

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

Honorable G. Thomas Cooper, Circuit Court Judge

TAURUS WATTS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-000500

APPENDIX

KATHRINE H. HUDGINS
Appellate Defender

ALAN WILSON
Attorney General

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

JESSICA KINARD
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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1 Q Okay. A guy named Sherman?

2 A Huh-uh. (Negative response.)

3 Q Okay. Do you know a female that was working the door?

4 A I don't know her name.

5 Q But you do know her?

6 A Yeah, I know her face.

7 Q Do you know about the fellow that sits at the door and
8 falls asleep sometimes?

9 A No.

10 Q Okay. The female that works the door, does she also
11 bartend?

12 A Yeah.

13 Q Okay. Is there anybody else that works the door that
14 also bartends other than this female?

15 A I mean, they do a little bit of everything.

16 Q Okay. Now, they had a DJ at the club that night,
17 right?

18 A Yes.

19 Q Now, this DJ isn't -- he's a traveling DJ; is that
20 right?

21 A I'm not sure.

22 Q Okay. Well, when the fight broke out the lights came
23 on, is that right?

24 A Yes.

25 Q And when the lights came on the music stopped; correct?

1 A Yes.

2 Q And it was at that time you heard somebody say,
3 somebody's got a gun?

4 A Yes.

5 Q Now, the person that you saw with the gun that was with
6 the other party; did you see him leave?

7 A Yeah, they all left together.

8 Q And did you see him come back?

9 A I heard he tried to come back in.

10 Q So you were not involved in the fight that night?

11 A No.

12 Q That's your testimony?

13 A Yes.

14 Q And you were not seeing Lisa Johnson; right?

15 A Right.

16 Q And you live on the same street she does; correct?

17 A Yes.

18 Q Is Briarcliff a very long road?

19 A It's not too long.

20 Q Okay. Can you walk the distance of the road, is it
21 less than a mile?

22 A Yes.

23 Q Okay. So how long have you lived in that neighborhood?

24 A About 21 years.

25 Q And how long have you known Lisa to live in that

1 neighborhood?

2 A Basically, all her life, I guess. About the same.

3 Q So, as long as you've lived there, you've known that
4 Lisa lived in that neighborhood; right?

5 A Once I got old enough, you know what I'm saying.

6 Q She's a little older than you, right?

7 A Yeah.

8 Q Now, when you were in there and like you said, you
9 didn't see the fight, you didn't participate in the fight,
10 you weren't seeing Lisa, and you didn't punch anybody?

11 A Right.

12 Q You said that you tried to break it up?

13 A At the beginning.

14 Q When you tried to break it up do you know whether you
15 came in contact with anybody physically?

16 A The person that I separated from my friend, and that
17 was it. That wasn't nothing but a push.

18 Q All right. And Lisa was trying to hold you back; is
19 that right?

20 A I don't recall that.

21 Q And you said that you saw a person in the other group
22 with a gun?

23 A Yes.

24 Q Then you saw them leave?

25 A Yes.

1 Q And then you saw them try to come back in?

2 A I ain't seen them trying to come back in. That's what
3 I heard.

4 Q Okay. And you remained in the club for about 10 to 15
5 minutes?

6 A Yeah.

7 Q Now, who is T? You don't know a T, do you?

8 A No.

9 Q And you've know Taurus Watts his whole life, right?

10 A Yes.

11 Q And he doesn't go by the name T, does he?

12 A No.

13 Q One more thing. With regards to this weapon that you
14 saw the other person have; what kind of gun do you think
15 that was?

16 A It was a little -- like a 25 or something.

17 Q Do you remember what the person holding the gun was
18 doing with the gun?

19 A He didn't point it at nobody, he just had it.

20 Q Okay. So he just brandished it?

21 A Yeah.

22 Q And did he hold it down by his side or did he hold it
23 up --

24 A By his side.

25 MS. JOHNS: That's all I have. Thank you.

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1 THE COURT: Okay.

2 BRIAN JOHNSON - REDIRECT EXAMINATION

3 BY MS. SHIPLEY:

4 Q Did you hear any shots inside of the club that night?

5 A Like somebody firing a gun?

6 Q Inside the bar?

7 A No.

8 Q The shots that you heard, where were they coming from?

9 A Outside.

10 Q How many shots did you hear?

11 A It was a lot.

12 Q And how quickly were they being fired?

13 A It was pretty fast, and then it was just some.

14 Q And the gun that you were describing, did you actually
15 see somebody with that gun in the club?

16 A What, the little gun?

17 Q Yeah.

18 A Yeah.

19 Q And the 25, was it a revolver or was it an automatic?

20 A I think it was probably an automatic.

21 Q And what color was the gun?

22 A It was dark, so I really couldn't see.

23 Q You couldn't see. How far away were you from the
24 person you say had the gun?

25 A Probably about 20, 30 feet.

1 Q Twenty to 30 feet. And you indicated that the person
2 kept it by their side?

3 A Yes.

4 Q And was this before or after the lights came on?

5 A Right before -- well, all at the same time. I mean,
6 everything was happening fast.

7 Q And what does your friend Darius White go by, nickname-
8 wise?

9 A Boo.

10 Q Boo. Not T?

11 A No.

12 Q And Boo had a low haircut, you indicated?

13 A Yeah.

14 Q And when you were going through security that night to
15 come into the bar, did you have to go -- did they do --

16 A Yeah.

17 Q -- the wand on you?

18 A Yeah.

19 MS. SHIPLEY: Beg the Court's indulgence.

20 BY MS. SHIPLEY:

21 Q Who did you leave the bar with that night?

22 A Me, Darius.

23 Q Who else?

24 A Norris's old lady.

25 Q Who's Norris?

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- 1 A A friend.
- 2 Q What's his first name?
- 3 A Norris.
- 4 Q What's his last name?
- 5 A Bond.
- 6 Q Bond, like James Bond?
- 7 A Yeah.
- 8 Q And what kind of car did y'all leave in?
- 9 A A blue HHR.
- 10 Q And -- a blue HHR; what kind of car is that?
- 11 A A chevy.
- 12 Q Can you -- is it a sedan or --
- 13 A It's a newer model car, so it's like a mixture.
- 14 Q A mixture?
- 15 A Like a sedan and a regular car.
- 16 Q Okay. Not an SUV?
- 17 A No.
- 18 Q How long after the shots from outside ended did it take
- 19 for you to leave?
- 20 A About 15 minutes.
- 21 Q You stayed in the bar until then?
- 22 A Yeah.
- 23 Q And did you ever talk to any police officers that
- 24 night?
- 25 A No.

1 Q And did any of your friends, Norris Bond or Darius
2 White stick around and talk to the police that night?

3 A No.

4 MS. SHIPLEY: I have no further questions, Your
5 Honor.

6 THE COURT: Any recross? Ms. Johns?

7 MS. JOHNS: No, Your Honor.

8 THE COURT: Okay. Sir, you can step down and be
9 excused.

10 State, you may call your next witness.

11 MS. SHIPLEY: State calls Ricky Jacobs.

12 (WHEREUPON, Ricky Jacobs was sworn
13 to tell the truth.)

14 THE CLERK: Thank you. Have a seat in the witness
15 stand and give the court reporter your name.

16 MR. JACOBS: Ricky Jacobs.

17 RICKY JACOBS - DIRECT EXAMINATION

18 BY MS. SHIPLEY:

19 Q Good morning, Mr. Jacobs.

20 A Morning.

21 Q Mr. Jacobs, can you tell the jury where you're from?

22 A Columbia, South Carolina.

23 Q And what part of town do you live in?

24 A Downtown area.

25 Q And do you own and operate the H&J club on Hardscrabble

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1 Road?

2 A Yes, I do.

3 Q You and your father?

4 A Yes.

5 Q How long have you and your father owned the H&J club on
6 Hardscrabble Road?

7 A The bar's been open 19 years, but the business has been
8 there 34 years.

9 Q And can you tell the jury about the hours of operation
10 of your bar?

11 A Well, through the week it's like 2:00 o'clock.
12 Fridays, I close at 4:00 a.m. And Saturdays about 3:00 a.m.

13 Q And what time do you open?

14 A I open about 4:00 p.m.

15 Q 4:00 p.m. and close at 2:00?

16 A Yes.

17 Q And the customers that come to your bar and your
18 establishment, what area of town do they typically reside
19 in?

20 A The area, the Northeast area.

21 Q And so the customers that frequent your night club are
22 from the general vicinity of your establishment?

23 A Yes, a neighborhood bar.

24 Q Neighborhood bar?

25 A Yes.

1 Q And as far as your involvement with the business, how
2 long have you actually operated the night club?

3 A Nineteen years.

4 Q Nineteen years?

5 A Yes.

6 Q And during those 19 years have you become familiar with
7 regulars at your night club?

8 A Yes.

9 Q And do you get to know them by first name basis?

10 A Yes, most of them.

11 Q Do you get to know them by face?

12 A Yes. By face, yes.

13 Q And the night in question, June 30, 2007, were you
14 working that night?

15 A Yes.

16 Q And describe for the jury what your duties are when
17 you're working?

18 A I oversee, just making sure everything's in it's right
19 proper place and I'm behind the bar, basically working the
20 bar, making sure everybody has what they need, basically.

21 Q And so you're there to make sure --

22 A Overseer.

23 Q -- your customers are satisfied?

24 A Yes.

25 Q Also, you indicated you work the door sometimes?

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1 A Yes.

2 Q Do you have security that works the door some nights?

3 A Yes, I do.

4 Q And describe for the jury what kind of security they
5 provide for your bar?

6 A In-house security, which I hired. They basically just
7 check IDs, and pat pockets and stuff like that when coming
8 in.

9 Q And do they also have a wand?

10 A Yes. For the ladies, yes.

11 Q So the --

12 A The females, they check with the wand.

13 Q So all your customers have to be checked and patted
14 down to --

15 A On the weekends, yes.

16 Q On weekends?

17 A Yes.

18 Q And on June 29th leading into June 30th, that would have
19 been a Friday night into Saturday morning of 2007?

20 A Okay. Yes.

21 Q Now, did you have security that night?

22 A Yes, I did.

23 Q And do you remember who was working security for you
24 that night?

25 A There was George Ross, and --

1 Q What's he look like?

2 A Short, heavy-set guy, black male. There was Kelly
3 Giles, he's a big heavy-set guy. And then there was Sherman
4 Bloom. He's a about middle size, five-eight, five-nine.

5 Q Okay. And any females working the door that night?

6 A No.

7 Q Not that night?

8 A No, I don't have females on the door.

9 Q Have you ever had a female work --

10 A Not security. I have a female to do -- when I charge
11 at the door. A female takes money for me at the door, yes.

12 Q And are those for certain events?

13 A Parties, stuff like that. Yes.

14 Q Did you also have a DJ working for you that night?

15 A Yes. Yes.

16 Q And do you have a DJ typically every weekend?

17 A Every weekend.

18 Q Okay. Now, I'm going to bring your attention to the
19 early morning hours of June 30, 2007. Do you remember a
20 fight breaking out in your club?

21 A Yes.

22 Q And can you tell the jury where you were located inside
23 your bar when it happened?

24 A I was behind the bar.

25 Q You were behind the bar. Could you explain to the jury

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1 where the fight broke out?

2 A Right near my back door, as you go onto the deck.

3 That's where it actually started.

4 Q Okay. And I'm going to bring your attention to State's
5 Exhibit No. 7. Does this accurately depict where your bar
6 is?

7 A Yes.

8 Q And can you show the jury where the patio is on this
9 diagram?

10 A It's right here. (Indicating.)

11 Q Okay. Where is the door leading out to that patio?

12 A It's right there. (Indicating.)

13 Q And you indicated the fight initially broke out near
14 that door?

15 A Yes. Inside.

16 Q Inside. Where's the dance floor inside of there?

17 A It's about right here. (Indicating.)

18 Q Near that door?

19 A Yes.

20 Q And where's your bar?

21 A About right in here, about mid-ways.

22 Q It's sort of in the center?

23 A Yes, the center.

24 Q Tell the jurors what exactly you watched and observed
25 as far as the fight breaking out?

1 A It happened so fast. It was just like start and stop.
2 And then they separated them and I --

3 Q Could you see who was involved in the altercation?

4 A I know Brian was. Johnson.

5 Q Brian Johnson, the man who just left this courtroom?

6 A Yes. I just passed him. And I don't know who else.

7 I'd never seen the other people before. They were like new
8 faces.

9 Q Okay.

10 A So --

11 Q Anyone else who was a regular of your night club that
12 got involved that you can remember?

13 A No. I just recall Brian because he was the one that
14 was the loudest. The voice, you know, voiced the most. And
15 they went outside and then he came back -- the guy came to
16 get his mother or somebody else. I don't know who it was. I
17 don't know the gentleman. Next thing I know they walked
18 outside and they were telling whoever it was to come outside
19 that they were going to handle it. Then I told Sherman to
20 watch behind the bar. Watch my register and my liquor
21 because I didn't know what was going on. I walked outside,
22 and as I walked outside through the restaurant door I --

23 Q Just let me stop you right there. The restaurant door,
24 point that out for the jury, please?

25 A It's right here. (Indicating.)

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1 Q Okay. And is there also a kitchen door?

2 A Yeah, that's it. One and the same.

3 Q All right. How many doors are there to enter your
4 club, your establishment?

5 A Four.

6 Q Four, and where are those doors located?

7 A In the front, right there.

8 Q Okay. So there's a total of four doors?

9 A Yes.

10 Q And tell the jurors where you went outside to see what
11 was going on?

12 A Yeah. Also, whenever there's chaos, I just close up,
13 to just end it, you know.

14 Q And is that what you did that night, did you close your
15 bar at that point?

16 A Yes. I was closing out. I turned my lights up and had
17 the DJ to kill the music.

18 Q All right. And did you ask your security to remove
19 people from your night club?

20 A No. No, no. Because if something was going on outside
21 I didn't want to jeopardize anyone, so --

22 Q What did you think was going on outside or what did you
23 see outside?

24 A Well, when I walked outside there was a guy that as
25 over on the other side of the wall by the car wash.

1 Q Okay. And can you just use that pointer and indicate
2 for the jury where you saw that person by the car wash?

3 A He was in here, up in here somewhere.

4 Q All right.

5 A Standing on this side of the wall, facing this way. He
6 was like telling somebody to come outside and they would
7 take care of it. You know, I was at the door there, and I
8 was like, you know, I'm closing, so I was walking over to
9 get my car.

10 Q Okay, and tell the jury your routine -- where do you
11 park when you're open for business?

12 A On a busy night I parked over at my father's house.

13 Q And on the map, point to where your father's house is?

14 A It's over here, pretty much. (Indicating.)

15 Q On the other side --

16 A Yeah, it's over here. (Indicating.)

17 Q And so -- what's this right here? (Indicating.)

18 A This is a dirt road that leads back to some residences.

19 Q Okay. And your father's driveway or house is in this
20 general area --

21 A Yes.

22 Q -- off Hardscrabble Road?

23 A Yes.

24 Q And why is it that you park your car there when you're
25 working weekends?

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1 A Well, my point is to allow my customers to park. I
2 don't want to take an extra park, so I park across the
3 street on the weekends.

4 Q Okay. Tell the jury what you did as you started
5 walking to your car at your dad's house; tell the jury what
6 happened next?

7 A Okay. As I walked -- I was walking out towards my
8 father's house and I got up under the canopy --

9 Q And is that the canopy --

10 A Right.

11 Q Point that out for the jury, please?

12 A Right here. (Indicating.)

13 Q Okay.

14 A These are old gas pumps right here. (Indicating.)

15 Q All right. And then what happened when you got to the
16 canopy?

17 A I looked and I seen Taurus and Tremaine walking towards
18 the business.

19 Q Okay. And what direction did you see Taurus and
20 Tremaine walking towards the business?

21 A Say what now?

22 Q Where were they coming from?

23 A From over here. (Indicating.)

24 Q Okay. And did you encounter them in the canopy area or
25 where did you encounter them?

1 A Yeah. Right near -- year. Pretty much. Yeah.

2 Q Okay. Tell the jury what, if anything, you said to
3 them when you encountered them at the canopy area.

4 A I said -- I told them I was closing and that -- that I
5 was closing, there was no need in coming back in.

6 Q Okay. Did you see where they were parked?

7 A Yeah.

8 Q Tell the jury where they were parked; point it out on
9 the map, please?

10 A They were right up in here. (Indicating.)

11 Q All right. And while they were approaching, what, if
12 anything, did Mr. Watts say to you concerning the fact that
13 your business is closed?

14 A I told him that I was closed, to go ahead on. And he
15 was like -- he just said, okay, and like turned around, you
16 know. I said, just go on, because I don't need that going
17 on and I was closing.

18 Q All right. Did you see -- do you remember telling
19 investigators in your statement --

20 MS. JOHNS: Your Honor, I object. If she wants to
21 ask a direct question, otherwise, she's leading.

22 MS. SHIPLEY: I'll lay the foundation, Your Honor.

23 THE COURT: Thank you.

24 BY MS. SHIPLEY:

25 Q Did you give a written statement in this case, to law

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1 enforcement?

