15 trauma, we take care of car crashes and falls and
16 all of those types of things, all the way to the
17 spectrum of penetrating trauma, gun shot wounds,
18 stab wounds and the like.

19 Q: Have you had occasion to testify in your capacity
20 of a trauma surgeon in the courts of South Carolina
21 before?

22 A: Yes sir.

23 Q: How many times?

24 A: Twice if remember correctly.

25 Q: Were you qualified as an expert?

1 A: Yes sir I was.

2 Q: Your Honor at this time I would offer Dr. Jones as
3 an expert in the field of trauma surgery.

4 The Court: Any voir dire Mr. Carter or Mr. Devoe?

5 Mr. Carter: None Judge.

6 The Court: Any objection to him being an expert?

7 Mr. Carter: We have none Judge.

8 The Court: Ladies and gentlemen the attorneys for
9 defenses consented and I can be appointed as expert in
10 the field of trauma surgery. Just like the other expert
11 witness, normally a witness can only testify as to what
12 the heard, saw, smell, taste, or felt, however he got an
13 additional amount of education experience and I will
14 allow him to give an opinion based upon what he saw and
15 his knowledge. Whether you decide to except it will be
16 up to you and you should give it no greater weight
17 simply because he is an expert, but give it the weight
18 that you think is. You may proceed.

19 Q: Dr. Jones are you familiar with the medical records
20 of a patient named Anthony Wimberly that was
21 admitted to Palmetto Health Richland back on May
22 26, 2013?

23 A: I am familiar with those records.

24 Q: Did you have occasion to assist in the care and
25 treatment of Mr. Wimberly during his time there?

1 A: I did participate in his care.

2 Q: Based upon your knowledge and the medical records
3 and your treatment of Mr. Wimberly, can you tell
4 the jury describe the condition he was in when
5 presented to Palmetto Health Richland?

6 A: Yes, Mr. Wimberly presented in transfer actually
7 here from Clarendon where he was initially assessed
8 and he came to use to the trauma center. He had
9 evidence of blunt trauma to his head and face,
10 included swelling to the face and some blood in his
11 nose. He also at that time is neurological status
12 was such that he was unconscious and being
13 supported with a ventilator and the summary being
14 that the majority of his trauma was from his neck
15 up, primarily to his head and face.

16 Q: Would you describe for the jury the particularity
17 of the injuries the Mr. Wimberly presented to the
18 hospital?

19 A: The injuries that we identified after his
20 evaluation. At the time of his presentation we were
21 not completely certain that further evaluations
22 including CT scans and those sorts of things were
23 done and the conclusion of that was that he had
24 three primary injuries. One the most traumatic
25 brain injury including what we would call subdural

1 bleeding subarachnoid bleeding and other areas of
2 bleeding within the actual brain tissue. The
3 subdural and subarachnoid is bleeding around the
4 brain itself within the skull. The next injury was
5 a fracture of the nasal bone which is the bone in
6 the nose and the other injuries included fractures
7 to the cartilage or the strong protective part of
8 the trachea or the windpipe. Also a fracture of
9 what is called the hyoid bone which is a bone
10 within the front part of the neck, that some of the
11 neck muscles attach to. Those were the injuries.

12 Q: Doctor Jones can you give this jury an opinion
13 to...whether or not these injuries were the result
14 or were likely the result of multiple blows?

15 A: My opinion is that they would be.

16 Q: Doctor if you would just tell the jury a little bit
17 about the treatment of Mr. Wimberly during his time
18 there.

19 A: He was admitted and cared for in our Intensive Care
20 Unit for quite a few days and subsequently required
21 artificial breathing tube or tracheotomy tube due
22 to the severity of his brain injury as well as
23 other supportive measures for several weeks. He did
24 eventually improve to some degree and was able to
25 come out of the ICU and wean off the ventilator

Dr. Mark Jones - Cross Examination by Mr. Carter

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1 support and subsequent to this we had an event
2 where the record reports he had an seizure which
3 would have most likely been related to his brain
4 injury and potential aspirated which means that
5 some of his secretions from his stomach, he also
6 had and artificial feeding tube at this point and
7 that the feed can be aspirated into the airway
8 with led to pneumonia and subsequently he passed
9 away as a result of all of his complications.

10 Q: Doctor based upon your examination and treatment of
11 Mr. Wimberly...severity with his records. Can you
12 tell this jury with reasonable and certainty what
13 caused his death on July 29, 2013?

14 A: I feel very confident that the death was a direct
15 result of the complications associated with his
16 traumatic brain injury.

17 Q: Dr. Jones I do not have any further questions.

18 The Court: Mr. Carter.

19 Dr. Jones - Cross Examination by Mr. Carter

20 Q: You testified that there were multiple injuries and
21 you said you believe there were multiple. From the
22 multiple injuries do you believe it was the result
23 of a single blow or multiple blows or punches or
24 hits to the body?

25 A: My opinion would be that it would be multiple blows

1 to use your word to the head and neck.

2 Q: Multiple blows meaning that somebody punched,
3 kicked, or did something used some instrument of
4 sort is that correct?

5 A: The injuries are consistent with that yes sir.

6 Q: Consistent with that even though I used the words
7 let me clear it up. Are you meaning consistent with
8 a fist possibly a foot?

9 A: I would not be able to answer that question sir.

10 Q: What do you believe the injuries were consistent
11 from?

12 A: The blunt force trauma is the best that I can deem
13 from the information.

14 Q: Do you have a medical opinion within a medical
15 degree of certainty as for what type blunt force
16 was used?

17 A: No sir.

18 Q: So you do not know if the blunt force came as a
19 result of a bat, as a result of a chair?

20 A: I would not be able to tell that sir. I do not have
21 expertise in forensics.

22 Q: Do you know if the blunt force was the result of a
23 single fist?

24 A: No way to know.

25 Q: So you do not know what the blunt force was?

1 A: No sir.

2 Q: You just know there was a blunt force?

3 A: Absolutely.

4 Q: Along with the blunt force it is your opinion that
5 it was multiple blunt forces?

6 A: Yes.

7 Q: Multiple blunt forces meaning strike more than
8 once?

9 A: Yes sir.

10 Q: In one of the blunt forces you said was a blow to
11 the mouth, face what was it?

12 A: Well there was a nasal bone fracture so there was a
13 fracture of the bone of the nose yes sir. Also
14 there were fracture of the cartilage or the outer
15 supportive part of the windpipe or trachea as well
16 as the bone called the hyoid bone, which lives here
17 in the end to your neck where the neck muscles
18 attach to it.

19 Q: There were blunt forces about did I hear you say
20 the head?

21 A: He had swelling around his eyes which inhibited our
22 ability to completely open his eye. So fairly
23 significant what we would call periorbital edema or
24 swelling around the eye as well.

25 Q: Swelling around the eye and you are testifying that

1 there was blunt force there also?

2 A: These injuries would be consistent with that yes
3 sir.

4 Q: Consistent with multiple blunt forces the eye being
5 one of the three that I have asked you about so
6 far?

7 A: Yes sir.

8 Q: Can you tell that there was a blunt force and again
9 I keep using blunt force because you said you do
10 not know if it was a foot, a fist, a chair leg or
11 anything else. Was there a blunt force right about
12 or contact having been made to any part of the head
13 other than what we already talked about?

14 A: I do not recall a distinct area on the forehead or
15 the back of the head but the patients traumatic
16 brain injury is consistent with blunt force trauma
17 to the skull and the head yes sir.

18 Q: Meaning there was contact to the skull of the head?

19 A: Yes.

20 Mr. Carter: Thank you very much.

21 The Court: Mr. Devoe?

22 Mr. Devoe: No questions Your Honor.

23 The Court: Any redirect based upon his cross?

24 Mr. Durant: No sir Your Honor I ask that Doctor
25 Jones be excused.

1 The Court: Any objection?

2 Mr. Carter: We have no objections.

3 The Court: Thank you Doctor have a safe drive back
4 to Columbia.

5 Mr. Finney: Your Honor the State of South Carolina
6 rest.

7 The Court: Alright thank you. Ladies and gentlemen
8 at this time I will send you back to the jury room so
9 that you can get some coffee or some coke. We have got a
10 few matter of laws that we need to take on, thank you.

11 **(Jury break)**

12 The Court: Are there any motions to be made at this
13 time from the defense?

14 Mr. Carter: None Judge.

15 The Court: Mr. Devoe?

16 Mr. Devoe: Your Honor my client has pointed out to
17 me that in motions that we did not get full discovery
18 from the State.

19 The Court: That should have been brought up before
20 the trial began sir. Your motion is not timely.

21 Mr. Finney: Your Honor may I have a moment please?

22 The Court: You may.

23 Mr. Finney: Your Honor please on behalf of the
24 State we would like to say in light of the State's,
25 defense not to make motions that we want to put on the

1 record that we believe that the State has put forth
2 evidence on each of the charges in the indictment to
3 establish a probable cause so to speak for the
4 submission of the case to the jury. We believe that
5 there is evidence sufficient from the testimony over the
6 last two days to support the finding of a murder
7 conviction or burglary conviction on each of these
8 defendants by this jury.

9 The Court: They made no motion, no motion made...

10 Mr. Carter: Your Honor now I did not make a motion
11 because ordinarily the State is the plaintiff in an
12 action and I did not make a motion...

13 The Court: No sir no sir you did not make a motion
14 and it is required that you make a motion for directive
15 verdict at that time that they did not prove there case.
16 You made no such motion and neither did Mr. Devoe and
17 therefor the inference is that there is sufficient
18 evidence to take it to the jury and it is going to go to
19 the jury, thank you. Now let me question your clients as
20 to the request or whether they want to testify or not.
21 Mr. Newman if you would please stand. Please raise your
22 right hand. Please swear him Mrs. Beulah.

23 Bailiff: Do you solemnly swear to tell the truth,
24 the whole truth, and nothing but the truth so help you
25 God?

1 Mr. Newman: I do.

2 The Court: Please remain standing. Sir we have now
3 reached the stage of the trial where you will be able to
4 present your defense and I am going to explain to you
5 certain of your rights. If you do not understand
6 anything I say let me know and I will explain in greater
7 detail if you need for me to. Like I said we have now
8 reached the stage of your trial where you may present
9 your defense or you have a right to claim the
10 protections given to you by the Fifth Amendment of the
11 United States Constitution. Which says in part that no
12 person shall be compelled in any criminal case to be a
13 witness against themselves. This means that you can not be
14 required to testify in this case and you have a right to
15 testify on your own behalf, however no one can make you
16 testify. This is a personal right and no one may wave
17 this right except for you. If you decide to testify you
18 will be subject to the same rules that govern other
19 witnesses and you may be examined and cross examined on
20 any relevant issue in this case. In addition if you have
21 any convictions involving dishonesty or false statements
22 or for crimes punishable by imprisonment of more than
23 one year and this determines that the probative value of
24 admitting this evidence outweighs its prejudicial effect
25 on you the solicitor will be able to introduce your

1 record to attack your credibility. Solicitor are there
2 any charges that you would bring up on this defendant
3 should he testify?

4 Mr. Durant: Your Honor my understanding is that his
5 record is juvenile convictions so no charges Your Honor.

6 The Court: If you decide to testify the decision on
7 your part must be freely, voluntarily, and intelligently
8 made with knowledge of the protections given you by the
9 Fifth Amendment and the consequences of your decision to
10 testify. If you decide not to testify I will instruct
11 the jurors that they can not give the fact that you did
12 not testify any consideration whatsoever and that there
13 is to absolutely not prejudice to you because you did
14 not testify. It is left entirely up to you whether or
15 not you want to testify. You may talk with your
16 attorney. You may talk with any family member or anyone
17 else but the final decision will be left entirely up to
18 you. I am going to question both of them and give you
19 all about ten minutes to speak with them and then I will
20 ask the ultimate question. Do you understand what I have
21 explained to you?

22 Mr. Newman: Yes Your Honor.

23 The Court: Do you have any question about what I
24 have explained to you?

25 Mr. Newman: No sir.

1 The Court: You may seated. Mr. Samuels if you will
2 please stand. Place Mr. Samuels under oath.

3 Bailiff: Do you solemnly swear to tell the truth,
4 the whole truth, and nothing but the truth so help you
5 God?

6 Mr. Samuels: Yes.

7 The Court: Alright Mr. Samuels I am going to ask
8 you the same questions and go over the same issues as I
9 did with Mr. Newman. At this time I am going to explain
10 to you certain of your rights. If you do not understand
11 anything that I say please let me know and if you want
12 me to explain anything in more detail let me know, do
13 you understand?

14 Mr. Samuels: Yes sir.

15 The Court: Like I said we have now reached the
16 stage of your trial where you may present your defense
17 or you have a right to claim the protections given to
18 you by the Fifth Amendment and to the Constitution of
19 the United States. Which states in part that no person
20 shall be compelled in any criminal case to be a witness
21 against himself. This means that you can not be required
22 to testify in this case and you have a right to testify
23 on your own behalf, however no one can make you testify.
24 This is a personal right and no one can wave this right
25 except for you. If you decide to testify you will be

1 subject to the same rules that govern other witnesses
2 and you may be examined and cross examined on any
3 relevant issue in this case. In addition if you have any
4 convictions involving dishonesty or false statements or
5 for crimes punishable by imprisonment of more than one
6 year and this court determines that the probative value
7 of admitting this evidence outweighs its prejudicial
8 effect on you then State will be able to use your record
9 to attack your credibility. Does Mr. Samuels have any
10 convictions that the State would bring up?

11 Mr. Durant: Your Honor within the ten year period
12 he does have an unlawful firearm possession charge,
13 possession of a firearm by a convicted felon in 2011.

14 The Court: Alright do you understand that those
15 convictions would come into if you take the stand they
16 can question you about those?

17 Mr. Samuels: (nods head yes on charge)

18 The Court: If you decide to testify the decision on
19 your part must be freely, voluntarily, and intelligently
20 made with knowledge of the protections given to you by
21 the Fifth Amendment and the consequences of your
22 decision to testify. If you decide not to testify I will
23 instruct the jurors that they can not give the fact that
24 you did not testify any consideration whatsoever and
25 that there is to be absolutely not prejudice to you

1 because you did not testify. It is left entirely up to
2 you whether or not you want to testify. You may talk
3 with your attorney and any family member and anyone else
4 but the final decision will be left up to you. We will
5 now take a ten minute recess while you talk with your
6 attorneys. When we come back I will ask you the ultimate
7 question. Thank you may be seated. Court is in recess
8 for the next ten minutes.

9 **(Court in recess)**

10 **(Court in session)**

11 The Court: Alright Mr. Newman please stand. Mr.
12 Newman have you had an opportunity to speak to your
13 attorney about whether or not you want to testify?

14 Mr. Newman: Yes sir I have.

15 The Court: Have you decided whether or not you want
16 to testify?

17 Mr. Newman: Yes sir I will.

18 The Court: You will testify?

19 Mr. Newman: Yes sir.

20 The Court: Alright thank you. Mr. Samuels please
21 stand. Have you talked with your attorney whether or not
22 you want to testify?

23 Mr. Samuels: Yes sir.

24 The Court: Are you going to testify?

25 Mr. Samuels: Alright very well thank you. You may

1 be seated. Alright let us bring our jury.

2 Mr. Finney: Please the Court. Before you do that
3 Your Honor out of an abundance of caution Mr. Durant and
4 I have spoken and we would ask the Court to allow the
5 defense to make any motions relative to the direct
6 verdict because we want to have this record pristine as
7 it goes under review. If they want to make the record.
8 If they do not want to make it, obviously we can not
9 make them make it.

10 The Court: Now Mr. Carter would you like to make a
11 motion for directed verdict?

12 Mr. Carter: I beg the Court's indulgence Your
13 Honor.

14 The Court: Mr. Carter.

15 Mr. Carter: Yes Judge at this time I would like to
16 move the Court first for a directed verdict on the issue
17 of burglary, first degree burglary. As the Court should
18 recalled with regards to burglary, burglary requiring
19 entry into the home of another without their permission.
20 In this particular case if you examine your memory as to
21 each and every of the witnesses none of the witnesses
22 literally could put Jonathan Newman into the home.
23 Montag himself indicated that, if you take his testimony
24 just with regard to the burglary aspect of the matter
25 and he would have been the only person that could even

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1 put Jonathan anywhere near the door of Mr. Wimberly's
2 home. His testimony is that Jonathan was standing at the
3 door and standing at the door which means that he would
4 have been on the steps and into the porch. This is a
5 duplex which makes the porch a common area for both
6 persons living in that particular residence because the
7 porch is shared with double doors. The testimony is
8 indicated that Mr. Slater who owned the other duplex or
9 lived in the other duplex had a party where everybody
10 was going and drinking and everybody have to use the
11 porch in order to enter. So was the porch would not or
12 should not be or is not a section that can be counted as
13 a residence of Mr. Wimberly. That being the case, again
14 there is not witness that can place Jonathan as having
15 gone into the home of Mr. Wimberly. There is not witness
16 who can place Jonathan as having taken or stolen
17 anything or burglarized in anyway any items out of Mr.
18 Wimberly's home. There is now witness who can testify
19 about a break in of course the doors was open and
20 everybody had been going in and out of the two duplex
21 apartments homes residents willingly and openly. So we
22 would submit that the State has presented no evidence
23 with regards to the burglary itself and we would ask the
24 Court for a directed verdict and that that issue not be
25 allowed to go further to the jury.

1 Mr. Finney: Please the Court Your Honor. Obviously
2 council has selected memory because Mr. Montag testified
3 that when he came out of the back bedroom from throwing
4 the drawers open and the mattresses around he saw Mr.
5 Newman standing in the living room. We think Your Honor
6 under that one witness testimony alone there would be
7 enough to submit the case to the jury. However you also
8 have the occasion of using, hand of one hand of all,
9 even if Mr. Newman was considered to be a getaway driver
10 and stayed in his vehicle. If he knew his partner was
11 going in there to burglarize he would be guilty of the
12 burglary under that theory as well and for that reason
13 along with the fact that door being open does not have
14 anything to do with the close which is the legal
15 definition of going into the building without
16 permission. He went into the close of the building by
17 virtue of the fact that he went into the living room by
18 virtue of Mr. Montag's testimony and we think the State
19 has proved it's case.

20 Mr. Carter: Your Honor if I may just respond
21 quickly.

22 The Court: Yes sir.

23 Mr. Carter: Here is what make that argument differ
24 or not valid. As you will recall from all of the
25 testimony. A party was going on with both door open,

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1 with everybody going in and out and in and out of both
2 apartments. In this particular case here and Mr. Newman
3 has indicated that even he had gone in and out well he
4 has not testified yet, but he had gone in and out of
5 those apartments because he know both of those persons.
6 Mr. Wimberly the victim in this particular case here,
7 after he got drunk he developed a mentality from the
8 testimony about him not wanting a white person around
9 his home, but I am sure that was just the alcohol
10 kicking in or acting out. But again we are talking about
11 unlike a separate even if it was an apartment in an
12 apartment complex which would have made a difference
13 these parties shared a porch and it was a common porch,
14 common for every bodies usage. Even if Montag was in
15 there ramshacking the house and Jonathan came on the
16 step and then eventually onto the porch and then came to
17 the door, you know burglary is one of those things that
18 you know you have to be intending to go in there and rob
19 and the parties kind of got to have an idea that that is
20 something that they are going to be doing.

21 The Court: I think there was evidence indirectly
22 that they talked about doing that prior to it happening.
23 Do you agree, there was a plan made ahead time? I am not
24 saying it is true or not. I am saying that there is
25 evidence in the record of that.

1 Mr. Carter: Maybe I have selective memory on that
2 part of it. I do not recall that judge, but again I do
3 not think the State has met their burden with regards to
4 a first degree burglary or any burglary.

5 The Court: At this time of the trial at this point
6 the Court is more concerned with the presence of any
7 evidence not the weight of the evidence. Certainly the
8 evidence that has been presented whether or not the jury
9 wants to believe it or not will be up to them. There is
10 certainly more than a mere suspicion so it has got a
11 enough to take it to where that issue will go to the
12 jury and I will not grant your motion and respectfully
13 deny it.

14 Mr. Carter: Thank you Your Honor.

15 Mr. Devoe: Your Honor just for the record I will go
16 along with Mr. Carter.

17 The Court: Thank you I am going to respectfully
18 deny your motion as well. Anything further?

19 Mr. Carter: Mr. Finney reminded me about the other
20 charge.

21 The Court: Thank you Mr. Finney.

22 Mr. Finney: You are welcome Your Honor.

23 Mr. Carter: Your Honor with regards to the murder
24 charge. We would ask the Court for a directed verdict on
25 the murder charge also. Your Honor if you took all of

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1 the evidence and we know that the man died, the man is
2 dead. If you took all of the evidence and then you
3 compare it to what the law requires for a murder, for a
4 murder charge ok. For a murder meaning that the parties
5 they intended their result for a murder as opposed to a
6 voluntary/involuntary manslaughter or some other type
7 of injury that results in the death. If you look into
8 the murder charge you do not have any witnesses who can
9 say assuming that these guys punched that man and
10 injured him and somebody did but assuming that the
11 parties before the Court did. If you look at that as
12 having occurred and ask yourself could they intend to
13 commit murder from that incident. Now if you look at the
14 testimony of the party assuming that because there was
15 some testimony about whether Jonathan punched the guy or
16 did not punch the guy let us assume just for purposes of
17 this argument that he punched the guy. Can you find that
18 that punching was enough that he believed that he was
19 going to murder the guy or going to murder the guy or
20 intending to murder the guy. If you take that testimony
21 and then compare it to the person who gave the most
22 evidence about the actual contact or the actual
23 striking, nobody could literally tell us that there was
24 aside from the doctors nobody could say that there was
25 more than one punch or more than one strike from anybody

1 that was seen by these defendants. The last doctor
2 testified that he believes there were multiple punches
3 but even if he is saying that there were multiple
4 punches there is no testimony that Jonathan Newman
5 punched the guy more than one time. Assuming that you
6 can say the he punched him and if he punched him can you
7 find from any testimony that was given that that punch
8 was a punch where he intended to commit an act of murder
9 or intended that the person die from that punch. We do
10 not believe the State has presented any evidence and
11 definitely not, well not even sufficient evidence but
12 any evidence to show intent on his part to commit an act
13 that would result in murder or the death of this
14 individual.

15 Mr. Finney: Please the Court Your Honor I again I
16 would ask the Court to consider the testimony of the
17 witness who, two witnesses actually, Mr. Leon Coleman
18 and Mr. Montag Webb, about the plan that was brought to
19 them by Mr. Newman to take the property of Mr. Wimberly.
20 Also the testimony of Mr. Webb who did see a physical
21 confrontation I believe between Mr. Wimberly and Mr.
22 Newman. We have testimony that Mr. Samuels was present
23 during that assault. We have testimony that Mr. Montag
24 Webb not only saw the assault but carried out a robbery
25 after he knew that the victim was down and was not able

1 to defend himself. All of these tied together show
2 clearly that there was a plan and that the natural
3 consequence of that plan was to incapacitate or stop the
4 victim from protecting his property and that plan would
5 cover what happened to the victim which was he was
6 assaulted. Had grievous injury and as a result of those
7 injuries was not able to recover and ultimately lost his
8 life. We think the jury should consider the charge and
9 that there are sufficient facts under the hand of one
10 and the hand of all and under the testimony coming from
11 the witness stand to show that these two gentlemen who
12 are on trial now did concocted a plan and the result of
13 that plan was robbery, burglary, and murder.

14 Mr. Carter: Your Honor let us assume that council
15 is correct that the parties intended to incapacitate.
16 Again incapacitate, and murder are two different things.
17 If you intend to incapacitate a person so you could
18 steal his telephone. Murder is one of those things where
19 you have to intend the result of your action. Again we
20 do not believe that there is evidence maybe evidence for
21 something else which we are not saying there is but we
22 do not believe that there is any evidence for the act of
23 murder which require some intent on there part. We would
24 ask the Court for a directed verdict.

25 The Court: I am going to respectfully deny you

1 motion again the Court is not so worried about the
2 weight of the evidence as it is the existence being more
3 that a mere suspicion. If this was a planned robbery, a
4 planned burglary, and then with the intent to
5 incapacitate which resulted in the death and the
6 certainly can rise, because all it takes is that one
7 incident of premeditation and therefor and premeditation
8 can be shown by the planning of an action and therefor I
9 will deny your motion and we will proceed to the jury
10 for your client. Mr. Devoe...

11 Mr. Devoe: Your Honor my client I would suggest
12 that in his case there was not plan, there was no
13 confrontation. While he was present there he was present
14 long before...

15 The Court: But you would admit that there is
16 evidence in the record that he said he was the lookout.

17 Mr. Devoe: I do not believe the record shows that
18 unless I did not hear it.

19 The Court: You did not hear the testimony
20 yesterday. You did not hear that testimony where in his
21 statement he said he was the lookout?

22 Mr. Devoe: No I did not. Even if it was the lookout
23 and I do not think that is correct that he was. He was
24 there, he was at a party at his friend's house and Kevin
25 Slater testified that he was there for the party at his

1 house. In and out of the front porch at Kevin Slater's
2 house. There was not animosity or plan from my client to
3 take anything from the deceased. He just happened to be
4 present and he was there.

5 Mr. Finney: Your Honor I think that the record as
6 the motion has been made that the record is clear. That
7 witnesses identified Mr. Samuels as being involved with
8 the group with the assault. That he was in the room when
9 the assault took place and that he considered himself a
10 lookout when he was interviewed by the police a day or
11 two later. All of those facts together in our opinion
12 support the fact that he should be judged by this jury
13 based on the testimony and have his day in court which
14 he has asked for.

15 Mr. Devoe: I believe that Montag Webb testified
16 that my client left as soon.

17 The Court: There may be conflicting evidence but
18 certainly there is evidence.

19 Mr. Devoe: He did say that my client left as soon
20 as it started.

21 The Court: You can argue that to the jury because
22 it is going to go to the jury. Your motion is denied,
23 thank you. Is the defense ready to proceed or do you all
24 want to take a lunch break and then come back. Let me
25 see the lawyers up here real quick.

1 **(Jury in)**

2 The Court: Ladies and gentlemen I think we have
3 decided, talking with both attorneys. What we are going
4 to do is we are going to go ahead and break for lunch
5 now, with instructions that you be back here at one
6 thirty and we will continue with the case. Please do not
7 discuss anything about the case while you are out there
8 and bundle up do not get too cold out there, thank you
9 ladies and gentlemen.

10 **(Jury break)**

11 The Court: Alright court is in recess until 1:30.

12 **(Court break)**

13 **(Court in session/Jury in)**

14 The Court: Alright ladies and gentlemen I hope you
15 had a nice lunch. Mr. Carter are you ready to proceed?

16 Mr. Carter: We are Your Honor. At this I would like
17 to call Jonathan Cody Newman to the stand.

18 Bailiff: Raise your right hand place your left hand
19 on the Bible repeat after your name please.

20 Mr. Newman: Jonathan Newman.

21 Bailiff: Do you solemnly swear the testimony you
22 are about to give to be the truth and nothing but the
23 truth so help you God?

24 Mr. Newman: I do.

25 Mr. Carter: Please the Court Your Honor?

1 The Court: Yes.

2 Jonathan C. Newman - Examination by Mr. Carter

3 Q: Mr. Newman, give us your full name please.

4 A: Jonathan Cody Newman.

5 Q: How old are you Jonathan?

6 A: I am 21.

7 Q: Jonathan, since this trial has been going on we
8 have been hearing some other names called around
9 here. Did you have a nickname or something that
10 guys called you?

11 A: Yes sir they refer to me as J. White.

12 Q: J. White, ok, so you are the J. White that
13 everybody has been talking about?

14 A: Yes sir.

15 Q: Now tel me a little bit about yourself. You right
16 here from Manning, Clarendon County?

17 A: Not originally no.

18 Q: Where are you from? Where were you born?

19 A: I lived in Sumter when my father was in the Air
20 Force and he was stationed ...

21 Q: You are a military kid?

22 A: Yes sir.

23 Q: At some point you come to live here in Clarendon
24 County, Manning. Is that correct?

25 A: Yes sir.

1 Q: How long have you been here in Manning as a regular
2 resident that is?

3 A: 2008.

4 Q: 2008 and since you have been here in Manning did
5 you go to school here?

6 A: Yes sir I did.

7 Q: You went to school at Clarendon 2?

8 A: I went to Manning Highschool.

9 Q: Manning Highschool. Ok at some point in time did
10 you graduate from Manning High?

11 A: No sir.

12 Q: When did you leave Manning High?

13 A: My second year in tenth grade.

14 Q: Tenth grade ok. What did you do after you
15 discontinued in the tenth grade?

16 A: I decided I wanted to work.

17 Q: To work?

18 A: Yes sir.

19 Q: What type of work have you done now in your life?

20 A: Carpentry work, roofing.

21 Q: Carpentry work?

22 A: Yes sir.

23 Q: What kind of carpentry did you do like what floors
24 or build houses?

25 A: Framing houses, building houses, roofing work.

1 Q: Roofing work?

2 A: Yes sir.

3 Q: What kind of roofing what did you do, you put roofs
4 up?

5 A: Nailing shingles.

6 Q: The shingles.

7 A: Yes sir.

8 Q: Is that something that you have done a lot of or
9 something you just started or something you learned
10 how to do?

11 A: I have done a good bit of it.

12 Q: Are you able if you had the time are you able to do
13 a roof by yourself?

14 A: Yes sir I could.

15 Q: You have done enough of that got enough training in
16 that to know that?

17 A: Yes sir.

18 Q: You said the carpentry. Did you work with somebody
19 or you worked for yourself or what?

20 A: I worked with Diamond Worldwide, Inc.

21 Q: What is that, like a construction company of sorts?

22 A: They do a lot of different things, porches,
23 framing, they do roofing too, tile work, pretty
24 much anything that has to do building things.

25 Q: Is that something that is consistent or is that

1 something that is seasonal?

2 A: You know it depends, you know a lot of times it is
3 the economy it different work.

4 Q: So whenever there is work that is what you would be
5 doing if they had work at that time?

6 A: Yes sir.

7 Q: Ok and the same thing with the roofing aspect of
8 it?

9 A: Yes sir.

10 Q: But you reached a point at some time where you were
11 no longer doing neither one of those things. Is
12 that correct?

13 A: Yes sir.

14 Q: What did you do after you were no longer doing
15 neither one of those things?

16 A: My mom runs a detail shop. I did a bit of work
17 there for her.

18 Q: How long had you worked there with your mother's
19 business?

20 A: I have been there on and off a couple of years.

21 Q: On and off a couple of years?

22 A: Yes sir.

23 Q: Was that the last job you had?

24 A: Yes sir up until I was incarcerated yes.

25 Q: So you were working there up until you were

1 incarcerated for this event?

2 A: Yes sir.

3 Q: Are you married?

4 A: No sir.

5 Q: Do you have any children?

6 A: I do.

7 Q: How many kids do you have?

8 A: I have two daughters.

9 Q: Two daughters, ok. Are they here in Clarendon
10 County or where?

11 A: Here in Clarendon County yes.

12 Q: Well very good then. Let me take you to the date of
13 this event and I think it is classified as May 25-
14 26, 2013. Let us go to May 25th, do you recall that
15 date?

16 A: Yes sir.

17 Q: Let us start with when you got up that day. Do you
18 remember getting up out of bed that day?

19 A: Yes.

20 Q: Ok well let us take it from there. After you got up
21 out of bed what did you do then?

22 A: Montag stayed around the house with us and he just
23 asked us if we could go check out Kevin's new house
24 he just moved to the area.

25 Q: Well, do you know what time you got up?

1 A: I would say probably about 1:30-2.

2 Q: 1:30-2 some where around there?

3 A: Yes sir.

4 Q: At some point after you got up you decided to, what
5 was that again?

6 A: Take a shower, get dressed, and then we was going
7 to head out to Kevin's house.

8 Q: Kevin, is that Kevin Slater?

9 A: Yes sir.

10 Q: That is also the individual known as K. Slate or
11 something?

12 A: K. Slate yes sir.

13 Q: Is K. Slate the person who resided in the duplex
14 next to the victim in this matter?

15 A: Yes sir and his girlfriend.

16 Q: Why were you guys deciding to go to K. Slate's
17 place?

18 A: He just moved to the area and he was having a
19 gathering, drinks some beers and stuff so we
20 decided to go.

21 Q: K. Slate was individual that was in the Army, the
22 troopers in the Army?

23 A: Yes sir.

24 Q: So you guys got dressed? What happened after you
25 got dressed?

1 A: We started walking to Kevin's his cousin Brandon's
2 house was on the way. Saw a bunch of people there,
3 we stopped there and saw that they was playing
4 cards, and we played a game of cards too.

5 Q: Let me ask you something. Where did you live here
6 in Manning?

7 A: I lived with my girlfriend, on

8 Q: , is back behind I guess
9 so to speak behind ,
10 ?

11 A: Yes sir.

12 Q: Is that some where over there near the county jail
13 house?

14 A: Yes sir, directly behind.

15 Q: Directly behind the county jail house. So you guys
16 were going to walk from which is back
17 behind the county jail house up to
18 Is that correct?

19 A: Yes sir.

20 Q: is where this building was located,
21 correct? Alright now, so you got you said and you
22 were walking toward . What happened as
23 you were walking toward ?

24 A: We stopped by Montag's cousin's house.

25 Q: What made you stop by the cousin house if you were

1 going to .?

2 A: We saw a bunch of people there and decided to see
3 what was going on.

4 Q: So you went on to the cousin's house. What was the
5 cousin's name?

6 A: Brandon.

7 Q: Brandon?

8 A: Yes sir.

9 Q: Did you in fact go there?

10 A: Yes sir I did.

11 Q: What did you do when you got there?

12 A: Everybody was playing cards so we were trying to
13 play cards also.

14 Q: So you when there, you guys started playing cards a
15 little bit. Is that correct?

16 A: Yes sir.

17 Q: Let me ask this. Montag does not regularly live
18 with you guys does he?

19 A: Not really, he is on and off he has a bunch of
20 places he goes.

21 Q: What occasion was Montag there at the house? Why
22 was he there?

23 A: He had a child with my girlfriend's sister.

24 Q: So your girlfriend's sister. Does she live there?

25 A: Yes sir she does.

1 Q: So and he has a child with her?

2 A: Yes sir.

3 Q: So now you said that you guys went onto Brandon, is
4 that Lisa?

5 A: Yeah that is his that is Lisa's house, that is her
6 son Brandon.

7 Q: Brandon is the child of Mrs. Lisa. Ok so you were
8 there and you were playing cards. Were you doing
9 any drinking of any sort?

10 A: Yes sir we did.

11 Q: What kind of drinking? What were you drinking?

12 A: Beers.

13 Q: How long did you stay there at Mrs. Lisa's house?

14 A: Probably about an hour.

15 Q: About an hour. What did you do after you left Mrs.
16 Lisa's house?

17 A: Went to Kevin's house.

18 Q: That is Kevin Slater?

19 A: Yes sir.

20 Q: Any idea what time you went to Kevin Slater's
21 house?

22 A: If I woke up about 2 and we stayed there about an
23 hour I would say about 3:30-ish.

24 Q: 3:30-ish. How long did you stay there at Kevin
25 Slater's house?

1 A: I stayed there a couple hours.

2 Q: Is Kevin Slater's house, is the house that is on
3 that little picture with those two trees in front
4 of it. Which is the house where this victim was. Is
5 that correct?

6 A: If you are standing in front it is the right side.

7 Q: So you said you went there about 3ish?

8 A: 3:30ish.

9 Q: 3:30ish ok and what did you do when you got there?

10 A: We just drink some more beers just stood around,
11 they did not have any furniture so I got tired
12 standing and I decided to walk back to Brandon's
13 house.

14 Q: You said the occasion of going to Kevin Slater's
15 house was he had just moved in?

16 A: Yes sir.

17 Q: Was it like a party of sort?

18 A: No, around that area everybody pretty much hangs
19 out everywhere so a bunch of people was just
20 passing through.

21 Q: Alright so no furniture and you decided you wanted
22 to just go on back to Brandon's and Mrs. Lisa's
23 house?

24 A: Yes sir.

25 Q: What happened when you got back there? What did you

1 do there?

2 A: I went there by myself I probably played cards for
3 about another hour.

4 Q: Another hour. Where did you leave Montag Webb?

5 A: At Kevin's house.

6 Q: At Kevin's house, ok. How long did you stay at Mrs.
7 Lisa's house the second time?

8 A: About another hour.

9 Q: About another hour, ok. Are you certain of these
10 times or you just giving guestimates?

11 A: I giving guesses, you know that been twenty months
12 ago.

13 Q: So about another hour. What happened after that
14 other hour was ended?

15 A: I decided to see what everybody was doing and went
16 back to Kevin's house.

17 Q: Went back to Kevin's house. So you arrived back at
18 Kevin's house what was going on there?

19 A: You know it was just Kevin there and he informed me
20 that Letroy and Montag went to Walmart to get ear
21 drops for his daughter.

22 Q: For some reason Montag Webb had left that house and
23 went somewhere.

24 A: Yes sir.

25 Q: What did you do when you learned the Montag was no

1 longer there?

2 A: Again I was tired of standing so I stepped out onto
3 the porch to sit down.

4 Q: You knew Kevin Slater well enough to be at his
5 house, is that correct?

6 A: I did.

7 Q: How long did you know him then?

8 A: I probably known Kevin about a year.

9 Q: So you were comfortable with him?

10 A: Yes sir I was.

11 Q: He was comfortable with you?

12 A: Yes sir.

13 Q: He was letting you in his house right?

14 A: He did.

15 Q: When you got back at Kevin Slater's house, did you
16 get another beer or did you just hangout or what?

17 A: I had another beer I was just sipping on.

18 Q: What part of the house or the area of the property
19 were you located at most of the time?

20 A: You talking about...

21 Q: Were you on the porch?

22 A: Yes sir I was.

23 Q: While you were on the porch did you have any
24 confrontations or anything with anyone?

25 A: Not when I first walked out no.

1 Q: Well tell me about when you walked back out of the
2 duplex house?

3 A: Well when I stepped out a woman named Barbara was
4 out there. We know each other so we conversated a
5 little bit and you know we let up our conversation
6 and Mr. Wimberly stepped out on the porch. You know
7 that is his girlfriend, I assumed he got pretty
8 mad.

9 Q: Let me ask you something. Barbara, where did
10 Barbara was she a guess there or did she live
11 there to your knowledge?

12 A: She was his girlfriend so she stayed there too.

13 Q: She was K. Slater's girlfriend?

14 A: She was Mr. Wimberly's.

15 Q: Wimberly's girlfriend. Ok so now go back to you
16 said you stepped out of K. Slater's, Kevin Slater's
17 house on the porch and you were talking to Barbara.
18 Is that correct?

19 A: Yes sir.

20 Q: What were you guys talking about if you recall?

21 A: You know she was trying to get me go in there and
22 get her a beer from the house?

23 Q: Go where?

24 A: In Kevin's house to get her a beer.

25 Q: Get her a beer ok and so she was asking you to do

1 it. Did you get a chance to do that?

2 A: No sir I did not.

3 Q: What prevented you from going back into Kevin
4 Slater's house to get the beer?

5 A: Well Mr. Wimberly stepped outside and I guess he
6 got mad with me talking to Barbara, he was kind of
7 drunk, told me he did not want any white people
8 around his house.

9 Q: What did you do? Did you go back into the house?
10 Did you go off the porch or what?

11 A: No sir I really did not know how to respond to what
12 he said so I just sat there and tried to process it
13 for a second?

14 Q: Did you process it.

15 A: Well right after he said that he looked at me and
16 was like you do not hear what I am saying and
17 turned around and went inside, Barbara followed.
18 Then I heard her in there saying you do not go out
19 there with that gun.

20 Q: You were able to hear some conversation going on?

21 A: Just a little bit yes sir doors are not thick.

22 Q: You are processing and you heard that. What did you
23 do at that point Jonathan?

24 A: Well my heart dropped sir, I stepped off the porch
25 and got to an area in the yard to where if he did

1 come outside with a gun I could run.

2 Q: So you reached a level of un-comfort so you went
3 out in the yard?

4 A: I did.

5 Q: So now, had you gotten out in the yard or had you
6 already or were you still walking out in the yard?

7 A: I was already out in the yard.

8 Q: All ready out in the yard. How long were you out in
9 the yard or what did you do while you were out in
10 the yard?

11 A: I just stood there he did not ever come back
12 outside and I was only there probably about five
13 minutes and the Montag and Troy pulled up Leon
14 Coleman.

15 Q: Now you heard the testimony about, you testified
16 Montag left and you heard the testimony about,
17 Montag Webb showing back up with Leon in the
18 vehicle that Leon was driving. You heard that
19 earlier right?

20 A: Yes sir.

21 Q: Is that the occasion where you are saying they
22 showed back up, Montel showed back up, Montag
23 showed back up with Leon Coleman?

24 A: Yes sir. Leon only come to the house one time that
25 is it.

1 Q: So what happened when they drove up and by the way
2 when they drove up did they drive in the yard or
3 just park in front of the house on the street?

4 A: They drove in the yard it is not much of a yard
5 they just kind of pulled in the grass.

6 Q: When they did that what happened at that point?
7 What happened at that point? Did you go to the car
8 or Montag Webb got out of the car?

9 A: At first I did not know who the car was you know so
10 when the door open Letroy got out I think he went
11 inside. I went up to Montag and told him that the
12 guy said, the guy has got a gun he does not want
13 any white people so it is best if we leave.

14 Q: Let me ask you this. You said that Troy was in the
15 car?

16 A: Yes sir.

17 Q: That is the gentlemen over on this end is that
18 correct?

19 A: Yes sir.

20 Q: What did he do before you got up to the car again?

21 A: He opened the door and got out went inside Kevin
22 Slater's house.

23 Q: Then you approached the car and spoke with Montag
24 when Montag got out of the car?

25 A: He was still sitting in the car when I came up.

1 Q: And you walked up to him and you told him about
2 what had just taken place with the victim here, Mr.
3 Wimberly?

4 A: ...

5 Q: Did you have any conversation with Mr. Wimberly?

6 A: No I did not say anything to him.

7 Q: So you just kind of quietly moved about and move
8 away?

9 A: Yes sir.

10 Q: You told Montag about what had happened. What did
11 you and Montag do at that point? You all had a
12 little conversation or what did you do?

13 A: Not much conversation he just said that he has got
14 some ear drops to drop off to his child anyways and
15 his child was at my house. So we just went on back
16 to my house.

17 Q: Because his child's mother lived at at that home?

18 A: Yes sir.

19 Q: You guys then left the duplex and we are going to
20 refer to it as a duplex as opposed to Mr.
21 Wimberly's home because it was also J. Slater's
22 home. You left the duplex property house, correct?

23 A: Right.

24 Q: What did you do?

25 A: We walked back to my house.

1 Q: I know you were not checking your watch or anything
2 but do you have any idea about what time that was?

3 A: I mean it was dark. It was probably nine o'clock.

4 Q: During all of this time or up to all of this time,
5 everybody. Who was drinking?

6 A: Everybody.

7 Q: Everybody was drinking?

8 A: Yes sir.

9 Q: In terms of state of mind do you know just about
10 everybody, whether they were drunk, high, tipsy?

11 A: I mean we started drinking about 2:30 when I got
12 there so we been there a couple hours drinking so
13 everybody was pretty much drunk.

14 Q: The lady that asked you to get her a drink was she
15 already tipsy or drunk early?

16 A: She is drunk all the time.

17 Q: Slater who was there, what was his status?

18 A: He was pretty drunk.

19 Q: That is pretty much consistent to what everybody
20 was testifying to. How about Montag what was his,
21 what was he like?

22 A: Drunk also.

23 Q: Of course Troy there?

24 A: He was drunk also.

25 Q: So now you were telling us that at the point when

1 they arrived back you told Montag what occurred and
2 you guys decided to go on back to your house is
3 that correct?

4 A: Yes sir.

5 Q: What were you thinking when you left the duplex to
6 go on back to your house? What were your thoughts
7 about what you all were doing or going to do?

8 A: Well my girlfriend was at the house and I had not
9 seen her all day so I decided I was going to go
10 there and watch a movie with her.

11 Q: So now you and Montag are walking back and you have
12 arrived back at your house is that correct?

13 A: Yes sir.

14 Q: What happened after you went back at your house?

15 A: I went inside and went to my room. Montag did
16 whatever he needed to do with the ear drops.

17 Q: He did not keep the ear drops on him did he?

18 A: No he would have gave to the child.

19 Q: What did he do with, there was some testimony that
20 he might of had a bag of beer or something when he
21 got out the car. What did he do with that?

22 A: When we got to the house he handed it to me.

23 Q: You guys are at the house. I mean that literally
24 this whole incident could of been over with at that
25 point. What happened after that?

1 A: He come back in there and said he wanted to go back
2 and drink some more beers at Kevin's house.

3 Q: Now help us out a little bit. When you are saying
4 he who are we talking about?

5 A: Montag.

6 Q: Saying what, he wanted to do what?

7 A: He want us to go back to Kevin's house and drink
8 some more beers.

9 Q: So you guys, I mean you were happy at the house
10 what did you want to go back there just the
11 company?

12 A: Just the company yeah.

13 Q: So he says hey let us go back, let us go back up to
14 Kevin's house and you know where the party is where
15 the crowd is. And you all decided to go back is
16 that correct?

17 A: Yes sir.

18 SQ: Ok take me from you leaving your house walking back
19 through the path to come back to the duplex house.
20 Tell us what transpired in that process.

21 A: It nothing but a five minute walk so we pretty much
22 made it Mr. Wimberly's house....duplex.

23 Q: I mean you guys were walking back you were you
24 talking?

25 A: Yes sir.

1 Q: Were you talking about anything in specific,
2 general, or just general conversation?

3 A: Just general conversation.

4 Q: Did that transpire the whole time until you got
5 back to the duplex?

6 A: Yes sir.

7 Q: Now take us back to the duplex. You arrive duplex
8 what happened next?

9 A: When we stepped in the duplex Mr. Wimberly, Troy,
10 Kevin were all standing out on the porch in
11 conversation.

12 Q: Mr. Wimberly that was the victim here, Kevin that
13 is the owner of the house, Troy gentlemen over
14 here. They were out on the porch. Was anybody else
15 present to your recollection?

16 A: No sir.

17 Q: So they are on the porch. You guys are walking back
18 up. Are you walking in front of the house or the
19 side of the house to the front or what?

20 A: From the side of the house.

21 Q: From the side of the house and from the side you
22 are walking up front. What happened now?

23 A: Mr. Wimberly yelled, when they saw me the
24 conversation stopped. He informed that, did I not
25 tell you all I do not want no white people at my

1 house.

2 Q: He made that statement. What happened next?

3 A: Well Montag hit him and he fell down.

4 Q: Montag hit him?

5 A: Yes sir you know his daddy is white so I guess he
6 felt insulted by it.

7 Q: Ok Montel has a white father?

8 A: Yes sir.

9 Q: For whatever reason he felt insulted...

10 Durant: Objections Your Honor.

11 The Court: Sustained.

12 Q: Montel punched him, hit him?

13 A: Yes sir he felt insulted and he hit the man.

14 Q: Did you have any idea why Montag?

15 A: I guess it had something to do with racial issue,
16 he is half white.

17 Q: Once he hit the man what happened to him?

18 A: When he hit the man Kevin Slater and Letroy
19 immediately ran.

20 Q: When the punch, lick, blow, hit whatever the choice
21 of word is. When that occurred you said that Letroy
22 took off, zoom?

23 A: And Kevin yes.

24 Q: Troy did not try to help or stop or anything like
25 that?

1 A: He ran.

2 Q: Troy just took off running at that very moment?

3 A: Yes sir.

4 Q: And you said the Kevin Slater did the same thing?

5 A: Yes sir.

6 Q: What did you do?

7 A: I just stood there I was in shock I did not know
8 how to handle what just happened.

9 Q: So you shock?

10 A: Yes sir.

11 Q: How long were you shock? What did you do while you
12 were shock?

13 A: Immediately when Montag hit him the man fell pretty
14 much in his doorway and Montag stepped over the
15 body and drug him into the house by his arms and
16 went straight to the back of the house and did
17 whatever he did.

18 Q: Do you have any idea why Montag dragged the man
19 back in the house as opposed to just leaving him
20 there?

21 A: I guess so that nobody would see him on the porch
22 because it is a highway or a road there people
23 driving by could of seen him.

24 Q: Is it like a busy highway out front?

25 A: Yeah it is . It is a main street.

1 Q: So now Montag had dragged the man back in the
2 house. What is happening at that point?

3 A: I am standing in the doorway I am kind of still
4 trying to process what he is doing.

5 Q: So he had dragged the man back in the house. Where
6 were you when the first punch, when the only punch.
7 Was that the only punch to your sight?

8 A: That was the only thing I saw was one punch yes
9 sir.

10 Q: When that punch occurred where were you actually
11 standing at that time?

12 A: I was on the ground.

13 Q: On the ground, ok. So Montag now is dragging him is
14 dragged him back into the house. What were you do
15 from the ground while Montag was dragging him back
16 in the house.

17 A: I was still standing on the ground and when he
18 stepped in the house I stepped on the porch.

19 Q: On the porch, ok. When you stepped on the porch
20 where did you go because I know once you walk into
21 the porch you can either go to the apartment duplex
22 to the right or the apartment duplex to the left.
23 Who lives in the apartment duplex to the left?

24 A: To the left that is Mr. Wimberly's house.

25 Q: So you walked up the step and on the porch. Now

1 what is happening?

2 A: Montag had already drug the guy inside I am kind of
3 peeking to the side trying to see what is going on.

4 Q: So now you walked onto the porch and you said you
5 are peeking?

6 A: Yes sir.

7 Q: So what are you seeing?

8 A: It did not take very long by the time the body was
9 already dragged inside he had already run to the
10 back of the house.

11 Q: What kind of time period are we taking about? See
12 when you said it does not take very long you are
13 asking us to see what that is, that may mean ten
14 minutes.

15 A: It was over really fast maybe a minute, minute and
16 a half maybe.

17 Q: I know you did not time it but you think like 60
18 seconds to 90?

19 A: Yes sir.

20 Q: What did Montel do at that point? He done dragged
21 the man in the house.

22 A: You know I kind of stepped off was trying to look,
23 I was like confused on what was going on and he
24 stepped out the house and told us let us go.

25 Q: He stepped?

1 A: He stepped out of the house onto the porch and told
2 us to leave.

3 Q: Now you said you were on the porch which is the
4 common area where every body was walking is that
5 correct?

6 A: Yes sir.

7 Q: And that is where people who were not in Kevin
8 Slater's house would be standing out there or out
9 on the ground. Is that correct?

10 A: Yes sir.

11 Q: Very good so now. You walked up to Mr. Wimberly's
12 door, you just testified to. Did you walk through
13 his doorway?

14 A: No sir I did not.

15 Q: Was the doorway open the entire time?

16 A: When he fell, the door was cracked initially and
17 then when he fell he fell into the doorway and the
18 door kind of opened up even more.

19 Q: Did Montag open the doorway?

20 A: It was already open when the guy fell into his
21 door.

22 Q: From that point you said you walked up to the door.
23 What did you do when you walked up to the door?

24 A: I was about to ask him what he was doing but he was
25 already out the house by then.

1 Q: Did you walk in through that door?

2 A: No sir I did not.

3 Q: Did you break the close of the door in any way by
4 walking in?

5 A: I did not touch anything.

6 Q: Did you walk into the apartment?

7 A: No sir.

8 Q: So Montag is in there. Montag said that he was,
9 theft mode kicked in and he started looking through
10 the house.

11 A: I think that is what he called it yes sir.

12 Q: You said you believed he might of been in there a
13 minute to 90 seconds, a minute and a half?

14 A: He was not in there very long.

15 Q: At some point did he come back out?

16 A: Yes sir he did.

17 Q: Did you guys have a conversation when he came out,
18 coming out or actually got out?

19 A: When he got out he left, I did too.

20 Q: Did you ask him anything or said anything to him
21 about what is happening, what is going on?

22 A: I asked him what was going on I was kind of
23 shocked. I did not know how to take that.

24 Q: So now you guys walk back out of the house. When
25 you walk back out of the house was anybody there to

1 your knowledge?

2 A: No sir.

3 Q: What happened when you walk out of the house?

4 A: We just started walking back to my house.

5 Q: On your way walking back to your house did you run
6 into anybody?

7 A: Letroy and Kevin Slater.

8 Q: Ok Letroy, the other defendant over here the one
9 that took off running. Letroy went back to the
10 house, what did Letroy do?

11 A: Kevin said he was going back to his house because
12 his door was not locked nobody was home. Letroy
13 went with us.

14 Q: So Kevin went on, the owner of duplex A I guess it
15 is A, went on back to his house correct?

16 A: Yes sir.

17 Q: Troy here he walked back to the house with you?

18 A: Yes sir.

19 Q: Did you guys talk about what happened or was there
20 any conversation about it?

21 A: No, Troy would not say anything you know he was
22 silent.

23 Q: He was silent?

24 A: Yes sir.

25 Q: Was Troy ever there at anytime watching what was

1 going on other than when he took off running,
2 before he took off running?

3 A: Not from what I saw no.

4 Q: To your knowledge, to your knowledge and that is
5 all you can testify to. Do you know if Troy had
6 anything to do with it?

7 A: No sir I do not.

8 Q: So now Troy is walking back with the two of you all
9 to your house is that correct?

10 A: Yes sir.

11 Q: What happened once you arrived. Did you arrive to
12 your house?

13 A: We did.

14 Q: What happened once you arrived at your home?

15 A: Montag went inside and I stood out on the porch and
16 I talked to Letroy for a little while.

17 Q: Say that again.

18 A: Montag went inside and I stayed outside. Me and
19 Letroy we just sat on the porch and talked for a
20 little while.

21 Q: How long were you guys out there talking?

22 A: Five minutes, I was ready to go in and lay down.

23 Q: But Letroy's sobriety status, how was that? Was he
24 drunk?

25 A: Yes sir he was.

1 Q: But he was able to run when the incident occurred?

2 A: Yes sir.

3 Q: So you discontinued, stopped talking to Letroy.

4 What did he do, go on about his business?

5 A: I told him I was ready to go inside and lay down,
6 he left.

7 Q: He left. Do you know where he went?

8 A: I did not ask him where he was going no.

9 Q: Alright so you do not have no idea what happened to
10 him after that or where he could have gone?

11 A: No sir.

12 Q: He did not saying anything about going back there
13 to Letroy's house, Slater's house?

14 A: No he did not.

15 Q: So you went into your house what happened next?

16 A: I went to my room and laid down.

17 Q: At that point in time where was Tag, Montag?

18 A: He was on the couch.

19 Q: He was on the couch, ok. Any idea what time of
20 night this was, that this was?

21 A: I was at home about nine o'clock. I say we did not
22 stay probably thirty minutes before we went back.

23 Q: When you got back to your house you are saying you
24 have no idea about the time at that point?

25 A: I do not.

1 Q: You left Tag, Montag on the couch?

2 A: I did.

3 Q: Was he there all night?

4 A: No he was not.

5 Q: How do you know he was not on the couch all night?

6 A: I got up to use the bathroom, he was not on the
7 couch. I just assumed that he was probably in there
8 with his child's mother.