2 A Yes, I did.

3 Q And do you recall making any comments or writing in
4 your statement anything Mr. Watts may have said to you?

5 A No.

6 Q After you told him you were closed?

7 A I don't know exactly what he said, but I --

8 Q Would it refresh your memory if you looked at your
9 statement to see what you wrote down?

10 A That was just like mumbling or something and then
11 turned around and walked towards the car.

12 Q Now, when you see -- after you told them that you were
13 closed, you say that they walked back to their car?

14 A Yes.

15 Q Okay. Describe the car for the jury?

16 A It was a tan or champagne colored Suburban.

17 Q Suburban?

18 A Yeah.

19 Q And did you see them get back into that car?

20 A Yes.

21 Q And who got in the driver's seat?

22 A Tremaine.

23 Q And had you seen that vehicle before?

24 A Yes.

25 Q And had you seen Tremaine driving that vehicle before?

1 A Yes.

2 Q And who got in the other side, the passenger side?

3 A Taurus.

4 Q Did you see anything in Taurus' hand as he was getting
5 back in the car?

6 A Yes.

7 Q And tell the jury exactly what you saw?

8 A There was a weapon. There was a black, whatever, gun.

9 Q Black gun?

10 A Yes.

11 Q And do you remember telling investigators or being
12 asked to identify the type of gun by investigators?

13 A Yeah, I mean, I don't know what it was, but I know -- I
14 don't know the type of weapon it was.

15 Q Are you familiar with guns?

16 A No, I'm not.

17 Q Did the gun -- was the gun wrapped, part of it wrapped
18 in any fashion?

19 A Well, there was -- his hand was covered with, like a
20 cloth.

21 Q The hand was?

22 A Yes, his hand was.

23 Q And I'm going to show you this and ask if you can
24 recognize it?

25 A Yes.

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1 Q And what is that?

2 A Gun. I don't know what kind it is, but it's a gun.

3 Yes.

4 Q The gun that you saw who have?

5 A Taurus.

6 Q Okay. And did you sign --

7 A Yes.

8 Q -- form saying that that's the kind of gun you saw on
9 June 30th?

10 A Yes.

11 MS. SHIPLEY: Your Honor, at this time, the state
12 seeks to introduce State's 124.

13 MR. SWERLING: No objection.

14 MS. JOHNS: No objection.

15 THE COURT: Okay. It's admitted.

16 (State's Exhibit No. 124, photo of gun,
17 was marked and entered.)

18 BY MS. SHIPLEY:

19 Q On this picture, what is different about the gun in
20 this picture than the gun you saw in Taurus's hands?

21 A This part --

22 Q You didn't see this back part?

23 A No. I didn't see that.

24 Q Did it have a handle or a strap like that, also?

25 A I'm not -- like I say, I'm not familiar with guns, so

1 I'm not sure if that strap was there or not, but I know that
2 the back part wasn't there.

3 Q The back part wasn't there. When you say that this
4 part wasn't there, are you referring to the shoulder --

5 A Yeah.

6 Q -- the back --

7 A I guess that's what it for, the shoulder holster.

8 Q Okay.

9 MS. SHIPLEY: Your Honor, may I publish this to the
10 jury?

11 THE COURT: Okay.

12 BY MS. SHIPLEY:

13 Q Tell the jury what happened after they got in the car;
14 where did you go?

15 A I was walking across the street towards my car.

16 Q Okay.

17 A And they had pulled off. Backed up and pulled off.

18 Q And can you tell the jury what direction they pulled
19 off towards?

20 A Towards Farrow Road.

21 Q Towards Farrow Road?

22 A Yes.

23 Q And using this pointer, show the jury exactly where you
24 were when you saw them pull out?

25 A I was about right here, getting ready to go across the

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1 street.

2 Q You were getting ready to cross the street?

3 A Yes.

4 Q And tell the jury what, if anything, happened when they
5 pulled down towards Farrow Road; what happened next?

6 A I heard a shot, and then I looked and I just heard
7 rapid fire.

8 Q Rapid fire?

9 A Yes.

10 Q How many shots did you hear?

11 A I couldn't tell you. I just know it was a couple of
12 shots.

13 Q And how fast were the shots?

14 A It was like repeated.

15 Q Repeated?

16 A Yes.

17 Q Can you tell the jury how far down the road they had
18 made it when you started hearing the shots, using your
19 pointer, please?

20 A About there. (Indicating.)

21 Q Right there?

22 A Yeah.

23 Q And where were you standing when you heard those shots.

24 A Well, I was just crossing the street.

25 Q And did you see what side of the car the shots were

1 coming out of?

2 A Out of the driver's side.

3 Q Out of the driver's side? Could you physically see who
4 was actually shooting?

5 A No, I couldn't.

6 Q And at that point were there people in the parking lot
7 of your business?

8 A Yes. There were people that were leaving the business.
9 Yes.

10 Q And are the lighting conditions on Hardscrabble Road
11 and around your business; describe it for the jury?

12 A On Hardscrabble it's kind of dim, but on the business
13 we have security lights. So we see the parking lot very
14 well.

15 Q And while you were in the parking lot and you saw
16 Taurus and Tremaine, did you have any trouble seeing their
17 faces?

18 A No, I didn't.

19 Q Did you recognize them from seeing them around your bar
20 before?

21 A .. Yeah.

22 Q Now, what do you recall Taurus wearing that night?

23 A A white t-shirt.

24 Q A white t-shirt.

25 A And do you remember what kind -- what his hairstyle was

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1 like?

2 A He had dreads or twists, short.

3 Q Short twists?

4 A Yes.

5 Q Were his dreads like Brian Johnson's?

6 A No.

7 Q All right. When you say twists, describe the hairstyle
8 to the jury?

9 A Just like dreads. That's all I know. I mean, they
10 dreads.

11 Q Describe like how long they were?

12 A You mean -- they weren't shoulder length.

13 Q Shoulder length?

14 A They weren't shoulder length. No, they're not.

15 Q They were not shoulder length?

16 A No, they were not.

17 Q And what about Tremaine; what do you remember about
18 Tremaine? What was he wearing that night? Do you remember
19 what he was wearing?

20 A Um -- he had a white -- I think a white t-shirt on as
21 well. Yes.

22 Q Do you remember anything else about their clothing that
23 night?

24 A No. Like I said, I was closing out. So -- You know, I
25 asked them to leave, and they turned around and were walking

1 to the car. So I thought it was all over.

2 Q Now, you indicated -- were you already in the street
3 when you heard the shots?

4 A I was just crossing over the street.

5 Q And when you heard the shots did you look to see where
6 they were coming from?

7 A Yes, from the tan Suburban.

8 Q The same tan Suburban?

9 A Yeah.

10 Q And again, what side?

11 A The driver's side.

12 Q And what direction were the shots being fired towards?

13 A Towards the business.

14 Q And what part of the street, again, were they when you
15 looked and observed them shooting?

16 A They were up in here.

17 Q Okay.

18 A Yeah. Up in here. (Indicating.)

19 Q At that point, did you see another vehicle leave your
20 business?

21 A Shortly after, yes. Well -- yes.

22 Q And tell the jury what car you observed?

23 A A white Rodeo.

24 Q A white Rodeo?

25 A Yes.

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1 Q And where was that Rodeo parked?

2 A Across the street from my father's house.

3 Q And can you point out for the jury approximately where
4 that would have been?

5 A Right here. (Indicating.)

6 Q And what direction was that car facing?

7 A It was facing towards Clemson Road.

8 Q Towards Clemson Road?

9 A This way. Yes. (Indicating.)

10 Q And what happened with that vehicle?

11 A The guy got in the Suburban, I mean, in the Rodeo,
12 turned around.

13 Q And did you see how many people were in that Rodeo?

14 A It was two guys.

15 Q Two guys. Do you recall what they were wearing?

16 A I think one had a shirt on, t-shirt.

17 Q Uh-huh. (Affirmative response.)

18 A I think it was a dark-colored shirt. And I don't know
19 what the other guy had on.

20 Q Did you know those people from being frequenting your
21 bar?

22 A Face, yes.

23 Q By face. Did you know their names?

24 A No. I know them by face.

25 Q Okay. I'm going to show you State's 46 and 47, and ask.

1 if you recognize the photographs?

2 A Yes.

3 Q What are they pictures of?

4 A The two guys in the Rodeo.

5 Q The two guys in the Rodeo?

6 A Yes.

7 MS. SHIPLEY: Your Honor, at this time the state
8 seeks to introduce 46 and 47 into evidence.

9 THE COURT: Thank you. Without objection.

10 (State's Exhibit No. 46, photo, was
11 marked and entered.)

12 (State's Exhibit No., 47, photo,
13 was marked and entered.)

14 BY MS. SHIPLEY:

15 Q Do you recall which one was driving the Rodeo and which
16 one was the passenger of the Rodeo?

17 A The gentleman on the bottom was the driver.

18 Q This is the driver of the Rodeo?

19 A Yes.

20 Q And who is this?

21 A This is the passenger.

22 Q Tell the jury what happened -- did the car drive away,
23 what happened with the Rodeo?

24 A Shortly after that the Rodeo turned around and swung
25 back towards Farrow Road and the passenger got out -- sat up

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1 on the door of the car and shot a pistol in the air.

2 Q Okay.

3 A And they proceeded on down the street.

4 Q So the passenger --

5 A Shortly afterwards, yes.

6 Q -- shot out of the car?

7 A Yes.

8 Q And this was when they were driving towards Farrow
9 Road?

10 A Right?

11 Q And what direction did the shot go?

12 A Up in the air.

13 Q Could you see what kind of gun he had?

14 A No. I know it was a pistol.

15 Q A pistol?

16 A Yes.

17 Q Smaller than State's 124?

18 A Yes.

19 Q And again how many times did you observe this person
20 shoot?

21 A One time?

22 Q One time?

23 A Yes.

24 Q And, again, what direction were they driving towards
25 when that shot was fired?

1 A Farrow Road.

2 Q And please tell the jury, with your pointer, where you
3 believe they were when the shot was fired one time up in the
4 air?

5 A They were right up in here. (Indicating.) Right
6 there. I was back over here at the time. Right there.

7 Q You had already made it back to your business by that
8 time?

9 A Yes. I was in the parking lot at the time.

10 Q So I understand this, you observed the multiple shots
11 from the tan Suburban, you're crossing the street; correct?

12 A Right.

13 Q When is it that you noticed the Isuzu Rodeo?

14 A Oh, it was on the side of the road, you know, arguing
15 -- like yelling. Then I pulled my car across the street and
16 got out. By the time I got out my car and looked and the
17 Rodeo made a U-turn and went back towards Farrow Road, this
18 way. (Indicating.)

19 Q And so the time between the Suburban shooting and the
20 Rodeo shooting you had already managed to get your car and
21 park it at the business?

22 A Yes.

23 Q Okay. How much time do you think it would have taken
24 you to continue crossing the street after the Suburban
25 shoots, has the shots fired, crossing the street to your

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1 dad's house, getting your car and then driving it back to
2 your business; how much time do you think that would have
3 taken you?

4 A Two, three minutes, maybe.

5 Q Okay. And so you had already parked --

6 A Yes.

7 Q -- by the time the Rodeo pulled around?

8 A Yes.

9 Q Were there other cars in the parking lot at that point?

10 A Yes, there were.

11 Q And when the shots were fired from the tan Suburban,
12 what, if anything, did you observe people in the parking lot
13 doing?

14 A Well, they were scattering and running around. They
15 were trying to get out the way. They were just moving,
16 ducking.

17 Q Do you recall meeting with law enforcement when they
18 first arrived on the scene; did you remain at your bar?

19 A Well, yes, I did.

20 Q Okay. What was your primary concern at this point
21 after the tan Suburban shot and the Rodeo Isuzu shot one
22 time?

23 A Safety.

24 Q Safety of whom?

25 A Safety of my customers and myself.

1 Q And did you allow some of your customers to remain
2 inside?

3 A Yeah.

4 Q Eventually, how long after the shots were fired from
5 the Suburban and Rodeo did it take for the police to arrive?

6 A Oh -- I don't know. I can't really say. Maybe 20, 30
7 minutes, maybe. If that long. Yes.

8 Q And you're guessing --

9 A Yes.

10 Q -- were you watching the clock?

11 A No, I was not.

12 Q When the police arrived did you make contact with them?

13 A Yes, I did.

14 Q And did you identify who you were?

15 A Yes.

16 Q Did you tell them you were the owner of this bar --

17 A Yes.

18 Q -- or the bartender, operator?

19 A Yes.

20 Q And did you provide descriptions of both vehicles to
21 law enforcement?

22 A No, because when the police officer came up he just
23 wanted to secure the -- what was going on, because he said
24 evidence might be tampered or cars ran over it, so he
25 stopped traffic on both sides.

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1 Q Okay.

2 A And had them go around. So he -- when he got out the
3 car he just started handling that.

4 Q Okay.

5 A So by that time I walked back over to the business.

6 Q And eventually did you make contact with an officer
7 about what you had witnessed?

8 A Yes.

9 Q All right. And do you recall if that was a uniformed
10 officer?

11 A No. The officer that I talked to Officer McRae.

12 Q Investigator McRae?

13 A Investigator McRae, yes.

14 Q Okay. And so the first time you explained what you
15 observed was to Investigator McRae?

16 A Yes.

17 Q And the other officers were concerned with the crime
18 scene?

19 A Right. Yes.

20 Q Did you provide descriptions of the car, however?

21 A No, because, like I said, when the first officer pulled
22 up, he just wanted to secure the street. Looking for
23 shells.

24 Q Okay. At that point when you meet with Investigator
25 McRae did you tell him exactly what you just testified to to

1 this jury?

2 A Yes.

3 Q And did he -- did you provide a description of Tremaine
4 and Taurus to him?

5 A Yes.

6 Q Were you able to provide Investigator McRae with the
7 full name of each suspect?

8 A Not at the time, because, like I say, I was trying to
9 handle what was going on inside because I had people that
10 was not ready to leave, not wanting to leave, and -- you
11 know, I was concerned about that, and making sure everything
12 was in tact in the place.

13 Q Okay. And so --

14 A So I was talking to him and -- I'll be back -- and back
15 and forth. So some of my answers -- some of his questions
16 were really unanswered at the time.

17 Q At the time. So you did not remember --

18 MR. SWERLING: Objection.

19 BY MS. SHIPLEY:

20 Q Did you recall the last name of Taurus at the time?

21 A Yeah. I wanted to make sure -- I didn't want to give
22 him a name and wasn't sure, wasn't sure of what was going
23 on, because like I said, the gunfire was coming out of the
24 Suburban. I didn't know if somebody was still in the
25 Suburban, but I didn't see nobody get out and get back in.

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1 Q Okay. And so at the time when you met with
2 Investigator McRae, were you able to provide the last name
3 of Taurus?

4 A Yes.

5 Q Initially, what information did you give Investigator
6 McRae?

7 A I gave him a description of the vehicle and the
8 direction that they were going in. Then I told him about
9 the Rodeo and then he --

10 Q You also told him about the Rodeo?

11 A Yeah, and he received a call that they had stopped the
12 Rodeo, and then we went to look at the Rodeo.

13 Q All right. When he went and took you to the Rodeo,
14 were you asked to identify the occupants of the Rodeo?

15 A Yes.

16 Q And did you see them?

17 A Yes.

18 Q And were these the two individuals you saw at the
19 Rodeo?

20 A Yes.

21 Q And what did you tell Investigator McRae about the
22 people from the Rodeo?

23 A I told him those were the two guys that were there.

24 Q Did you tell him how many times -- did you tell him
25 which one of those shot?

1 A Yes.

2 Q And again, did you tell him how many times that person
3 shot?

4 A Yes.

5 Q And how many times did you report?

6 A One time.

7 Q And in what direction was that shot fired?

8 A Up in the air.

9 Q Eventually, did you go to the Richland County Sheriff's
10 Department the following day?

11 A Yes, ma'am, I did.

12 Q And did you give a statement to law enforcement --

13 A Yes.

14 Q -- to Investigator McRae?

15 A Yes, ma'am, I did.

16 Q And I'm going to show you a document. Do you recognize
17 this document?

18 A Yes.

19 Q And what is it?

20 A This is the questions that I was asked and I answered.

21 Q The questions --

22 A That Investigator McRae asked me and I answered.

23 Q Okay. And what date and time is that given?

24 A Um -- looks like 1:00 o'clock -- 7:00 p.m. the next
25 day.

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1 Q The next day?

2 A Yeah. The next day. About 1:00 o'clock.

3 Q Do you recall that after you -- after you were taken to
4 the Rodeo to identify the occupants of the Rodeo, making
5 phone calls to Investigator McRae throughout the evening or
6 throughout the morning?

7 A He called me that morning, early that morning, and
8 asked me if I could come in. I told him I wanted to get
9 some rest, but I would come before I opened up.

10 Q Okay.

11 A So I went by there.

12 Q And do you remember providing him with more details
13 about the people inside of the tan Suburban?

14 A Yes.

15 Q Were you able to provide any information as to the name
16 of the driver of the tan Suburban?

17 A Yes. Their first name. Yes.

18 Q And what name did you provide to Investigator McRae?

19 A Tremaine.

20 Q And were you able to provide a last name to
21 Investigator McRae as to the passenger of the vehicle?

22 A Yes.

23 Q And what name is that?

24 A Watts.

25 Q Do you recall calling Investigator McRae later on that

1 day with potential, with potentially last name of the driver
2 of the tan Suburban?

3 A Later that day? Yes, I did. Yes.

4 Q And what last name did you provide to Investigator
5 McRae as to the last name of the driver of the tan Suburban?

6 A Wray.

7 Q When you gave your statement to law enforcement on July
8 1, 2006, (sic) at approximately 1:00 o'clock, do you
9 remember being shown some photographic lineups?

10 A Yes.

11 Q I'm going to show you what's been marked as State's 5,
12 and ask you if you recognize that?

13 A Yes.

14 Q And what is it, sir.

15 A It's the paper that he showed me with the pictures.

16 Q Okay, and did you sign the first page of that document?

17 A Yes.

18 Q And what photograph did you pick out?

19 A Tremaine.

20 Q And what number was that?

21 A Number four. Number four.

22 Q And when Investigator McRae handed you State's No. 5,
23 did he suggest to you in any fashion which photograph to
24 pick out?

25 A No, he didn't.

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1 Q Did he tell you who was going to be in these photos?