9 Q: Do you know if he was?

10 A: I did not confirm that.

11 Q: So you do not know where he was?

12 A: No I do not.

13 Q: You did not check your house door or nothing?

14 A: I just brushed it off I did not think anything of
15 it at the time. I just went and laid back down.

16 Q: How long did you lay down, until the next day?

17 A: Until the next morning until I was woken.

18 Q: So who awoke you?

19 A: A girl named Conney knocked on the door. She asked
20 me did I hear what happened last night. Then I was
21 like what happened. She told me that Montag hit a
22 guy and sent him to the hospital then Kevin Slater
23 got arrested.

24 Q: Kevin Slater got arrested?

25 A: Yes sir.

1 Q: Do you know why Kevin Slater got arrested?

2 Durant: Objection Your Honor.

3 The Court: Sustained.

4 Q: Was there anybody else arrested?

5 A: Not that I know of at the time no.

6 Q: At some point in time you spoke with law
7 enforcement about the incident is that correct?

8 A: I did.

9 Q: Do you know whether they did a recording, took a
10 recorded statement?

11 A: They did.

12 Q: Do you remember who you spoke with?

13 A: Lieutenant Daniels.

14 Q: How many times did you give a statement or have a
15 chance to talk with them?

16 A: Just once.

17 Q: Just once, ok. Let me back up a little bit then.
18 Let me ask this. At any point in time did you plan
19 an assault on anybody?

20 A: No I did not.

21 Q: At any point in time with regards to Mr. Wimberly
22 did plan an assault with anybody?

23 A: No sir I did not.

24 Q: And with Montag did you plan an assault to go back
25 and assault Mr. Wimberly?

1 A: No sir we did not.

2 Q: Did you take anything from Mr. Wimberly's house?

3 A: No sir.

4 Q: You said that Montag went into the house is that
5 correct?

6 A: Correct.

7 Q: Did he give you anything that he took from the
8 house?

9 A: I did not see him take anything.

10 Q: To your knowledge do you know if anything was taken
11 from the house, to your knowledge?

12 A: It was not discussed.

13 Q: There was some testimony earlier...this morning
14 that, Mr. Wimberly sustained multiple strikes,
15 blows, hits, kicks, whatever to his neck, mouth,
16 head, whatever. Did you see anybody do anything of
17 that sort?

18 A: I saw one hit. That was when Montag hit him just
19 the first time, I only saw one.

20 Q: Did you have any conversation with Letroy about or
21 plans about robbing anyone?

22 A: No sir I did not.

23 Q: How about assaulting anyone?

24 A: No sir I did not.

25 Q: Did you have any conversation with Troy or anybody

1 else about taking a gun or getting a gun away from
2 Mr. Wimberly?

3 A: I did not.

4 Q: Did you have any blood on your clothing from this
5 incident?

6 A: No sir I could not have.

7 Q: Huh?

8 A: I could not have.

9 Q: Why do you say you could not have?

10 A: Because I never stepped in any blood, I never
11 touched any blood, I never saw any blood.

12 Q: Do you know whether Montag Webb had any injuries on
13 him?

14 A: He did have swollen hand that night.

15 Q: A swollen hand?

16 A: Yes sir.

17 Q: Did you see his hand?

18 A: I did.

19 Q: Do you know how long he had a swollen hand?

20 A: Probably got it from that night.

21 Q: No do you know how long he had it after that night?

22 A: All the way up until he got arrested.

23 Q: Do you know if he had a swollen hand on the 26th and
24 the 27th when he spoke with law enforcement?

25 A: When he went and spoke with Mrs. Daniels if I do

1 believe correctly he did have a swollen hand yes.

2 Q: Do you know if he had any blood on his clothes?

3 A: Not from what I saw no..

4 Q: Do you know if any of the other individuals had
5 blood on the there clothing or shoes?

6 A: Not from what I saw.

7 Q: Do you know, Montag went to the back of the house
8 or opened the back door or anything?

9 A: I would not now, I would not know.

10 Q: Is the house such that you can look straight
11 through?

12 A: No it is not.

13 Q: There was an issue about an EBT card. Did somebody
14 leave an EBT card around there?

15 A: From what I saw Letroy, I know Letroy...

16 Durant: Object to what he heard.

17 The Court: Sustain. Jury will strike that last
18 comment.

19 Q: Do you know if the defendant Letroy lost an EBT
20 card?

21 A: I was not told.

22 Q: Letroy did not bring it up?

23 A: No sir he did not.

24 Q: Did you ever strike the victim at all in any form
25 or fashion?

1 A: No sir I never touched him.

2 Carter: Thank you for your time please answer any
3 questions the council may have for you..

4 Finney: Please the Court Your Honor.

5 **Mr. Jonathan Newman - Cross by Mr. Finney**

6 Q: Mr. Newman how old are your daughters?

7 A: My first one is four years old, my youngest is
8 fifteen months.

9 Q: What is your youngest daughters birthday?

10 A: .. no

11 Q: You do not know?

12 A: No I can not.

13 Q: You do not know. What is your oldest daughter's
14 birthday?

15 A:

16 Q: Who gave you the name J. White?

17 A: Just had it for years, a friend of mine gave it to
18 me.

19 Q: What his name?

20 A: We called him Grady.

21 Q: You do not know the friend's name that gave you the
22 nickname J. White?

23 A: I mean around that type of area people just have
24 nicknames.

25 Q: You do not know the name?

1 A: I do not.

2 Q: So you got arrested by Officer Daniels after you
3 had a chance to talk with Officer Daniels in her
4 office?

5 A: No I did not.

6 Q: Well let me make it clear then. You went to her
7 office and talked with her on the tape recorder on
8 I think the 27th of May at 12:36 PM?

9 A: Yes sir you are correct.

10 Q: And you knew you were being recorded?

11 A: No I did not.

12 Q: You did not know you were being recorded?

13 A: No sir.

14 Q: You all talked for a long time.

15 A: We did.

16 Q: She asked you questions.

17 A: She did.

18 Q: She asked you about the events that had happened at
19 Mr. Wimberly's house.

20 A: She did.

21 Q: Did you talk to her freely?

22 A: I did.

23 Q: Did you know that you were suppose to tell her the
24 truth?

25 A: You know I expected she wanted the truth yes sir.

1 Q: You expected she wanted the truth, kind of like
2 this jury here today. They want to hear the truth.

3 A: They do.

4 Q: You had twenty months to get your story ready for
5 today have you not?

6 A: I have been locked up for twenty months yes.

7 Q: So every day you wake up you knew today was coming?

8 A: Not today no I did not.

9 Q: You did not know today was coming? Did you not ask
10 for a jury trial?

11 A: I did not.

12 Q: You do not want a jury trial?

13 A: I am in a jury trial yes.

14 Q: Sir.

15 A: I do want a jury trial yes.

16 Q: So you knew the last twenty months everyday you
17 woke up today was coming?

18 A: I did.

19 Q: You knew you were going to sit on the stand and
20 swear to tell the truth and tell the jury what
21 happened that night?

22 A: No sir I did not consider giving a testimony until
23 today.

24 Q: Let me ask you this. When you had an opportunity to
25 talk to Mrs. Daniels in her office. You were

1 expecting here to want the truth?

2 A: Yes.

3 Q: But you did not give it to her did you?

4 A: No I did not.

5 Q: You had an opportunity to tell Mrs. Daniels that
6 Taggy hit the man and you saw it, but you did not
7 tell her that?

8 A: I was scared.

9 Q: Yes or no. You did not tell her that.

10 A: Can you repeat the question?

11 Q: You saw Taggy hit the man on his porch and you did
12 not tell Lieutenant Daniels that?

13 A: No I did not.

14 Q: You saw Taggy drag the man into the man's living
15 room, Mr. Wimberly's living room, but you did not
16 tell Lieutenant Daniels that.

17 A: No I did not.

18 Q: Then you said, you saw Leon and Taggy return from
19 the Walmart. Which you did tell her did you not?

20 A: I did.

21 Q: You made a point to tell her on May 27th, 2013 that
22 when you saw them on the porch, when they came out
23 of the car you told Lieutenant Daniels you saw
24 Taggy get out of the car and you stayed on the
25 porch. You did not go over and talk to him. That is

1 what you told Lieutenant Daniels?

2 A: I do not remember saying that.

3 Q: See if you can look at this document which is a
4 transcript for the interview that you, May 27, 2013
5 you ever seen this before...

6 Mr. Carter: Your Honor I am going to object to this
7 document because this is a document prepared by the
8 Solicitor's Office and the police department and is not
9 a certified statement and of course this client of mine
10 never signed this statement.

11 The Court: Overruled.

12 Q: Have you ever seen this document before?

13 A: I have.

14 Q: Have you reviewed it with your lawyer?

15 A: One time yes sir.

16 Q: Look at page 10, I have got the line checked right
17 here. Read that page to yourself and become
18 familiar with it.

19 A: Ok.

20 Q: Did you tell Lieutenant Daniels the day after Mr.
21 Wimberly got assaulted that you saw Taggy get out
22 of the car and you stayed on the porch?

23 A: I do not see where it says that I told him he got
24 out the car....

25 Q: You read it. Tell us what it says.

- 1 A: It says by the time I got back there I sat there
2 for a little while talking him and then Tag shows
3 up in some car. What car? I think it was an SUV I
4 do not now I just saw him get out of the car and I
5 went back inside.
- 6 Q: You saw him get out of the car and you went back
7 inside?
- 8 A: Yes sir.
- 9 Q: You said that to Lieutenant Daniels.
- 10 A: I did.
- 11 Q: That was because you did not know that somebody
12 else had heard you say to Taggy, I am going to get
13 that gun from that old man.
- 14 A: Can you repeat the question please.
- 15 Q: You did not know when you talked to Lieutenant
16 Daniels that she knew, that somebody had told her,
17 that you came over to the car and told Taggy, I saw
18 that old man's gun I am going to get it from him.
- 19 A: No I did not, I was just scared.
- 20 Q: You did know that Lieutenant Daniels had already
21 talked to Leon Coleman, the driver of the car?
- 22 A: I did not say that so I do not...
- 23 Q: You stayed on the porch because you knew that would
24 keep you away from having any conversation with
25 Taggy?

1 A: I said what I said because people were getting
2 arrested. I was scared and did not want to get
3 arrested myself so I did...

4 Q: You were scared because you knew Leon Coleman heard
5 what you told Taggy?

6 A: I mean Kevin Slater got arrested and he ran I saw
7 with my own eyes and he got arrested.

8 Q: Did Leon Coleman get arrested?

9 A: Not that I am aware of no.

10 Q: You did not remember that Leon Coleman heard what
11 you said to Taggy?

12 A: He did not hear me say what he said he heard me
13 say.

14 Q: So Leon Coleman is a liar?

15 A: Yes he is.

16 Q: And Taggy is a liar?

17 A: Yes sir.

18 Q: And everybody who came up here and said that you
19 hit that old man is a liar?

20 A: I do not believe anybody said that I hit him.

21 Q: I believe Taggy said it?

22 A: He said that he did not see it.

23 Q: Leon told Lieutenant Daniels that he saw you hit
24 Mr. Wimberly?

25 A: No he did not.

1 Q: Then Leon Coleman is a liar.

2 A: Yes he is a liar.

3 Q: You keep that there I want to show you something
4 else. When you were talking to Lieutenant Daniels
5 that day. You told her that you and Kevin Slater
6 had been hanging out at his house with his
7 girlfriend.

8 A: Right.

9 Q: After twelve o'clock?

10 A: I do not remember saying after twelve.

11 Q: Look on page 8. Look on page 8, line 10.

12 A: I think it says she says it was about four or five
13 o'clock.

14 Q: Four or five o'clock in the afternoon?

15 A: Yes sir.

16 Q: That is what you told Lieutenant Daniels.

17 A: I did.

18 Q: That you were with Kevin Slater and Kevin Slater's
19 girlfriend and their house the duplex?

20 A: Yes sir.

21 Q: That is not true is it?

22 A: I was there around four or five o'clock.

23 Q: Kevin Slater's girlfriend worked that day. She was
24 not there at all that day.

25 A: Kevin was.

1 Q: That was a lie was it not?

2 A: No.

3 Q: You put the girlfriend in it because you thought
4 that would be cover but I was not.

5 A: I think...

6 Q: Is it not true that she was not there?

7 A: I can not remember it was a long time ago. I did
8 not think it would be necessary to remember small
9 minor details.

10 Q: Oh that is a small detail that you hung out with
11 Kevin and his girlfriend at four or five o'clock
12 that day but she was at work that day.

13 A: I was mistaken when I said she was there.

14 Q: Mistaken, all right here we go. Look at page 11,
15 line 10. Remember Lieutenant Daniels was talking to
16 you about where you were that day at Mrs. Lisa's
17 house. You told her you were at Mrs. Lisa's house
18 for three hours.

19 A: I mean again I can not exactly recall the times and
20 she was trying to confuse me by using her tactics.
21 I told her what I knew.

22 Q: So on that day after the incident, the day after
23 the incident. When you were telling Lieutenant
24 Daniels all the things you did that day, just 24
25 hours earlier. What did you tell her on page 11,

1 line 10, what did you tell her after she caught you
2 in a lie or after there was a mistake discovered?

3 Mr. Carter: Your Honor I will object again at this
4 time because...

5 The Court: Rephrase your question. He is on cross
6 examination remember.

7 Mr. Carter: Yes sir Your Honor I do and my intent
8 was the question of the officer:

9 Q: What was the response when the officer asked you
10 the question what did you tell the officer?

11 A: I said uh-huh, that is what it says.

12 Q: What is the next thing you said?

13 A: I said I have got to go back and rethink
14 everything.

15 Q: Tell that to the jury.

16 A: I have to go back and rethink everything.

17 Q: I have got to go back and rethink everything. That
18 is what you told Mrs. Daniels?

19 A: Yes sir I was drunk that day I had to recollect my
20 thoughts.

21 Q: So now twenty months later you come to court and
22 you remember that Taggy went inside, Taggy hit the
23 man, you did not do anything, except follow Taggy
24 around that night?

25 A: Those are the major details not minor details.

1 Q: Did you tell Lieutenant Daniels the major details
2 the next day?

3 A: She wanted to know minor....

4 Q: Did you tell her that Montag hit the guy?

5 A: No I did not.

6 Q: Did you tell her that Montag had dragged the guy
7 inside?

8 A: No I did not.

9 Q: Did you tell her that Montag got up from your house
10 in the middle of the night and left when you did
11 not know where he was?

12 A: I did not.

13 Q: You made that up for this jury today.

14 A: No I did not I told them the truth.

15 Q: When did you tell the truth to anyone who was
16 trying to find out what happened to Mr. Wimberly
17 before today?

18 A: I have given one statement and nobody ever come and
19 saw the whole time I was locked up and I requested an
20 attorney.

21 Q: Is that not the only statement you ever gave, to
22 law enforcement?

23 A: Yes sir.

24 Q: When they came back and they asked you for another
25 statement you did not make a statement the second

1 time.

2 A: I informed them I needed an attorney present.

3 Q: You did not make a statement.

4 A: I did not want to incriminate myself in anyway.

5 Q: You did not make a statement.

6 A: I did not.

7 Q: The only time they asked you to come in and sit
8 down and talk to them that is what you told them.

9 A: I voluntarily go in there and talk to her yes.

10 Q: So now you made up this story about Montag being
11 the primary person?

12 A: I did not make up the story I told the truth.

13 Q: You do not know anything about what happened to Mr.
14 Wimberly other than he got hit in the nose one time
15 by Montag?

16 A: That is all I saw yes sir.

17 Q: And you do not know anything about a statement
18 supposedly made by a man J. White, that I see the
19 old man got a gun and I am going to take it?

20 A: I never said that. I said the man has a gun, it is
21 best if we leave because he does not want any white
22 people at his house that is what I said.

23 Q: So this man who is drunk, who is disagreeable with
24 you being at his property. This is the man who you
25 are going to follow with Montag back to the house

1 after you have been home with your children to
2 watch a movie. Did you watch the movie?

3 A: I did.

4 Q: What was the name of the movie?

5 A: It was a minor detail.

6 Carter: Objections Your Honor either he is talking
7 to the witness or his is talking to the jury.

8 The Court: No editorials.

9 Q: You go back to Wimberly's house knowing that he
10 does not want you over there.

11 A: I did not think we would be standing on the porch
12 he said we, Montag...

13 Q: You are just going to do what Montag says right?

14 A: Yes sir I did.

15 Q: Did Mr. Wimberly give you any permission to come
16 back on his property or near his house after he
17 told you he did not want you there?

18 A: I mean I was at Kevin's house and that is a duplex.
19 It is not just his house I was invited to Kevin's
20 house. I did never go in Mr. Wimberly's house I
21 went to Kevin's house.

22 Q: So the answer to the question is what?

23 A: No he never gave me permission to go into his house
24 no.

25 Q: And Kevin did not know you were coming back to his

1 house after you went home to watch the movie. So
2 Kevin did not invite you to come back. You decided
3 to follow Montag back. Is that correct?

4 A: That is correct.

5 Q: So you had no permission from Mr. Wimberly to be on
6 his property. You saw Montag knock him out on the
7 porch and within 90 seconds drag him in the house
8 and then he went in the back room.

9 A: Right.

10 Q: So you do not know how Mr. Wimberly came to be
11 bleeding profusely from the head in such a manner
12 that he was lying in his own blood on the living
13 room floor?

14 A: Not to my knowledge no.

15 Q: Then you ran into K. Slater and Letroy coming back
16 after you left the house with Montag the first time
17 after he put him on the floor. You left K. Slater
18 and Letroy you say were coming back. They had taken
19 off?

20 A: They did.

21 Q: So when they took off how many people were at the
22 house with Mr. Wimberly?

23 A: Just me and Montag.

24 Q: Just you and Montag. Did you hear Montag say when
25 you got to the house. What street is your house on

1 where you live with your girlfriend?

2 A:

3 Q: When you got to did you hear
4 Montag testify that he was scared that you had
5 blood on your shoes and on your clothes and he
6 asked you to take them off? Did you hear him say
7 that.

8 A: No I did not.

9 Q: You were not in court that day?

10 A: Yesterday yeah I heard him say that. The first day
11 when he testified they did not say that.

12 Q: When Lieutenant Daniels was talking to you the day
13 after this incident. Did you tell her Montag had a
14 swollen hand?

15 A: I believe I did yes. Again it probably was not
16 being recorded at that time.

17 Q: It was a minor detail was it not?

18 A: If you want to call it that yes.

19 Q: I am asking. She was asking for the story, you did
20 not put it in the story did you?

21 A: To her it would have been a major detail but at the
22 time to me it was a minor detail.

23 Q: When did you tell your lawyer that it was enough of
24 a detail that you wanted him to know about it?

25 A: Well I am on trial for my life here so I figured...

1 Q: So you told him today?

2 A: I think I told him one time I was speaking with
3 him.

4 Q: When Mr. Wimberly got hit on the porch, you
5 testified you saw him fall with his head closer to
6 the door to the living room?

7 A: Yes sir.

8 Q: His feet would have been closer to the outside wall
9 of the porch?

10 A: Right.

11 Q: I want to show what has been marked at State's
12 exhibits 3, 4, 5 and 6. Ask you to look at them. Do
13 those pictures that are in evidence reflect the
14 porch at Mr. Wimberly's house.

15 A: They do.

16 Q: Do you remember the wooden chair that was sitting
17 on his side of the porch?

18 A: I do not.

19 Q: So you do not remember seeing a wooden chair on the
20 porch and you were there an hour that day?

21 A: I do not remember a wooden chair.

22 Q: Do you remember seeing when Montag hit Mr. Wimberly
23 and Mr. Wimberly fell. Do you remember there being
24 a sweater of some sort lying on the floor near his
25 body?

1 A: No I do not.

2 Q: Do you remember keys being on the floor somewhere
3 in the area of his body?

4 A: I do not.

5 Q: Showing you State's exhibit number 3. Could you
6 turn around and look at that? Does that look like
7 the door leading into Mr. Wimberly's livingroom
8 from the porch?

9 A: Yes.

10 Q: Was there anything different about the house that
11 you remember seeing that night when you Mr. Montag
12 you say hit Mr. Wimberly in the nose?

13 A: I do not see anything.

14 Q: Do you know what this stain is in this lower left
15 hand side of that picture?

16 A: No I do not.

17 Q: You testified that Mr. Wimberly got hit and his
18 head fell near or on this wood step that goes from
19 the porch into the living room.

20 A: Standing on the porch you could not see it. He just
21 fall straight back he did not fall to the side.

22 Q: Alright so he fell straight back into the living
23 room?

24 A: He did not fall into the living room he fell close
25 to the doorway.

1 Q: So would his head be somewhere in the area of the
2 right hand bottom portion of this picture?

3 A: It was pointing towards the door not exactly in the
4 door.

5 Q: Would his head be in between the keys and the door?

6 A: I mean it could have been.

7 Q: You do not know you saw him fall?

8 A: I saw the man fall put I do not remember that much
9 specific outline.

10 Q: Let me show you State exhibit number 6. You see a
11 blue and green sweater in that picture?

12 A: Black and green.

13 Q: Do you see blood on the floor of the porch?

14 A: I do.

15 Q: Did you see any blood that night?

16 A: No I did not.

17 Q: Do you know why Mr. Wimberly or do you know why
18 there would be blood on Mr. Wimberly's porch near
19 the area of the away from the door as opposed to
20 near the door as you say he fell that way?

21 A: No I could not say.

22 Q: You do not know. On page 35, line 7 in that talk
23 with Mrs. Daniels page 35, line 7.

24 A: You said line 7.

25 Q: Page 35, line 7. Mrs. Daniels was talking to you

1 and I think she asked you, did you know anything
2 that happened to Mr. Wimberly. What did you tell
3 her?

4 A: I told her I did not know what happened.

5 Q: You told her I do not know anything that happened
6 to him?

7 A: Right.

8 Q: The next page, page 36, line 17. She asked you,
9 have you heard anything about this case from talk
10 in the street or whatever, have you heard anything.

11 A: The line says I heard of a gun yes.

12 Q: You heard from some people something about a gun?

13 A: Right.

14 Q: The day after Mr. Wimberly gets hurt you go home
15 hanging out with Montag all night according to your
16 testimony. You went to bed you got up about twelve
17 or one o'clock. Some girl tells you that some
18 people have been arrested and Mr. Wimberly has been
19 hurt?

20 A: Right.

21 Q: And later on that day you tell Mrs. Daniels that
22 you heard some talk about a gun being missing?

23 A: I mean around that general area people generally
24 news passes kind of fast. She heard it, she told me
25 I told her about that.

1 Q: But you did not tell her that Montag hit the man.
2 Did not tell her Montag had a swollen hand. Did not
3 tell her Montag left the house in the middle of the
4 night, you did not know where he was.

5 A: I was scared, I mean.

6 Finney: Beg the Court's indulgence.

7 Q: Let me ask you a couple questions about Montag. How
8 long you been his friend?

9 A: I have probably been his friend probably about
10 three years.

11 Q: You heard him come up here and testify against you.

12 A: I did.

13 Q: And you came in here today and basically testified
14 against him.

15 A: I just told the truth that is all I did. Not
16 necessarily testified against him just to tell like
17 what happened.

18 Q: Well that is how it is I mean you heard him say
19 that you hit Mr. Wimberly and you are telling the
20 jury that he hit Mr. Wimberly.

21 A: He is already caught in he does not see any
22 problems saying what he has to say.

23 Q: But he was the man that you followed away from your
24 daughters and your girlfriend in the middle of the
25 night to go back to be with him, to be with Kevin.

1 To hang out at a house where you were not welcome.

2 A: My daughters did not live at the house but I went
3 back to my girlfriends house.

4 Q: And that is what happened.

5 A: Right.

6 Q: And you were drinking pretty regularly that night?

7 A: I drunk a little bit I mean I say tipsy but I was
8 not drunk.

9 Q: Every time Mr. Carter asked you whether you drink
10 another beer you said yes.

11 A: I drink beer.

12 Q: That did not affect you did it?

13 A: No it is not strong alcohol it is just Bud Light.

14 Q: And so what about smoking a blunt?

15 A: Yeah I smoke weed.

16 Q: You smoke it that night?

17 A: I did.

18 Q: And you did not like the fact that Wimberly had
19 asked you leave the house did you?

20 A: I mean it is his house.

21 Q: I know but it made you mad did it not?

22 A: I was not mad no.

23 Q: You were hanging out with your boys, you all were
24 drinking, you all having a good time. Here comes
25 this old man he that says to you, he does not want

1 you around. You leave, you come back, you are not
2 happy about that are you?

3 A: Just from his statement his remark is not enough
4 for me to want to harm him no.

5 Q: No but you saw him get harm you did nothing about
6 it.

7 A: I mean I am not going to fight another man, I was
8 scared too, he was hitting people, I do not want to
9 get hit.

10 Q: Montag was hitting people and you were scared you
11 were going to get hit by Montag?

12 A: Right.

13 Q: Tell me about Letroy?

14 A: What about him.

15 Q: When did you ever tell the officers or anybody that
16 Letroy ran from the house that night?

17 A: I never did.

18 Q: Today was the first time?

19 A: Right.

20 Q: Today was the first time?

21 A: They never come and spoke to me after I advised
22 them that I needed an attorney to speak. They never
23 informed my attorney that they wanted to speak with
24 me. If they would of come and spoke with me they
25 would have gotten the story I told the day which is

1 the truth.

2 Q: Your testimony today to this jury. Is that when Mr.
3 Wimberly got him by your friend Montag you were not
4 on the porch. You said today that you were standing
5 on the ground.

6 A: Right.

7 Q: That you went up on the porch to see what was going
8 on?

9 A: I did.

10 Q: And then you stayed long enough to peek around the
11 corner and see Mr. Wimberly get dragged in the
12 house, correct?

13 A: Correct.

14 Q: But you made very sure that you did not step in the
15 house to get any blood on your pants or shoes?

16 A: I mean I did not step in the house because I am not
17 going to go into another man's house while he was
18 doing what he was doing.

19 Q: While he is doing what he is doing?

20 A: While the man in the house was running through his
21 house. I am not going to go in there and do that.
22 Mr. Finney: Nothing further.

23 The Court: Mr. Devoe.

24 Mr. Jonathan Newman - Cross Examination by Mr. Devoe

25 Q: I just have one question. I represent Letroy

1 Samuels.

2 Finney: I can not hear you.

3 The Court: Step up to the microphone.

4 Q: I represent Letroy I heard you testify that Letroy
5 ran when that situation went down, is that correct?

6 A: He did yes sir.

7 Q: Have I ever talked to you before?

8 A: No sir you have not.

9 The Court: Any redirect?

10 Carter: I will be real brief.

11 **Mr. Jonathan Newman - Redirect by Mr. Carter**

12 Q: Jonathan, counsel asked you about the blood on the
13 porch or at the doorway. When Montag threw that
14 punch you did not measure distance or anything?

15 A: I did not.

16 Q: Counsel asked you about in your opportunity to talk
17 with Officer Daniels. The second time when they
18 approach you had they already arrested you?

19 A: Yes sir I was.

20 Q: Because you were under arrest that is why you
21 wanted a lawyer to talk to them?

22 A: Yes sir.

23 The Court: Any recross?

24 Finney: No Your Honor.

25 The Court: Thank you the witness may step down. Why

1 do we not take a ten minute afternoon recess. Do not
2 discuss anything.

3 **(Jury break)**

4 The Court: Alright court will be in recess for ten
5 minutes.

6 **(Court break)**

7 **(Court in session)**

8 The Court: Anything while we are without the jury?

9 Mr. Finney: No Your Honor.

10 The Court: Alright, let us bring our jury in.

11 **(Jury in)**

12 The Court: Alright Mr. Carter you may call your
13 next witness.

14 Mr. Carter: Your Honor we rest.

15 The Court: Mr. Devoe do you wish to present
16 evidence today?

17 Mr. Devoe: May I approach Your Honor. Your Honor I
18 call my client Mr. Samuels:

19 The Court: Alright Mr. Samuels come forward and be
20 sworn.

21 Bailiff: I need you to raise your right hand, place
22 your left hand on the Bible, and repeat you name please.

23 Mr. Samuels: Letroy Samuels.

24 Bailiff: Do you solemnly swear that the testimony
25 you are about to give will be the truth and nothing but

1 the truth so help you God?

2 Mr. Samuels: Yes ma'am.

3 **Mr. Letroy Samuels - Examination by Mr. Devoe**

4 Q: For the record will you give us your name?

5 A: Letroy Samuels.

6 Q: How old are you Letroy?

7 A: 33.

8 Q: Are you a resident of Clarendon County?

9 A: Yes.

10 Q: You live in Manning?

11 A: Yes.

12 Q: You ever lived any place other than Manning?

13 A: No.

14 Q: How far did you go in school?

15 A: I completed --- I was a summer graduate. I was
16 suppose to graduate in 12th grade but I did not
17 complete my summer graduate so I got my GED.

18 Q: GED you said.

19 A: Yeah.

20 Q: Are you currently employed?

21 A: No.

22 Q: Would you have a job waiting for you?

23 A: Yeah a friend of mine says he has a job for me,
24 waiting for me.

25 Q: You have been here the whole week listening to this

1 trial?

2 A: Yes sir.

3 Q: Because you are co-defendant.

4 A: Yes sir.

5 Q: You are also charged with the murder of Mr.

6 Wimberly?

7 A: Yes sir.

8 Q: You heard the testimony today and yesterday from

9 the various co-defendants and the witnesses?

10 A: Yes sir.

11 The Court: You have got to speak up Mr. Devoe I can

12 not hear you and the witness can not hear you speak into

13 the microphone please.

14 Mr. Devoe: I am sorry, I am trying is this working

15 though Your Honor. Can you hear me know.

16 Q: How old are you?

17 A: 33.

18 Q: You married?

19 A: No sir.

20 Q: You got any children?

21 A: No sir.

22 Q: Who do you live with?

23 A: My mother.

24 Q: And your mother lives in Manning also?

25 A: Yes sir.

- 1 Q: Does she work?
- 2 A: Yes sir.
- 3 Q: She here today?
- 4 A: No sir, she is at work.
- 5 Q: You are pleading innocent of the charges I take it,
- 6 is that correct?
- 7 A: Yes sir.
- 8 Q: Why are you pleading innocent?
- 9 A: Because I am innocent I am not guilty.
- 10 Q: You have heard the testimony in this trial from the
- 11 other witnesses?
- 12 A: Yes sir.
- 13 Q: And from the co-defendant?
- 14 A: Yes sir.
- 15 Q: The day in question May 26th, you were at Kevin
- 16 Slater's house?
- 17 A: Yes sir.
- 18 Q: And you were drinking most of the day?
- 19 A: Yeah.
- 20 Q: Beer?
- 21 A: Beer.
- 22 Q: Anything else?
- 23 A: Beer and liquor.
- 24 Q: And liquor?
- 25 A: Yes sir.

- 1 Q: Did you have anything to eat that day?
- 2 A: Maybe some snacks not a meal.
- 3 Q: You heard earlier in the week yesterday Leon picked
- 4 you up and took you to Walmart at some point?
- 5 A: Yes sir.
- 6 Q: To get some drugs for you, medication I mean?
- 7 A: Not for me, for Montag's daughter.
- 8 Q: Montag's daughter?
- 9 A: Yes sir.
- 10 Q: And beer?
- 11 A: Yeah.
- 12 Q: And you heard Kevin Slater testify?
- 13 A: Yes sir.
- 14 Q: He is a friend of yours.
- 15 A: My cousin.
- 16 Q: He is a first cousin?
- 17 A: Yes sir.
- 18 Q: Did you listen to his testimony?
- 19 A: Yes sir.
- 20 Q: And you knew Mr. Wimberly?
- 21 A: Yes sir.
- 22 Q: Friends of his?
- 23 A: Yes sir.
- 24 Q: Talk to him some?
- 25 A: Yes.

1 Q: The evening did it come about that Mr. Wimberly was
2 asking people to leave the porch and go away
3 because they were making to much noise?

4 A: Say that again.

5 Q: Did it come up to fact that Mr. Wimberly approached
6 people on the porch and asked them to leave or go
7 in the other house because they were making to much
8 noise?

9 A: Yeah he came out maybe once or twice that day and
10 told people to calm down.

11 Q: Do what?

12 A: And told people to keep the noise down.

13 Q: Not to leave just to be quiet?

14 A: Yeah.

15 Q: Did that happen?

16 A: Yeah, but it still kind of picked up. People still
17 like stopped chilled calmed down for a minute but
18 continued to get.

19 Q: And then he came back again and said again to be
20 quiet?

21 A: I am not sure if he said it more than one time
22 maybe twice I am not sure.

23 Q: Well when Mr. Wimberly got hit by someone, were you
24 on the porch or inside Kevin Slater's house?

25 A: I was on the porch when he got struck.

- 1 Q: Did you see him getting struck?
- 2 A: Yes sir.
- 3 Q: Do you know who did it?
- 4 A: Yes sir.
- 5 Q: Who do you think did it?
- 6 A: I saw who did it.
- 7 Q: Well who did you see do it?
- 8 A: I saw Newman hit him.
- 9 Q: Pardon me?
- 10 A: I saw Newman hit him.
- 11 Q: After he was hit did Mr. Wimberly fall down?
- 12 A: Yes he fell down.
- 13 Q: Was it a one punch knock out?
- 14 A: One punch.
- 15 Q: And he was knocked out?
- 16 A: Yes sir.
- 17 Q: Did somebody drag him back into the house after
- 18 they knocked him out?
- 19 A: I did not see him drug him in the house.
- 20 Q: Did you see anybody drag him back in the house?
- 21 A: No sir.
- 22 Q: Where did you go after he got knocked out?
- 23 A: I run immediately with my cousin Kevin, we ran.
- 24 Q: You took off?
- 25 A: Yes sir.

1 Q: So you saw nothing happen after that?

2 A: No sir.

3 Q: You did not see him dragged in the house?

4 A: No sir.

5 Q: Did you see any second or third punches?

6 A: No sir.

7 Q: You just left?

8 A: I left.

9 Q: That is why you are here today saying exactly that.

10 A: Yes sir.

11 Q: ... because that one point in time?

12 A: Yes sir.

13 Q: Did you talk to the police about this situation?

14 A: Yes sir.

15 Q: Did you think you cooperated with police about it?

16 A: To an extent because I did not tell them the truth
17 like what I am telling today.

18 Q: What truth are you not telling or did tell them?

19 A: Well the truth was I told them the truth that I
20 left with my cousin Kevin but they never believed
21 me and they never accepted the truth and they kept
22 calling me and telling me to come in. So when I
23 come in I was thinking like ok why they not
24 accepting the truth they are not believing me what
25 should I tell them. So one time when they called me

1 in the kind of made it seem like they needed my
2 help. They was like you are either going to be a
3 witness or a suspect and that is why in that
4 interview date on the 28th, that I was talking to
5 them and it was not I was not saying I did those
6 things or admitted to those things. They were
7 asking questions that telling a story that is why I
8 was like uh-huh, uh-huh and I never admitted that I
9 did this or I did that because when I first told
10 them the truth which was I left they never believed
11 it.

12 Q: How many times do you think you talked to the
13 police?

14 A: It was about seven or eight times.

15 Q: In how many days?

16 A: There were a lot of different days even on took
17 place after I was locked up after July and while I
18 was incarcerated also. Talked to them while I was
19 locked up for county jail.

20 Q: Well I have transcripts for May 27th and May 28th
21 that you talked to them, three transcripts. And you
22 are saying that there are more transcripts than
23 that?

24 A: Yes sir there are a whole lot more.

25 Q: Including July?

Mr. Letroy Samuels - Cross Examination by Mr. Durant

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- 1 A: In July yeah, when I was locked up and while I was
2 still at the county jail.
- 3 Q: You were arrested in July?
- 4 A: Yes sir.
- 5 Q: What seems to be the account of lock up at county
6 jail?
- 7 A: I was locked up on July 8th in the county jail.
- 8 Q: You have been the county jail for how long?
- 9 A: For 15 months.
- 10 Q: For 50 months?
- 11 A: 15.
- 12 Q: 15 months and you got out when?
- 13 A: I was bonded October 23.
- 14 Q: Of last year?
- 15 A: Yes sir.
- 16 Q: Just to repeat a few simple questions here. You did
17 see Mr. Wimberly get hit?
- 18 A: Yes sir.
- 19 Q: You did not hit him?
- 20 A: No sir.
- 21 Q: Were you considered to be the lookout?
- 22 A: No sir.
- 23 Q: Are you saying when he got hit you ran right away?
- 24 A: Yes sir.
- 25 Q: Along with Kevin Slater?

1 A: Yes sir.

2 Q: Is that correct?

3 A: Yes sir.

4 Mr. Devoe: I have no further questions thank you.

5 The Court: Solicitor.

6 Mr. Durant: Just a moment Your Honor.

7 Mr. Letroy Samuels - Cross Examination by Mr. Durant

8 Q: Good afternoon Mr. Samuels.

9 A: Good afternoon.

10 Q: You said you got a job waiting for you when you
11 this is over?

12 A: Yes sir.

13 Q: Where is that?

14 A: My friend have told me he has a job for me.

15 Q: Doing what?

16 A: He is not sure yet he has spoken with me yet. That
17 is what my attorney told me yesterday.

18 Q: Let me just start out kind of after, after this
19 assault back on May 26th. You testified a minute ago
20 that the first thing that as soon as the first
21 punch was thrown which you affirmed by Mr. Jonathan
22 Newman is that correct?

23 A: Yes sir.

24 Q: As soon as that first punch was thrown you and
25 Kevin Slater left is that right?

1 A: Yes sir.

2 Q: Is it not true that after you and Kevin Slater left
3 that you ran into Jonathan Newman and Montag Webb
4 again?

5 A: Yes sir.

6 Q: Is it not true that when you saw Jonathan Newman
7 and Montag Webb again Jonathan Newman had the gun
8 on him?

9 A: Yes sir.

10 Q: And he showed it to you?

11 A: Yes sir..

12 Q: And is it not true that you are afraid of Jonathan
13 Newman?

14 A: I will not say afraid. I would say more cautious.

15 Q: Ok why are you cautious?

16 A: Because I have seen him hit some people and I know
17 he is a fighter.

18 Q: He has hit you before has he not?

19 A: Yes he has.

20 Q: And is it not true even when you saw Jonathan
21 Newman and Montag Webb after this incident that
22 they told you they would kill you if you said
23 anything?

24 A: Yes, well he pointed the gun at me and said I
25 better not say anything.

1 Q: They did not say they would kill you?

2 A: He just said you better not say anything..

3 Q: Did you not tell the police that they told you they
4 would kill you?

5 A: Because when he pointed the gun at me that is what
6 I took it as, a threat of him saying I will kill
7 you because I knew what it meant.

8 Q: Is it not true that you also told police that you
9 were afraid of Jonathan Newman because he would do
10 what he said?

11 A: Yes.

12 Q: He is the kind of man that follows through when he
13 says something?

14 A: Yes.

15 Q: He told you that he would kill you?

16 A: He did not say those words.

17 Q: But you did not tell law enforcement he said that?

18 A: Maybe I told law enforcement but he did not say
19 those words.

20 Q: Did anybody say those words?

21 A: No.

22 Q: Ok well let me show you in your interview on May
23 28, 2013 at 12:11 PM on page 8, start reading on
24 line 3.

25 A: It says I was kind of nervous because I was seeing

1 --- but they was like if you say anything we are
2 going to kill you. But you know I do not know I
3 just said it anyway.

4 Q: When was it that they told you that?

5 A: It was later on that night.

6 Q: The same night after Mr. Wimberly was beaten?

7 A: Yes sir.

8 Q: And the same night after you saw Jonathan Newman
9 with the gun?

10 A: Yes sir.

11 Q: Well what was it that you had to tell that they
12 were so afraid of?

13 A: I heard them talking about what they had done.

14 Q: You heard them talking about it before or
15 afterwards?

16 A: Afterwards.

17 Q: What did they say?

18 A: They said they were in the house beating him.

19 Q: They were beating him. Not just one punch?

20 A: No sir.

21 Q: So the same night after this incident you found out
22 from Jonathan Newman and Montag Webb that they had
23 beat Mr. Wimberly?

24 A: Yes sir.

25 Q: And Jonathan Newman showed you a gun?

1 A: Yes sir.

2 Q: And they threatened to kill you if you spoke a word
3 about it?

4 A: He just point it at me and said you better not say
5 anything or you know what time it is.

6 Q: Well let me ask you this. If you did not see it why
7 would they tell you about and then threaten you not
8 to tell anybody?

9 A: Because we was sitting over there drinking and they
10 were talking about it and I was just being quiet,
11 being quiet sitting there.

12 Q: Where were you all sitting around drinking?

13 A: At his girlfriend's house.

14 Q: At whose girlfriend's house?

15 A: Montag's and Jonathan's girlfriends.

16 Q: Did they give you any more information about what
17 happened?

18 A: No sir.

19 Q: Did they tell you what they were going to do from
20 there?

21 A: No sir.

22 Q: They did not tell you they were going to burn their
23 clothes?

24 A: They made a comment about that.

25 Q: Who said it?

1 A: One of them I can not remember exactly one of them
2 said it.

3 Q: Did you see blood on their clothes?

4 A: No sir.

5 Q: Why would they have a need to burn the clothes?

6 A: I guess they wanted to get rid of them.

7 Q: Let me just clear one thing up. You testified that
8 you had been drinking beer and liquor that day?

9 A: Yes sir.

10 Q: Nobody was making you drink right?

11 A: Yes sir.

12 Q: Nobody was forcing it down your throat?

13 A: No sir.

14 Q: It was your choice to drink that day?

15 A: Yes sir.

16 Q: Now getting back to the incident. You testified a
17 minute ago that as soon as Jonathan Newman hit him
18 on the porch you ran is that right?

19 A: Yes sir.

20 Q: That is what you actually told law enforcement the
21 first time.

22 A: More than one time.

23 Q: More than one time?

24 A: Yes sir.

25 Q: Let us talk about that. You mentioned the

1 transcripts that we are allegedly missing why do
2 you not just go ahead and tell the jury what you
3 told officers in those transcripts.

4 A: I think mostly what I was saying was I left as soon
5 as my cousin left and there were not a lot of
6 things that we talked about and I know we talked
7 about seven or eight time. They are not giving
8 those transcripts.

9 Q: And the missing transcripts that occurred after
10 these recorded interview. After the interview on
11 May 28 you went back to the original story is that
12 right?

13 A: Yes sir.

14 Q: You gave them this original story that I ran after
15 the first punch.

16 A: Yes sir.

17 Q: And then you met with law enforcement again and you
18 gave them a different story. Are you telling the
19 jury that after that you decided to go back to your
20 first version of the events?

21 A: Because I want to tell the truth because I guess by
22 not telling the truth in the other statement I was
23 trying to get myself out of trouble. I thought that
24 I was kind of helping them because they said I was
25 going to be a witness or a suspect and then

1 probably got me in more trouble and it was not the
2 truth.

3 Q: You were lying in this May 28th interview is what
4 you are saying?

5 A: Yes sir.

6 Q: That was not the truth?

7 A: Because I was not saying most of those things. They
8 were asking question but at the same time saying
9 this and that happened and I was just like uh-huh
10 uh-huh. I never admitted to be being a lookout.
11 They said what did they want you to do. I said they
12 wanted me to lookout. That interview on the 28th
13 that was not the truth because the truth was I ran
14 as soon as I saw him get hit.

15 Q: So in the interview on May 28th they gave you a
16 choice between being a witness and a suspect, that
17 is your testimony today?

18 A: Well they said that, I think that may have been the
19 first interview they said that.

20 Q: Did they not ask you to tell the truth?

21 A: Yes sir but when I was telling them the truth they
22 never accepted it they did not believe it. It was
23 not what they wanted to hear.

24 Q: Here is what I do not understand. You say that they
25 would not except the truth. They to you, you could

1 be a witness or a suspect, but in the third
2 interview you made yourself a suspect. So you
3 chose, they gave you a choice between being a
4 witness and a suspect and you say that pressure is
5 what led you to make up this story. Under that
6 pressure you chose to make yourself a suspect, you
7 put yourself in the middle of it.

8 A: It was not true.

9 Q: It was not true. Why would you say that?

10 A: I thought that I was helping them out and that it
11 would get me out of trouble but it only got me
12 locked up and it was not the truth.

13 Q: The truth is that you knew about the plan before
14 hand...

15 A: There was not a plan.

16 Q: Jonathan Newman did not tell you that this guy had
17 a gun and they were going to get it?

18 A: No sir, it was not a plan.

19 Q: Well where did you come up with that?

20 A: Because I knew what had happened because they were
21 talking about it, from the house that is how I knew
22 what happened.

23 Q: I am going to show you page 17 of your interview on
24 May 28th and I want you to read starting at line 18.

25 A: It says, they told me they was going to get the gun

1 and I everybody was hanging out with the man just
2 drinking. He said he was going to get the gun.

3 Q: Who said he was going to get the gun?

4 A: I guess I was talking about Jonathan getting it.

5 Q: You guess you were talking about Jonathan?

6 A: It had to be.

7 Q: Well what is the truth who said it?

8 A: I told the officers that but there was not a plan.
9 There was never a plan.

10 Q: Ok so nobody said it?

11 A: I did not hear Jonathan say it.

12 Q: So now you can not even remember who you were lying
13 about?

14 A: I did not hear Jonathan say he was going to get
15 that gun.

16 Q: Ok. Did you hear Montag say it?

17 A: No sir.

18 Q: Those were not Officer Daniels words were they,
19 they were yours? Did she say, she did not say what
20 you just read to the jury did she?

21 A: No sir.

22 Q: Those were your words?

23 A: Yes sir.

24 Q: So when you told the jury a minute ago that Officer
25 Daniels was just talking and you were agreeing with

1 her. That is not what happened there is it?

2 A: In most of the interview it was like I was, they
3 was just talking, but asking questions.

4 Q: And your testimony today is that you did not see
5 any beating beyond first punch?

6 A: No I did not see him beaten.

7 Q: You heard about it later, Newman and Webb told you
8 about it later when they threatened you?

9 A: Yes sir.

10 Q: But you did not see it?

11 A: I immediately ran.

12 Q: But did you not tell officers that you saw it?

13 A: Yes sir.

14 Q: And you did not just agree with them when they
15 asked you if saw them. You gave details did you
16 not?

17 A: They were asking. That was not the truth in that
18 interview and that is why I could never give
19 specific details. I was lying in that interview and
20 I admit it. I said it was just stomping and
21 kicking, I did not see it.

22 Q: That is right you said stomping and kicking, those
23 were your words. They were not Officer Daniels words
24 they were your were they not?

25 A: Yes they were that was not the truth.

1 Q: You were not agreeing with her, you told that
2 story.

3 A: Yes, but that was not the truth.

4 Q: That was not the truth?

5 A: No.

6 Q: Well how did that man get his injuries?

7 A: I mean I heard them saying what they did back at
8 the house but I did not stay there and I did not
9 see it.

10 Q: Is that what they told you they did, that they
11 stomped and kicked?

12 A: They were saying they was stomping and kicking.

13 Q: So when you went back to Officer Daniels you just
14 imagined that you had witnessed what they told you
15 they did is that right?

16 A: Yes sir.

17 Q: Stomping and kicking your words, right?

18 A: Yes sir.

19 Q: And matter of fact did the officers not ask you to
20 specify who was doing what?

21 A: Yes sir.

22 Q: And did you not tell them?

23 A: I said Jonathan and Montag was stomping and kicking
24 but I did not see Jonathan and Montag stomping and
25 kicking.

1 Q: But they told you later they did?

2 A: Yes sir.

3 Q: Let me ask you this when Jonathan and Montag as you
4 say when they confessed to you that evening. Did
5 they give you specific details as to who had what
6 part in this robbery and assault?

7 A: Well they did not, when they were talking they was
8 like both of them was stomping and kicking at some
9 points and Tag had the wallet and the phone and ...

10 Q: Tag had the wallet and the phone you saw it
11 afterwards?

12 A: Yes sir.

13 Q: When they showed you the gun they had the wallet
14 and the phone also?

15 A: Yes sir.

16 Q: When you talked to Officer Daniels on the 28th did
17 you not tell them that J. White was beating the
18 victim in the living room while Montag was in the
19 back room flipping stuff over?

20 A: Yes because I knew that Tag had went looking for
21 things in the room.

22 Q: How did you know that, he told you?

23 A: Yes sir.

24 Q: Did he tell you that Jonathan did not go back there
25 with him?

1 A: No he did.

2 Q: Did he tell you that or did you assume it because
3 Montag had the wallet and the cell phone?

4 A: I did not really know what happened, what was
5 really they did.

6 Q: You did not get your story straight with Montag
7 before you went in to speak with law enforcement?

8 A: No sir, no sir.

9 Q: In that same interview with law enforcement did you
10 not tell officers that, Montag and Jonathan could
11 kill this guy they could kill you too?

12 A: Yes sir.

13 Q: Did you believe that?

14 A: Yeah.

15 Q: You believe they could kill this guy?

16 A: Yeah.

17 Q: And they told you they did?

18 A: They had not really told me they did.

19 Q: Did they tell you they had given him a severe
20 enough beaten that he might likely die?

21 A: They did not go, they said they beat him but I did
22 not know how bad it was.

23 Q: Well let me get back to your involvement. You said
24 that in the interview that you were just agreeing
25 with officers and you did not really, you told Mr.

1 Devoe a minute ago that you never admitted to
2 anything is that right?

3 A: Yes sir.

4 Q: You never admitted to anything? Did you not tell
5 Officer Daniels that your job was to distract? To
6 go up there on the porch and start a conversation
7 with Mr. Wimberly while Jonathan Newman came up and
8 hit him?

9 A: Correct but that was not true, that was not true.

10 Q: Is that what you did?

11 A: No sir, no sir, because actually Mr. Wimberly
12 engaged in conversation with me. He started talking
13 to me I came and testified. I did not go up there
14 and talk to Mr. Wimberly he started talking to me.

15 Q: Is this another one of those ideas Mrs. Sonia
16 Daniels came up or did you tell her that?

17 A: No sir it is in the transcript, that he started the
18 conversation with me the detectives asked me that.
19 Its in the CD tape over there they say because Mr.
20 Wimberly asked you.

21 Q: Let me show you page 35 May 28th interview starting
22 at line 14.

23 Mr. Carter: Which cassette number is that?

24 Mr. Durant: May 28th at 12:11 PM.

25 Mr. Carter: Your Honor can we find out which

1 cassette? Each of the statements have cassette numbers
2 on them. There are multiple dates on all of them.

3 Mr. Durant: CD number eight.

4 Q: Start reading at line 14.

5 A: Line 14?

6 Q: Yes sir.

7 A: It says, Officer Daniels is saying this, it says
8 distract, yeah you go up there and start a
9 conversation with him and then would it be and then
10 it say inaudible. My answer was I did not know.

11 Q: Officer Daniels was saying that not you?

12 A: Yes sir. It shows you right there Officer Daniels
13 distraction she says that.

14 Q: That was not your response to Officer Daniels,
15 distract yeah go up there and talk to them?

16 A: I did not ever say I did this. They were asking
17 questions like they was telling a story and I was
18 kind of like yeah I know uh-huh because I knew it
19 was not true.

20 Q: Let us look at page 36 then, line 2. Will you read
21 that for us?

22 A: I said yeah he told me to talk to him. But that was
23 not true.

24 Q: You said that?

25 A: Yes sir.

1 Q: Who told you to talk to him?

2 A: I said I was referring to Jonathan when I said he,
3 he told me to talk to him. But that was not true.

4 Q: So when you lied, when you made that story up, you
5 were referring to Jonathan?

6 A: Yes and that was I made most of that up because
7 officers made it seem like they needed my help and
8 at one point in my interview they did tell me they
9 need my help and I am being honest. They turned off
10 the recorders and told me we need your help, one of
11 them winked their eye.

12 Q: Let us talk about needing your help. You testified
13 a minute ago that Mr. Wimberly was your friend is
14 that right?

15 A: Yes sir.

16 Q: Mr. Wimberly did not need your help that night?

17 A: Yes sir but I --- that is why I wish I would have
18 called the police and got some help for him, but
19 then I was thinking about my well being too. After
20 they had done told me that what would happen I
21 tried to keep stay out of it.

22 Q: So when Mr. Newman and Mr. Webb told you what
23 happened that evening and you had been drinking
24 correct?

25 A: Yes sir.

1 Q: But you remember details of what they told you and
2 your testimony today is that you conveyed the
3 details of their confession to you to Officer
4 Daniels as if you had witnessed it. Is that right?

5 A: Yes sir, yes sir, but just like Montag and Kevin
6 testified earlier this week I left and that was the
7 truth.

8 Q: But the details of what happened you are saying are
9 true, as far as you know that is what Montag and
10 Jonathan told you?

11 A: That is what they were saying yes.

12 Q: So the details according to Mr. Newman and Mr. Webb
13 themselves are true as far as the stomping and
14 kicking and beating?

15 A: That is what they were saying.

16 Q: And the plan to rob him?

17 A: There was not a plan.

18 Q: Ok so you made that up on your own that is not
19 something you got from Montag or Jonathan?

20 A: There was not a plan they did not have a plan
21 because when, Montag I do not think that he was
22 aware that Newman was going to do that at that
23 instant.

24 Q: When you got back from Walmart with Montag and
25 Leon, drove you to Walmart is that right?

1 A: Yes sir.

2 Q: Do you remember Jonathan Newman walking out to
3 Leon's truck?

4 A: I got out of the car I do not remember whether he,
5 I know he was in the yard. Everybody was standing
6 around different places you know.

7 Q: There was testimony earlier that you indicated to
8 law enforcement in this interview that your job was
9 to be the lookout. Do you recall that?

10 A: No my job was not. I remember in that interview but
11 my job was not to lookout and I did not admit to
12 being a lookout. She said well what were you
13 suppose to do. I said they wanted me to lookout and
14 I was not even there, I ran, I said they wanted me
15 to lookout.

16 Q: Did you tell officers that you were the lookout or
17 they wanted you to look out?

18 A: I said they wanted me to look out.

19 Q: They told you to make sure nobody came in?

20 A: That was not true because I was just making that up
21 because they wanted me to be like a witness to say
22 that I saw this and I saw that, but I did not see
23 that.