2 A No.

3 MS. SHIPLEY: Your Honor, at this time, state seeks
4 to introduce State's Exhibit No. 5 into evidence.

5 MR. SWERLING: Subject to the previous --

6 THE COURT: Okay, the Court will stand by its prior
7 ruling. So admitted over that objection.

8 (State's Exhibit No. 5, photo, was
9 marked and admitted.)

10 BY MS. SHIPLEY:

11 Q And again, point out which picture you identified in
12 that line up; is that it?

13 A Yes.

14 Q And who is that?

15 A Tremaine.

16 Q Tremaine, and what was he doing as far as the tan
17 Suburban?

18 A Driving.

19 Q Driver? Did you hesitate in any fashion when you
20 identified this photograph?

21 A No, I didn't.

22 Q I'm going to show you what's now been marked as State's
23 No. 6, and ask you if you recognize that?

24 A Yes.

25 Q And what is it?

1 A The photos you showed me on the other page.

2 Q Okay, and do you see your signature on the first page
3 of that document?

4 A Yes.

5 Q And what photograph, what number did you pick out on
6 those pictures?

7 MS. JOHNS: Your Honor, I'm going to object at this
8 time. I want to have a hearing outside the presence of the
9 jury.

10 THE COURT: All right. Okay.

11 All right. Ladies and gentlemen of the jury, I'm going
12 to ask you to step to your jury room. I'll remind you not
13 to discuss the case. We'll be with you shortly.
14 (Jury out at 11:05 a.m.)

15 MS. JOHNS: Thank Your Honor. May it please the
16 Court.

17 THE COURT: Sure.

18 MS. JOHNS: Your Honor, I believe State's Exhibit
19 No. -- that's been marked as an exhibit -- No. 6, and we've
20 discussed at pre-trial, and there are several things that I
21 want to reiterate at this point. One is that Mr. Jacobs has
22 admitted that he knows Taurus Watts. He's known Taurus
23 Watts. He knew Taurus's name at the time of this incident.
24 He knew Taurus's last name at the time of this incident.
25 Subsequent to that, Your Honor, he did provide a name.

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1 There's been testimony that he knew Taurus, that Taurus was
2 a frequent patron of the club. His mother worked at the
3 club, Your Honor, and furthermore the photo lineup, Your
4 Honor, is unduly prejudice in the fact that each one of
5 these individuals with the exception of my client is wearing
6 street shirts. And it is identifiable or could that these
7 photographs could come from a driver's license picture. All
8 those one through five can be predicted or can be assumed
9 that these photographs come from driver's license picture
10 with the exception of my client, number six. And in this
11 particular picture, Your Honor, there is a picture of my
12 client wearing a jail uniform. In this particular picture,
13 Your Honor, the jail uniform indicates prior arrest, which
14 affects my clients character or for 403 issues in evidence
15 without him testifying. As a result of that, Your Honor,
16 this photograph, one is not necessarily prove the identity
17 of my client and two is highly prejudicial and really had no
18 probative value.

19 So based on that, Your Honor, I would object to State's
20 No. 6 going into evidence to prove the identity of my
21 client, because it will do nothing but harm him in a way
22 that the jury may look at this photograph and say one was
23 wearing a jail uniform. And I object based on those
24 grounds.

25 THE COURT: All right. State?

1 MS. SHIPLEY: Your Honor, we have laid the
2 foundation to have this exhibit admitted into evidence, and
3 if I could hand this up to the Court. You can't see any
4 markings on that photograph that say, jail or inmate
5 numbers. It looks like a v-neck t-shirt in that photograph.
6 It's speculation that the jury would know what kind of shirt
7 they wear at the jail.

8 MS. JOHNS: Your Honor, I would submit that if
9 they've been in this courthouse before, and they've attended
10 some sort of hearing in general sessions court, not to
11 mention if they're sitting at home watching their TV, and
12 they see one of these pop up on the TV, they're going to
13 know this is a jail uniform. It's unquestionable.

14 THE COURT: Ms. Johns, you do have a witness who
15 knows this gentlemen and who could ID him separate and apart
16 from the photo line up, correct?

17 Ms. Shipley -- I'm sorry.

18 MS. SHIPLEY: No, Your Honor. This is the only
19 witness that I have who identifies him that night.

20 THE COURT: I know, but he can identify him
21 separately and apart from this photo line up?

22 MS. SHIPLEY: Yes, ma'am. We did go through a
23 Jackson -- a Neil verses Biggers hearing for the purposes of
24 having it admitted into evidence.

25 THE COURT: Right.

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1 MS. SHIPLEY: And the Court ruled in the state's
2 favor that prior identification was admissible, and so as a
3 result we are entitled to have the line up shown at this
4 time or introduced into evidence.

5 MS. JOHNS: Your Honor, I know you recall the Neil
6 v. Biggers hearing that state admittedly didn't do a Neil v.
7 Biggers in regards to my client, that he was known already
8 by this witness and it does nothing but bolster prejudice
9 against my client.

10 MR. SWERLING: The photo lineup is not probative.

11 THE COURT: Right. At the risk of the jurors
12 looking at this shirt as being different and having any
13 potential information that this might have come from the
14 jail website, and all of that, while I did rule that I don't
15 think the lineup, itself, in terms of how it was conducted
16 was not prejudicial, I think that I should err to the side
17 of the defense with respect to any potential juror have any
18 insinuation that this shirt looks different and that they
19 might associate it with a jail website or -- you know, we
20 have several jurors who have family members or people who
21 have been victimized or been in jail or whatever. I just
22 think that in that regard, while I think the method and
23 manner in which I think the photo lineup was conducted was
24 okay, it's just that I would rather err on the side of the
25 defense with respect to this picture since it is not

1 excluding your ability to have your witness have independent
2 means of making an ID.

3 MS. JOHNS: Thank you, Your Honor.

4 MS. SHIPLEY: If the Court would provide some
5 guidance, as far as my next line of questioning, would it be
6 okay for the state to say, did you identify a picture of
7 Taurus in this photographic lineup and leave it at that.
8 And not introduce the document.

9 THE COURT: And not introduce it.

10 MS. JOHNS: Your Honor, I think make reference to
11 it and then it not going in is a double edge sword. In this
12 particular case I think the state should be able to ask if
13 he identified the photograph of Mr. Watts, but I don't think
14 that it should be in the context of the photo lineup. I
15 understand the state's position that they do want to assure
16 that at the time of the incident that he was able to
17 identify a photograph of Mr. Watts, but he already knew Mr.
18 Watts. He already knew his identity. He admitted that.
19 Knew his first name and his last name. So he knows him by
20 name and sight. So for him to identify Mr. Watts at a
21 photographic lineup, lineup itself indicates that, you know,
22 there's something there that they are particularly looking
23 for that they shouldn't see.

24 THE COURT: I don't want to harm the solicitor in
25 that line of questioning for the jury to not be able to see

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1 something that you're referring when you say lineups,
2 because you've got other pictures.

3 MS. SHIPLEY: Right. And I think the concern that
4 Ms. Johns has is alleviated if I just say, were you shown
5 pictures, did you identify Taurus in Taurus's picture, and
6 leave it at that.

7 THE COURT: That will be fine.

8 MS. SHIPLEY: Okay.

9 THE COURT: Without referencing a lineup. That
10 will be fine.

11 MS. SHIPLEY: Just that on June -- on that date,
12 July 1st, he identified a picture of Taurus.

13 THE COURT: And I'm fine with that because you are
14 entitled to show that your officers immediately were able to
15 get an ID --

16 MS. SHIPLEY: Yes, ma'am.

17 THE COURT: -- of this person, because that's where
18 you --

19 MS. SHIPLEY: And that's critical to pursuing an
20 investigation?

21 THE COURT: Correct.

22 MS. SHIPLEY: Yes, ma'am.

23 THE COURT: Absolutely. Okay. That's fine.

24 MS. SHIPLEY: Thank you, Your Honor.

25 MR. SWERLING: It will be the same ruling as to

1 Watts? I mean Wray?

2 THE COURT: He's wearing --

3 MS. SHIPLEY: He's wearing street clothes, Your
4 Honor.

5 THE COURT: So that will be different in terms of
6 why I let it out.

7 MR. SWERLING: I was just reiterating that it's the
8 same theory of they know it's a lineup and for the same
9 reason that Your Honor has articulated about getting it off
10 the website and the potential to assume that these are jail
11 photos from what people's normal understanding of what a
12 lineup is, so I'd have the same objection.

13 THE COURT: Okay. Well, the only thing is this one
14 was specific -- Taurus Watts was specifically from the jail
15 site; is that correct?

16 MS. SHIPLEY: Yes, ma'am. And this photo lineup,
17 you can't tell if it's a DMV or jail. There's no
18 characteristics of where it was taken on State's No. 5.

19 THE COURT: Okay.

20 MS. SHIPLEY: And I'll hand it up to the Court and
21 you can make your ruling.

22 THE COURT: Okay. Okay, it's definitely a
23 different type shirt. So I'll over your objection, I'll let
24 this one in.

25 MS. SHIPLEY: Thank you, Your Honor.

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1 THE COURT: You all have a quick break for
2 yourselves.

3 MS. SHIPLEY: Thank you, Your Honor.

4 (Court at recess for short break.)

5 (Court in session after short break.)

6 THE COURT: Thank you all. Take your seats.

7 Okay, do we have everybody in place, ready to proceed.

8 THE STATE: Yes, ma'am.

9 THE COURT: Okay. Jurors, please.

10 (Jury in at 11:38 a.m.)

11 THE BAILIFF: Jurors are all seated, Your Honor.

12 THE COURT: Thank you all.

13 Mr. Jacobs, I'll remind you that you are still under
14 oath.

15 State, you may continue.

16 MS. SHIPLEY: Thank you, Your Honor.

17 RICKY JACOBS - CONTINUED DIRECT EXAMINATION

18 BY MS. SHIPLEY:

19 Q Mr. Jacobs, I left off asking you about whether you
20 were shown some photos of the passenger of the tan Suburban;
21 do you recall that?

22 A Yes.

23 Q And were you able to identify a photograph of the
24 passenger?

25 A Yes.

1 Q And who was the passenger?

2 A Taurus.

3 Q And do you see him in the courtroom right now?

4 A Yes.

5 Q Please identify him for this jury?

6 A Sitting over there with the coat polka-dot tie on
7 there.

8 MS. SHIPLEY: Your Honor, please let the record
9 reflect he has identified Taurus Watts.

10 THE COURT: So reflects.

11 MS. SHIPLEY: Thank you, Your Honor.

12 BY MS. SHIPLEY:

13 Q And how long have you known Taurus Watts?

14 A A number of years, 20, maybe.

15 Q Twenty years?

16 A Yes.

17 Q And when you encountered him with Tremaine in the
18 parking lot of the H&J club can you stop me when I get as
19 close as you got to him that night? You just tell me when
20 to stop.

21 A Probably right there.

22 Q Okay. And you indicted that that was in the canopy
23 area of the parking lot?

24 A Yes.

25 Q And describe the lighting conditions under there for

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1 this jury?

2 A It's well lit.

3 Q It's well lit?

4 A Yes.

5 Q And you stop me when I get as close as you got to
6 Tremaine Wray that night?

7 A Probably there. Yeah. I was --

8 Q Go ahead.

9 A -- I was closer to the passenger side than the driver's
10 side.

11 Q I understand. And the driver of the tan SUV Suburban,
12 do you see him in the courtroom today?

13 A Yes.

14 Q And can you please identify him for this jury?

15 A He had the gray suit on. Gentleman in the gray suit.

16 MS. SHIPLEY: Your Honor, please let the record
17 reflect he's identify Tremaine Wray.

18 THE COURT: So reflected.

19 MS. SHIPLEY: Thank Your Honor.

20 BY MS. SHIPLEY:

21 Q I'm going to show you State's No. 40, and ask you if
22 you recognize that?

23 A Yes.

24 Q And what is it?

25 A The Suburban.

1 Q And is it the Suburban that night?

2 A Yes.

3 MS. SHIPLEY: Your Honor, at this time, State seeks
4 to introduce No. 40 into evidence.

5 MR. SWERLING: Judge, without waiving any
6 objections that have previously been made regarding these
7 searches.

8 THE COURT: Certainly. Okay.

9 (State's Exhibit No. 40, photo of
10 Suburban, was marked and entered.)

11 BY MS. SHIPLEY:

12 Q And I also going to show you what's been marked State's
13 No. 17. Do you recognize that car?

14 A Yeah, that's the Rodeo.

15 Q Okay. And is that the Rodeo you observed that night?

16 A Yes.

17 Q And how many shots did you see coming from this car and
18 hear coming from this car?

19 A One.

20 MS. SHIPLEY: Your Honor, at this time, state seeks
21 to introduce 17.

22 MS. JOHNS: No objection.

23 MR. SWERLING: No objection.

24 (State's Exhibit No. 17, photo
25 Rodeo, was marked and entered.)

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1 BY MS. SHIPLEY:

2 Q And how many shots did you see coming out of this one,
3 the Suburban?

4 A I couldn't tell you. It was more than one. I could
5 tell you how many.

6 MS. JOHNS: Your Honor. I'm sorry. Could he
7 repeat his answer?

8 A I couldn't tell you how many. More than one.

9 BY MS. SHIPLEY:

10 Q And you indicated that you were at your father's place
11 getting your car in between the shots fired from the tan
12 Suburban and the one shot fired from the Rodeo; is that
13 correct?

14 A Yes.

15 Q I'm going to show you what's been marked as State's
16 125. Do you see your father's house there?

17 A Yes, I do.

18 Q Can you point out for this jury where it was that you
19 normally park your vehicle?

20 A Right between -- right here. That's the driveway.

21 Q Is my finger pointed on it correctly?

22 A Yes.

23 Q Okay.

24 MS. SHIPLEY: Your Honor, at this time we would
25 seek to introduce 125 into evidence?

1 MR. SWERLING: No objection.

2 MS. JOHNS: No objection.

3 THE COURT: Okay.

4 (State's Exhibit No. 125, photo of
5 location of parked vehicle, was marked and entered.)

6 BY MS. SHIPLEY:

7 Q And, again, am I pointing at the place where your dad's
8 driveway is? Just point it out to me so I didn't lose it?

9 A It's here. (Indicating.)

10 Q Right there. Okay. And so that is where you removed
11 your vehicle between the shots fired from each car?

12 A Yes.

13 MS. SHIPLEY: May I publish this to the jury?

14 THE COURT: You may.

15 BY MS. SHIPLEY:

16 Q And again your father, on this diagram, just to orient
17 the jury, where is your father's house located?

18 A Over here. (Indicating.)

19 Q Okay. And so the dirt road depicted in the exhibit
20 being published currently to the jury, do you see that dirt
21 road on this diagram?

22 A Here. (Indicating.)

23 Q Okay. And the parking lot that is depicted in State's
24 124, I believe; is that also depicted on the diagram?

25 A The parking lot?

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1 Q Of your establishment.

2 A Right here. (Indicating.)

3 Q Thank you. You indicated that when the shots were
4 being fired out of the Suburban were there people in the
5 parking lot?

6 A Yes.

7 Q And what were those people doing?

8 A Just scrambling. Just moving out, trying to avoid
9 getting hit, I guess. From what I recollect, yes.

10 Q Did you observe anybody fall in front of your bar and
11 cut themselves in any way?

12 A No. No, I didn't see anyone fall.

13 Q You don't remember seeing anyone fall. Okay. Did you
14 yourself personally call 911?

15 A No, I didn't.

16 Q And did you instruct anyone to call 911 on your behalf?

17 A No. I was in the middle of the street crossing, so --

18 Q At the time that you met with Investigator McRae at
19 your establishment, did you know that anyone had even been
20 hit with a bullet?

21 A No. I had no idea.

22 Q Okay. Did you know that anyone had been killed as a
23 result of shots fired?

24 A No, I had no idea.

25 Q Did you see any guns on anybody inside of that night

1 club that night; inside of your establishment?

2 A A gentleman that was backing out of the bar, he had one
3 in his hand. He was just backing out so nobody wouldn't
4 bother him. I don't know who the gentleman is, but -- like
5 I said, it was the first time I'd seen him before. That's
6 the only one I seen.

7 Q Did you see that individual; are you familiar with that
8 person?

9 A No. First time I've seen him.

10 Q And so did you see that person shoot that gun at any
11 time?

12 A No. Not to my knowledge.

13 Q The shots -- did you hear any more shots -- let me
14 rephrase. The shots that you heard from the Suburban,
15 again, who was in the Suburban?

16 A Taurus and Tremaine.

17 Q And had you seen Taurus inside of your night club
18 earlier that night?

19 A Yes.

20 Q Approximately what time did you remember seeing him
21 inside?

22 A It had to be roughly 2:00, 3:00 o'clock, a.m.

23 Q Did you see Tremaine Wray inside of your night club
24 that night?

25 A Yes.

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1 Q And what time did you see him?

2 A It was earlier -- I don't know exactly. I noticed one
3 then I noticed the other later. I don't know if they were
4 together or not.

5 Q I'm sorry, sir. I can't understand you.

6 A I noticed one and then the other one later, so I can't
7 tell you exactly what time it was.

8 Q So you noticed one before the other?

9 A Yes.

10 Q And which one was the first one you noticed?

11 A I believe it was Tremaine. Yes.

12 Q Okay. Since that night has Brian Johnson been allowed
13 back into your night club?

14 A No.

15 Q And why is that?

16 A Because he's barred.

17 Q And why -- did he get barred as a result of what
18 happened that night?

19 A Yes.

20 Q Do you recall on June 30, 2007, at approximately 5:40
21 a.m. talking to Investigator McRae about what you had
22 observed that night at your night club?

23 A Yeah. I remember speaking with him about it.

24 Q Okay. Do you recall whether you told him that Mr.
25 Watts had made a comment to you when you told them that the

1 night club was closed?