24 Q: Well what did you see?

25 A: I saw one punch and I left. And that is the truth.

- 1 Q: And you saw Jonathan and Montag later with a gun?
- 2 A: Yes.
- 3 Q: And a wallet?
- 4 A: Yes.
- 5 Q: And a cell phone?
- 6 A: Yes sir.
- 7 Q: And you heard them talking about burning the
- 8 clothes?
- 9 A: Yes sir.
- 10 Q: And they told you they would kill you if you said
- 11 anything?
- 12 A: He did not say I will kill you he said you better
- 13 not say anything and he pointed the gun at me.
- 14 Q: Who did?
- 15 A: Newman.
- 16 Q: He pointed the gun at you?
- 17 A: Yes sir.
- 18 Q: Where were you when he did that?
- 19 A: At his girlfriend's house.
- 20 Q: And you were scared of him?
- 21 A: Yes I was like I know I have to get out of there.
- 22 Q: Did you believe he would follow through with it?
- 23 A: Yeah.
- 24 Q: You thought he was capable of that?
- 25 A: Yes sir.

- 1 Q: Mr. Samuels just a couple more questions. After you
2 left Mr. Newman's or was it Mr. Newman's house his
3 girlfriend's house that evening and they told you
4 what they had done and pointed the gun at you. Did
5 you go back and check on your friend Mr. Wimberly?
- 6 A: I walked by.
- 7 Q: You walked by on the highway?
- 8 A: No I went to the door.
- 9 Q: You went to the door?
- 10 A: Yeah.
- 11 Q: Did you go on the porch?
- 12 A: Yes sir.
- 13 Q: Did you look inside?
- 14 A: Yes sir.
- 15 Q: What did you see?
- 16 A: I saw him laying there in a pull of blood.
- 17 Q: Was he able to communicate?
- 18 A: No sir.
- 19 Q: What did you do then?
- 20 A: I went ran and went to my sister's house.
- 21 Q: You ran home?
- 22 A: Yes sir.
- 23 Q: You did not help your friend?
- 24 A: I was thinking about what they had told me.
- 25 Mr. Durant: Your Honor I do not have any further

1 questions.

2 The Court: Mr. Carter.

3 Mr. Letroy Samuels - Cross Examination by Mr. Carter

4 Q: Letroy would you consider yourself an alcoholic?

5 A: Yes sir, not anymore.

6 Q: Not anymore. All of this event that occurred raised
7 the saving grace to save your life?

8 A: Yes sir.

9 Q: The longest you have gone without drinking has been
10 as a result of this event correct?

11 A: Yes sir.

12 Q: Yeah but prior to this event you could knock them
13 down?

14 A: Yes sir.

15 Q: Beer, liquor, wine, crack?

16 A: No sir.

17 Q: Marijuana, weed?

18 A: I did not smoke marijuana like that, every once in
19 a while I would take a pull here and there.

20 Q: Jack Daniels?

21 A: Yes sir.

22 Q: That is the only thing you know?

23 A: Yes sir.

24 Q: And the night of this event you knocked quite a few
25 of them down?

- 1 A: Yes sir.
- 2 Q: You had been drinking all that day?
- 3 A: Yes sir.
- 4 Q: Were you working at the time?
- 5 A: No sir.
- 6 Q: You did not have any money on you right?
- 7 A: Yeah I had a few dollars.
- 8 Q: You had a few dollars. Did you spend it on alcohol,
- 9 beer and wine?
- 10 A: Not all of it. I bought some beer earlier that day.
- 11 Q: Where did you get that money from?
- 12 A: My cousin, Price.
- 13 Q: How much did you have?
- 14 A: Fifty dollars.
- 15 Q: How much did you spend on alcohol, and beer and
- 16 wine?
- 17 A: I might have spend like, I know I bought two forty
- 18 ounces like around one o'clock and a pint of liquor
- 19 that was earlier that day.
- 20 Q: You are not trying to make me admit I know what the
- 21 cost?
- 22 A: No I can not remember exactly how much they cost.
- 23 Q: How much did you spend?
- 24 A: I think a pint may have been like 7.25 or something
- 25 like that and forty ounces two dollars and some

1 change a piece.

2 Q: So you think you spent twenty five dollars of that
3 fifty?

4 A: No sir.

5 Q: Did you have any of it the next day?

6 A: Yeah.

7 Q: On the day of this event. About the time this event
8 came around you were in your usual state pretty
9 wasted?

10 A: Yeah.

11 Q: Even in that state of mind, drunk, you were able to
12 get away from this incident when you thought it
13 occurred?

14 A: Oh yeah.

15 Q: I just want to make sure that I understand you
16 statement. You said when you told the officers,
17 Jonathan, I think you used they, told you to talk
18 to the man you said that was not true?

19 A: That was not true.

20 Q: But were you talking with him?

21 A: Yes sir I was talking with him.

22 Q: But you were not talking with him pursuant to no
23 plan?

24 A: No plan.

25 Q: That was not something you were scheming to do?

1 A: No he engaged the conversation to me talking about
2 my father.

3 Q: How does a drunk remember something like that if
4 they are drunk?

5 A: Well I could pretty much handle alcohol.

6 Q: Which is what a drunk says. How do you remember so
7 many details that you told in your first couple of
8 statements?

9 A: How do I remember?

10 Q: Yeah.

11 A: I just remembered.

12 Q: Alcohol did not tell it to you?

13 A: No.

14 Q: So when you gave them and we already know you will
15 lie we all ready know that you agreed that you
16 would right?

17 A: I do not lie anymore.

18 Q: You do not lie. When you stopped drinking alcohol
19 you stopped lying too?

20 A: No I got saved.

21 Q: You got saved?

22 A: Yes sir.

23 Q: That is a good reason not to lie anymore.

24 A: I am telling you the truth today.

25 Q: I appreciate that. Prior to this incident occurring

1 you would lie and then a couple of days after you
2 continued lying to law enforcement?

3 A: I lied to the law enforcement.

4 Q: Any statement and you gave about three interviews
5 or four interviews?

6 A: To detectives?

7 Q: Uh-huh.

8 A: Maybe about seven.

9 Q: Seven different interviews?

10 A: Yeah.

11 Q: Which of those interviews where you know you were
12 telling them a lie?

13 A: I knew the one that is dated the 28th the one that
14 they.

15 Q: Is that the one where you admitted you saw them
16 kicking?

17 A: Yeah and that was totally not the truth because I
18 was kind of like this yeah going along with
19 whatever they said.

20 Q: Is that the one where you admit you saw Montag take
21 the wallet off the man's body?

22 A: No I did not see that.

23 Q: Is that the one where you admit the, no the machete
24 now that was not the second one was it?

25 A: I do not know which one that was exactly but that

1 was not true.

2 Q: That was not true?

3 A: No.

4 Q: Who did you tell them had a machete?

5 A: I told them I know Montag had a machete at the
6 house and he was making comments about it.

7 Q: Did you tell them Montag used a machete on Mr.
8 Wimberly?

9 A: Because they said they were slapping him with it.

10 Q: Who said they were slapping him with it?

11 A: Well when Jonathan said that Montag was slapping
12 him.

13 Q: Do you know if anybody used a machete to slap him?

14 A: I do not know I did not see them.

15 Q: A machete is a sharp knife?

16 A: Right.

17 Q: And a machete is a long knife right?

18 A: They got different sizes of them.

19 Q: You said there was one at Jonathan's house or
20 Montag's?

21 A: At the house yeah.

22 Q: You saw it?

23 A: Yeah.

24 Q: How long or short was it?

25 A: It was about this long.

1 Q: And it is fair to say that you would have seen the
2 machete on them if they were walking up to that
3 house getting ready to hit that man right?

4 A: I guess so that is fair to say I did not see the
5 machete in either one them hand at the house.

6 Q: You said at the house you mean the duplex right?

7 A: Yeah.

8 Q: And you would have seen that if they walked up with
9 that correct?

10 A: Yeah.

11 Q: There is no way to hide a machete. Remember what
12 clothing they were wearing?

13 A: I can not remember.

14 Q: Do you recall whether it was t-shirts or long
15 shirts?

16 A: I can not remember.

17 Q: After you gave your many recorded statements. You
18 originally indicated that you never saw, even
19 Jonathan strike the man. You heard the striking of
20 the person right, of Mr. Wimberly correct?

21 A: I do not remember saying that.

22 Q: Is it your testimony that you were always seeing
23 Jonathan strike Mr. Wimberly?

24 A: I knew I told the officers that Jonathan struck Mr.
25 Wimberly. I do not remember I told them in a

1 statement or not that he was not the one I can not
2 remember.

3 Q: In your first interview on the 26th you do not
4 recall saying you never saw nothing?

5 A: But that was the very first time I got locked up I
6 said I did not know anything.

7 Q: You did not know anything. You told them that you
8 heard a lick, a punch or something and you ran is
9 that correct? Why did you tell them you run?

10 A: Why did I tell them I ran.

11 Q: In your first interview?

12 A: Because I ran.

13 Q: I understand that but what were you running from?

14 A: I wanted to get away from what happened.

15 Q: Just for clarification purposes, nobody ever used
16 words to suggest they were going to kill you right?

17 A: No sir.

18 Q: And I heard you say you never saw any beating of
19 Mr. Wimberly correct?

20 A: I only saw that one punch and that was it.

21 Q: If you were intoxicated how do you know who
22 actually threw the punch?

23 A: Because Wimberly was talking to me. Me and him was
24 standing there.

25 Q: How do you know it was Jonathan as oppose to

1 Montag?

2 A: Because I saw him.

3 Q: Could have been mistaken?

4 A: I could not have.

5 Q: You feel that way now?

6 A: Right I could not have.

7 Q: You mentioned in your 28th, May 28th statement that
8 Montag was dragging Mr. Wimberly back into the
9 house and you did not see Jonathan doing anything.
10 Do you recall that?

11 A: I do not remember telling them that but that was
12 not the truth because I did not see Montag or
13 Newman dragging him.

14 Q: You mentioned that in the last interview Sergeant
15 Daniels and Detective Investigator Rosdail when
16 they were talking with you that they were asking
17 you a lot of questions and you were doing a lot of
18 uh-huhs, is that correct?

19 A: Yes sir.

20 Q: Is that the interview where you started telling
21 facts about you being present and watching things
22 happen?

23 A: They were not facts. That was all...

24 Q: Ok lies.

25 A: Yeah.

1 Q: Any statement to suggest that you saw Jonathan
2 going in the house would have been a lie is that
3 correct?

4 A: Yeah because I never saw him.

5 Q: Is that correct first of all?

6 A: Yeah it is correct.

7 Q: Any statement about Jonathan either stomping Mr.
8 Wimberly or giving any punches on the porch or in
9 the house that would have been a lie?

10 A: I saw the punch on the porch.

11 Q: Did you see more than one punch on the porch?

12 A: I only saw one punch.

13 Q: When Officer Rosdail and Daniels told you that they
14 needed your help that you did not do anything wrong
15 that they needed your help. Is that the point where
16 you started agreeing with everything that they
17 asked you?

18 A: Yes sir.

19 Q: So in other words you had decided that you were not
20 going to get in trouble for whatever it took for
21 you to tell on them you were going to tell them?

22 A: It was that they never believed me when I told them
23 the truth so it was like let us go with what they
24 was saying just to see what that would get me
25 whatever get them to leave me alone.

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1 Q: So in the process of telling what you believed to
2 be telling on Jonathan and Montag you ended up
3 getting yourself in trouble by agreeing?

4 A: Exactly.

5 Q: During that whole time you were telling lies?

6 A: I know it was not true but they would not except
7 the truth so they were not happy until they heard
8 what they wanted to hear. You never heard me say I
9 do know, I was innocent, I was there. I was just
10 uh-huh uh-huh.

11 Carter: Thank you nothing further Judge.

12 The Court: Any redirect?

13 **Mr. Letroy Samuels - Redirect Examination by Mr. Devoe**

14 Q: How many times did you go over to the City of
15 Manning's Police Department for interviews?

16 A: Maybe about seven or eight.

17 Q: So if I told you I have four transcripts of those
18 interviews that would not be all the transcripts?

19 A: That is definitely not all of them, because even
20 after I got locked up I wrote them a couple of
21 times and requested to go see them. As a matter of
22 fact me and you went down there and had a meeting
23 together.

24 Q: This tragedy happened May 26th and you saw the
25 police department at least on the 27th and 28th, four

1 times. Is that correct?

2 A: I do not know if that is correct. I know come to me
3 the day after the incident and that Monday and then
4 I saw them once the next day that is right it was
5 not twice on the 27th. Once the next day and they
6 charged me with giving false information to an
7 officer they locked me up for it. Then I told them
8 I wanted to see them the next day and I told them
9 that I saw Newman hit they let me out.

10 Q: You are saying, I have four transcripts for two day
11 but there were meetings after that?

12 A: Yes sir.

13 Q: Were they more or less the same conversation they
14 had with the first two days with you?

15 A: I know I went back another time, a lot of times to
16 the police department after that. One time I was
17 even in Mrs. Daniels office. I went in there and I
18 signed a document too and I do not know where that
19 document is we do not have any discovered and I was
20 like well I want to tell you the truth. I was lying
21 about all of those times before. I only saw that
22 one hit.

23 Q: At least four times that you saw them you decided
24 to cooperate to the best of your ability?

25 A: Yes sir. I want to say this too. I wrote the

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1 Solicitor's office when I was locked up and I told
2 them I do not know if you all got the letter and I
3 said that they would not leave me alone and they
4 told me I better go home and get my story straight
5 and I only saw one lick I do not know if you guys
6 got that letter or not.

7 Q: But you are telling the jury that you are not
8 guilty of the charges?

9 A: I am not guilty.

10 Mr. Devoe: No further questions thank you.

11 The Court: Any recross?

12 **Mr. Letroy Samuels - Recross by Mr. Durant**

13 Q: Mr. Samuels just on the issue, you about, which you
14 call the missing transcripts. Your testimony here
15 today it says in those interviews you went back to
16 your original story is that right?

17 A: Yes sir.

18 Q: So there is not any information out there in those
19 interviews that are allegedly missing that has not
20 been shared with this jury is it?

21 A: I am not sure but I am telling you the truth today.

22 Q: And your original story was that that you saw the
23 first lick and that you ran. They told you what
24 happened later and that is what you are telling the
25 jury today?

1 A: Yes sir.

2 Q: You gave some dates that you were interviewed by
3 law enforcement and one of them was May 27th, that
4 is the day after this incident is that right?

5 A: It should be.

6 Q: Do you remember whether or not you had a chance to
7 talk to Leon Coleman before that interview?

8 A: I do not think I spoke with Leon Coleman again. I
9 am not sure I do not remember speaking to him.

10 Q: Would it have just been a coincidence then that in
11 that first interview on May 27, 2013 that you told
12 law enforcement that you heard Jonathan Newman say
13 I am going to go get that gun?

14 A: I did not hear Newman say it.

15 Q: So it is just a coincidence that you said that and
16 another witness has said that to be true as well?

17 A: I heard when Leon said that the other day when he
18 testified but I did not.

19 Q: You had not heard that before you talked to law
20 enforcement back in May?

21 A: I am not sure.

22 Q: You told Mr. Carter a minute ago that you will not
23 lie anymore is that right?

24 A: I will not lie.

25 Q: And your testimony here today is that you saw

Mr. Letroy Samuels - Recross Examination by Mr. Carter 417

1 Jonathan Newman hit Anthony Wimberly on his porch?

2 A: Yes sir.

3 Q: And afterwards you saw Jonathan Newman and Montag
4 Webb and they had Anthony Wimberly's gun?

5 A: Yes sir.

6 Q: They had his wallet?

7 A: Yes sir.

8 Q: They had his cell phone?

9 A: Yes sir.

10 Q: And they told you they had beat him, and kicked him
11 and stomped him, is that right?

12 A: Yes sir.

13 Mr. Durant: I do not have any further questions.

14 The Court: Any recross?

15 **Mr. Letroy Samuels - Recross Examination by Mr. Carter**

16 Q: Mr. Wimberly, Mr. Wimberly on that day did he pull
17 a gun on you?

18 A: No sir.

19 Q: You saw Mr. Wimberly with a gun?

20 A: Well I knew he had that gun inside because...

21 Q: The question was did you see it?

22 A: No sir I did not see the gun.

23 Q: Do you know what Mr. Wimberly's gun looked like?

24 A: I know what the kind looked like when Newman showed
25 me.

1 Q: That is not what I asked you sir. Do you know what
2 Mr. Wimberly's gun looked like? Either you do or
3 you do not.

4 Mr. Durant: Judge he answered the question.

5 The Court: He did not he said he did not know. The
6 witness may step down. Mr. Devoe do you have any other
7 witnesses.

8 Mr. Devoe: No Your Honor.

9 The Court: You rest as well. Does the state have
10 any reply witnesses?

11 Mr. Finney: Yes Your Honor. Investigator Daniels.

12 The Court: Please place her under oath it is a
13 different day.

14 Bailiff: Raise your right hand place your left hand
15 on the Bible repeat your name please.

16 Ms. Daniels: Sonia Daniels.

17 Bailiff: Do you solemnly swear the testimony you
18 are about to give is the truth and nothing but the truth
19 so help you God?

20 Ms. Daniels: Yes.

21 **Lt. Sonia Daniels - Examination by Mr. Finney**

22 Q: Investigator Daniels did you have occasion in the
23 investigation of this case to, go to Walmart and
24 check out the story of Mr. Montag Webb about going
25 there and shopping?

It. Sonia Daniels - Examination by Mr. Finney

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1 A: I did.

2 Q: Did you have occasion to see Mr. Montag Webb the
3 day after Mr. Wimberly had been assaulted?

4 A: That is correct.

5 Q: Could you tell the ladies and gentlemen of the jury
6 what he had on, on both of the those occasions, in
7 the Walmart and the next day?

8 A: He had the same outfit on.

9 Q: The outfit that he had in the Walmart would have
10 been before midnight?

11 A: That would have been before the incident that is
12 correct.

13 Q: And when he was in your office after midnight after
14 Mr. Wimberly had been identified as being the
15 victim of assault, you talked to Montag?

16 A: That is correct.

17 Q: He had on the same outfit?

18 A: That is correct.

19 Q: As a result of the investigation you talked to
20 Montag in your office?

21 A: That is correct.

22 Q: Did you notice anything about his hands?

23 A: It is common practice when we are investigating an
24 unsolved murder, anything physical that we
25 automatically look for scratches on the face,

1 bruising, injuries to your hand, feet whatever and
2 there was none to Mr. Montag's hand.

3 Q: Did you do that same type of investigation to other
4 witnesses in this case?

5 A: That is correct.

6 Q: Do you remember another witness in this case who
7 had something physically wrong that you checked
8 out?

9 A: That is correct.

10 Q: Who was that?

11 A: Mr. Kevin Slater.

12 Q: And what was it that Mr. Slater had that you
13 checked out?

14 A: He had a injury to I believe it might have been his
15 right feet and we noticed that he had a limp and
16 when we asked him what had happened he said he
17 stepped on some glass. The shoes that he had on
18 during the interview in my office was not the shoes
19 that he had on during the injury. So when he was
20 transported back to his residence he allowed us to
21 get those actual shoes that he got injured in.

22 Q: If you had noticed any injuries to Mr. Montag's
23 hands what would you have done?

24 A: I would have immediately photographed them.

25 Mr. Finney: Alright thank you ma'am. Nothing

Lt. Sonia Daniels - Cross Examination by Mr. Devoe

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1 further.

2 The Court: Cross?

3 Mr. Carter: Nothing Your Honor.

4 The Court: Any cross examination Mr. Devoe?

5 Lt. Sonia Daniels - Cross Examination by Mr. Devoe

6 Q: Did I hear you correctly you said the only person
7 that visible injuries on or to your knowledge was
8 Kevin Slater?

9 A: That is correct.

10 Mr. Devoe: I have no further questions.

11 The Court: You need to recross?

12 Mr. Durant: Nothing further.

13 The Court: Alright thank you, you may step down.

14 Any other witnesses in reply?

15 Mr. Finney: No witnesses Your Honor.

16 The Court: Alright ladies and gentlemen that will
17 be all the testimony.

18 Mr. Carter: Judge.

19 The Court: Yes sir.

20 Mr. Carter: Give us a minute.

21 The Court: Alright ladies and gentlemen that is all
22 the testimony that you are going to hear. We are going
23 to break we have some matters of law but I am going to
24 dismiss you for the evening. Then tomorrow morning we
25 will have closing arguments. I will then give you the

1 case and you may begin your deliberations. Have a nice
2 warm night ladies and gentlemen be here at ten o'clock
3 tomorrow. Thank you ladies and gentlemen, please do not
4 discuss anything about the case at this time.

5 **(Jury excused for the evening)**

6 The Court: Alright now that all the evidence has
7 been presented are there any motions from the defense?

8 Mr. Carter: Yes Judge, Your Honor we just
9 approached the bench a second ago. Ordinarily rebuttal
10 witnesses are reserved for the plaintiff or State in
11 this case and I understand that that is the normal
12 practice and procedure. What makes this matter different
13 is we have two separate defendants who has separate
14 positions we believe that we should have been allowed to
15 present a rebuttal witness because there is another
16 defendant whose position is quite different from ours.
17 We wanted to present testimony from an additional
18 witness with regards to something that the other
19 defendant made reference to and I understand the Court
20 is not going to allow us but I ask His Honor consider
21 that.

22 The Court: Would the State like to.

23 Mr. Finney: Judge, we do not feel that it would be
24 appropriate in light of the fact that there was
25 sufficient discovery given to the defense prior to trial

1 that there was an allegation that his client had a gun
2 or had the deceased gun, showed it to other people. He
3 was on notice to that and could have presented during
4 this case.

5 The Court: Mr. Carter you could have also cross
6 examined him about that, but you did not do that.
7 Therefore I will decline testimony from your client is
8 disallowed. Any other motions.

9 Mr. Carter: If you will recall I did cross examine
10 him but he said he did not recall a gun.

11 The Court: Any other motions?

12 Mr. Carter: Nothing else Judge. I am sorry yes I
13 thought you were doing something different. I do want to
14 renew my motion that I made earlier with regards to the,
15 both the burglary and the murder. I can go back through
16 the same thing now that we have presented our case. Get
17 His Honor just an opportunity...

18 The Court: I think after you all --- it is overly
19 bolstered, I think it is overly bolstered the State's
20 case so I will not change my earlier ruling.

21 Mr. Carter: Thank you very much.

22 The Court: Mr. Devoe?

23 Mr. Devoe: I have no motions Your Honor thank you.

24 Mr. Carter: You joining the motion?

25 Mr. Devoe: I join his motion.

1 The Court: Mr. Devoe joined his motion which is
2 denied. My law clerk will send you all a draft copy of
3 the charge. Be here at a quarter until ten or do you all
4 have any proposed charges at this time.

5 Mr. Finney: Your Honor just for your reflection we
6 do not have a written charge. Mr. Durant does have a
7 case that we would like for you to consider on the hand
8 of one.

9 The Court: I have got a charge, we will have a
10 charge of hand of one hand of all.

11 Mr. Finney: The only other charge I guess we would
12 want there to be I think that was the one.

13 Mr. Durant: Your Honor may I just give you the case
14 and ask you to consider it. It is State v. Crowe C-R-O-
15 W-E, 258SC-258-1972 Supreme Court case says that when
16 two or more people combine together to commit and
17 unlawful act in that case it is robbery, or under the
18 execution of the criminal act a homicide is committed by
19 one of the actors as a probable or nature consequence.
20 All present participating in the robbery are as guilty
21 as the one committing the fatal act.

22 The Court: I think our charge obtains something
23 like that, but our charge also has an example and we
24 need to take the example out. That is too close to what
25 happened here. I think the charge said one person

Charge talk

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1 strikes another and then all are guilty of that. I would
2 take that example out because I think that is too close
3 to the case that we have here. Alright any of you have
4 any other charges, you could send them to my clerk.

5 Mr. Carter: Your Honor I am sorry. Because there is
6 the hand of one hand of all that they are asking the
7 Court to give consideration to and of course our
8 position is that Montag is the main culprit and if Mr.
9 Wimberly had a gun on him and he made reference to
10 getting away from his property because these guys were
11 white or white decedent. We believe that they had a
12 proper right to defend themselves so we would ask the
13 Court for a self-defense.

14 The Court: Absolutely not, there is not a shred of
15 evidence of self defense in this case. Anything further?
16 Court is adjourned until ten o'clock. I will see you
17 gentlemen in my chambers room at a quarter until ten.

18 **(Court adjourned)**

19 **(Friday, January 9, 2015)**

20 **(Back on 10:50 a.m.)**

21 Clerk: All rise.

22 The Court: All right. Before the jury comes in,
23 we've had an opportunity to review the charge. Are
24 there any objections to the proposed charge?

25 Mr. Carter: Your Honor, the original charge that

1 was sent to you I didn't have any objection to that but
2 I understand that there is going to be an addition to
3 the charge. My understanding the addition will come
4 from the case of State vs. Maclamore. And we do object
5 to the addition that the solicitor has presented to the
6 court and we would ask that that not be allowed.

7 The Court: Okay. That's allowing an inference of
8 malice, use of excessive brutal force. I have checked
9 it and I think it's appropriate. There's another case
10 on point. State vs. Belger that does not allow the use
11 of a deadly weapon in that case was specifically a gun.
12 In Maclamore the accusation was use of a fist and
13 related to someone and the Supreme Court has upheld
14 that. That has not been reversed on that particularly
15 point, although there was a reversal in Belger for the
16 use of a deadly weapon being a gun, but there has not
17 been a reversal on the use of a fist. Except for in
18 situations where there was a real self defense where
19 there was a victim in essence became the attacker then
20 that could be - but that's not here. I still might
21 change my mind but at this point in time I'm not. At
22 this point in time you all can go ahead and argue.

23 All right. Anything else?

24 Mr. Carter: Nothing else.

25 The Court: Mr. Devoe?

1 Mr. Devoe: Nothing, Your Honor.

2 The Court: All right. Let's bring our jury in. Do
3 you all have any objection to me sending a copy of the
4 charge in the jury room?

5 Mr. Carter: Beg the court's indulgence.

6 Mr. Durant: Your Honor, just for the court's
7 information, the state does intend to open on the law
8 and then close at the end.

9 Mr. Carter: Your Honor, we have no objections to
10 that, sending the charge back.

11 **(Jury enters courtroom 10:54)**

12 The Court: Good-morning, Ladies and Gentlemen.
13 Again, Ladies and Gentlemen, I hope you had a good night
14 sleep. As I said yesterday, all of the evidence in this
15 case has been given to you. Now, is the time where the
16 attorneys will do closing arguments. Is the state ready
17 to proceed?

18 Mr. Durant: Yes, Your Honor.

19 The Court: Is the defense ready to proceed?

20 Mr. Carter: Yes, correct, Judge.

21 The Court: All right.

22 Mr. Durant: Your Honor, may it please the Court?

23 The Court: Yes, sir.

24 Mr. Durant: Mr. Carter, Mr. Devoe, madam Clerk,
25 Ladies and Gentlemen of the jury. I just want to start

1 by giving you some frame work with which to analyze this
2 case. The defense lawyers will get up and they'll have
3 some closing remarks for you and then Mr. Finney will
4 have a chance to come back and give you his thoughts on
5 what the evidence shows in this case.

6 Let me just kind of focus on the law at this point
7 and first of all let me talk to you about reasonable
8 doubt. That's a term that you probably have heard
9 several times before. You'll hear it from the judge,
10 you'll probably hear it from these defense lawyers state
11 that the burden of proof states beyond a reasonable
12 doubt. I submit to you that what that means is the
13 state must submit its case so that you are firmly
14 convinced of the defendants guilt.