2 A Yeah, he said something. Said, that's all right or
3 something like that. Then he turned around and walked away.
4 I thought it was over. I thought everything was over. All
5 right. Cool. So I didn't pursue it any further.

6 Q Do you know a person named Brian Watson?

7 A No.

8 Q And if you don't know -- you don't know him?

9 A Probably by face, but not by that name. Not off-hand.

10 Q Have you ever had any conversation with anybody about
11 the facts that you saw, the events that you witnessed that
12 night other than law enforcement and the prosecutor?

13 A Yeah, just like my brother or father.

14 Q Have you ever had an conversations with a person named
15 Brian Watson about this case?

16 A I don't know Brian Watson. Probably by face.

17 Q And so have you had any conversations with a Brian
18 Watson about this case?

19 A No, ma'am.

20 Q And Mr. Jacobs you're had some difficulties or getting
21 arrested; correct?

22 A Yes.

23 Q And isn't it true that you were convicted on November
24 30, 1995 of possession of cocaine; correct?

25 A Yes.

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1 Q And that was 14 years ago?

2 A Yes.

3 Q And then in 1996, you were convicted of fraudulent
4 checks; is that correct?

5 A Yes.

6 Q Both less than \$500?

7 A Yes.

8 Q And lastly you were also convicted of fraudulent check
9 under \$500 on February 8, 2000; correct?

10 A Yes.

11 Q And that is the extent of your record; correct?

12 A Yes, it is.

13 Q When you saw the defendants in the parking lot by the
14 tan Suburban, did you recognize them at that time?

15 A Yes.

16 Q And where did you recognize them from?

17 A From being in the bar.

18 Q Is there any doubt in your mind that those are the two
19 occupants of that tan Suburban you identified?

20 A No.

21 Q And is there any doubt in your mind that that is the
22 vehicle from which the shots came from headed towards the
23 car wash?

24 A No.

25 Q Is there any doubt in your mind that the Isuzu Rodeo is

1 the car that shot one time up in the air?

2 A No.

3 Q Thank you, Mr. Jacobs. Please answer any questions
4 from the defense.

5 MS. JOHNS: May it please the Court, Your Honor.

6 THE COURT: Sure.

7 RICKY JACOBS - CROSS-EXAMINATION

8 BY MS. JOHNS:

9 Q Good morning, Mr. Jacobs.

10 A Good morning.

11 Q I'm Theresa Johns. How are you, today?

12 A Fine, and yourself?

13 Q Good. Now, let me ask you a little bit about your
14 business. Let me ask you, who is Eugene Jacobs?

15 A That's my father.

16 Q And do you know a Robert Henry?

17 A That's -- yes, I know him.

18 Q And who is Robert Henry?

19 A Robert Henry used to be a partner of my father in 1986.

20 Q Okay. So Mr. Henry and Eugene Jacobs, your father,
21 were partners until 1996?

22 A '86.

23 Q 1986?

24 A Yes.

25 Q Okay. And at some point then Mr. Henry dissolved

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1 himself from the partnership; is that right?

2 A Yes. My father worked for the corporation.

3 Q What?

4 A My father worked for the corporation.

5 Q And it's name (inaudible) Chasers, Incorporated; right?

6 A Exactly.

7 Q And at one time the little place next to you was called
8 Chaser's Lounge; is that right?

9 A No.

10 Q Do you have Chaser's Lounge on the door?

11 A No.

12 Q Okay. Do you have Chaser's something on the door?

13 A Chaser's Pub.

14 Q Okay, Chaser's Pub. Excuse me. Did that name of the
15 club change in 1986 to H&J?

16 A No. Chaser's Pub was in performance until 1989 when I
17 took over.

18 Q So the H stands for Mr. Henry and the J stands for
19 Eugene Jacobs; right?

20 A Exactly.

21 Q And this business has been at this location for 34
22 years; right?

23 A Yes, ma'am.

24 Q And you changed the to Chaser's Pub in what year?

25 A I opened that in 1986. We had -- '89. I'm sorry.

1 December of '89.

2 Q So you opened it up?

3 A Yes, ma'am, I did.

4 Q And the beverage license in under your name; right?

5 A No. It's under Eugene Jacobs.

6 Q It's under Eugene Jacobs?

7 A Yes.

8 Q Okay. Eugene Jacobs, he's not -- he doesn't have
9 anything to do with the business, right?

10 A No, he still --

11 Q He still owns it?

12 A He's still president of the corporation. Yes, he is.

13 Q And who is Deborah Walker?

14 A Deborah Walker is Robert Henry's niece.

15 Q Okay. Is she part of the corporation?

16 A No, she isn't.

17 Q And has there ever been a beverage license in her name?

18 A No, there hasn't.

19 Q Now, you are very, very familiar with the alcohol
20 beverage control commission, are you not?

21 A Yes, ma'am, I am.

22 Q They have certain rules, do they not?

23 A They do.

24 Q Okay. For an example, one of those rules would be that
25 you cannot sell beer to minors, right?

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1 A Yes.

2 Q And you do know that the club had been written up for
3 that before, right?

4 A No, that's not true. That's the store.

5 Q The store?

6 A Yes.

7 Q Okay. And what about selling beer on Sundays?

8 A Yes.

9 Q Somebody has been written up for that, right?

10 A Well, I think in 1982, Mr. Henry was written up. Yes.

11 Q Okay. And you ever have to testify before the
12 commission about selling beer to minors?

13 A No. I have a Sunday All Premise --

14 Q And how long have you had a Sunday All Premise license?

15 A Every Sunday, every week.

16 Q Okay. When you open up Chaser's Pub in 1989, did you
17 apply for what we call a liquor license?

18 A No. My father did.

19 Q So this license to sell liquor was for on-premises --

20 A Yeah.

21 Q At that time it was mini-bottles, correct?

22 A Yes.

23 Q Okay. At some point in the future, probably in the
24 last five years, it's not mini-bottles any more, right?

25 A No, ma'am.

1 Q It is liquor by the drink, right?

2 A Yes.

3 Q And that license is still under your father's name?

4 A Yes, ma'am, it is.

5 Q And you can sell liquor by the drink; is that right?

6 A Yes, ma'am.

7 Q Along with beer and wine?

8 A Yes, ma'am.

9 Q And you can sell until what time Friday night going
10 into Saturday morning?

11 A Friday night going into Saturday morning it's no set
12 time on that. It's Saturday going into Sunday that's a set
13 time.

14 Q All right. What time is that?

15 A It's 12:00 o'clock if you don't have a Sunday license.
16 It's 2:00 o'clock if you have a Sunday license. If you have
17 a private party, it's whenever the party desires.

18 Q And for a private party you have to have a special
19 license?

20 A Well, no. When I rent out the building, no, I don't.

21 Q Okay. And that would be the way you get around getting
22 a license is to rent out the building; right?

23 A I don't go around getting a license. I have one for
24 Sunday.

25 Q And if you have a private party that's beyond 12:00

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1 p.m. on Saturday night or 2:00 p.m. on Saturday night into
2 Sunday morning, you rent out the business, right?

3 A What are you saying? Are you saying that I'm going to
4 operate by business and then at 2:00 o'clock I'm going to a
5 private party; is that what you're saying?

6 Q Well, either way. Private party first?

7 A No, ma'am. I contract with the person who has the
8 party before the date.

9 Q Okay.

10 A And I file it and they have the party.

11 Q Okay. And it doesn't involve applying to the ABC
12 Commission for that private party, it's just a contract
13 between you and the private party, right?

14 A Exactly.

15 Q All right. Now, let me ask you, on September 3, 2007,
16 you had one of those private parties; isn't that right?

17 A September 3, 2007? May could have. Yes.

18 Q And you called the police about a person named Norris
19 being a Tec 9 or a Mack 10 into your place of business;
20 isn't that right?

21 A No. Someone called.

22 Q Someone called.

23 A Yes.

24 Q And when that person -- you were there, right?

25 A I was there, yes.

1 Q And that person that brought that Tec 9 or Mack 10 into
2 that business, they were pointing it at people weren't they?

3 A He had it down by his side. We asked him to leave and
4 he got in the car, and him and Brian Johnson left.

5 Q Okay, and when you reported that as a complainant, that
6 was 1:50 in the morning, right?

7 A Yes.

8 Q All right. And you listed the suspect as a Norris?

9 A Yes.

10 Q And you know a Norris don't you?

11 A Yes.

12 Q And you know him as Norris Bond or Boo?

13 A Norris.

14 Q Norris?

15 A Yes.

16 Q Does he have a nickname?

17 A Norris, is all I know.

18 Q And he started threatening your customers didn't he?

19 A No. He actually was looking for one particular person.
20 I don't know who it was.

21 Q Okay. And you told the police or somebody told the
22 police his cousin is Brian Johnson, right?

23 A Yes. Who was not supposed to be on the premises.

24 Q What? I'm sorry?

25 A Who was not supposed to be on the premises.

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1 Q Who was not supposed to be on the premises. Okay.
2 Because he had been barred?

3 A Exactly.

4 Q And how did he get notification of being barred?

5 A Verbally.

6 Q Verbally?

7 A Yes.

8 Q When did you tell Mr. Johnson that he was barred?

9 A I told Mr. Johnson the very next visit that he came in
10 that he's not allowed on the property.

11 Q The first day --

12 A The very next time I seen him on the property I asked
13 him to leave.

14 Q Okay. So the last time you saw Brian Johnson was the
15 morning of July 1st?

16 A No. It was 7 July. I know that because I remember.

17 Q All right.

18 A It was after the incident that happened.

19 Q Let me back up then.

20 A Right.

21 Q You say Brian Johnson on the night of the incident?

22 A Yes.

23 Q And he was one of the customers that you let remain in
24 the bar, right?

25 A Yes.

1 Q Okay. He was one of those people, one of those patrons
2 who was a local, right?

3 A Yes.

4 Q And you let him stay in the bar on that particular
5 night while you heard shots being fired outside?

6 A Yes. For the safety of him as well as everybody else.

7 Q For the safety of him?

8 A As well as anyone else.

9 Q All right. And then at some later point, you said you
10 barred him?

11 A Yes.

12 Q And at the later time you barred him you barred him
13 because you said he was involved in the altercation?

14 A Exactly.

15 Q Okay. Now, on that particular night you knew Brian
16 Johnson was involved in the altercation didn't you?

17 A Yes.

18 Q Okay. You didn't tell him he was barred that night,
19 did you?

20 A I didn't want to tell him to leave when everything was
21 outside in the chaos.

22 Q Okay. And yet some time later, September 3, he shows
23 up with Norris with a Tec 9 or a Mack 10?

24 A Yes.

25 Q Okay. All right. Now, let's talk about this for a

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1 little bit. What time did your club open up Friday night?

2 A We open at 4:00 p.m.

3 Q 4:00 p.m. Every -- every --

4 A Daily. Every day. Daily.

5 Q All right. And do you also have another part of the
6 business that's connected to this club?

7 A Restaurant.

8 Q Restaurant. And what time does that restaurant open?

9 A Well, it opens at 11:00.

10 Q Okay, and is that restaurant open every day?

11 A Yes.

12 Q Okay. And what does that restaurant serve, food wise?

13 A Fast food.

14 Q Fast food?

15 A Yes.

16 Q Okay. All right, how long have you had the restaurant
17 or has your father had the restaurant?

18 A My father's had the business for 34 years, the whole
19 entire building. I opened up Chaser's Pub in '89, as well
20 as Granny's Country Cooking in '89. While I was still in
21 college.

22 Q I'm sorry?

23 A I was in college when I opened them.

24 Q And it's called Granny's --

25 A Country Cooking.

1 Q And can you drink alcohol at Granny's party of this
2 business?

3 A Yes.

4 Q Okay. And it has a license as well?

5 A Yes.

6 Q All right. And is it still open today?

7 A Yes, it is.

8 Q And you have employees particularly for Granny's
9 Country Cooking?

10 A Yes, I do.

11 Q And you know Taurus Watts, right, you've already said
12 that in direct testimony?

13 A Yes.

14 Q You know his mother, Shaun, don't you; in fact, she
15 used to work for you, right?

16 A Shaun. Sharon. Yes.

17 Q Sharon. I'm sorry.

18 A Yes, Sharon.

19 Q Sharon Watts is his mother, correct?

20 A Right.

21 Q She has worked for you and your dad?

22 A Yes.

23 Q And she worked the kitchen, correct?

24 A Yes.

25 Q She worked the bar, correct?

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1 A No.

2 Q She worked the store?

3 A Yes.

4 Q She cleaned up?

5 A The kitchen, yes.

6 Q And how long ago was that; how old were you, were you
7 in college at the time?

8 A Probably was college. High school, college.

9 Q Okay. And how old are you now?

10 A Forty-six.

11 Q And so for say 20 years you've known Sharon Watts?

12 A Yes.

13 Q Do you know Taurus as her son, correct?

14 A Yes.

15 Q And I guess knowing him for 20 years that would have
16 made you 26 at the time, right?

17 A Yeah, approximately.

18 Q Now, you stated on direct examination that this club,
19 Chaser's Pub in 1989 is a neighborhood bar?

20 A Yes.

21 Q All right. This neighborhood bar that's open from 4:00
22 p.m. until 2:00 or whatever you're following those
23 guidelines, every day of the week, right?

24 A I guess.

25 Q Okay. And when you serve alcohol at this club you do

1 not have to have any equal receipts for food, is that right?

2 A Any equal receipts?

3 Q Yeah, you don't have to have an equal percentage of
4 food verses alcohol sold, right?

5 A Well, that's the law, so yes, you do.

6 Q Okay. So you do.

7 A Yes.

8 Q So you rely on the kitchen to make sure you follow the
9 guidelines of the ABC Commission, right?

10 A Yes, correct.

11 Q All right. And at night you don't necessarily have to
12 serve any food at the club?

13 A Well, I mean, when I shut down, I shut down both. They
14 are shut down at the same time.

15 Q Okay. Now, how -- when -- let's take you to June 30th,
16 which is a Friday night, going into July 1st, Saturday
17 morning?

18 A Okay.

19 Q Can you describe for me -- let's start with
20 Hardscrabble Road --

21 A All right.

22 Q -- tell this jury the parking situation on Hardscrabble
23 Road?

24 A The parking?

25 Q Yes, sir. Let me ask you this way; people park on the

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1 side of Hardscrabble Road --

2 A Yes.

3 Q -- to go to your restaurant or to go to your bar?

4 A Yes.

5 Q Okay. And they parallel park, right?

6 A Yes.

7 Q And when they parallel park they would park wherever
8 they could find a spot?

9 A Yes.

10 Q So just take a look at State's Exhibit No. 7, and let's
11 just start out at the very left of this photograph arial,
12 and let's start right here. People will start parking on
13 this side of Hardscrabble Road all the way up to Goodrich
14 Street; is that correct, because you can't park in the
15 driveway, right?

16 A What's that street there?

17 Q That's Goodrich Street. You can't park here.

18 A No.

19 Q So they park up here?

20 A No.

21 Q So do they park down Goodrich Road?

22 A Yes, they park on Goodrich.

23 Q So they park down Goodrich Road and they're parallel
24 parking all the way down here, right?

25 A Yeah.

- 1 Q And they're parallel parking all the way down the other
2 side of Goodrich Road, too, right?
- 3 A No.
- 4 Q They're not because there's a house here?
- 5 A Yeah, and he has no parking signs there.
- 6 Q So what we're looking at right here arial, is these
7 bushes right here, and there's a fence that goes around his
8 property; is that fair to say?
- 9 A No. That's open. All this is open.
- 10 Q That's open?
- 11 A Yes.
- 12 Q And then --
- 13 A The back yard is fenced.
- 14 Q All right. So all this area right here on Goodrich
15 Street, all the way down this way and through here --
- 16 A Is open.
- 17 Q -- is open but he had no parking?
- 18 A He has no parking signs.
- 19 Q And what happens if somebody parks there?
- 20 A They get towed.
- 21 Q Okay. Now, this area right here beyond these bushes on
22 Hardscrabble Road, people can park there because of the
23 highway; you didn't own the highway, right?
- 24 A No. But his signs -- his signs not on the highway.
- 25 Q Okay. So the highway put signs up there?

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1 A Yes..

2 Q Now, have you ever seen a car get towed from this area
3 between Goodrich and this driveway right here?

4 A Yes, I've seen a few tows.

5 Q All right. So people will park here regardless of the
6 signs, right?

7 A I don't see them parking --

8 Q All right. So the answer to my question is people will
9 be ticketed and they still park there, at least on occasion,
10 right?

11 A Yeah, you're right.

12 Q Now, over here is the car wash which is about in the
13 middle section of this arial view, right?

14 A Right.

15 Q And over here is another business. I think it might be
16 a barber shop or a day care or something like that?

17 A Yes.

18 Q Okay. And all this area in this little barber shop day
19 car area is full of cars, right?

20 A Um --

21 Q They park here, too, right?

22 A Depends on what's going on.

23 Q But you've got 50 people in there. They've got to find
24 someplace to park, right?

25 A No. Not really.

1 Q Okay. So how about over here in the car wash area?

2 A Yeah.

3 Q And that whole area wherever they can find a spot
4 they're going to park, right?

5 A Very true.

6 Q All right. Now, over here you have a wall that goes
7 all the way down to -- looks like the back of your business
8 where the wooden patio is; is that right?

9 A It is.

10 Q Okay. And this brick wall is about four feet high; is
11 that fair to say?

12 A No. About the size of this. (Indicating.)

13 Q About the size of this?

14 A Yes.

15 Q Okay. And your deck back there is about four or five
16 feet high?

17 A No.

18 Q From the ground to the flooring?

19 A It's higher. About 12 feet.

20 Q It's higher. It's 12 feet from the ground?

21 A Yes.

22 Q In each corner?

23 A Yes.

24 Q Yes?

25 A Yes.

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1 Q So the grading then on this particular piece of
2 property right here is level, and it doesn't go down, and
3 your deck is 12 feet high?

4 A The deck is 12 feet high.

5 Q Okay. So the deck is from the ground --

6 A Up.

7 Q -- up 12 feet high?

8 A Exactly.

9 Q Right. So to jump off the deck would be 12 feet?

10 A Exactly.

11 Q Okay. This deck has a door that goes into your club?

12 A Yes.

13 Q And then on the other side there's another door that
14 goes inside your club or kitchen?

15 A Yes.

16 Q All right. All this driveway right through there, who
17 parked there?

18 A No one.

19 Q No one. Okay.

20 A We have a gate.

21 Q You have a gate. Okay. And this driveway right here
22 is used for what purpose?

23 A Is was for you to pull around to the back. There's a
24 wrought iron gate here.

25 Q Yes, sir. Right here at the edge?

1 A Yes.

2 Q You have a key to that gate?

3 A No.

4 Q Okay. So the wrought iron gate is permanent, it does
5 not open?

6 A It's --

7 Q It's permanent, you can't open it?

8 A You can, but I don't have a key.

9 Q Oh. You dad has a key?

10 A Yes.

11 Q So all through here in front of Chasers club, all of
12 this is parking area, right?

13 A Yes.

14 Q And how do they typically park, anywhere they can?

15 A They park in spaces and they double park sometimes.

16 Q So you'll have a car that will pull straight in and
17 park straight up against the building, right?

18 A Right.

19 Q Headed in, right?

20 A Right.

21 Q Or they'll back it in, sometimes, right?

22 A Right.

23 Q And then this blue roof right here is the convenience
24 store, the store?

25 A Yes.

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1 Q And this shelter right here is a shelter that protects
2 people when it's raining and they can walk underneath here
3 to pay for their gas?

4 A Right.

5 Q And underneath this rectangular area shelter is the gas
6 pumps, correct?

7 A Correct.

8 Q Gas pumps work?

9 A No.

10 Q Okay. How long have they not been working?

11 A Um -- '96.

12 Q '96. So these gas pumps don't actually pump any gas,
13 they're just used for parking, people can park --

14 A Yes. Island is still there.

15 Q Island is still there?

16 A Yes.

17 Q Pumps are still there?

18 A Yes.

19 Q Shelter is still there?

20 A Yes.

21 Q But it serves no real purpose except for parking?

22 A Exactly.

23 Q For the club?

24 A Exactly.

25 Q All right. Let's go further over here beyond this

1 shelter. Do you see this sandy area to the right of the
2 blue roof right here?

3 A Yes.

4 Q All this area right here is used for parking; is that
5 correct?

6 A Yeah.

7 Q All this area from the edge of the blue roof, all the
8 way out to -- looks like a road right here. All this area
9 is used for parking, right?

10 A Right.

11 Q All this quadrant is used for parking?

12 A Right.

13 Q And these two little objects right here are telephone
14 booths, right?

15 A Right.

16 Q They are not being used?

17 A No.

18 Q They're just there?

19 A No. They're not there.

20 Q They're not there. The posts are there?

21 A No.

22 Q Okay.

23 A Just the concrete slabs are there.

24 Q Okay. Okay, concrete slabs.

25 A Right.

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1 Q All right. On up Hardscrabble Road you're turning and
2 it says Summer Crest Road.

3 A Right.

4 Q Do you know where Summer Crest Road is?

5 A Right.

6 Q All down this road people were parallel parking?

7 A Yeah.

8 Q I mean, you've walked this beat every night right?

9 A Yes.

10 Q And all on this side of Summer Crest Road, cars are
11 parked?

12 A No. There's a ditch on that side.

13 Q So people don't park there?

14 A No.

15 Q All right. And across from the telephone booths, right
16 underneath the R; is that your dad's house?

17 A Yes.

18 Q Right?

19 A Yes.

20 Q And there's a road that goes down this way, and your
21 dad's house is on the corner of what road and Hardscrabble
22 and what road?

23 A Harold.

24 Q Harold. Street, road?

25 A Road.

- 1 Q Okay. And Harold Road is a dead-end?
- 2 A No.
- 3 Q It is not.
- 4 A No.
- 5 Q So there is an outlet back there?
- 6 A Yes.
- 7 Q But it is a dirt road?
- 8 A Yes, it is.
- 9 Q And people will park down Harold Road, as well?
- 10 A Yeah.
- 11 Q They will park on your dad's side of Harold Road?
- 12 A Yeah.
- 13 Q They will park on Hardscrabble, right?
- 14 A On --
- 15 Q In front of your dad's house?
- 16 A No. They park on -- here.
- 17 Q Okay. Here?
- 18 A Yeah, in there. (Indicating.)
- 19 Q Here.
- 20 A Generally, right here.
- 21 Q That's probably why there's no vegetation there because
- 22 of the parking?
- 23 A Yes.
- 24 Q Okay. And is it fair to say that Friday night is one
- 25 of your busiest nights?

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1 A Some Fridays, yes.

2 Q Well, you hire a DJ, don't you?

3 A Yes.

4 Q And you have security, extra security, right?

5 A Yes.

6 Q Because it's the weekend?

7 A Right.

8 Q People party on Friday night, right?

9 A Right.

10 Q So it's fair to say that Friday nights are one of your
11 busiest nights of the week?

12 A Depends on what Friday it is. Yes, you're right.

13 Q So this whole area potentially could have cars?

14 A Yes.

15 Q Now, I'm going to show you what is marked as State's
16 Exhibit No. 125. Do you see those telephone concrete blocks
17 in this photograph?

18 A No, ma'am, I don't.

19 Q Okay. And do you have any idea when this photograph
20 was taken?

21 A I have no idea.

22 Q All right. Now, let me ask you about -- let me ask you
23 about this house that depicted in here?

24 A Uh-huh. (Affirmative response.)

25 Q That's your father's house?

1 A Yes, it is?

2 Q Does he live there?

3 A Nobody lives there now.

4 Q Does your brother live there?

5 A No, ma'am, now he doesn't.

6 Q But he used to in 2007, right?

7 A Yes.

8 Q So this is an occupied house or it was in 2007?

9 A Yes.

10 Q Okay, and it looks to be like a brick wall that sort of
11 surrounds this house; is that right?

12 A The back yard, yes.

13 Q Okay. And there is some shrubbery along that brick
14 wall; is that correct?

15 A Yes.

16 Q And some trees?

17 A Right.

18 Q And those trees have not grown since -- well, they
19 weren't just planted there, right, they've been there?

20 A They've been there a long time.

21 Q All right. Now, on this Harold Road, is there a way to
22 get to your backyard from Harold Road?

23 A Yes, it is.

24 Q And is there a way to get to the front door from
25 Hardscrabble Road?

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1 A Yes.

2 Q And that's a driveway, right?

3 A Yes.

4 Q Okay. And when you were parked in that driveway, you
5 pull into the driveway; isn't that right?

6 A No. I park on the edge. It's a circular driveway.

7 Q Okay. Circle --

8 A I circle in and my car faces out, you know. Out.

9 Q Okay. The nose faces out?

10 A Yes.

11 Q Okay. Which part of the driveway do you pull into
12 first, the driveway closest to Clemson Road or the driveway
13 that closest to Farrow Road?

14 A I pull in and I circle around and I face the business.

15 Q Okay, and you face the business?

16 A Yes.

17 Q And so you would be closer to Summer Crest Road; is
18 that right, your car would be facing --

19 A Facing --

20 Q -- up here somewhere near --

21 A -- yeah.

22 Q -- Summer Crest Road?

23 A Right.

24 Q Like across the street from this is where your car
25 would be facing, right?

1 A Yeah.

2 Q Now, I'm going to show you what's marked as State's
3 Exhibit No. 15. Do you recognize that photograph?

4 A Yes.

5 Q Okay. You see Chasers club right there?

6 A Yes.

7 Q Do you notice this blue mini-van right there?

8 A Yes.

9 Q Whose mini-van is that?

10 A That's the DJs.

11 Q The DJs?

12 A Yes.

13 Q So the DJ was at your club parking lot to unload and
14 load, yes?

15 A Yes.

16 Q And that's where he would normally park on a Friday
17 night, right?

18 A Depends. You know. If he's there to stay, yes. If he
19 unloads his equipment, leaves, parks, and when he leaves he
20 will pull back over to load back up.

21 Q Okay. This is where his van was parked on the night in
22 question, correct?

23 A I don't know who the DJ was that night.

24 Q You don't know?

25 A I could have been him or it would have been -- I'm not

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1 sure who we used that night. I'm not sure.

2 Q Okay. The Amoco shed right there depicted in this
3 picture?

4 A Yes.

5 Q You see the lighting underneath that, right?

6 A Yes.

7 Q That light comes on with a timer, is that right?

8 A Yes.

9 Q And when it gets dark that light turns on?

10 A Exactly.

11 Q And you also have some other lighting underneath the
12 store --

13 A Right.

14 Q -- florescent lighting?

15 A Right.

16 Q Correct. And you have a neon sign that's red?

17 A Correct.

18 Q Okay. Now, whose Suburban is that?

19 A I'm not sure?

20 Q That's a tan Suburban, isn't that right?

21 A I don't know, it is a Suburban?

22 Q It is a Suburban. What color does it look like to you?

23 A Gray, tan, charcoal.

24 Q Gray, tan, charcoal, champagne?

25 A Yes.

1 Q Okay.

2 A It has a light on the top.

3 Q Yeah. There's a light on the top? Pizza Hut?

4 A No, break light. Break light on the top.

5 Q I don't see the break light, but okay. I see the break
6 lights are on.

7 A Right here.

8 Q Okay. And that Cadillac right there. Do you know
9 whose Cadillac that is?

10 A Could be -- I don't know.

11 Q Don't know. Okay. This Mercury.

12 A That's my mother's.

13 Q E-Scott.

14 A That's my mother's car.

15 Q Your mother's car?

16 A Yes.

17 Q Your car is not in the picture here, is it?

18 A No it's not. I might not have been there at that
19 particular time.

20 Q Right?

21 A No.

22 Q Well, your testimony earlier was that you pulled up and
23 parked in front of the business, didn't you?

24 A Yeah.

25 Q But your car is not in that photograph is it?

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1 A I might not have been working at the time.

2 Q Might not have been working at the time?

3 A When was it taken?

4 Q I don't know, sir.

5 A I can't answer that question.

6 Q It's not depicted in that photograph, right?

7 A I must not have been open.

8 Q Answer my question?

9 A No, it's not. My car is not there. No, it's not.

10 Q Okay. Taurus Watts is a local fellow isn't he?

11 A Yes.

12 Q Okay, and you said not only do you hire a DJ on Friday
13 nights you also hire a bouncer?

14 A No, I said in-house security.

15 Q Oh, you have in-house security.

16 A Yes.

17 Q Are they licensed?

18 A No, they're not.

19 Q Okay. Sherman, what kind of hairdo does he have?

20 A He has dreads.

21 Q Dreads. And Kelly, what kind of hair does he have?

22 A Ball-headed.

23 Q I'm sorry?

24 A Ball-headed.

25 Q Okay. And these two guys used to be law enforcement,

1 right?

2 A No.

3 Q They weren't?

4 A No.

5 Q Probation officers?

6 A Kelly.

7 Q Kelly was a probation officer?

8 A Right.

9 Q Do you know what county he worked for?

10 A Richland.

11 Q Was he your probation officer when you got convicted of
12 drugs?

13 A No.

14 Q No. Okay. Does Kelly carry a gun?

15 A No. They don't carry any weapons when they're working
16 for me.

17 Q Okay. Do they carry -- do you have any weapons on the
18 premises?

19 A Yes. There's weapons on the premises.

20 Q So it's fair to say they might --

21 A They don't have access to them.

22 Q They don't?

23 A No, they don't.

24 Q So if Kelly was to have a permit to carry a gun --

25 A He would carry it there.

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1 Q He wouldn't carry it there?

2 A No.

3 Q So on the night in question there was a fight that
4 broke out and you witnessed it?

5 A Yeah.

6 Q And while this fight was going on you were the
7 bartender?

8 A Sure.

9 Q And the music was going, pumping, right?

10 A Yes.

11 Q The lights were off?

12 A No. They were down low.

13 Q Dim, then?

14 A It was dim. Yeah.

15 Q And have you ever kept that business open past 4:00
16 a.m.?

17 A Yes.

18 Q Okay. Sometimes you've kept that business open until
19 daylight on Saturday morning, right?

20 A No.

21 Q Ever?

22 A No.

23 Q Well, then you explain it to me. You'll close whenever
24 you feel like it, but you'll let your friends stay in,
25 right?

1 A Yes.

2 Q Okay.

3 A Yes.

4 Q If Brian Johnson was in there after you closed on that
5 night, right?

6 A No, I didn't say that.

7 Q But he was in there on that night?

8 A He was in there that night, yes. No. I was closing.

9 Q Uh-huh. (Affirmative response.)

10 A And had an altercation outside, and to protect my
11 customers I asked Kelly was to tell them to say in there
12 until things cleared up outside.

13 Q Okay.

14 A Now, if he was one of them in there, then that's fine.
15 That wasn't about pushing outside my business to be in
16 harm's way.

17 Q Right.

18 A Because that's my job.

19 Q Okay. But you didn't -- the one you saw with the gun,
20 you really didn't care what happened to him, right?

21 A I didn't say that.

22 Q Well, just answer my question then?

23 A Okay.

24 Q Brian Johnson remained in your club that night, didn't
25 he?

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1 A After things ended, he left.

2 Q That would be a yes, right?

3 A Yes.

4 Q Okay. Norris Bond remained in that club that night,
5 didn't he?

6 A I didn't see Norris in there that night.

7 Q Okay. You didn't see them show up together?

8 A No, I didn't.

9 Q Okay. But you do know --

10 A You said the night -- which night are you speaking of?

11 Q The incident?

12 A Which incident? September?

13 Q The incident in July?

14 A Oh, I didn't see him.

15 Q You didn't see him June 30th?

16 A I didn't see Norris.

17 Q Okay. So then you'd be surprised to know that he was
18 there with Brian Johnson, then, right?

19 A Oh, yeah.

20 Q Now, they're cousins, you already knew that? They hang
21 out together all the time, right?

22 A Yeah.

23 Q Okay. Now, do you know a girl named Tia?

24 A Tia?

25 Q Latasha, Lisa. Those names don't mean anything to you?

1 A I mean, I know a few. If you could give more detail?

2 Q All right. Well, you know them as being friends of
3 Taurus, right?

4 A Taurus? No.

5 Q No. Okay. So when Taurus showed up you didn't see him
6 with these girls, right?

7 A I don't know when he showed up, but I seen him in the
8 club, in the bar.

9 Q You saw him in the bar?

10 A I don't know what time he showed up or who he show up
11 with, but I seen him in the bar.

12 Q And when you saw him in the bar it was way before any
13 shooting; is that right?

14 A Yes.

15 Q Okay. Is he a regular; would you say that's fair to
16 say, he's a regular?

17 A Yes. Yes.

18 Q Okay. You didn't have any problem knowing who Taurus
19 Watts is?

20 A No.

21 Q And I'll just go over this with you briefly. His mom
22 worked for you, right?

23 A His mom --

24 Q He was a little kid when you first met him?

25 A Yeah.

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1 Q All right. Now, when a person arrives at your club, do
2 you check their ID?

3 A Yes.

4 Q Or you have somebody check their ID?

5 A Yes.

6 Q And you pat the pockets?

7 A Yes.

8 Q And do you allow people to come into your club that
9 have drugs on them?

10 A No, I don't allow it, but it happens everywhere. So I
11 don't allow it. No.

12 Q So if they were to have drugs on them, you'd let them
13 in?

14 A No. If I know that, no.

15 Q If you know that, you're not going to let them in,
16 right?

17 A No.

18 Q So you pat people down, right?

19 A Yes.

20 Q And you want females, right?

21 A Yes.

22 Q It has to be by another female?

23 A Yes.

24 Q All right. How much cover charge did you charge that
25 night?

1 A On a Friday, \$5.00.

2 Q Brian Johnson was the loudest person involved in that
3 fight, wasn't he?

4 A The loudest?

5 Q Yes, you recognized that Brian Johnson was involved in
6 that fight?

7 A Yeah, I recognized it was his -- at the start of the
8 altercation and I seen him in the middle of it.

9 Q Okay. You have no idea what they were fighting about?

10 A No idea.

11 Q Did you see any punches thrown?

12 A By the time I noticed they were separated and --

13 Q Who's they?

14 A Kelly.

15 Q Kelly separated them?

16 A Yes. And --

17 Q Who's the other that equaled they; who else?

18 A Well, Kelly.

19 Q Oh, okay. Where was Sherman?

20 A Excuse me?

21 Q Where was Sherman?

22 A Sherman was -- at the time he was holding the door, he
23 was watching the door.

24 Q So Kelly was separating them --

25 A Right.

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1 Q -- and Sherman was holding the door?

2 A Right.

3 Q And you're behind the bar?

4 A Yes.

5 Q And so then you kill the music, right?

6 A Yes.

7 Q And you turned the lights on, right?

8 A I turned the lights on immediately. That's what I did
9 first. I turned the lights on and ended the music.

10 Q And then you got Sherman to watch the bar?

11 A I told him to come back there and watch the register
12 while I go over there and get my car.

13 Q And as you're leaving you see a man standing out your
14 front door with a gun?

15 A No.

16 Q That's what you said on direct?

17 A No. Standing -- he's walking towards the business.

18 Q The person you don't know the face?

19 A No.

20 Q Okay. You said on direct examination that there was
21 somebody there you didn't know?

22 A Yes.

23 Q That had a pistol that was coming inside?

24 A No. I said a gentleman that I did not know had a
25 pistol and was backing himself out of the business.

1 Q You're right. Backing himself out of the business.
2 Meanwhile, you had Sherman watch the bar and Kelly was
3 inside making sure nothing happened to your customers,
4 right?