15 Reasonable doubt is just that, reasonable. It
16 doesn't mean any and all doubt. Some people were saying
17 that reasonable means that it made sense and when we
18 picked you as a juror we didn't intend for you to leave
19 your common sense at the door. We brought you and
20 selected you. We believe that you were directly suited
21 to hear this case and that you use your common sense
22 based upon your life experiences to analyze the evidence
23 in this case and reach a verdict that speaks the truth,
24 that makes sense. So, use your common sense when you
25 analyze this case.

1 The first charge that obviously you will consider
2 in this case is murder. Murder is the unlawful killing
3 of another with what's called malice aforethought. Let
4 me tell you what that means. First of all, malice
5 that's the doing of a wrongful act intentionally or
6 without just calls or excuse. It doesn't necessarily
7 mean that you have to have ill will toward the person
8 but rather it signifies a malignant, reckless of the
9 life and safety of others. I submit to you that malice
10 is a condition of the mind, which shows a heart which is
11 fatally bent on mischief without regard to social duty,
12 without regard to the value of human life. I submit to
13 you that is malice. Malice may be, and the Judge will
14 tell you in a little bit, it may be expressed or
15 inferred. I submit to you in this case an example of
16 expressed malice is an individual saying I'm going to
17 bum rush that man and take the gun, saying that before
18 hand. I submit to you that's an example of expressed
19 malice.

20 Now, you obviously know, based upon your life
21 experiences, it's difficult to know what is going on in
22 the mind of someone else. And for that reason, malice
23 may be inferred. It may be inferred from the
24 defendant's conduct, from his actions, his demeanor
25 before the killing. There are several things in this

1 case that I submit to you are evidence. Things that you
2 can consider in inferring malice in this case. Things
3 that imply malice. One of those things, the Judge is
4 going to tell you, that brutal conduct, excessive force,
5 multiple blows, beating and stomping and kicking, that's
6 an example of implied malice in this case. Brutal
7 conduct. A broken nose. Massive, massive trauma, a
8 traumatic brain injury, bleeding on the brain. Broken
9 cartilage, fractured cartilage around the trachea.
10 Fractured Hyoid bone in the neck. Doctor Jones, you
11 heard him give his opinion that those injuries were the
12 result of multiple blows. That's brutal conduct folks
13 and from that you can infer malice in this case.

14 Now, the other half of the charge was forethought.
15 It's the killing of another with malice or forethought.
16 Well, that's certainly not a word that we use in our
17 everyday vocabulary but I'll tell you a forethought is,
18 it just simply means a time when evil is conceived. It
19 doesn't have to be any specific length of time before
20 the killing, it can be formed that instance. I submit
21 to you that it could have been formed when the body was
22 drug in the house in this case and the beating
23 continued. The injuries to the neck and to the nose and
24 the traumatic brain injury. Now, that's evidence to a
25 forethought. Of course, there is other evidence of a

1 forethought in this case as well. The planning of the
2 robbery. I'm going to bum rush that man. I'm going to
3 get that gun. That's evidence of a forethought. You've
4 probably seen enough t.v. to hear the term premeditated.
5 That's really not the term that applies in this case.
6 The law says malice aforethought. Again, that's not a
7 specific time. It doesn't have to be day before or
8 thirty minutes before, it can be formed that instance.
9 That's just the time when the plan is conceived. The
10 time when the evil is conceived.

11 While we are talking about this malice
12 aforethought, there's been some evidence in this case
13 that there was drinking going on. That there were
14 people under the influence of alcohol, possibly
15 marijuana. Voluntarily intoxication is not, it doesn't
16 impair a defendant's ability to act with malice
17 aforethought. It does not negate it. If you
18 voluntarily, on your own accord, drink to excess, that
19 does not impair under the law, that does not impair your
20 ability to act with malice aforethought. That is not a
21 defense in this case. Voluntary intoxication, getting
22 drunk is not a defense in this case. While we are
23 talking about murder one thing that you may be asking
24 yourself is where is he going to mention motive. The
25 Judge is going to tell you that motive is not an element

1 of murder that must be proved by the state. We don't
2 have to know why. It doesn't make sense to us. It
3 doesn't make sense to a reasonable person why someone
4 would beat a man excessively, would beat, assault and
5 kick a man, a fifty year old man in his own home, would
6 inflict these type injuries that the doctor described.
7 That doesn't make sense to a reasonable person. Well,
8 we don't have to know why, we just have to know who. We
9 don't need to know why.

10 The other charge in this case is Burglary in the
11 first degree. Burglary in the first degree is the
12 unlawful entry into a dwelling of another without
13 consent with the intent to commit a crime therein. Let
14 me break that down for you a little bit further. It's
15 the unlawful entry, entry doesn't mean breaking and
16 entering, it doesn't mean kicking the door down, it just
17 means crossing the threshold unlawfully without consent.
18 I think it's safe to assume in this case that a man
19 knocked out on the porch of his own home didn't consent
20 for these guys to go into his home and rob it. I mean
21 it's safe to assume in this case that there was no
22 consent to enter this man's home after he was knocked
23 out on the porch. The intent to commit a crime
24 therein, that's the other element of burglary. It
25 doesn't mean that you actually stole something, it just

1 means that you had intent to commit a crime, any crime
2 when you entered the house. You didn't have the intent
3 to steal something. If you intended to beat this man,
4 to inflict physical injury, to assault him in his house
5 when you entered it, then you are guilty of burglary.
6 An intent to commit a crime in the house when you
7 entered it.

8 Now, the degree of burglary in this case is first
9 degree. There are several degrees of burglary under the
10 law. What makes a burglary first degree is a
11 circumstance of aggravation. There are several of those
12 under the law. The ones that apply in this case, and the
13 judge is going to tell you the circumstances. The ones
14 that apply in this case is, of course, physical injury,
15 to a non participant in the crime. Physical injury to
16 the victim. If the man, to commit a burglary, if you
17 enter a house with the intent to commit a crime and you
18 cause physical injury to a person inside that house then
19 you're guilty of burglary in the first degree. Another
20 element of circumstance of aggravation that makes a
21 first degree burglary is that it occurred in the night
22 time hours, as simple as that. That it occurs after
23 dark, that makes it a first degree burglary. Finally,
24 another circumstance you might consider and you don't
25 have to have all of these you can have one, if it just

1 occurred in the night time, first degree burglary. If
2 they just commit physical injury, first degree burglary.

3 Another circumstance is arming yourself with a
4 deadly weapon. Doesn't mean you were armed when you
5 came in the house. If you became armed with a deadly
6 weapon while in the house, even if you took someone
7 else's gun while in the house, you're guilty of burglary
8 in the first degree. It's arming, being armed when
9 you're entered or becoming armed while in the dwelling.
10 That enhances it to burglary first degree. You don't
11 have to have all three, just be one of them.

12 Finally, the judge is going to talk to you about
13 the law we refer to as the hand of one is the hand of
14 all. I submit to you that what that means is that if
15 several people in the pursuit of a common plan to commit
16 an unlawful act, they set out together and each takes
17 the part assigned to them or agreed upon in advance by
18 them and the unlawful act is committed then the act of
19 one is the act of all, all are guilty. All are guilty
20 of the crimes committed. If you do it in advance and
21 you do the part that was assigned to you, all are guilty
22 of the entire act of all the offenses.

23 Finally, the judge is going to, as the end of these
24 closing arguments, the judge is going to ask you return
25 a verdict. You'll go back into the jury room and you'll

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1 deliberate and consider the evidence in this case and
2 you'll have the verdict form with you. You'll return a
3 verdict. The verdict comes from the Latin word
4 Veredictum, which means to speak the truth. Judge Young
5 told you in his opening remarks this was to assert the
6 truth, make no mistake about it, that is your job to
7 find the truth. I'd ask you to listen closely to these
8 lawyers. Go back there and consider what you've heard
9 this week and rendered a verdict that speaks the truth.
10 Thank you.

11 The Court: Thank you, Mr. Durant. Mr. Carter or
12 Mr. Devoe.

Closing by Mr. Carter:

14 Mr. Carter: Ladies and Gentlemen, let me start off
15 thanking you for your time and service on this trial
16 because this trial was a very important trial. Not only
17 is it very important for him, it's very important even
18 for his family. His mother and father have been here
19 the entire time so they are very thankful for your full
20 attention to this matter and we ask that you continue to
21 give it your full attention.

22 Now, let me start out telling you, the solicitor
23 got a chance to come up here and he'll get another
24 chance to come. You just heard the solicitor and give
25 you the rendition of the law and his partner will come

1 back and give you the facts as he believes they
2 occurred.

3 I only get one shot. I'm not going to be up here
4 long and I'm going to give you my view of the facts.
5 Your Honor, will charge. So, again, thank you and I'm
6 going to try to do this and wrap it up as rapidly as
7 possible but at the same time my client, giving my
8 client his due day in court.

9 Now, as counsel indicated there are two charges
10 here. I refer to it as two and a half charges. They are
11 the charge of Murder, there is a charge of burglary and
12 the half charge I call is the hand of one is the hand of
13 all. And you're going to need to make a finding on that
14 issue in order to pull together either finding a person
15 guilty of one or finding a person guilty of both.

16 Now, with regards to the law, counsel went through
17 it with you but I believe there is some issue in more
18 detail and we hope His Honor will discuss it with you
19 and counsel did not discuss with you. I want to touch on
20 those things. Let me start off talking about what his
21 Honor is going to tell you something he's already told
22 you before. Now, you guys are the judges of the fact
23 and he's the judge of the law. That means that as the
24 judges of the facts you make the finding of what the
25 facts are. Okay. You might recall well this trial here

1 his Honor made rulings on issues of law and he made
2 rulings on issues of evidence that will be presented to
3 you, but in the end his Honor, will not make rulings on
4 the facts. The facts are your jurisdiction, your job.
5 Only you can find the facts to link the elements of this
6 trial. You have to find the facts exists to meet the
7 crimes, to meet the elements of the crime or if the fact
8 does not exist, then in your judgment, your evaluation,
9 your weighing, your invisible scale of weighing who is
10 telling the truth, who's not telling the truth. His
11 Honor, will tell you what is the presumption of
12 innocence and I think he touched on it at the beginning
13 and he sort of touched on it in the trial. The
14 defendant, no matter what the charge is, no matter how
15 ugly the charge sounds, the defendant is innocent when
16 he is arrested, he is presumed innocent when he is
17 arrested, he is presumed innocent when the police
18 investigation, he's presumed innocent throughout this
19 whole trial he is presumed innocent. He's presumed
20 innocent when you guys go back to the room to
21 deliberate. If you deliberate twenty hours, if you
22 deliberate an hour he is presumed innocent from the
23 first minute you start deliberated all the way up until
24 you make your decision and at that point you would make
25 a decision of innocent or something else. That's what

1 the presumption of innocence means. It also means he
2 doesn't have to prove nothing to you. I mean this isn't
3 us bring this. This is the State of South Carolina.
4 The defendant does not have to prove anything because of
5 that presumption of innocence. The entire burden, you
6 must be absolutely convinced by the State of South
7 Carolina. They've got to prove everything to you. If
8 there is something that the State did not convince you
9 of you've got to give the benefit of the doubt to the
10 defendant. That's the presumption of innocence. That's
11 how it protects you and shields you. That's this State,
12 that's our government, the country that we live in.

13 Now, his Honor, will also discuss with you about
14 reasonable doubt and what reasonable doubt is about is
15 once you start weighing the evidence, once you start
16 giving value to who you believe or giving value of
17 truthfulness or non truthfulness of the testimony that
18 is presented. After you've done that if you're not
19 convinced and, you know, at the beginning I told you if
20 you're not convinced in a civil case, you know there are
21 two kinds of cases, a civil case and then there's
22 criminal case. If you're in a civil case and you're
23 weighing the evidence, you know, like a scale, in a
24 civil case a person just got to tip the scale ever so
25 slightly. And you can say that one, that ones got more

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1 weight, I agree with that one, just slightly. Or if you
2 say, well, he doesn't have fifty percent, he's got
3 50.0001 to scale, that one wins. That's how you do it
4 in the civil case. Now, in a criminal case there are to
5 many infys so our system says you've got to convince a
6 jury beyond a reasonable doubt. Beyond a shadow of
7 doubt, what does that mean, you know nobody can weigh
8 that for you as a individual. You would have to weigh
9 that to say there's just no doubt in my mind that
10 somebody stole an apple. Okay. There's no doubt in my
11 mind. If you're saying I don't know, I mean, ten people
12 walked pass that table and that apple disappeared. I
13 know they are saying that Carter stole it but ten people
14 walked pass that table. I mean, Carter is the only ones
15 who belly looks full but did he steal it or just have a
16 bloat day, whatever the case is. You just have to be
17 convinced of it. You don't have to be one hundred
18 percent convinced, you just got to be convinced close to
19 it to where you just don't have no doubt about it. If
20 you believe that something else could be consideration
21 or could have happened, then you have doubt in your
22 mind. If you find that in the facts that the State has
23 the burden of proving it to you. And I only discussing
24 it because I want to make sure that you understand that.
25 I mentioned to you that, you know, you've got to get the

1 benefit of the doubt and if you have a doubt and you go
2 I don't know which one to believe then the benefit of
3 our system goes to Jonathan Cody Newman or any defendant
4 in a case.

5 Now, you are going to be charged with, I mentioned
6 to you earlier about credibility of what people say,
7 making a determination of who is telling the truth. His
8 Honor, is going to tell you something about expert
9 witnesses that you heard during the trial. And, I may
10 touch on that just a little bit more in this discussion
11 with you.

12 Now, let me go to the charges itself. I mentioned
13 that there's this two and a half charge. One being the
14 Murder charge, okay. Now, the thing about murder is
15 this. You have to have a state of mind formed, okay,
16 you have to have a state of mind formed when you're
17 charged or you commit murder, or a person commits murder
18 or you're going to find that they committed murder. Let
19 me give you an example. If I got in my car out here and
20 I saw somebody I didn't like and I start backing my car
21 up and I run them over, back up over them and go forward
22 again, knowing that I don't like them and I intend to
23 hit them and I intend to hurt them and I intend them to
24 feel it. And, before I, you know, I could have stopped
25 before I hit them but I intended and I committed that,

1 okay, and they died. I can be charged with murder
2 because all the facts are there, you know, the intent,
3 the fear. Let me give you the same set of facts. I'm
4 backing my car up and I see somebody I know and whether
5 I like them or I don't like them, but I see somebody I
6 know. And then I just start backing up and I don't
7 think no more about it and I back up a little bit more
8 and then I hit them and run over them and I wonder,
9 what's that bump in my car, I mean, I didn't know I hit
10 them. They are dead just the same. Did I commit
11 murder, okay. You have to look at that. If there is no
12 intent, there is no murder. If there is no malice, even
13 if I didn't like them, if I didn't intend to hurt them
14 or tend to hit them they are still dead, but there's no
15 malice, okay. In this case, we're talking about murder,
16 whether there was sufficient facts given to you by any
17 of the witnesses that would help you to find evidence or
18 find facts sufficient enough for you to determine oh
19 yea, oh yea they intended to kill the victim in this
20 action. You have to determine if any witness gave you
21 facts.

22 Now, counsel told you and it is true in the murders
23 and deaths of people, you know, there is different
24 charges, you know. There's a murder where you intent to
25 kill somebody. There may be another criminal charge for

1 causing the death of somebody, manslaughter, involuntary
2 manslaughter and a person could still be guilty of those
3 things but in this case even though there are multiple
4 charges a person could get for killing somebody the
5 State of Carolina, the solicitors here, they've said
6 this case involves murder and you have to make a
7 decision. If you think somebody is guilty of something
8 you have to make a decision on whether you think they
9 are guilty of the thing they are accused of. Are they
10 guilty of the thing that they are accused of. In this
11 case Murder. Was there malice, was there intent to kill
12 somebody. You all heard the testimony of everybody.
13 Make a decision if any witness gave you any evidence to
14 show malice or intent to kill.

15 Now, you heard counsel say that you can decide
16 malice, decide intent based on what a person used to
17 kill somebody. Did they use a gun to help shoot, you
18 might decide there might have been malice. Did they use
19 a bat, if it helps you to decide if there was probably
20 malice. Did they use a car. Did they use some
21 instrument that you might can conclude that there might
22 have been malice or infer, infer there might have been
23 malice. But, what happens if none of those things are
24 present? If that was all it took then, of course, you'd
25 have to find no guilty because there's none there. So,

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1 what the state has done is they made a decision to say,
2 well he used his fist or they used a fist. They used
3 some other part of their body. Now, the fact that
4 somebody used there fist or somebody and they died is
5 not in and of itself, you cannot just find the fist to
6 be a instrument or a deadly weapon just from using the
7 fist alone or some other part. You'd have to make a
8 finding that the fist was, in fact, a deadly weapon,
9 well, how do you do that. You not only look at the fist
10 but you ask and you look for facts to show that that
11 fist could be a deadly weapon. What kind of facts must
12 you look for? Well, if they present evidence that well,
13 you know, he use to be a prize fighter or one of them
14 used to be a prize fighter or one of them engaged in
15 karate in breaking bricks, breaking sticks and breaking
16 wood. They toughen that hand up. I mean, that's
17 something that you could use. But, of course, you
18 didn't have any testimony like karate, prize fighting,
19 boxing, you don't have any of that. So, what did the
20 solicitor give you? What did the State present to you
21 to show that this fist, that fist or one of the fist,
22 whoever hit the man with the fist was in fact a deadly
23 weapon. Absolutely nothing.

24 The other charge, first degree burglary, you heard
25 counsel say well, burglary means you're entering into a

1 persons house at night. You entering uninvited, they
2 didn't want you to come into there house but you went
3 in. You went in the house with the state of mind, with
4 the intent, because intent is so important in this case,
5 they've got to prove intent and they're calling it
6 malice, but they've got to prove that the person made a
7 decision to go into the house and they intended to go
8 into it and steal. Now, what does going into the house
9 mean. You know, we know what it means to go into
10 somebody's house but, you know, the law is a little
11 relaxed and it says the house don't have to sealed up,
12 you don't have to break into it, you can go into the
13 enclosures of the house. You step into the door or you
14 step into the window or something to that effect. They
15 have to prove to you that there was an intent to go into
16 the house and an intent not only to go into the house,
17 and you can't only say they go into the house or the
18 dwelling but there was an intent to go in there and that
19 intent could be to steal apples, to steal wallets, to
20 steal clothes. To go into the house to commit a crime
21 against a person's body, but it has to be there. The
22 intent has to be there to go in and the intent has to be
23 there to do something when I get in and that something
24 must be something that's a crime. Now, if I intend to
25 go in and I intend to give somebody's mail or given them

1 something that they would have wanted or put something
2 into their house, I mean, that wouldn't be a burglary.
3 I intended to go in but I didn't intend to commit a
4 crime. You have to have both of those things and you
5 heard counsel say it has to be night. I'm not
6 questioning whether this thing occurred at night but
7 what we're questioning is was there an intent to go into
8 the house and intent to commit the crime. In this case,
9 I'm talking about my client Jonathan Newman.

10 When you consider the intent you have to consider
11 the intent from the point of view that I am convinced of
12 it, and you're going to hear that a lot, that I am
13 convinced of it beyond a reasonable doubt. I'm
14 convinced that somebody went into the house without
15 permission, at night, and that they went into the house
16 intending to commit a crime. You can't have one, you've
17 got to have both. Went in the house without permission
18 and with the intent. Intent has to be planned to go in.
19 Now, once they got in they intended to do something, you
20 know, you can evaluate it from that point of view also.
21 But, you've got to look and find intent and believe that
22 that was the real intent. You can't just say well this
23 happened. You've got to believe that the intent went
24 along with it.

25 Now, I told you, you know, they have two crimes,

1 two and a half, I said. The other thing they have got
2 to show you are the half thing is this thing about the
3 hand of one is the hand of all. This entire case has
4 been about really one person. The State wanted one
5 person this entire case and that's Jonathan Newman. The
6 whole case is just about Jonathan Newman. You say, wait
7 a minute there's another defendant and there's somebody
8 else. The whole thing was about Jonathan Newman, okay.
9 Now, in order to get Jonathan Newman, that's the reason
10 you're hearing this thing about hand of one. Well,
11 what are the things that the State did here to go after
12 Jonathan Newman. Well, the biggest criminal of them
13 all. The biggest criminal of them all came in here to
14 testify and the solicitor got to him because they needed
15 him. They needed him just like they needed that young
16 man over there. They needed them. They said I'm going
17 to give you a sweet, good deal. We're going to let you
18 plea to something even though we know you commit murder,
19 we know you're involved in a murderous scheme, we're
20 going to let you take a plea to something far less and
21 by the time you go to prison and they get through
22 registering you in, you'll be walking back out, you'll
23 be walking real fast. You just got to show up to court
24 ...

25 Mr. Durant: Objection, Your Honor.

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1 The Court: Sustained.

2 Mr. Carter: He took a plea. He took a plea that
3 allowed him to come and testify against everybody else.
4 When he got in here he gave you testimony, he tried to
5 help a little bit but he gave you testimony, yeah, I
6 went there. My mine kicked in to start stealing and I
7 rushed in the house because he knew the State needed
8 that if he could show that he was with somebody and
9 there was a plan to steal and keep in mind you kept
10 hearing everybody talk about was there a plan and a
11 scheme he kept asking that young man there, well, that
12 was the part to get the hands of one as the hand of all,
13 whether there was a scheme. Before I get to that young
14 man they brought in a person who has a criminal history
15 and you know you can see prior crimes, prior prison, you
16 could see that he had the little tear, little prison
17 tear drops on his eyes and prison tear drops are just a
18 saying that they killed somebody.

19 Mr. Finney: Objection, Your Honor.

20 The Court: Sustained. Not in evidence. That's your
21 own opinion.

22 Mr. Carter: Thank you, Your Honor. I'll refrain
23 from it. You can see that he had the tear drop in his
24 eyes for whatever meaning it means. Those tear drops
25 tend to be by people that are in prison or were in

1 many statements and he told so many lies and State just
2 kept beating him, they just kept beating him until they
3 got him where they wanted him and all of a sudden he
4 started saying yeah I saw the thing happen, because
5 remember now the state is saying well, we know you
6 didn't do nothing we just know that you saw it happened.
7 We know you didn't do nothing. And after they beat him
8 so long he came to the conclusion that they are not
9 going to get me they just want somebody else. They're
10 not going to get me. They want somebody else. They're
11 not going to get me. I'm going to help them get
12 somebody and I'm going to walk off scot free. I mean,
13 that's why he had so many different statements. But
14 what he didn't know was law enforcement was building
15 walls around him and they cornered him in. Oh, so you
16 were there. You did plan with them, you were standing
17 right there, hands of one, hands of all. If you're
18 standing there knowing something is going on and you
19 knew that they planned this thing, right. And he was
20 saying yeah, uh-huh. And you saw them taking the wallet
21 and the cell phone from, uh-huh, yeah. And you knew
22 they were going to do that. You saw them stomping, he
23 was uh-huh, uh-huh. If they had said you were there on
24 the 24th of December when Santa Claus loaded his sleigh,
25 he'd say uh-huh. He just went along with whatever it

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1 was because it was going to save him. Until they zapped
2 him and said we're charging you too. Once they said
3 we're charging you too then he came back to his original
4 statement, I didn't see anything. I, I know that the
5 guy got a slap, the guy got a punch, the guy got a hit.
6 Now, the thing about him is he lies so much. He lies so
7 much. You've got to determine if anything he says is
8 true, if anything he says can be true. Now, right this
9 moment I know what you're thinking, well, he did say he
10 saw Jonathan Newman, he ended up he's saying he found
11 Jesus and he's stop drinking and he saw Jonathan Newman,
12 okay. Now, I'm back again. Whatever it takes to free
13 himself he will use it and he will tell it to you and he
14 did that. Now, what does it take. He tried the police.
15 The police made promises to him. We're going to let you
16 go because you didn't do nothing. Well, they didn't
17 actually say, we're going to let you go because you
18 didn't do anything. We know you saw what they did and
19 built the bridge around him and tied him in. But now
20 he's before you guys, yes, he's telling you a lie too.
21 He's telling a new lie. He's going back to the lie that
22 he was saying because he figures if you got somebody
23 else for this crime, if you got somebody else then
24 you're going to let him go because he's the good guy,
25 okay. And, you know, the thing about it is, and my guy

1 testified because my guy believed that when Montag Webb
2 throw that first punch and he took off running my guy
3 believed that when he said it as I stand here talking to
4 you, my guy still believes that he took off running
5 without seeing it and that he possibly and you can use
6 the word probable, being more than not, he possibly did
7 not have nothing to do with this. My guy believed that.
8 The problem is my guy only knows that that guy took off
9 running when this thing happened, that he wasn't there,
10 that he didn't do nothing, that when this incident
11 occurred it last one minute to ninety seconds and they
12 walked around the house and they walked behind the
13 victims house he ran into this guy. Okay. So, he's
14 saying up to this point there is nothing happened. That
15 guy right there he didn't do nothing wrong and he walked
16 back to the house with us, back to my house. The
17 problem is he walked back to the house, my client,
18 Jonathan Newman still at the house and supposedly Montag
19 is still there also but he left, where did he go. See,
20 we don't know where he went. We don't' know if he went
21 back to the house to get something. These are people who
22 are just out there drinking, enjoying themselves,
23 partying, you know. He's not working, he's got to have
24 money. I don't know if he did that or not but you look
25 at the facts those are the things that follow. Now,

1 along with that, the individual that took off running
2 with him, Mr. Slater, when they walked behind the house
3 Slater came back. You heard Slater's testimony, I came
4 back and I looked in the house and just as I was looking
5 in the house Yo-Yo came and Yo-Yo came and picked him
6 up. Now, we're talking about drunks and crack head
7 shaking somebody to try and wake them up to see if they
8 would wake up. That's if you believe Slater's word, you
9 know. What I found interesting about Slater, you know,
10 his foot was injured. I don't know if anybody kicked
11 that victim. Here's a person who's got his foot injured
12 and the reason I think that's important, Sonia said when
13 she bring people in knowing what the crime is she
14 examine them whether they know she is looking at them or
15 examining them or not she says she didn't see any
16 injured wrist or injured fist. I don't know if she seen
17 any injured fist or not she didn't see any Jonathan.
18 Jonathan showed up. I mean, if she had seen it on
19 Jonathan obviously Jonathan is a good bit lighter than I
20 am and you definitely would have seen it. We're talking
21 about the next day. You would have seen a swollen fist
22 to do that kind of damage.

23 Now, if you think about it, excluding the doctors,
24 everyone of these witnesses who came up here they all
25 had multiple statements with law enforcement. Well,

1 they were involved in the statements with the other
2 persons, but if you look there are multiple statements
3 of people that were interviewed by law enforcement,
4 multiple statements, except Jonathan Newman. They all
5 had multiple statements and multiple lies on each and
6 everyone of their statements. Jonathan had one
7 consistent statement and there was nothing serious that
8 they could catch him in a lie about in his statement
9 except he made it clear that he wasn't there which is
10 that thing people do when they get scared. They had
11 another opportunity but they didn't want to talk with
12 him with a lawyer. I mean, the facts are the facts are
13 the facts. The truth going to be the truth, going to be
14 the truth, no matter. A lie is going to be a lie is
15 going to be a lie. What harm is there in talking with
16 somebody with a lawyer. They didn't want to talk to him
17 because if they could beat him hard enough they would
18 beat him, I don't mean physical, but they would beat him
19 like they did with the other defendant over here. So,
20 what they did was they put their focus on how do get
21 everybody. We'll offer one a deal. We want charge him
22 with murder. We'll offer him a deal or we'll charge him
23 with murder but we'll plea him to something else. We'll
24 give him a good deal, he'll have a sweetheart deal.
25 We'll get what we want and then we'll beat the other

1 ones into talking about both of them and then we can
2 lock them down to where we get a hands of one is a hands
3 of all and get them all caught up in a scheme and a
4 plan. Well, nobody ever admitted a scheme or a plan.
5 Think about it. Which witness told you they were
6 planning it or there was a scheme. Nobody. They got to
7 prove that to you. Nobody. I mean, you had questions
8 about it. They kept asking because they wanted somebody
9 to say yes. Nobody could testify that there was a plan,
10 that there was a scheme, that they was plotted up before
11 a crime or during a crime. Why couldn't they testify to
12 it. They couldn't testify to it because it didn't
13 exist. There was no plan, there was no scheme. You've
14 got to have it.