5 A Right. Exactly.

6 Q And with that going on you're going to go get your car
7 and move it closer to the business.

8 A Yes.

9 Q Yes. When you were walking to your car, basically your
10 back is towards the four doors to your business, right?

11 A Yes.

12 Q Okay. You can't say what happened to that gentleman
13 that was backing out of the business while you're going to
14 get your car can you?

15 A Who?

16 Q The gentleman who was backing outside your business
17 with a pistol?

18 A He was already outside the door when I walked outside.

19 Q So he was outside the door?

20 A He was already outside the business.

21 Q And when he was outside the door you had to walk away
22 from the car wash to get to your car, isn't that right?

23 A Yes.

24 Q So you can't see what's going on behind you, is that
25 fair?

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1 A No, I can't.

2 Q Now, who did you walk to -- who was walking with you
3 when you went to get your car?

4 A Nobody.

5 Q Nobody. Okay. Now, as you're walking towards your
6 father's circular driveway, you said you got to the shelter
7 of the gas pumps?

8 A Uh-huh. (Affirmative response.)

9 Q And you give testimony that you see Taurus and Tremaine
10 walking towards to place?

11 A Yes.

12 Q And this was after lights had been turned on and
13 everything, right?

14 A Inside the business, yes.

15 Q Yes, inside the business. You testified earlier that
16 Tremaine and Taurus were in the business earlier that night,
17 right?

18 A Right.

19 Q All right. And you don't know if they were together or
20 not do you?

21 A In the club?

22 Q In the club?

23 A I mean, I don't know.

24 Q Okay. Now, when you saw the tan Suburban, where was it
25 parked?

- 1 A On the other side of --
- 2 Q I'll give you the pointer.
- 3 A Right here.
- 4 Q Right where that vehicle is parked right there?
- 5 A Yeah, facing inward.
- 6 Q Facing inward?
- 7 A Yes.
- 8 Q What do you mean --
- 9 A See --
- 10 Q Where's the --
- 11 A Their lights are coming this way.
- 12 Q Their lights are coming towards your business, okay.
- 13 And where was the Rodeo parked, sir?
- 14 A Right here. (Indicating.)
- 15 Q Okay.
- 16 A Facing this way.
- 17 Q Okay. So at some point you walked past the Suburban,
- 18 is that fair to say?
- 19 A Yes.
- 20 Q And when you walked past the Suburban you noticed an
- 21 Isuzu Rodeo?
- 22 A No, not at first, I didn't.
- 23 Q Okay. At some point after you walked past the tan
- 24 Suburban you noticed a white Isuzu, right?
- 25 A After I crossed the street I noticed the Rodeo.

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1 Q Okay. After you crossed the street you noticed the
2 Rodeo?

3 A Yes.

4 Q And when you were crossing the street you were headed
5 toward your father's house?

6 A Yes.

7 Q How many times did you walk down the dirt road that
8 night, Mr. Jacobs?

9 A The dirt road, where?

10 Q Harold Street. How many times did you walk down Harold
11 Street that night?

12 A I didn't walk down Harold Street.

13 Q You didn't?

14 A No.

15 Q You walk down that street sometimes?

16 A There's no need.

17 Q No need. Okay. Now, you're aware of the violations of
18 this club, right, previous history?

19 A Oh, yeah.

20 Q Okay. And you were convicted in 1995 for possession of
21 cocaine, right?

22 A I was in the wrong car at the wrong time. Yes.

23 Q And you haven't had any violations in the club or any
24 arrests since then have you?

25 A As far as the check you spoke of earlier.

1 Q The checks. That's it?

2 A Yes.

3 Q Okay. And the checks, were they personal checks?

4 A They were personal checks, yes.

5 Q And since 1996, you haven't had any violations
6 criminally for yourself have you?

7 A No.

8 Q And you haven't had any violations at the club either,
9 have you?

10 A No.

11 Q And you called -- you did not call 911?

12 A No, I did not.

13 Q Even though there was a fight and blood was shed, you
14 did not call 911 that night, right?

15 A No, I did not.

16 Q All right. And even after you saw bloodshed and even
17 after you saw a man backing up out of your front door you
18 didn't not call 911, did you?

19 A No, I did not.

20 Q All right. Now, even after you allegedly say you saw
21 Taurus with a pistol, you didn't call 911 then, did you?

22 A No, ma'am, I didn't.

23 Q Okay. And after you saw the Isuzu Rodeo shot a gun, I
24 think you said one time in the air, you didn't call 911?

25 A Say that again?

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1 Q When you saw someone from the Isuzu Rodeo fire a
2 weapon, you did not call 911 then either, did you?

3 A No, I did not.

4 Q You did not call 911 when you said you saw a tan
5 Suburban type vehicle headed towards Farrow Road that shot a
6 couple of times out the driver's side. You didn't call 911
7 then either did you?

8 A No, ma'am.

9 Q Okay. Now, when the police arrived you didn't go to
10 the police officer to tell him what you saw, did you?

11 A I went to the police officer, but he said that there
12 was -- that there was -- somebody had got killed. I didn't
13 know that. So it was like he wanted to secure the streets
14 to check for shells.

15 Q Okay.

16 A So he was busy roping off the area. I told him I would
17 be over at the business. And that's when I went in the
18 office.

19 Q So when the officer arrived on the scene, you didn't
20 tell him what you saw did you?

21 A I went to talk to him. He told me to step back --

22 Q Somebody got killed?

23 A Yeah, he told me that. I was like -- someone was shot,
24 and I didn't know someone was shot. The officer told me
25 that.

1 Q Okay. So then you went back in the business, right?

2 A Right. I told him I will be over here if he wanted to
3 talk to me.

4 Q And the only person that you spoke with that night,
5 well, actually that morning was Don McRae, right?

6 A Yes.

7 Q You didn't tell any uniformed officer what you saw that
8 night? How many were there?

9 A I couldn't tell you.

10 Q Could you identify them as police officers because of
11 their uniforms?

12 A Yes, I could.

13 Q Okay.

14 A Yes.

15 Q And so all through this incident from the fight all the
16 way through daylight the next morning, you didn't call
17 anybody?

18 A I didn't personally call, no, I did not Someone did.

19 Q Do you know who that person was?

20 A I have no idea. I was in the middle of the street when
21 what happened occurred.

22 Q Uh-huh. (Affirmative response.)

23 A And I had no phone with me at the time.

24 Q Oh, you didn't have a phone?

25 A No. I was walking across the street.

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1 Q Do you have a phone in the business?

2 A Yeah. In the business, yes.

3 Q Do you have friends that have cell phones?

4 A Yes. I was by myself at the time.

5 Q All right. Does Kelly and them, do they carry cell
6 phones?

7 A Yes.

8 Q Kelly being a former probation officer, you didn't tell
9 him what you saw?

10 A Right.

11 Q But after you talked to Don McRae, all of a sudden you
12 found time to call. You called Mr. McRae four or five times
13 on that Saturday, didn't you?

14 A Yes, I did.

15 Q You called him each time you had new information,
16 right?

17 A Yes.

18 Q Okay, and you had a cell phone, didn't you?

19 A Yes.

20 Q And you really knew who my client was, in fact, you'd
21 known him for 20 years, right?

22 A Yes.

23 Q And you knew his name was Taurus. You knew his name
24 was Taurus Watts. But you just played along with it, didn't
25 you?

1 A No, I didn't play along.

2 Q Well, you gave him the name Taurus?

3 A Yes.

4 Q And then another time --

5 A When I was talking to him I was still conducting my
6 business.

7 Q Right.

8 A So I was back and forth. The next day he said I want
9 you to ride with me because they stopped the Rodeo.

10 Q Okay.

11 A So we got in the car and we rode by the Rodeo, and I
12 did identify the driver and the passenger. And then we came
13 back to the business and he told me he was going to call
14 later. That's how it went. That whole scenario.

15 Q Okay. So you actually got to sit with Don McRae and
16 drive all the way to Two Notch Road. Is that right?

17 A Yes.

18 Q And you didn't tell him Taurus Watts --

19 A Well --

20 Q Answer my question?

21 A No.

22 Q In light of the circumstances that night when you
23 walked back to your club to conduct your business, did you
24 see a Chevrolet?

25 A Did I see a Chevrolet? Yes.

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1 Q What did it look like?

2 A A Chevrolet, Impala.

3 Q An Impala. Kind of like a box type car?

4 A No.

5 Q Okay. Is it a new one or an old one?

6 A I new one, I believe. A round shape.

7 Q I'll show you State's Exhibit No. 16. Is that what you
8 saw?

9 A No.

10 Q No. Not this?

11 A No. That's a new one.

12 Q What about a white Envoy, did you see a white Envoy
13 that night?

14 A I don't recall.

15 Q You don't recall. A white Envoy; you know what that
16 is, right?

17 A Yes.

18 Q It's an SUV, right?

19 A Yes.

20 Q All right. Did you see a little boxy Chevrolet that
21 was like a Caprice or an HRR, a weird looking car; did you
22 see that?

23 A No.

24 Q Okay. So the only cars that you saw that night was the
25 tan Suburban and a white Rodeo?

1 A No. I seen several cars.

2 Q What about a Nissan Pathfinder?

3 A Possibly.

4 Q What about a white car with a black stripe down the
5 side?

6 A I said the Rodeo was white with a black stripe down the
7 side.

8 Q Okay. That's in State's Exhibit No. 17?

9 A Right.

10 Q You see a Nissan Pathfinder with a black stripe down
11 the side?

12 A No.

13 Q You didn't see Tremaine Watts (sic) in that fight, did
14 you?

15 A No.

16 Q And the person you saw backing out of the club with the
17 pistol was a pistol type gun?

18 A Yes.

19 Q Was it black, was it shiny; what about it, like an
20 automatic, right?

21 A Yes.

22 Q Okay.

23 MS. JOHNS: Beg the Court's indulgence, Your Honor.

24 THE COURT: Sure.

25 BY MS. JOHNS:

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1 Q Do you have a guy named Jeff who works for you?

2 A Yes.

3 Q Okay. Was he working that night?

4 A Yes, he was.

5 Q Was he a bar back?

6 A Yes. He was at the time.

7 Q Okay. That just helps keep bottles and everything
8 stocked?

9 A Yes.

10 Q Did you see him that night?

11 A Yes.

12 Q Okay. What does he look like?

13 A Tall, black guy.

14 Q What does he drive?

15 A At the time he was driving a Honda.

16 Q Okay. And what kind of car do you drive, sir?

17 A I drive a Magnum.

18 Q A Magnum?

19 A A Magnum, a Dodge Magnum. Yes.

20 Q What color is that?

21 A Silver.

22 Q All right.

23 MS. JOHNS: Thank Your Honor. I don't have
24 anything further at this time.

25 MR. SWERLING: Excuse me a minute.

1 THE COURT: Sure.

2 RICKY JACOBS - CROSS-EXAMINATION

3 BY MR. SWERLING:

4 Q Mr. Jacobs?

5 A Yes, sir.

6 Q You said you have a pistol in the club?

7 A It's like a -- it's a shotgun.

8 Q A shotgun.

9 A It's in the storeroom.

10 Q Well, is it in the club or is it in the storeroom?

11 A It's in the storeroom. Like I said, they don't have
12 access to the lock to the storeroom.

13 Q Okay. You don't have a pistol?

14 A No, sir.

15 Q You don't have a weapon?

16 A No, sir.

17 Q It's not your shotgun or your pistol?

18 A No, sir.

19 Q All right. I want to get something straight in my
20 head, first of all. You have testified here today that
21 Taurus Watts and Tremaine Wray were in the club that night?

22 A Yes, sir.

23 Q You spoke to Mr. McRae on June 30th for quite a while.
24 After he got there and when y'all went over to where the
25 Isuzu was?

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1 A Correct.

2 Q You called him at least two times the next day on the
3 30th, and then you went in on the 1st to give a statement?

4 A Okay.

5 Q Well, this was June 30th. I'm not trying to confuse
6 you. June 30th was when it happened.

7 A Right.

8 Q And you spoke to him a couple of times the next day and
9 gave him information about people who you thought were
10 involved?

11 A Right.

12 Q And on the 1st, you went in and gave a statement?

13 A Right.

14 Q So you spoke with him on several different occasions?

15 A Exactly.

16 Q And what I want to ask you is this, you testified that
17 they were both in the club. That's the first time you've
18 said that. That's the first time that you've mentioned to
19 anyone that Mr. Watts and Mr. Wray were in the club that
20 night?

21 A That was the night?

22 Q The first time that you said that. You didn't tell Mr.
23 McRae on June 30th, that whole time you were with him; isn't
24 that true?

25 A He never asked.

1 Q He never asked. You don't think that was important
2 that night?

3 A Well, I saw them coming -- leaving from the bar --

4 Q What you saw is you saw them coming into the club?

5 A Right.

6 Q You never saw them in the club.

7 A Yes --

8 Q That's something that you just told the jury today.

9 A No.

10 Q You did not tell Mr. McRae that on June 30th?

11 A No, I did not.

12 Q On July 1st, when you gave your statement --

13 A Right.

14 Q -- and you were asked to give a description of what
15 happened that evening?

16 A Right.

17 Q The only thing you ever mentioned about Taurus Watts
18 and Tremaine Wray was seeing them outside under the --

19 A Canopy.

20 Q -- canopy. You didn't mention then that they came into
21 the club or that they were in the club, did you?

22 A Um --

23 Q Did you?

24 A Did I?

25 Q We can get through this real quick if you'll answer the

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1 questions.

2 A Yes, sir. Please, I'm answering it. I told him I seen
3 them coming into the club as I was leaving out.

4 Q Towards the club?

5 A Right.

6 Q My question is this, you have never told -- you didn't
7 tell Mr. McRae on June 30th or July 1st, that Tremaine Wray
8 and Taurus Watts were in the club; isn't that true?

9 A No, because he didn't ask me that.

10 Q He asked you to tell him what happened?

11 A I did.

12 Q Okay. And Taurus Watts, according to you, and Tremaine
13 Wray were in the club.

14 A Yes, sir.

15 Q Okay. You didn't think that that was important when he
16 was --

17 A No --

18 Q -- asking you to tell him what happened?

19 A -- I guess I didn't.

20 Q When was the first time you told anybody that Taurus
21 Watts and Tremaine Wray were in the club?

22 A (No response.)

23 Q This morning, wasn't it?

24 A I'm not sure. I probably mentioned -- you might be
25 right. I'm not sure.

1 Q So two years later when we're trying this case, you
2 come up and tell this jury now that Tremaine Wray and Taurus
3 Watts were in the club before you saw them outside; correct?

4 A Correct.

5 Q But according to what you told Mr. McRae that night and
6 what you told him on July 1st, they were coming in the club

7 --

8 A No.

9 Q -- they had not been in the club?

10 A I didn't say that they had not.

11 Q You didn't say they had been.

12 A That's -- He didn't ask me.

13 Q You said they were walking toward the club and you told
14 them that the club was closed?

15 A That's what happened, sir.

16 Q Well, I gotta ask you this question. If they had been
17 in the club and you closed it down, then why would they be
18 walking back into the club and you had to tell them it was
19 closed?

20 A Probably because they exited during the altercation.

21 Q Probably?

22 A I would assume they had to.

23 Q Mr. Jacobs, you have no idea that they were in the club
24 that night?

25 A I know.

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1 Q You told the jury that for the first time today; isn't
2 that true?

3 A They were in the club, sir.

4 Q Aren't you telling the jury for the first time today
5 that Wray and Watts were in the club?

6 A Yes.

7 Q When all the previous occasions when you spoke with Mr.
8 McRae, you told him the first time you saw them was under
9 the canopy when they were walking towards the club; isn't
10 that true?

11 A I told him -- yes.

12 Q Pardon?

13 A Yes.

14 Q Pardon?

15 A Yes.

16 Q You make it up as you go along, don't you?

17 A No, I don't.

18 Q What time did Mr. Wray come to the club?

19 A I'm not sure, sir.

20 Q Did you talk to him?

21 A No, sir.

22 Q What time did Mr. Watts come to the club?

23 A I'm not sure.

24 Q Did you talk to him?

25 A No, sir.

1 Q What were they doing?

2 A They were -- when I seen Mr. Wray he was leaning
3 against the wall facing towards the bar area.

4 Q Who was he with?

5 A I have no idea.

6 Q What was he wearing?

7 A He had a shirt on.

8 Q He had a shirt on -- what kind of shirt, t-shirt, white
9 shirt, black shirt, yellow shirt?

10 MS. SHIPLEY: Your Honor, can the witness please
11 answer the question?

12 THE COURT: Yes.

13 BY MR. SWERLING:

14 Q How long have you know Tremaine Wray?

15 A A couple of years, a few years.

16 Q How about since he was a kid?

17 A No. I know his uncles.

18 Q You know his uncles Ronald (sp) and Darrell; correct?

19 A Right.

20 Q And you know what area he lives in, don't you?

21 A Yes.

22 Q Okay. And you've known him for at least several years?

23 A Yes.

24 Q All right. You'll concede that to me won't you?

25 A You asked?

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1 Q I'm asking you?

2 A I said, yes.

3 Q Okay. Well, let me ask you something, when Investigator
4 McRae was asking you about these individuals that night the
5 only thing that you provided him was a description on June
6 30th; isn't that true?

7 A I gave him a first name.

8 Q No. Not on June 30th?

9 A No, on the 1st, because I didn't know his last name.

10 Q You didn't even give him his first name.

11 A When I --

12 Q When you spoke -- let me ask the question. On June 30,
13 when you were speaking with Mr. McRae and you gave him a
14 physical description of the individual -- you gave him a
15 physical description of the individual, but you didn't give
16 him a name because you told him you did not get a good look
17 at the individual; isn't that true?

18 A No, I told him -- no.

19 Q Didn't you tell him you did not get a good look at the
20 individual, but that you had seen him before, that you could
21 probably recognize him again?

22 A Well, at first when I talk to him, yes. That I would
23 recognize him again, yes.

24 Q Okay, and that was what you told Mr. McRae, but yet,
25 you know, -- you knew who he was?

1 A I did not know his name. I know his face, but he's
2 younger than I am. I know his uncles, and I know his
3 brothers and those, and when I found out who he was that's
4 when I made the phone call to Mr. McRae to tell him his
5 name.

6 Q But he's been in your club, according to you, he is a
7 frequent visitor to your club?

8 A I know more of them by face than a name, sir.

9 Q And you've known him for several years, but you're
10 going to tell this jury --

11 A Yes.

12 Q -- That you -- you're going to tell the jury that on
13 June 30, in the morning when you were speaking to Mr. McRae,
14 you didn't know his name?

15 A I didn't know his first name, no.

16 Q You called him the next morning and you told him what
17 his name was, his name was Tremaine?

18 A Right.

19 Q But then you called him on another occasion and said
20 his name was Tremaine Wray?

21 A Right.

22 Q And on another occasion you said you knew where he was
23 working?

24 A No. He told me where he was working at.

25 Q No. You told him you thought he was working at

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1 Outback. Didn't you?

2 A No, sir.

3 Q Pardon?

4 A No, sir.

5 Q But you didn't tell him about Taurus Watts's name
6 either when he first asked you? So I'm just kind of
7 curious, and I think the jury may be too, is that if you
8 know these individuals, why is it that you did not tell Mr.
9 McRae what their names were?

10 A I did tell him their names.

11 Q Not right away. Not on June 30, not when you were out
12 on the road, when he was asking you questions about what
13 happened that night?

14 A I was explaining to him what happened in detail. Like
15 I said before, I was back and forth with my business and we
16 left from there when he had got the call from dispatch or
17 whatever to go and see the Rodeo. So we was going to see
18 the Rodeo, and then coming back I had to go back and close
19 up my business. And so I called him later on that day and
20 explained to him on the phone what was going on.

21 Q Let me ask you something else --

22 A Yes, sir.

23 Q -- When you first spoke with Mr. McRae on June 30, you
24 said that Taurus Watts was walking towards the club?

25 A Right.

1 Q And you told him the club was closed, and he had
2 something in his hand that was wrapped in white clothing?

3 A I said his hand was wrapped in white clothing.

4 Q His -- whatever it was was in his hand was wrapped in
5 white clothing.

6 A Okay.

7 Q Isn't that what you told Mr. McRae. Isn't that true?

8 A Yes.

9 Q And when you told him the club was closed, according to
10 what you told Mr. McRae, that evening or that morning that
11 person, Mr. Watts, told you, I've got something for you, and
12 he had the weapon in his hand at that time; isn't that true?
13 Isn't that what you told him that evening?

14 A And he turned around and went to the car.

15 Q I didn't ask you that.

16 A Yes.

17 Q You haven't answered my question yet?

18 A Yes.

19 Q You told Mr. McRae, when he was approaching you, you
20 told him the club was closed, and he told you, I've got
21 something for you and he had it in his hand already?

22 A No. I didn't say that.

23 Q I said, didn't you tell Mr. McRae that?

24 A That he had it in his hand already?

25 Q Yes.

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1 A No, sir.

2 Q Let me show you something and see if this can refresh
3 your memory.

4 A Yes, sir.

5 Q Mr. Jacobs said the subject to whom he spoke said,
6 that's fine, I've got something for you, and then he went
7 back to his vehicle?

8 A Yeah. I didn't say he had anything in his hand,
9 though.

10 Q Okay. Well, the fact is you said to him, told him that
11 night that -- he said something, I've got something for you.
12 Is that correct?

13 A Okay.

14 Q Is that right?

15 A Yes.

16 Q And then he went back to his vehicle?

17 A Yes.

18 Q When you went back towards the vehicle or you were
19 walking towards the vehicle you said you saw something in
20 his hand? Was he inside the vehicle or outside the vehicle
21 at the time?

22 A Outside.

23 Q And the vehicle -- and this particular thing was
24 wrapped in white clothing?

25 A His hand was wrapped.

1 Q Well, you said before, and you said to Mr. McRae that
2 he had something in his hand and it was wrapped in white
3 clothing. He had the gun wrapped in white clothing.

4 A Okay.

5 Q Didn't you tell him that?

6 A Yeah.

7 Q Was he in the vehicle or outside the vehicle at the
8 time?

9 A Outside.

10 Q Answer my question?

11 A Outside.

12 Q What?

13 A Outside the vehicle.

14 Q All right. And what did you say at that point?

15 A I said, I don't need that out here. I said, man, go
16 ahead on. I'm about to close up.

17 Q All right. And then what did he say?

18 A He said I got something for that, and then he turned
19 around and walked away.

20 Q He said what?

21 A He said he had something and then he turned around and
22 walked away.

23 Q That's when he said I have something for you?

24 A And he turned around and walked away.

25 Q But, he didn't do anything to you?

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1 A No, he didn't.

2 Q He didn't threaten you did he?

3 A I didn't consider it to be a threat.

4 Q Let me ask you something. Do you even know if the two
5 of them were together that night?

6 A No. I have no idea. I know they got in the car
7 together.

8 Q According to you, they -- if we understand your
9 testimony as far as when they were in the club they came,
10 one later than the other.

11 A No. I said I noticed one earlier than the other one.

12 Q You noticed one earlier than the other one.

13 A Right.

14 Q Okay. Did you see Tremaine Wray or Taurus Watts in
15 that fight?

16 A No, I didn't.

17 Q Okay. Let me ask you about the fight. You said Brian
18 Johnson was in the fight?

19 A That's the one I noticed, yes, sir.

20 Q And you noticed him, I think, when Ms. Shipley was
21 asking you questions. I think you said it was because he
22 was the loudest?

23 A Oh, yeah, the was the most boisterous.

24 Q So he was fighting.

25 A He was --

1 Q He was in the altercation?

2 A He was in the altercation, yes.

3 Q Okay. He wasn't just standing there --

4 A No.

5 Q -- being a peacemaker?

6 A No.

7 Q He was throwing punches?

8 A No, I didn't see him throw -- I seen him yelling and
9 pointing.

10 Q Yelling and pointing?

11 A Yes.

12 Q All right.

13 A The only time I really noticed him, like I said, Kelly
14 had separated them, and the guy walked out the door.

15 Q Do you know anyone else who is in the altercation?

16 A No, sir.

17 Q Do you know any of these folks, like Travis, I mean, --
18 I mean Charlie, Verda or Stephanie; did you know any of
19 them?

20 A No, sir.

21 Q Did you see what started the fight?

22 A No, sir.

23 Q Is did you have any idea what started the fight?

24 A No, no idea.

25 Q And what time did the fight start?

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1 A. Roughly about -- I don't know, about 3:30 or 3:00
2 o'clock; somewhere in there.

3 Q. Okay, did you see -- can you identify for the jury
4 anybody else that was in that fight?

5 A. I know that -- what's her name. I can't think of the
6 name -- she's a young lady that comes there all the time.
7 She was in it, too, in the altercation.

8 Q. She was in the fight?

9 A. Well, she was arguing and yelling.

10 Q. Okay. Well, whatever was going on in that club with
11 respect to that fight had nothing to do with my client and
12 had nothing to do with Taurus Watts, according to your
13 testimony?

14 A. Not to my knowledge.

15 Q. If we accept the fact that you said they were in the
16 club?

17 A. Yes. Not to my knowledge.

18 Q. When did they leave the club?

19 A. They pulled off after I came --

20 Q. No, I didn't ask about that. I said, when did they
21 exit the club?

22 A. I couldn't tell you, sir. I mean, I wasn't watching, I
23 wasn't timing them.

24 Q. So you have no idea when these two guys you saw in the
25 club left the club?

1 A. No, like I said, there two exit doors.

2 Q. Was it before the fight or was it after the fight?

3 A. I cannot tell you.

4 Q. Do you know if they were still in the club when the
5 fight took place?

6 A. Um --

7 Q. You're having to think and awful lot?

8 A. I know.

9 Q. Because you don't know, do you?

10 A. You're talking about two years ago.

11 Q. Because you don't know?

12 A. I'm not sure.

13 Q. Let me ask you something, your recollection two years
14 ago would have been better than it is today, don't you think
15 so?

16 A. Excuse me?

17 Q. Your recollection two years ago would be better than it
18 is today?

19 A. Two years ago, maybe. Yeah, possibly.

20 Q. Now, so you don't know when they came in, and you don't
21 know what they left, and you don't know whether they were in
22 there when the fight started, but you -- when the fight
23 started you closed the club down. You turn on the lights?

24 A. Turn the lights up. Yes, sir, I did.

25 Q. Now, you have security that apparently checks people

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1 when they come in, correct?

2 A. Correct.

3 Q. And once they are in they can go in and out of the club
4 in any one of those exits; isn't that true?

5 A. They --

6 Q. They don't get checked again when they come back in, do
7 they?

8 A. They do.

9 Q. Pardon?

10 A. They do.

11 Q. They do. No matter what door they go out or what door
12 they come in?

13 A. Right.

14 Q. They get checked again.

15 A. Yes.

16 Q. All right. So a fight starts you break -- you decide
17 you're going to close down the club, and the lights go on?

18 A. Well, actually, I decided to close the club. That was
19 after they had been separated and the guy was walking out --
20 he's left and exit the building. So I cut the lights up.

21 Q. Who exited?

22 A. I exited. When I exited the building.

23 Q. Let me just ask you this; when you exited the building
24 you saw there was a guy exiting your club with a pistol in
25 his hand?

1 A. He was already gone. He was already out the door.

2 Q. No. You said he was exiting. That is what your
3 testimony was that he was exiting the building?

4 A. Yes.

5 Q. So he had been in the building, in the club, with a
6 gun?

7 A. Very true.

8 Q But you have security that prevents that?

9 A. Yes.

10 Q. Can you tell us who that -- can you give us a
11 description of that individual?

12 A. First time I had ever seen him.

13 Q. Did he have dreads?

14 A. I don't think he --

15 Q Had he been in the fight?

16 A I think it might have been braided.

17 Q. You think it was braided?

18 A. Yes, sir.

19 Q. Was he the one in the fight?

20 A. I'm not sure, sir.

21 Q. He could've been the one in the fight?

22 A. He could've been.

23 Q. You can't exclude him from being the one in the fight,
24 can you?

25 A. No.

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1 Q. And this guy who was in the fight had a gun, correct?

2 A. Correct.

3 Q. And what kind of gun was it?

4 A. Some kind of pistol. I don't know.

5 Q. Was it a 9mm?

6 A. No, I don't think so.

7 Q. How do you know, you don't know anything about guns,
8 according to what you told the jury?

9 A. Very true.

10 Q. So you don't know whether it was a 9mm or a 38, 25 --
11 you have no idea?

12 A. It was a pistol.

13 Q. It was a pistol. And what color was it?

14 A. I think it was black.

15 Q. And the guy had braids?

16 A. I'm not sure.

17 Q. What was he wearing, a T-shirt, as well?

18 A. He had a red shirt on.

19 Q. A red shirt?

20 A. Yes.

21 Q. Button down, pullover?

22 A. I think it was a pullover, like a polo shirt.

23 Q. Where did he go when he exited the building?

24 A. He went over to the car wash, across the wall and then
25 I walked out towards --

1 Q. He went over in this area right over here?

2 (Indicating.)

3 A. No.

4 Q. Over here? (Indicating.)

5 A. No.

6 Q. Over here. You point to it?

7 A. Over here. (Indicating.)

8 Q. So, he was over here?

9 A. Yes, Sir.

10 Q. He was standing there with a pistol in his hand, right?

11 A. Yes.

12 Q. How many shots did he fire?

13 A. I couldn't tell you, sir.

14 Q. But he did fire some shots?

15 A. I'm not really sure, sir. I couldn't tell you.

16 Q. Pardon?

17 A. I couldn't tell you. I cannot tell you.

18 Q. All right. So, we've got at least one other person

19 who's got a gun?

20 A. Yes.

21 Q. And you have no idea where he went after you last saw

22 him at the retaining wall; isn't that true?

23 A. (No response.)

24 Q. Did you see what vehicle he got into?

25 A. No, I did not. He was just walking over -- when I was

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1 walking over to the house from the business. The
2 altercation had ended. Cars were pulling out, going this
3 way --

4 Q What -- you mean a number of car?

5 A Yes.

6 Q. You don't know what car he was in?

7 A. No, sir.

8 Q. You don't know when he pulled out of the business,
9 correct -- you can't tell the jury he didn't fire any shots?

10 A. I can not say that. I don't know.

11 Q. But that was the guy that was in the fight as far as
12 what your understanding was?

13 A. Could have been. Yes, sir.

14 Q. Could have been. Did you tell Mr. McRae that night
15 that there was somebody else with a pistol exiting your
16 club?

17 A. I told him that they were outside, that they had a
18 pistol outside.

19 Q. Who?

20 A. I don't know, sir.

21 Q. Fact of matter is you did not tell Mr. McRae that
22 anybody else had a pistol that night. You did not tell him
23 that morning, and you did not tell him on July 1 that there
24 was somebody else exiting the club with a pistol, and it was
25 a guy with braids, and it was the guy that was probably in

1 the fight. Why didn't you tell Mr. McRae that on June 30th
2 or July 1 or anytime since then?

3 A. I mentioned to Mr. McRae about that.

4 Q. You did?

5 A. Yes, sir.

6 Q. Did you put it in your written statement?

7 A. No, he didn't ask me. The statement was question and
8 answers. He asked me questions, and I answered.

9 Q. Well, when did you tell him?

10 A I told him the night of.

11 Q You told him that night --

12 A Yeah.

13 Q -- that somebody else had a pistol?

14 A Yes.

15 Q. Is that what your testimony is?

16 A. Yes.

17 Q. All right, so you have this confrontation -- Tremaine
18 Wray -- let's get this straight, whether or not you saw the
19 gun as he was approaching you or whether or not Taurus Watts
20 said I've got something for you when you saw the gun
21 afterwards, whether you saw the gun at all because it was
22 wrapped in white clothing according to what you told him?

23 A It was wrapped in white clothing, yes, sir, his hand.

24 Q. You said the gun, you didn't say his hand?

25 A I did not say the gun.

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1 Q. Pardon?

2 A. I did not say the gun.

3 Q. Let me show you your statement?

4 A. Okay.

5 Q. Your signature, July 1?

6 A. Right.

7 Q. I saw Taurus with a gun, I turned around and was
8 watching him get into the vehicle. It was wrapped in some
9 type of white clothing, which is actually the sentence
10 before that. Did you say that, it was wrapped in white
11 cloth clothing?

12 A. Yes, I said it was his hand.

13 Q. If his hand was wrapped in white clothing, and how can
14 you tell anybody what gun it was?

15 A. Okay.

16 Q. What?

17 A. From seeing it, sir.

18 Q. How could you see it if his hand was wrapped in white
19 clothing?

20 A. His hand was wrapped in -- in --

21 Q. That's not what you said in your statement, did you?

22 A. I said I said it was wrapped in clothing.

23 Q. That's not what you said in this statement, did you?
24 Did I read it accurately?

25 A. I read it too, yes, sir.

1 Q. And it said the gun was wrapped in white clothing?

2 A. His hand, yes, sir.

3 Q. You keep saying his hand, but that's not what it says
4 here?

5 A. It's not what it says, no.

6 Q. Well, let me ask you then you magically identify a
7 weapon that is in State's Exhibit No. 124?

8 A Uh-huh. (Affirmative response.)

9 Q Fact of the matter is, you were never showed any other
10 kind of gun. You were never shown a picture of anything
11 else. You were asked if this was the gun or what appeared
12 to be the gun that you saw that night; isn't that true?

13 A. No.

14 Q. What's not?

15 A. The picture --

16 Q. This -- what?

17 A. -- this is not the only picture that I seen.

18 Q. How many pictures did you see?

19 A I seen several.

20 Q. I ask you how many?

21 A. More than five.

22 Q. With a similar type of photographs?

23 A. Similar, yes.

24 Q. So you picked out that gun out of a number of different
25 guns, is that what you're saying?

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1 A. Pretty much, yes, sir.

2 Q. And you would deny the fact that that was the gun that
3 was shown to you when you were asked whether or not it
4 looked like that gun?

5 A. I would deny --

6 Q. You would deny that was the only one that was shown to
7 you?

8 A. Yes.

9 Q. I want to ask you about this -- how many cars were in
10 this area that night?

11 A. Where?

12 Q. Parked here, all over?

13 A. I couldn't tell you, sir.

14 Q. 40, 50?

15 A. Maybe 40 to 50.

16 Q. Tremaine Ray doesn't have the only Suburban in that
17 area, does he?

18 A. In the area, no.

19 Q. Okay. There's a bunch of them, isn't that right?

20 A. Yes.

21 Q. That's a very common vehicle, isn't it?

22 A. Yes.

23 Q. Your father lives up here?

24 A. Yes.

25 Q. All right. You're walking out to get your car when

1 this all happens, correct?

2 A. Correct.

3 Q. All right. I want to ask you this, because I'm a
4 little confused. I believe you said that when the Suburban
5 pulled out, you were standing right about there.

6 (Indicating.)

7 A. No.

8 Q. Where were you?

9 A. I was standing right here. (Indicting.)

10 Q. When the Suburban pulled out?

11 A. Yes, sir.

12 Q. Okay, and what direction did the Suburban go in?

13 A. (Witness indicating.)

14 Q. Okay, and you continued walking in that direction?

15 A. When they pulled out? Yes, sir.

16 Q. Okay. And where were you when the shots were fired out
17 of the Suburban?

18 A. I was right in the middle, middle of the street
19 walking.

20 Q. Walking in this area, here. (Indicating.)

21 A. Walking right here. (Indicating.)

22 Q. But your dad's house is off this map, is that right?

23 A. Yell, it was catty-cornered.

24 Q. Okay.

25 A. I was walking about right here, I was right here.

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1 Q. The Isuzu was over here, is that right?