15 The reason I'm emphasizing this to you is because
16 either you've got to get the testimony or the evidence
17 of it. And I know, His Honor, is going to tell you
18 about inferences and you can infer something from
19 certain events. I want you to see that there is no
20 evidence there. There's no testimony. In order for you
21 to infer it you've got to have something else to help
22 you infer if an event happened. I'll give you an
23 example. Now, the doctors testified that there was,
24 well, the autopsy doctor said I don't know if there was
25 one blow or more than one blow. And she said it. I

1 don't know if there was one blow or more than one blow.
2 I know there was one because there was a fracture to the
3 nose or something like that. And, of course, the doctor
4 from Richland Memorial, Dr. Jones, said well, it look
5 like there were multiple blows. Okay, you've got, what
6 testimony you do have that Jonathan threw a blow, if you
7 choose to believe that, if you choose to believe, I
8 think Jonathan threw a lick there. If you choose to
9 believe that, you've got testimony that he threw one
10 blow. One lick and hit the man. If you choose to
11 believe that, okay. Now, if you choose to believe that.
12 That's the only testimony you have that he threw a punch
13 there. I'm trying to get to inferring something. If
14 this incident happened at 9:30, 10:00 something around
15 there and law enforcement arrived at whatever time, they
16 are saying three, three thirty, then we're talking about
17 five and a half hour or so period where this person is
18 supposedly lying in the middle of the floor, assuming
19 he's lying in the middle of the floor the whole time.
20 Okay, with the doors open. You heard Detective Sonia
21 Daniels testify that the back door was opened. When
22 Jonathan left from the house along with Mr. Montag they
23 walked around the back, who was at the back, they said
24 they met this defendant, they met him, Letroy around the
25 back. I'm just saying that door was opened or came

1 open. You can infer that for five and a half hours this
2 time of night somebody could have gone in, somebody that
3 knew the man was out, we already know that Slater says
4 he went in there. We already know that Slater says
5 that he and Yo-Yo were in there shaking him. That he
6 and Yo-Yo soon thereafter went and got another
7 individual Mr. Lemon. We already know all of these
8 people were there. Did anybody else go in there and
9 find something. You can make your inference from
10 whatever you deem appropriate from whatever facts were
11 presented to you. But one thing that you have for sure
12 is there is testimony that is Jonathan threw a hit the
13 only thing they know if Jonathan threw one punch. Now,
14 I don't submit that he threw a punch. But if you
15 concluded, if you believe, beyond a reasonable doubt
16 that he threw one punch, okay, then that's what you have
17 one punch. One punch isn't enough to proof malice. One
18 punch isn't enough to prove that somebody murdered
19 somebody. I mean, normally one punch is, I'm not saying
20 he threw a punch, but if he threw a punch or a person
21 threw a punch, one punch is just to get the person back
22 or to get them away or to put them down for them to do
23 something or to do something else. If somebody throws
24 this one punch. I'm only saying that because that is
25 the only testimony that you have. I'm not submitting

1 that Jonathan threw a punch. I'm telling you that Montag
2 threw a punch. Montag was comfortable to say my thief
3 mode, my crook mode kicked in. He started going through
4 the house, turning over beds, going through drawers,
5 okay. I started doing blah, blah, blah. Montag punched
6 him and drug him in the house. Now, you heard the
7 testimony and keep in mind now Montag's testimony, I
8 never saw Jonathan throw a punch. Montag's testimony I
9 started walking off and then I know the man got knocked
10 down. If you believe Montag's position, okay. But I
11 know that when he got knocked down I went in the house.
12 Keeping in mind everybody is drunk here. Slater was
13 drunk. The ones that were there at the time. Montag
14 was drunk. And they are all admitting they drink the
15 whole day. They smoked marijuana, they drink beer.
16 They drink whiskey. I'm not saying nothing is wrong
17 with doing that. I'm just saying that they did that all
18 day. Nobody knew what was going on. But when
19 something happened everybody just freaked out. As long
20 as it ain't me I'll say it's you. As long as it ain't
21 me I'll say it's him or her.

22 Now, each of the witnesses that testified, the
23 subjects or targets of this action, I mean, you've got
24 to ask yourself what did he or she have to lose or what
25 did he or she have to gain. You know what Montag had to

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1 gain. A lesser charge, something that lets him go free.
2 He can come and say what he wants as long as he says
3 what the solicitor says to keep their deal with him,
4 okay. So you know what he had to gain and he had
5 nothing to lose, so he could come say whatever he wants
6 because they're not going to do nothing to him. Kevin
7 Slater. What would make Kevin Slater testify the way he
8 testified? Now, remember Kevin Slater start out getting
9 arrested for lying. Start out demonstrating that he
10 didn't have a care for human life, you know, supposedly
11 a man on the floor next door to him bleeding and he just
12 wanted to go into his house. He wanted to go in because
13 he's drunk, he wanted to go in because he just don't
14 care about nobody or did he give him some stomps, I
15 don't know if he did or not but that was the only one
16 the law enforcement said had his foot hurting, okay. I
17 mean, are you convinced that Jonathan did something
18 knowing all of those facts. Okay. If you're not
19 convinced that Jonathan did it because of these other
20 scenarios there's a benefit of doubt that belongs to
21 Jonathan. Now, Leon Coleman. Leon Coleman testified
22 that he saw nothing because all he did was take Montag
23 to Wal-Mart, purchase some items for his baby and then
24 he got back and he said that Jonathan came to the car
25 and said something. Well, you know, this thing

1 happened, twenty-two, twenty something months ago and
2 Jonathan's been in jail all this time and these other
3 guys are out loafing about. They had enough time why
4 would Leon want to lie to you because Jonathan(sic) is
5 according to him his brother -in-law. What other reason
6 would he want to lie to you, Montag is his brother-in-
7 law. What other reason would he want to lie about
8 Jonathan. Well, Jonathan flirted with his girlfriend at
9 some point at time who he now ended up marrying.
10 There's reasons for all of them to testify as they did.
11 Now, I don't - when it comes to law enforcement a lot of
12 time I believe they want to get their man personally. I
13 believe that they want to get their person. The only
14 problem is and particularly with regards to Sonia
15 Daniels and Investigator Rosdale is that I believe they
16 wanted to get their man so that they believed that they
17 had the right person they just had to make somebody say
18 it. So, I believe that's what the testimony went to.
19 They had to make somebody say the thing that they wanted
20 so they found what they thought was the weak link in the
21 crowd and they pumped them and they got him, they got
22 him, after ten different stories they got him to tell
23 the story that they wanted, you know. Because why was
24 his written statement the only one they wanted to share
25 with you. Because his was the only thing that they

1 wanted. Mr. thief, glad to be a thief and ramshack the
2 house, well, he got a good deal to come here. They only
3 wanted one person and that was Jonathan Cody Newman and
4 they have to get him by getting these other people. This
5 boy just got caught in a web a net, Letroy, excuse me
6 Letroy, he just got caught in a net because he wanted to
7 be free and they were building blocks around him and oh,
8 we got him locked in here. We know he's going to say
9 what we want now. And the problem was he thought the
10 whole time that Investigator Rosdale, he thought that
11 Officer Rosdale and Sonia was going to help him out.
12 Okay. That's what he was thinking so he would tell them
13 what they wanted. The next thing they know, ya'll lied
14 to me, ya'll got me caught in this little web, this
15 little building block that y'all built around me. Y'all
16 got me caught in it. I'm not going to stick to what I
17 told you here. So, then he comes to court. He gives a
18 different story. The thing is there's a possibility
19 that he probably is innocent and had nothing to do with
20 this. I half way want to believe it. The problem is
21 when he left Jonathan's house we don't know where he
22 went to. We don't know if he did something else. Are
23 you convinced that he didn't do anything else. I mean,
24 you have to be convinced of that to go back to say oh,
25 it's Jonathan, which is the only one the solicitor

1 hasn't mentioned. That's all. You look at the facts as
2 they have been presented to you. That's all they had a
3 interest in.

4 Now, I've touched on what each of the witnesses
5 testified to. I've touched on the fact that they all
6 brought to you multiple statements that were lies. I've
7 touched on that. I'll wrap this up. I've touched on
8 the fact that in order to get all three of them tied
9 into the web that they have to show this preplanned,
10 preschemed. They have to show that there was an
11 intentional thought, an intention to go into the house.
12 Intent to commit a crime. I've touched on it. I've
13 talked about it. I done more than touch on it. I don't
14 believe that there's anybody that has given you evidence
15 on intent on any aspect of it. Now, you might say, wait
16 a minute, somebody intended to hit the man. I agree
17 somebody hit the man and maybe hit him more than once.
18 I don't know if I can agree to that. The doctors only,
19 the expert testimony, they didn't offer you testimony
20 beyond a reasonable doubt. They only offered you expert
21 testimony based on their work experience and education,
22 okay, but they don't know that for sure.

23 I submit to you that they have not proven any
24 aspect of the case beyond a reasonable doubt they just
25 brought to you people to this room. People who gave you

1 different stories. And, of course, as I've told you, you
2 can't make up your mind until the end but there's nobody
3 who has given you something where you can say I rely on
4 his testimony. He has not lied about nothing. How do I
5 know if he's lying this time as opposed to that time.
6 How do I know he's telling the truth this time as
7 opposed to the ten times before. I mean you've got just
8 a whole bunch of liars that just came in here and I
9 don't know how you can find any of them would be
10 credible. I mean, you only have one person who brought
11 a consistent statement here. I mean, the one ... that's
12 Jonathan and I mean he did lie to because he was with
13 the person who assaulted the man. Letroy started lying
14 because they were there when the punch got thrown and
15 they took off running. So, everybody was trying to say,
16 I weren't there. I don't want nothing to do with it.
17 Jonathan didn't want anything to do with it either.
18 Jonathan Cody Newman did not want anything to do with
19 this. I mean because the guy he was with assaulted the
20 man so he didn't want nothing to do with it so he lied
21 about not knowing anything also. So, yes, that's what
22 he lied about. But that lie didn't make him, does not
23 make him guilty of actually assaulting the man to the
24 degree where he ultimately died from the wounds. You
25 don't have anybody to testify that he did that. Okay.

1 And I'm saying that to say throwing a punch on somebody
2 that's just not proof that a person intended to commit
3 murder and you've got to find that. The solicitor is
4 the one who brought the charge of murder as opposed to
5 some other thing. Their the ones who brought that and
6 it's up to them to convenience you, to prove to you
7 beyond a reasonable doubt that murder is the charge they
8 should have brought here and that that is the right
9 charge as opposed to something else they could have
10 brought.

11 I want to thank you for your time. I want to thank
12 you for your time in the trial again. I want to thank
13 you for listening to me. I want to thank you for your
14 time and all I want to do is ask you to please just
15 follow the law. I'm not asking you to be committed to
16 none of the witnesses. I'm definitely not asking you to
17 be committed to nothing that they say. I'm not asking
18 you to be committed to my client. I'm just asking you to
19 commit to following the law. That when you get the law
20 back there with you that you just go down the list. Did
21 this happen, did this happen. Are we convinced beyond a
22 reasonable doubt. Are we convinced. Am I satisfied
23 that this in fact happened you know if you're going to
24 try to bring back a guilty verdict. And I hope you're
25 not bringing back a guilty verdict. If you bring back a

1 guilty verdict, be satisfied that you've gone through it
2 and found every element, every fact, not that something
3 gave me facts but that they gave me facts that I believe
4 beyond a reasonable doubt. Please just follow the law.
5 And I know that if you follow the law you're not going
6 to find any malice in this case because none was
7 presented. Now, a man is dead no doubt about that and
8 somebody should pay for it, but not anybody. The right
9 person should pay for it and you've got one already
10 paying for it because he came here and testified and
11 took a plea and let everybody know he did that. Is
12 there somebody else involved with him. Well, the
13 police, nothing stops them from continuously looking and
14 prosecuting. The problem is they put there focus on one
15 guy and that's what they pursued and that's what got us
16 here today.

17 Thank you so much for your time. Please, again,
18 all I ask is just go through the law and make your
19 findings and once you've done that, the judges have done
20 their job. Thank you very much.

21 The Court: Ladies and Gentlemen, we still have more
22 argument, so I'm going to go ahead and give you a ten
23 minute recess. Please do not discuss the case. Thank
24 you.

25 (Jury break taken at 11:57)

1 The Court: All right. Court's in recess for ten or
2 fifteen minutes.

3 (Court break taken at 11:58 a.m.)/Back on 12:10)

4 The Court: All right. Let's bring our jury back
5 in.

6 (Jury enters courtroom 12:11)

7 The Court: All right. Bailiffs I don't want
8 anybody come in or out of the courtroom from this point
9 forward, all right. Ladies and Gentlemen, if you're
10 wondering after we do the final closing arguments and I
11 charge you we have taken the liberty of ordering you
12 lunch. I don't want you to think that you're not going
13 to get to eat or anything like that. We've taken care
14 of that. Mr. Devoe are you ready to go?

15 Mr. Devoe: I am, Your Honor. May it please the
16 court?

17 The Court: Yes, sir.

18 Closing by Mr. Devoe:

19 Mr. Devoe: May it please the Court?

20 The Court: Yes, sir.

21 Mr. Devoe: Good afternoon. I appreciate the fact
22 that you've been here all week. I know you've listen
23 attentively to the case. I'm sitting where I can't see
24 you all the time. It's hard to see you and hear you
25 from where I'm sitting.

1 I'm happy to represent my client Letroy Samuels. I
2 took the case on because I thought after talking to him
3 that he was not guilty of the charges. He may be guilty
4 of something but not the charges before you. This
5 happened several years ago. This case has taken a long
6 time to come forward since the strategy happened. Any
7 murder is a stragety to a lot of different people. The
8 family of the deceased, the family of the accused, the
9 community. It's just a strategy. As a matter of fact,
10 it took so long to get to this case, I'm surprised that
11 I haven't retired by the time this case came along.
12 This may well be my last year of practicing law in South
13 Carolina. I just pay my last bar dues at the end of
14 this year and I'll retire. That tells you how long it
15 took to get to this case.

16 In this case, the only evidence that I can agree
17 with is when all the situation happened my client ran.
18 The evidence in the case and the testimony says that.
19 He ran. He was scared and he took off. It also says
20 that everybody there was drinking beer all day. It's
21 not like my client was able to run after drinking the
22 beer but he did. There's no evidence that my client in
23 this case either hit or killed the victim. There's no
24 evidence he every went inside the house. Was he on the
25 porch, yeah, everybody else was too. You'll see

1 pictures of this building. It's a small porch, the
2 whole house between the two of them is less than 20 feet
3 wide. The porch that you looked at was probably
4 somewhere between ten and fifteen feet wide. The screen
5 in and out easily beyond me. There is no evidence that
6 my client benefitted by the results of this stragic
7 killing. There is no evidence that my client conspired
8 with anyone else to beat the victim up. Nothing. Have
9 you heard any, I haven't. And the victim died of being
10 beaten up. So, where's the scheme, where's the plan.
11 Where's the evidence that my client was the so-called
12 lookout? The evidence is he ran. Running is not a
13 crime. Running away from a crime probably is a plus, a
14 big plus. You're not obligated to stop a crime in this
15 system of justice. I think everyone of us would be
16 guilty of a crime if we somehow stopped every crime that
17 happened at or near us at some point, like shoplifting
18 or you name it. You're just not legal responsible for
19 stopping a crime. Maybe morally responsible, morally
20 legal responsible are two different ball games.

21 My client was talked to by the police five times in
22 two days. The day of the crime and the day after that.
23 The transcripts go on and on and on. The more you read
24 them the more confused you get. There are facts all
25 over the place in those transcripts. He's trying to

1 cooperate with the police, he didn't say I don't won't a
2 lawyer, I'm going to talk to you. He talked to the
3 police. Confusing talk maybe but he talked to the
4 police. You've heard the facts of the case probably
5 better than I did. I'm a little hard of hearing a
6 little bit. My wife says I am anyway. I know I am.
7 But, if you heard the facts different then I did so be
8 it. I can't change the facts. The facts I heard were
9 that my client is exactly what he said to you. He ran.
10 He wasn't aware that a crime was going to go down. If
11 he was aware, you're not legally responsible for
12 stopping a crime because you're aware it's going to
13 happen. It's not in our system of laws.

14 So, the only fact that I would agree with was that
15 he was there. They had been drinking too much and he
16 tried to cooperate with the police.

17 You know mere presence is not a crime. Not a
18 crime. You're not obligated to stop a crime either.
19 We're not talking about morality here. You're not legal
20 obligated to stop a crime. You're not legal obligated
21 to stop drinking either. If you've had too much to
22 drink, you might get arrested for drinking and driving
23 but other than that there's not arrest for being drunk
24 in most places in this country.

25 It's amazing to me that most people there at the

1 scene of the crime they weren't charged. They weren't
2 charged, why not. You heard the names, Lester Lemon,
3 Romeo, Barbara, Kevin Slater and he did testify here.
4 They weren't charged. What made the police to
5 understand my client should be charged and the others
6 were not charged with the same thing. Did they know a
7 crime was going down. Did they try to stop it. Did
8 they see the results of the crime, were there any drugs
9 stolen or any drugs stolen or beer stolen? If there
10 were I'm not aware of. Maybe my hearings bad but I did
11 not hear that. What crime did my client Letroy Samuels
12 intend to commit? Did he commit a crime. I would say
13 to you the answer is no, he did not intend to commit a
14 crime and no he didn't do the crime.

15 I would ask that you would find my client in this
16 case not guilty. I appreciate you listening to me.
17 Thank you.

18 The Court: Thank you, Mr. Devoe. Solicitor Finney.

19 Mr. Finney: Thank you, Your Honor.

20 **(Reply Closing Mr. Finney)**

21 Mr. Finney: Please the Court. Ladies and
22 gentlemen, I too on behalf of the State want to thank
23 you for your patients and your time for being here with
24 us this week.

25 What was the scheme, what was the plan, where did

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1 it come from. Well, we know where it came from because
2 we have the good fortune of having good investigators in
3 this case who didn't give up. Who didn't stop turning
4 over every rock. The problem with this case is people
5 like Mr. Samuels who wasted the investigators time day
6 after day after day. It's not that they were beating him
7 up or pumping him up but they kept checking his story
8 out and they kept being badly put together. He was the
9 one that wasted their time in coming up with the right
10 story and he's wasting our time now saying he didn't
11 know anything about this.

12 Ladies and gentlemen, the officers were working all
13 the angles trying to get the whole picture and they were
14 able to do that piece, by piece, by piece, by piece.
15 And the way you can look at this case, if you stand back
16 and you consider all the evidence that has been brought
17 to you because you heard everything we have, we haven't
18 held back anything, the reason that certain people, like
19 the ladies in this case didn't get charged is because we
20 don't have any evidence to charge them, to bring them to
21 court. The three people that we charged, we had
22 evidence, we had statements, we had proof that they did
23 wrong and we asked you to consider that proof and you
24 make the final determination. You get to say, yes we've
25 done our job. Yes, these investigators covered the

1 facts, yes these people were there and they did wrong by
2 Mr. Wimberly.

3 The first and most important witness that you
4 should consider is Mr. Leon Coleman. He's the one that
5 brought you the information, brought it to these
6 detectives very early in the case because as soon as
7 Montag, who was lying, told them they went to Wal-Mart
8 and they caught a ride with Leon, they went and talked
9 to Leon and Leon came in here nothing to do with this
10 case except he gave a fella a ride. He was looking out
11 for a fella. Trying to do the right thing. Brought him
12 back and as soon as the fella got back, Leon heard, he
13 heard Mr. Newman, 'Man, that guys got a gun. We going to
14 take that gun, we gone take his money'. That's the
15 scheme ladies and gentlemen. That's where it came from.
16 It didn't come from one of these defendants that's
17 trying to make a deal from himself, it came from Leon.
18 Good solid evidence. The police knew that. These guys
19 didn't know that.

20 Once the plan was hooked up and you know it was
21 hooked up because guess what, Leon told Montag, come on
22 man you got to work with me in the morning. I got you a
23 good job. You got kids to feed. Let's go home. Montag
24 wanted to stay with J Newman. We ought to call him J
25 Smooth. He came in here and told you a story that is

1 unbelievable. Montag did everything. He didn't even
2 see, he didn't hit Mr. Wimberly on the porch. Although
3 everybody else in his case, everybody including Montag
4 says J Newman was the one right there by Mr. Wimberly.
5 Now, of course, Mr. Montag, that's his buddy, he didn't
6 want to come into court although he said it one time in
7 a statement, he didn't want to come to court and point
8 his finger at his buddy. Listen, I'm the solicitor.
9 I've got a dead man in his house. I'm trying to make
10 the family feel better, I'm trying to give the community
11 some peace. Yes, I had to cut a deal with Montag, I
12 don't like it but he opened the door into the case to
13 get us inside. And his statement can be relied upon and
14 believed because Leon said that's when he heard it for
15 the first time, Montag heard it for the first time when
16 J Newman brought the plan to him at the truck. 'We're
17 going to get that old man, I'm going to get that gun'.
18 Why did J Newman do that, this mister nice man, whose
19 got the nice girlfriend, who watches movies who's got
20 two kids that may or may not live with him, he was mad.
21 I don't know why. Maybe he was drinking, maybe he was
22 high. It doesn't matter. The law says that doesn't
23 give you an excuse. Mr. Wimberly had told him to leave
24 the property. He had been acting up. He got mad. He
25 wants to take some steps to get back. Mr. Chris said

1 happened, we charged him, we brought him here, you get
2 to decide. That's his choice. He ask for a jury of his
3 peers to decide his fate. Just like Mr. Newman who
4 couldn't remember his daughter's birthday. Who couldn't
5 remember his girlfriend wasn't even at the apartment
6 that day.

7 Let me tell you one thing that Mr. Samuels did that
8 tells you you can tell what happened in this case. Mr.
9 Samuels could have come in here and said that Taggy hit
10 the man on the porch. He didn't do that. He told you
11 who hit the man on the porch. Mr. Newman. Mr. Newman
12 and Mr. Montag and Mr. Samuels were all implicated by
13 either what they said or what others said about them.
14 That's why they are in court.

15 We've already dealt with Mr. Montag. We did not
16 cut him loose. He's not home today enjoying home life.
17 He's in a orange jumpsuit like you saw. Mr. Newman
18 desires that same fate. Mr. Samuels deserves that same
19 fate.

20 We're asking you to consider the evidence, not the
21 circumstances. Drinking, smoking, that has nothing to
22 do with this case. Mr. Wimbely did not need to be beaten
23 to death over a gun. Over an attitude. Over some young
24 people who had opportunities and threw them away. They
25 could have stayed home and taken care of their families.

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1 you didn't have to have a motive. That's the motive
2 right there. It didn't take long. It wasn't something
3 that they started out to do, but once they started down
4 the road, listen to this and you will know that the
5 malice and the intent was there. You look at the state's
6 evidence. They weren't just going to break in and steal
7 anything of value. Look at State's Number 5, Number 4,
8 there's a power saw worth, it'd be a hundred, two
9 hundred dollars right by the door. State's Number 5,
10 there's a t.v. and a power saw in the same room that he
11 got beat and laid in his blood in. They weren't there
12 to steal. They were there for that gun. They needed
13 that gun. Something that turned them on. What do you
14 use a gun for? That's the kind of people we had that
15 night in that house. Montag and Mr. Newman and we'll
16 talk about Mr. Samuels in a minute.

17 Ladies and Gentlemen, it's clear that this one
18 thing should clear up any doubt in your mind about
19 whether this is a murder case. When they went in and
20 they hit the man and they drug the man inside they were
21 going for the gun, they didn't care about the other
22 stuff, and the money, they went through his wallet.
23 What did they do? They knew he knew, they knew Mr.
24 Wimberly knew who had hit him, who had attacked him. By
25 their testimony, the other two guys had run. Letroy,

1 they say he ran at some point. Slater, they say he ran
2 at some point. So we only know there is two guys there
3 doing the beating. Montag says there were two guys
4 there doing the beating, he was in the back room, he
5 didn't see the beating by Mr. Newman, that's what Montag
6 says.

7 You know what Mr. Wimberly's beating was like. The
8 doctors told you that. Mr. Carter wants to get up here
9 and talk to you about hands and karate and boxing.
10 Every witness in this case told you it was kicking, it
11 was stomping. Don't let that issue come to mind.
12 Nobody had swollen hands, they weren't using their
13 hands. They were using their feet.

14 Ladies and Gentlemen, they wanted that gun. They
15 wanted to see how much money that man had. Mr. Newman
16 was already upset that he had been put off the property
17 and even though he's upset, even though he's put off the
18 property, his story to you on the stand after all these
19 months is that when his buddy said let's go back and
20 drink some more beer with Slater, we went back to the
21 house. That makes no sense.

22 Ladies and Gentlemen, they didn't want the witness
23 to live. What would Mr. Wimberly had done if he had a
24 broken nose and he got up off the floor, he would have
25 called the police and say two fellas just broke my nose

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1 and stole my gun. These guys would have been in jail in
2 two hours. They didn't want that. The evidence of the
3 beating and how vicious and malicious it was was
4 evidence that they intended for him to not to ever get
5 up off of that floor. It was important enough for them
6 to show him he wasn't going to stop them from getting
7 the gun and that he wasn't going to be a witness against
8 them in the case. That's the evidence right there.

9 This is a murder case. Burglary is easy. Everybody in
10 this case that we've charged there is evidence, that the
11 solicitor's office gathered from the police officers
12 that they were inside the house. Samuels said he was
13 inside the house to the police officer in more than one
14 statement. He comes to court now and says he told them
15 that because he was trying to help the police.

16 Ladies and Gentlemen, you don't have to go to law
17 school to be a good juror, all you have to do is use
18 your common sense. If he told them that he ran hard, if
19 he told them that he ran and then all of a sudden on the
20 third or fourth interview he's telling police 'okay, I
21 give up. I was in the room. I saw it happen. I saw
22 them take his watch, I was the lookout'. You decide.
23 He put himself in the case. The solicitor's office
24 can't look in his mind and tell if he's telling the
25 truth or not. He told the officers that's what

1 They did not. They could have got in the bed so they
2 could get up and go to work the next day with their
3 brother-in-law, they did not. They don't want to be
4 good citizens. You have a responsibility just like we
5 do, just like the judge does. We all have a
6 responsibility and a job. It's time for you to do your
7 job.

8 If we haven't proved beyond a reasonable doubt that
9 Mr. Wimberly was burglarized by these two men, you only
10 have to consider two, the other one we've already taken
11 care of. If he wasn't the victim of a murder and intent
12 to kill based on the vicious attack, based on the fact
13 that they weren't going to let him get off the ground
14 and identify them the next day, that wasn't the plan.
15 Everybody has a responsibility and ever action has
16 consequences. That's why we're here. I don't believe
17 those fellas at five o'clock in the evening thought they
18 were going to kill anybody, but once they put the plan
19 together, the law says once you start acting, you go up
20 on the porch, you hit the man, knock him down, drag him
21 inside, yes, ma'am; yes, sir consequences. He died as a
22 result of a tremendous kicking and stomping and that's
23 what led us here today and that's the price that needs
24 to be paid.

25 I think you've heard from everybody about

1 everything. Everybody had a chance to testify and.
2 everybody had a chance to tell law enforcement what was
3 going on. Some of them did, some of them didn't. Law
4 Enforcement didn't give up. It took them time after
5 time after time. The point of the whole matter is this.
6 There weren't anybody else charged because there wasn't
7 anybody else involved. We've got the three that was
8 involved. One has already taken responsibility. You
9 decide the fate of the other two. We did not over
10 charge this case. I wasn't going to charge Mr. Newman
11 with breaking the man's nose. Assault and Battery when
12 there's testimony from other people, when there's facts
13 from other people. Mr. Newman comes to court and tells
14 you when he fell his head fell towards the door. That's
15 State's Exhibit Number 3. The blood; however, is not by
16 the door, it's on the other side. He didn't even get
17 that right. Physical evidence can't be altered by what
18 his story is. Physical evidence is the frame work that
19 you have to go by. The physical evidence of that room
20 being ramshacked is something they didn't tell Mr. Taggy
21 when he was talking to the officers but when he did tell
22 them that they knew he was telling the truth because the
23 physical evidence did match what they were going
24 through.

25 The lawyers over here want you to look at, oh look

1 at the pictures of the back door. The back door is not
2 open. Look at it, it's in evidence. It might have been
3 kicked. It might have been kicked two months before
4 somebody trying to bring in on Mr. Wimberly, but it
5 wasn't open. There's a picture of it. The officers got
6 it. That's to put doubt in your mind. There shouldn't
7 be any doubt. You all have common sense, we ask that
8 you use it and please listen to the law. Malice is
9 important in this case. It's proved by the facts that
10 we brought to you. The judge will tell you that malice
11 is necessary for you to find what is a murder case. You
12 can't find these guys guilty of anything less because
13 they don't deserve it. The facts don't support it. It's
14 not a case where there was one case before, there was a
15 case before Mr. Wimberly died, there's a different case
16 afterward. Mr. Wimberly if he had lived they would have
17 been charged as a Assault with Intent to Kill. The only
18 thing that would have been different is that he didn't
19 die. The same intent, the same malice, everything would
20 have been the same. The same people would have been
21 charged. The fact of the matter though is that he did
22 die and that did not change anything about the case. Who
23 was involved and what they did. The legal evidence that
24 was necessary to get to this point.

25 We thank you for your attention. We ask that you

1 consider closely, and the judge will tell you, you've
2 got to deal with these two defendants separately. Weigh
3 the evidence against one and make the decision about one
4 and then go and examine the evidence against the other.
5 They are not in the same boat. There's two different
6 ships here. You have to decide both. We think that
7 when you do decide that there is evidence of the
8 burglary on both. There's evidence of an agreement on
9 both. There's evidence that they intentionally didn't
10 want the man to come and identify them later on that's
11 when they decided they weren't going to stop kicking
12 until they knew that he wasn't going to be able to hurt
13 them later on. It's just by the sheer will of maybe
14 good medicine and maybe his strength that he lasted for
15 two months.

16 Thank you Ladies and Gentlemen. Thank you, Your
17 Honor.

18 **(Court Charges the Law)**

19 The Court: Thank you. All right. Ladies and
20 Gentlemen, all of the testimony and the other evidence
21 to be presented to you in this case has been presented
22 to you and now is the time of the trial when I will
23 charge you with the law that is applicable to this
24 particular case. And I remind you that during this
25 trial you and I have certain duties to perform. As the

1 trial judge it is my responsibility to preside over the
2 trial of this case and I also have the responsibility to
3 rule on the admissibility of the evidence that has been
4 offered in this trial. You are to consider only the
5 evidence before you that was placed into evidence or
6 from evidence that was submitted through testimony. If
7 there was any testimony ordered stricken from the record
8 in this case, you must disregard that testimony. You
9 are to consider only the testimony which is presented
10 from the witness stand and any exhibits which have been
11 made a part of the record and any stipulation of
12 counsel.

13 Ladies and Gentlemen, I have the additional duty to
14 charge you the law that is applicable to this case and
15 as the presiding judge I am the sole judge of the law in
16 this case and it is your duty as jurors to accept and
17 apply the law as I now state it to you. If you already
18 have some idea as to what the law is or what the law
19 ought to be and it does not agree with what I tell you
20 the law is, you must abandon that idea because you were
21 sworn to accept and apply the law exactly as I state it
22 to you.

23 Ladies and Gentlemen, in every case tried before a
24 jury the jury becomes the sole and exclusive judges of
25 the facts in a case. As a trial judge I cannot

1 intimate, state, comment or in anyway make any statement
2 to you about the facts of the case. Since you're the
3 jury, you're the sole judges of the facts and do not
4 infer from anything that I've said during the progress
5 of the trial in ruling upon the admissibility of
6 evidence or otherwise or anything that I now tell you
7 during the course of these instructions that I have any
8 opinion about the facts in this case. The law simply
9 does not allow me to have an opinion about the facts.
10 It is solely a matter for you, the jury to determine and
11 as jurors it is your duty to determine, the effect, the
12 value, the weight and the truth of the evidence that has
13 been presented during this trial.

14 Now, Ladies and Gentlemen, the indictment in this
15 case alleges two different offenses against the
16 Defendants. The charges are under indictment 2013-GS-
17 14-293, Murder and Burglary in the first degree. Each
18 count charged is a separate and distinct defense. You
19 must decide each count separate on the evidence and the
20 law applicable to it uninfluenced by your decision to
21 any other charge in the indictment and each defendant
22 may be convicted or acquitted on any or all of the
23 offenses charged and you will be asked to write a
24 separate verdict of guilty or not guilty on each count
25 on each defendant.

1 Now, I remind you the fact that the defendants were
2 arrested, charged and indicted is not evidence in this
3 case and cannot be considered by you as evidence in this
4 case. Nor does it create any presumption or inference
5 of guilt. The indictment is simply the former written
6 document which contains the charges made against the
7 defendant. It is the former document by which this case
8 is brought into court.

9 Now, Ladies and Gentlemen, the defendants have pled
10 not guilty to the charges in the indictment so that plea
11 puts the burden on the state to prove the defendants
12 guilty. A person charged with committing a criminal
13 offense in South Carolina is never required to prove
14 himself innocent. Now, that's an important rule of law
15 that a defendant in a criminal trial no matter how
16 serious the charge might be will always be presumed to
17 be innocent for the crime in which the indictment was
18 issued unless guilt has been proven by evidence
19 satisfying you of that guilt beyond a reasonable doubt.
20 The presumption of innocence does not end when you begin
21 your deliberations but it accompany the defendant
22 throughout the trial until you reach a verdict of guilt
23 based on evidence satisfying you of that guilt beyond a
24 reasonable doubt. Presumption of innocence is like a
25 robe of righteousness placed about the shoulders of

1 these defendants which remain with the defendants until
2 it is stripped from them by evidence again satisfying
3 you of the defendants guilt beyond a reasonable doubt.

4 The presumption of innocence is not a mere legal
5 theory. It is not just a legal phrase that we use but
6 it is a substantial right to which every defendant is
7 entitled again unless you the jury are satisfied from
8 evidence of the defendants guilt beyond a reasonable
9 doubt.

10 Ladies and Gentlemen, the state has the burden of
11 proving the defendants guilty beyond a reasonable doubt.
12 Some of you may have served as jurors in civil cases
13 where you were told that it's only necessary to prove
14 that a fact was more likely true than not true, such as
15 by the greater weight or the preponderance of evidence.
16 In criminal cases, however, the state's proof must be
17 more powerful than that. It must be beyond a reasonable
18 doubt. Proof beyond a reasonable doubt is proof that
19 leaves you firmly convinced of the defendants guilt.
20 There are very few things in this world, Ladies and
21 Gentlemen, that we know with absolutely certainty and in
22 criminal cases the law does not require proof that
23 overcomes every possible doubt. If, based upon your
24 consideration of the evidence you are firmly convinced
25 that the defendants are guilty of the crimes charged,

1 you must find the defendants guilty. If on the other
2 hand you think that there's a real possibility that the
3 defendant is not guilty, you must give the defendants
4 the benefit of the doubt and find the defendants not
5 guilty.

6 Now, Ladies and Gentlemen, there are two types of
7 evidence that are generally presented during a trial.
8 There's direct evidence and there is circumstantial
9 evidence. Direct evidence is the testimony of a person
10 who claims to have actual knowledge of a fact such as a
11 eye witness. It is evidence which immediately
12 establishes the main fact to be proved. Circumstantial
13 evidence is proof of a chain of facts and circumstances
14 indicating the existence of a fact. It is evidence which
15 immediately establishes collateral facts from which the
16 main fact may be inferred. Circumstantial evidence may
17 be based on inference and not on personal knowledge or
18 observation. The law makes absolutely no distinction
19 between the weight or value to be given to either direct
20 or circumstantial evidence. Nor is a greater degree of
21 certainty required of circumstantial evidence than of
22 direct evidence. Ladies and Gentlemen you should weigh
23 all of the evidence in this case and after weighing all
24 of the evidence if you are not convinced of the guilt of
25 the defendants beyond a reasonable doubt you must find

1 the defendants not guilty. Necessarily, Ladies and
2 Gentlemen, you must determine the credibility of
3 witnesses who have testified in this case. Credibility
4 simply means believability. It becomes your duty as
5 jurors to analyze and to evaluate the evidence and
6 determine which evidence convinces you of it's truth.

7 In determining the believability of witnesses who
8 have testified in this case you may believe one witness
9 over several witnesses or several witnesses over one
10 witness. You may believe a part of the testimony of a
11 witness and reject the remaining parts of the testimony
12 of that same witness. You may believe the testimony of
13 a witness in its entirety or reject the testimony of a
14 witness in its entirety. You may consider whether any
15 witness has exhibited to you any bias, prejudice or
16 other motive in this case. You may also consider the
17 appearance and manner of a witness while on this witness
18 stand.

19 Now, Ladies and Gentlemen, the rules of evidence
20 ordinarily do not permit witnesses to testify to an
21 opinions or conclusions. An exception to this rule
22 exist with witnesses we called expert witnesses. A
23 witness who by education and experience has become
24 expert in some art, science, profession or calling may
25 state an opinion as to relevant and material matter in

1 which the witness claims to be an expert and may also
2 state the reason for the opinion. Ladies and Gentlemen,
3 you should consider any expert opinion received in this
4 case like any other evidence. Give it the weight that
5 you think it deserves and if you decide that the opinion
6 of an expert witness is not based on sufficient
7 education and experience or if you conclude that the
8 reason given in support of the opinion or the reasons
9 not sound or that the opinion is outweighed by other
10 evidence you may disregard the opinion entirely. An
11 expert witnesses testimony is to be given no greater
12 weight then that of any other witness simply because the
13 witness is an expert and further you are not required to
14 accept an experts opinion even though it is not
15 contradicted.

16 Now, Ladies and Gentlemen, the defendants in this
17 case are charged with murder. The State must proof
18 beyond a reasonable doubt that the defendant killed
19 another person with malice aforethought. Malice is
20 hatred, ill-will or hostility towards another person.
21 It is the intentional doing of a wrongful act without
22 just cause or excuse with an intent to inflict an injury
23 under circumstances that the law will infer an evil
24 intent. Malice aforethought does not require that
25 malice exist for any particular time before the act is

1 committed but malice must exist in the mind of the
2 defendant just before and at the time the act is
3 committed. Therefore, there must be a combination of
4 the previous evil intent and the act. A malice
5 aforethought may be either expressed or inferred. These
6 terms expressed or inferred do not mean different kinds
7 of malice but simply the manner in which malice may be
8 shown. That is either by direct evidence or by
9 inference from the facts and circumstances which are
10 proved. An expressed malice is shown when a person
11 speaks words which express hatred or ill will for
12 another or when the person prepared before hand to do
13 the act which was later accomplished. For example,
14 lying in wait for a person or any other acts of
15 preparation going to show that the deed was within the
16 defendants mind would be expressed malice.

17 Malice may be inferred from conduct showing a total
18 disregard for human life. Inferred malice may also
19 arise when the deed is done with a deadly weapon. And a
20 deadly weapon is any article, instrument or substance
21 which is likely to cause death or great bodily harm.
22 Whether an instrument has been used as a deadly weapon
23 depends on the facts and circumstances of each case. A
24 hand or fist is not normally considered a deadly weapon.
25 However, under some circumstances depending on the

1 manner and means of its use the wounds inflicted and
2 other relevant facts a hand or fist may be considered a
3 deadly weapon and that is for you to decide this case
4 beyond a reasonable doubt whether or not a hand or a
5 fist is a deadly weapon.

6 Now, implied malice, the law says that there can
7 be, when one intentionally kills another with brutal
8 force the implication of malice may arise. In fact, if
9 the facts prove beyond a reasonable doubt a sufficient
10 arising of an inference of malice to your satisfaction.

11 The Defendant, Ladies and Gentlemen is charged with
12 first degree burglary. The defendants are charged with
13 first degree burglary. The State must prove, beyond a
14 reasonable doubt, that the defendants entered the
15 dwelling without consent and a dwelling is any building
16 or portion of a building in which any person ordinarily
17 sleeps. A building constructed as dwelling that has
18 never been occupied cannot be considered a dwelling for
19 purposes of a burglary but a building that is a dwelling
20 even if the residents are temporarily absent from the
21 building.

22 In order to prove that the defendants entered the
23 dwelling, the State does not have to show that the
24 defendants entire body entered the dwelling. The
25 smallest entry is sufficient. It may be a part of the

1 body such as a hand or a foot or an instrument, such as
2 a hook or other instrument. The State does not have to
3 prove that force was used to gain entry. If a person
4 enters the building by using deception, trick or
5 misrepresentation to get consent to enter this is an
6 entry without consent.

7 Next, the State must prove beyond a reasonable
8 doubt that the defendants intended to commit a crime
9 therein, a felony or a misdemeanor at the time of the
10 entry. Mere entry into a dwelling without consent is
11 not burglary if the intent to commit a crime is formed
12 after the entry it is not burglary. If, on the other
13 hand, the defendants intended to commit a crime at the
14 time of the entry it is burglary even if the intent was
15 abandoned after the entry. And it does not matter that
16 the intended crime was not completed. An attempt may be
17 shown by acts and conduct of the defendants and other
18 circumstances which you would may naturally and
19 reasonably infer intent. Finally, the State must proof
20 beyond a reasonable doubt that one when entering while
21 in the dwelling or fleeing the dwelling, the defendant
22 or accomplice caused physical injury to anyone not
23 participating in the crime or to while in the dwelling
24 or while fleeing the defendant or accomplice was armed
25 with a deadly weapon or explosive. A deadly weapon is

1 an explosive, article, instrument or substance which is
2 likely to cause death or great bodily harm whether an
3 instrument has been used as a deadly weapon depends on
4 the facts and circumstances of each case and a pistol is
5 an example of an instrument which may be used as a
6 deadly weapon or that the defendants entered or remained
7 in the dwelling in the nighttime. The nighttime is the
8 period between sunset and sunrise during which there is
9 not enough daylight to recognize a persons face except
10 by artificial light or moonlight.

11 Now, Ladies and Gentlemen, if one intentionally
12 kills another during the commission of a felony, the
13 inference of malice may arise. If facts are proved
14 beyond a reasonable, found sufficient to raise an
15 inference of malice to your satisfaction this inference
16 would simply be an evidentiary fact to be taken into
17 consideration by you along with other evidence in this
18 case and you may give it the weight that you decide it
19 should receive. Burglary in the first degree is a
20 felony.

21 Now, Ladies and Gentlemen, if a crime is committed
22 by two or more people who are acting together in
23 committing a crime, the act of one is the act of all. A
24 person who joins with another to commit an unlawful act
25 is criminally responsible for everything done by the

1 other person which happens as a probable or natural
2 consequence of the acts done in carrying out the common
3 plan and purpose. Prior knowledge of a crime, that a
4 crime is going to be committed without more is not
5 sufficient to make a person guilty of that crime. Mere
6 knowledge that another person is going to commit a crime
7 even if the defendant is present when the crime is
8 committed is not sufficient to convict the defendant as
9 a principal. Guilt as a principal is shown by actual or
10 constructive presence at the scene as a result of a
11 prior arrangement. Therefore, a finding of a prior
12 arrangement, plan or common scheme is necessary for a
13 finding of guilt as a principal.

14 The State must prove beyond a reasonable doubt by
15 competent evidence that the theory of hand of one is the
16 hand of all. And a principal in the crime is one who
17 actually commits the crime or who is present, aiding,
18 abetting or assisting in committing the crime. When a
19 person doesn't act in the presence of and with the
20 assistance of another, the act is done by both where two
21 or more acting with a common plan or intent are present
22 at the commission of a crime it does not matter who
23 actually commits the crime. All are guilty. The hand of
24 one is the hand of all and present at the commission of
25 the crime needs to be sufficiently near, aid, abet and

1 assist in the commission of the crime. However, mere
2 presence at the scene of a crime is not sufficient to
3 convict at the principal in the theory of aiding and
4 abetting and intent is also a necessary element for
5 there to be a common design or intent to commit the
6 crime and the crime must have been committed pursuant
7 thereto for the person aiding and abetting by some overt
8 act. An intent means intending the result which
9 actually occurs, not accidentally or involuntarily. An
10 intent may be shown by acts and the conduct of the
11 defendant and other circumstances from which you may
12 naturally and reasonably infer intent and the state must
13 prove the elements beyond a reasonable doubt.

14 Now, Ladies and Gentlemen, there are two possible
15 verdicts for each defendant, which you may find in this
16 case on the charges of murder and burglary in the first
17 degree. As to count one, not guilty or guilty. Count
18 two, of burglary in the second degree, not guilty or
19 guilty. Now, Ladies and Gentlemen there is no
20 significance whatsoever in the order in which I state
21 the verdicts. It's simply that one must be stated
22 first. Ladies and Gentlemen, your verdict must be an
23 unanimous one. All twelve of you must agree on the
24 verdict and your decision must not be based on sympathy,
25 passion, prejudice, emotion or any other consideration

1 that is not evident in this case.

2 Mr. Foreman, when the jury reaches a verdict and I
3 have a separate verdict form for each defendant. Please
4 check the appropriate box as to guilty or not guilty.
5 Sign your name on the verdict form and then knock on the
6 jury room door and the Bailiff will then have you
7 brought back into the court room for the publication of
8 your verdict. Now, Ladies and Gentlemen, please, I'm
9 going to send you to your jury room, but please do not
10 begin your deliberations until you are told to do so.
11 We still have a few matters of law that I have to take
12 up with the attorneys. Thank you.

13 Mr. Finney: Judge, may be see you before ...

14 The Court: Yes.

15 **(Counsel approach The Court without court reporter)**

16 The Court: Ladies and Gentlemen, I might have mis-
17 spoke, I said Burglary second, as it being the second
18 charge. They are charged with Murder and Burglary First
19 in your verdict form. So if I said Burglary Second, I
20 didn't mean it, it's Burglary First. Thank you. Now,
21 you all may go to the jury room. Thank you.

22 **(Jury exists courtroom 1:02 p.m.)**

23 The Court: All right. Are there any other
24 objections to the charges that were given by the State?

25 Mr. Finney: None from the State.

1 The Court: Mr. Carter?

2 Mr. Carter: None from Defendant Newman, Judge.

3 The Court: Mr. Devoe?

4 Mr. Devoe: None from my client, Your Honor.

5 The Court: All right. Thank you. All right.

6 Ladies and Gentlemen the Court will remain at ease
7 depending the call of the court. Thank you. Y'all want
8 to get together and go over the evidence that is going
9 back.

10 **(There was a break in the proceeding)**

11 **(Deliberations begin at 1:10 p.m.)**

12 **(Back on 2:00 p.m./Verdict Reached)**

13 The Court: The jury has reached a verdict. Let me
14 remind the audience that when the jury verdict is read,
15 I expect very little emotion either way. No cheering.
16 However it goes for either side and no outburst. Bring
17 the jury in.

18 **(Jury enters courtroom 2:06 p.m.)**

19 Mr. Roberts: Mr. Foreman, have you reached a
20 verdict?

21 Mr. Foreman: Yes, ma'am.

22 Ms. Roberts: A unanimous verdict?

23 Mr. Foreman: Yes, ma'am.

24 The Court: All right. Thank you. Ms. Beluah, if
25 you would publish and Defendants if you'd please stand.

Verdict reached

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1 Ms. Roberts: On indictment 2013-GS-14-293, The
2 State of South Carolina vs. Jonathan Cody Newman, as to
3 the charge of Murder, we the jury unanimously find the
4 Defendant Guilty. As to the charge of Burglary in the
5 first degree, we the jury unanimously find the Defendant
6 Guilty. Signed Eddie G. Myers, Foreperson. January 9,
7 2015.

8 On indictment 2013-GS-14-293, The State vs. Letroy
9 Samuels as to the charge of Murder, we the jury
10 unanimously find the Defendant Not Guilty. As to the
11 charge of Burglary first degree, we the jury unanimously
12 find the Defendant Not Guilty. Signed Eddie G. Myers,
13 Foreperson. Dated January 9, 2015.

14 The Court: Thank you. You all may be seated. Does
15 the defense request polling of the jury?

16 Mr. Carter: We do, Your Honor.

17 The Court: Please poll the jury.

18 **(Ms. Roberts polled the jury)**

19 Ms. Roberts: Your Honor, the jury has been polled.

20 The Court: All right. And the verdict stands.

21 Ladies and Gentlemen, let me take this opportunity
22 to thank you. You have been an attentive jury
23 throughout this week and this has been a long week. As
24 I said most people never get the opportunity to do it
25 and you did it and you did it well. And I will tell

1 you, no matter what your verdict was, I'm not saying.
2 that because you came back, I have no opinion as to what
3 your verdict was. That's totally up to you all. You did
4 what is sometimes hard to do is to hear a whole week of
5 testimony and, I mean, come to a decision. Y'all have
6 diversion lives but you came together and did what you
7 were supposed to do. That was to reach a verdict.

8 Now, Ladies and Gentlemen, let me tell you this
9 satisfies your requirement for jury duty so you cannot
10 be a juror for the next year and you don't have to be
11 one for the next three years if you do not want to.
12 Ladies and Gentlemen, the amount of money that they are
13 going to pay you this week is \$15.00 a day. That is
14 nothing compared to the service that you have done for
15 your community and for the State of South Carolina.
16 Again, a lot of people try to duck jury duty but you
17 didn't you stood up and did what you were suppose to do.
18 And I tell people I've got the greatest job because I
19 get to sit between these two flags, and these flags are
20 just cloth but they represent an ideal that was what
21 makes America great. That people will come from their
22 lives and be part of the jury and again in America only
23 citizens can say that citizens are guilty or not guilty.
24 We don't have some governmental body that says you're
25 guilty but people who listen to the evidence make that

1 determination. And I want you to go out of here when
2 you leave your service this week and think of yourselves
3 as the individual threats that make up the great ideals
4 that this American and South Carolina flag contain for
5 its citizens. Now, Ladies and Gentlemen, you have
6 reached your verdict concerning the defendant Newman.
7 In approximately thirty minutes I am going to sentence
8 the defendant in accordance with your verdict. You've
9 been here all week. You are certainly allowed to be
10 present for the sentencing but you don't have to be.
11 You can go do what you want to do from this point
12 forward. All along I told you that you couldn't talk
13 about the case. Well, you can talk about it to anybody
14 you want to, as much as you want to or as little as you
15 want to. So, if somebody is persistent and wants to talk
16 with you about this let one of the Bailiffs know who
17 will let me know and I will make sure that it doesn't
18 happen anymore.

19 Ladies and Gentlemen, as you leave or stay around,
20 I'd like to have the opportunity to shake your hand for
21 doing the job that you have done for the State of South
22 Carolina and Clarendon County.

23 **(Jurors excused for the week 2:23 p.m.)**

24 The Court: Mr. Devoe, would you have your client
25 please stand.

1 **(Mr. Samuels stands)**

2 The Court: All right. Mr. Samuels, the jury has
3 heard the evidence. They have deliberated. They have
4 found you not guilty of the charges. Unless there is
5 something else holding Mr. Samuels he is a free man.

6 I will sentence Mr. Newman in thirty minutes.

7 Mr. Finney: And we are asking law enforcement to
8 bring Mr. Montag Webb over so that he can be sentenced at
9 the same time.

10 The Court: Okay. We can do that. Mr. Newman will
11 be taken into custody. Of course, you'll have an
12 opportunity to meet with him. Thank you.

13 **(There was a court break)**

14 **(Back on)**

15 The Court: All right. Solicitor, who do you want
16 first?

17 Mr. Durant: Newman first.

18 The Court: Come forward. Solicitor any statements
19 on behalf of the victim? Any family members?

20 Mr. Durant: Your Honor, we had been in constant
21 contact with the family of Mr. Wimberly throughout this
22 process. His next of kin, he's got a couple of brothers
23 and a sister I believe that live out of state. They live
24 in New York and they've been aware of this trial. We've
25 communicated throughout the week but financially they

Sentencing

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1 just weren't able to make it down here today. They are
2 very interested in what's going on but we have been
3 communicating with them.

4 As far as Mr. Newman's record, Your Honor, his adult
5 record he has several pending charges including breaking
6 into a motor vehicle. Possession of a controlled
7 substance, possession of marijuana, illegal distribution
8 of recordings. He also has a pending assault charge from
9 Sumter County on a correctional officer which he was
10 charged with while incarcerated for this crime. All of
11 those charges are pending, no convictions yet.

12 The Court: Mr. Carter, any mitigation?

13 Mr. Carter: Well, Your Honor, as you know, a charge
14 isn't a charge until you're actually convicted of it.

15 The Court: Right.

16 Mr. Carter: It amounts to almost nothing.

17 The Court: That's right.

18 Mr. Carter: Judge, Jonathan is a 21 year old male.
19 He has two children. He stands here before you with this
20 father, his mother and his grandmother. As the State has
21 already indicated other than, he has no adult convictions
22 of any crimes. Prior to this arrest, as I indicated, he
23 was working with his father. His second child was born
24 while he was incarcerated. Of course, he loves her and
25 really would like, really would have liked to have been

1 around during her years of growing. He's really, I mean,
2 other than this incident Judge and we have to take the
3 facts as having been the facts because the jury has found
4 them, has made its finding and found him to be guilty of
5 it, but the Court now looks at the facts and if it is
6 that he struck the individual and he's been convicted now
7 of having done that, if the Court looks at the facts, I
8 don't believe that the juries finding of the facts of
9 finding that this murder was intentional, and they did
10 find that it was an intentional act, I don't believe that
11 he intended to actually --- that there end up being a
12 death from this incident. If there is a striking, I
13 don't believe that he intended that and I've talked with
14 him over and over from that and that's not something that
15 they intended or ever wanted to ever, ever happen.

16 The fact that the man, the victim ended up dying, I
17 mean, it is an awful thing but it isn't something that he
18 would have wanted. And, of course, with regards to
19 burglary, the State, the law creates what burglary is and
20 it states what burglary is, but as the court is well
21 aware burglary tends to be something a little bit
22 different from, you know what the law creates to be the
23 basis for a burglary.

24 The Court: This was more of a home evasion.

25 Mr. Carter: Yes, sir. Well, even looking from the