2 A. Yes, sir.

3 Q. And where were you -- actually, you were in the middle
4 of the road when the shots were fired?

5 A. No, sir.

6 Q. So you would have been -- if they -- if the vehicle was
7 traveling down that way, you would have been behind the
8 vehicle; is that right?

9 A. No. I was -- I was almost side with it, I wasn't
10 aligned with it.

11 Q. You were what?

12 A. I wasn't because I turned and looked. I seen fire from
13 the shots.

14 Q. I'm not sure I understand. If you were in the middle
15 of the road --

16 A. Right here.

17 Q. And the vehicle is down the road, you would have been
18 behind the vehicle, isn't that true?

19 A. Yes, I guess.

20 Q. Pardon?

21 A. Not directly behind it, but, yes, I guess that's true.

22 Q. I didn't say directly behind it. I said you were
23 behind the vehicle --

24 A. Right.

25 Q. You were not in front of the vehicle, you were beside

1 the vehicle?

2 A. Right.

3 Q. You were looking at the back of the vehicle?

4 A. Right.

5 Q. Is that right?

6 A. Exactly.

7 Q. Do you know how many other cars pulled out at the same
8 time?

9 A. At the same time?

10 Q. At the same time, around that same time, because you
11 said the club was closing --

12 A. Yes.

13 Q. -- And everybody was leaving?

14 A. No. It was after the Suburban left, then other cars
15 pulled off and then the Rodeo made a U-turn and went down
16 the street.

17 Q. All right. So really you had no idea and you couldn't
18 tell who was firing that weapon, is that right?

19 A. No, sir.

20 Q. Okay. Because actually you never even got a good look
21 at the person, you said?

22 A. No, sir, because I was behind the vehicle.

23 Q. Okay. But you're sure it came out the driver's side?

24 A. Yes, sir.

25 Q. Now, when those shots were fired out of the Suburban,

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1 out of the driver's side, your testimony is you have no idea
2 who was firing the weapon?

3 A. Exactly.

4 Q. And the driver side would have been perpendicular or
5 parallel, I guess, to the club, is that correct?

6 A. Yes, sir.

7 Q. So all you did was you saw a mussel shot -- mussel
8 blast -- fire?

9 A. Yes, sir.

10 Q. Okay. What was the distance between you and the
11 vehicle, at that point?

12 A. Maybe --

13 Q. Will let me help you. Didn't you tell Mr. McDougal, my
14 investigator, that it was about quarter of a mile?

15 A. No, I never said that far.

16 Q. You never said that?

17 A. No, sir. It's not that far.

18 Q. Didn't you tell him that there was no way you could
19 tell who was shooting the gun?

20 A. Well, first of all, the Suburban, the windows was
21 tinted.

22 Q. And didn't you also tell him that you didn't have any
23 idea if it was out of the front window or the rear window?

24 A. No. I never said that.

25 Q. You didn't say that either?

1 A. I said on the driver's side.

2 Q. The driver's side. So you don't know if it was out of
3 the front window?

4 A. No, sir. Out of the driver's side.

5 Q. It could've been out of the rear window?

6 A. Could have been.

7 Q. You have no idea, all of you know is the driver's side
8 of the vehicle?

9 A. Exactly.

10 Q. When -- my understanding is that what you're saying is
11 when that car went down the you continued over to your
12 father's place, got your vehicle, came back and parked, and
13 then the Isuzu pulled out?

14 A. Right.

15 Q. Is that right?

16 A. Yes, sir. I got out of the car. By that time the
17 Isuzu had turned and --

18 Q. Excuse me, I'm sorry -- I didn't understand what you
19 were saying?

20 A. I parked right here and about that time the Isuzu was
21 coming down and the guy shot in the air right up in here.
22 (Indicating.)

23 Q. Well, where was the Suburban at that point?

24 A. It was gone.

25 Q. It was gone?

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1 A. Yes, sir.

2 Q. So you could not see the Isuzu and the Suburban?

3 A. Not at the same time. Not at that time.

4 Q. All right. And -- I'm not sure I remember what you
5 tell Ms. Shipley when she ask you, what was the time period
6 from the time of the shots from the Suburban and the shots
7 from the Isuzu, a minute, two minutes, three minutes?

8 A. About two minutes two or three minutes.

9 Q. Three minutes? So it was a pretty good delay between
10 the shots?

11 A Yes, it was.

12 Q. And let me ask you something, there's no question that
13 somebody was firing out of the Isuzu?

14 A. Yes.

15 Q. What?

16 A Yes.

17 Q. And there is no question that you told the police that
18 somebody fired out of the Isuzu?

19 A. Correct.

20 Q. Correct?

21 A. Right.

22 Q. You saw the gun or you saw a mussel shot; correct?

23 A. Yes.

24 Q. But you didn't see the gun, did you?

25 A. I saw them shooting.

1 Q. Okay, but when you started locking it in that it was a
2 smaller pistol or smaller than what you saw under the canopy
3 here, is what your testimony was, that Mr. Watts had in his
4 hand, you had absolutely no idea whatsoever what kind of
5 pistol it was?

6 A. Where?

7 Q. In the Isuzu?

8 A. No, I don't know.

9 Q. I know, but you told the jury when Ms. Shipley was
10 asking you that, that it was not the same it was smaller?

11 A. It was. It was smaller.

12 Q. How could you see that?

13 A. It was in his hand.

14 Q. You could see from over here, because this is where you
15 were -- you could see from over here to over hear and what
16 kind of pistol someone had their hand?

17 A. No. I was walking across the street this way, and the
18 Isuzu was parked right here. They got in the Isuzu right
19 there, and he had the pistol in his hand right here. So I
20 pulled over here, and by that time, he did a U-turn and was
21 coming down the street.

22 Q. Well, when was the shot fired?

23 A. When he got up to here. (Indicating.)

24 Q. Okay, so you could see the pistol in his hand over
25 here.

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1 A. When I was walking across the street. I was getting in
2 my car.

3 Q. Mr. Jacobs, you got somebody leaving your club with a
4 pistol in his hand, you got somebody fired a pistol from the
5 Isuzu, and when you walk past -- I'm sorry the Suburban --
6 and then when you walk by the Isuzu there's another guy with
7 a pistol?

8 A Uh-huh. (Affirmative response.)

9 Q Everybody's got a gun. You didn't call the police?

10 A. No, sir. I did not call.

11 Q. When did you tell anybody, ever, that you saw the
12 pistol in the Isuzu when you walked past it? First time
13 today?

14 A. No, I told Investigator McRae.

15 Q. You say you told him you saw a gun in the Isuzu when
16 you walk past it?

17 A. No. I told him that I seen a guy with a pistol in the
18 other car and he raised his hand up and shot it.

19 Q. That's when you saw it?

20 A. That's what I told Mr. McRae afterwards.

21 Q. But that's when he was over here?

22 A. Right.

23 Q. I'm asking -- you're telling the jury now that you saw
24 it when you were walking past the Isuzu going over to your
25 father's. I just want to get it straight?

- 1 A. It was in his hand.
- 2 Q When?
- 3 A He fired it. And when he fired, I told him he fired.
- 4 Q. When did you see it in his hand?
- 5 A. Here. (Indicating.) When I was getting in my car, I
- 6 seen it here.
- 7 Q But that's not where he fired it?
- 8 A. No. That's not when he fired it. When he fired it her
- 9 was here. (Indicating.)
- 10 Q. Where was he when you saw it in his hand?
- 11 A. Here.
- 12 Q. But what was he doing?
- 13 A. He was getting in the Isuzu.
- 14 Q. He was getting in the Isuzu, and let's see -- my
- 15 understanding is that this is a pretty well lit area right
- 16 here, but this is not a well lit area? (Indicating.)
- 17 A. No, it isn't this -- this corner has a streetlight.
- 18 There is a streetlight here and a streetlight about two more
- 19 blocks down. This is streetlight here, and this is well
- 20 lit, this is well lit and this is well lit. These three
- 21 businesses are well lit with security lights.
- 22 Q. So your testimony to the jury is that when you were at
- 23 your father's house you look back at this guy with the Isuzu
- 24 and he was getting in the Isuzu and he had a pistol in his
- 25 hand and from across the street you can tell the jury that

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1 it was a smaller pistol -- a smaller pistol than this; is
2 that your testimony?

3 A. Yes..

4 Q. Could you describe it?

5 A. No, I couldn't describe it.

6 Q. Was it a revolver or an automatic?

7 A. No, I couldn't tell you?

8 Q Was it a big gun or a small gun?

9 A. It was just a little handgun.

10 Q. They're all handheld.

11 A. He held it in one hand. I'm just trying to tell you.

12 Q. Was it black or was it chrome or was it two-toned?

13 A. I don't know.

14 Q. Did have a barrel or was it an automatic?

15 A. I don't know.

16 Q Did it have a cylinder?

17 A I don't know.

18 Q. You could see that from across street?

19 A. I don't know. I don't know what it was. I have no
20 idea.

21 Q. And you have no idea how many shots were fired from
22 that vehicle, either?

23 A. From which one.

24 Q. From the Isuzu?

25 A. One.

1 Q. And 3 minutes later?

2 A. Yes, sir.

3 Q. So now he -- fired after he -- on his way down to
4 Farrow Road?

5 A. Yes, sir.

6 Q. All right. Well, let me ask you this, didn't you tell
7 -- haven't you said on other occasions that the car was
8 turning right?

9 A. What car?

10 Q. The Isuzu?

11 A. No, sir.

12 Q. You never told anybody that car was turning right and
13 it made a U-turn?

14 A. No, sir. I said it made a U-turn.

15 Q U-turn where?

16 A. It was parked here facing Clemson Road --

17 Q. It was facing Clemson Road to?

18 A. Yes. And made a U-turn right here and went on down the
19 road.

20 Q. Let me ask you if you told Mr. McRae in your statement
21 on July 1; once the vehicle that Tremaine and Taurus were in
22 started shooting, a passenger of the Rodeo fired one shot in
23 the air. The Rodeo was behind the tan -- was behind the tan
24 SUV --

25 A. No --

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1 Q. -- wait a minute, let me ask you if you told him this,
2 and this shot was fired straight in the air.

3 A. I guess.

4 Q. Tremaine was shooting at the crowd?

5 A. I can't say which one was shooting.

6 Q. But you said it under oath here?

7 A. No.

8 Q. The Rodeo was still by the end of the bar when the
9 passenger shot one time in the air. After the shot was
10 fired, the Rodeo made a U-turn and started towards Farrow
11 Road on Hardscrabble.

12 A. That's what I said.

13 Q. Mr. Jacobs, that is completely different from what your
14 testimony is today?

15 A. I said the Rodeo made a U-turn right here and went down
16 Farrow Road, towards Farrow Road. That's what I just said.

17 Q. Your testimony is that that car three minutes later
18 when you got back here --

19 A. Right.

20 Q. -- Fired a shot when it was right over here?

21 A. Okay.

22 Q. That's what your testimony is to this jury today?

23 A. Yes, sir.

24 Q. Okay?

25 A. That's what it is.

1 Q. But that's not what you told Mr. McRae on July 1. You
2 told Mr. McRae -- I just want to try to reconcile these two
3 obviously different stories --

4 A. Okay.

5 Q. Once the vehicle that Tremaine and Taurus were in
6 started shooting the passenger of the Rodeo fired one shot
7 up in the air. The rodeo was right -- was behind -- I don't
8 want to say right. The Rodeo was behind the tan SUV and
9 this shot was fired straight in the air. Tremaine was
10 shooting at the crowd. The Rodeo was still by the end of
11 the bar when the passenger shot one time in the air. After
12 the shot was fired the Rodeo made a U-turn and started
13 towards Farrow Road. After the shot was fired he made the
14 U-turn?

15 A. That is not correct.

16 Q. Well, I didn't take this statement did I?

17 A. No, I don't think he did.

18 Q. Do you see where it says sworn to and subscribed before
19 me this -- first day of July, 2007?

20 A. Yes.

21 Q. In front of a Notary Public?

22 A. Right.

23 Q. You swore that this was true?

24 A. Okay.

25 Q. You signed it?

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1 A. I did.

2 Q. You read it?

3 A. Okay.

4 Q. It says you read it?

5 A. I said the car was headed down --

6 Q. It says you read it?

7 A. -- Towards down towards Farrow Road. Yeah.

8 Q. Well -- Okay.

9 A. It went down the road behind the Suburban.

10 Q. Well, according to the -- what your testimony is, it as
11 three minutes later and the Suburban was gone.

12 A. Yeah.

13 Q. That's what you're telling the jury today?

14 A. Yeah. That's what happened

15 Q. But here you say that it was behind the --

16 A. And the --

17 Q. Suburban?

18 A. -- next car was the Suburban -- was the Rodeo.

19 Q. The first car was a suburban --

20 A. And then my car, and then the rodeo.

21 Q. Uh-huh. (Affirmative response.)

22 A. I went down towards Farrow Road and then turned into my
23 place of business, and behind me was the Rodeo.

24 Q. Well, let me ask you something. How do you reconcile
25 this -- once the vehicle with Tremaine and Taurus started

1 shooting the passenger of the Rodeo fired one shot in the
2 air. The Rodeo was behind the SUV and the shot was fired
3 straight in the air. That's at the same time. One right
4 after the other.

5 A No.

6 Q That's what it says there?

7 A That's what it says there?

8 Q Doesn't it?

9 A Well -- it doesn't have a time, does it?

10 Q Well, it's suggested there in your answer, doesn't it?

11 A Okay. Yeah, because he never asked me. It was fast.

12 Q He never asked you. As a matter of fact, one of the
13 other things he never asked you and I guess you didn't
14 answer it because he hadn't asked you, was the fact that you
15 had already moved your father's car back to the club when
16 you heard the shot from the Isuzu. You've never told
17 anybody that. Isn't that true?

18 A Yeah.

19 Q First time you tell anybody today is in front of the
20 jury?

21 A Yes. Because nobody asked me.

22 Q Nobody asked you. You don't get asked you don't tell
23 anybody?

24 A Now, I won't say that.

25 Q Well, you gave a narrative here.

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1 A Okay.

2 Q And when you talked to him on June 30, you were giving
3 him a narrative. It wasn't question and answer, it was a
4 narrative. And then he went into a question and answer with
5 you; isn't that true?

6 A Yeah. Question and answer.

7 Q All right. So you're sticking with the story that you
8 had already moved your father's car over there, right?

9 A My car. My car.

10 Q I mean, your car. You're sticking with that story?

11 A That's what I did.

12 Q Okay. So now I want to try and figure out when did the
13 Isuzu fire the gun; over here?

14 A Yes.

15 Q But in your statement it says that the Isuzu was still
16 at the other end of the bar when the passenger shot one time
17 in the air. After the shot was fired the Rodeo made a U-
18 turn and started towards Farrow Road?

19 A This is the other end of the bar, here. (Indicating.)

20 Q And where is Farrow Road?

21 A This way. (Indicating.) And this is the other end of
22 the bar.

23 Q That's not what I'm asking?

24 A (Witness indicates with pointer.)

25 Q Okay. According to your statement, which you swore to

1 under oath, after the shot was fired the Isuzu made a U-turn
2 and started towards Farrow Road. That means that the shot
3 had to be fired up here before the U-turn was made.

4 A After the shots was fired.

5 Q After what --

6 A After the shots was fired.

7 Q Oh.

8 A The Isuzu made a U-turn and headed toward Farrow Road.

9 Q Right. Mr. Jacobs --

10 A But the one that was in the Isuzu did not do the
11 shooting, then they made the U-turn. The shots were fired
12 before the Isuzu made the U-turn.

13 Q Whose statement is that?

14 A That's mine, but let me explain.

15 Q Who took the statement?

16 A Mr. McRae, but this is what I'm saying. The shots was
17 fired, already fired here. (Indicating.) The Isuzu made
18 the U-turn after the shots was fired, here. (Indicating.)
19 He made the U-turn and then he shot up in the air.

20 Q You're confusing yourself, man.

21 A No, that's what happened.

22 Q I mean, I want to ask you this. Under oath on July 1,
23 did yo say that after this one shot was fired, the Rodeo
24 made a U-turn and started towards Farrow Road on
25 Hardscrabble; isn't that what you said?

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1 A -- shot one time in the air -- yeah. That's not what
2 I'm saying. It's not. What I'm saying is after the shot
3 was fired, the Isuzu Rodeo --

4 Q I know that's what you're saying today, but that's not
5 what you said on July 1.

6 A Yes, it is.

7 Q Well, it's --

8 MS. SHIPLEY: Your Honor, if I may, this has been
9 asked and answered enough.

10 MR. SWERLING: Well, I'm still trying to get any
11 answer from him.

12 THE COURT: Okay. I'll let him go a little way.

13 BY MR. SWERLING:

14 Q Is that the answer you gave?

15 A Yes.

16 Q Is that different from what you're telling the jury
17 today?

18 A No.

19 Q How is it the same?

20 A I was just explaining it to you, sir. I shot, the one
21 shot from the Rodeo, then they made the U-turn.

22 Q That's not what it says.

23 A No?

24 Q Read the paragraph, Mr. Jacobs. I'm not trying to
25 confuse you.

1 A -- the Rodeo was still on the -- end of the bar -- one
2 of the passengers shot one time in the air. Yeah.

3 Q And then made a U-turn?

4 A After the shot was fired the Rodeo made U-turn. Yeah.
5 But not the passenger from the Rodeo.

6 Q Passenger from what other vehicle?

7 A (Inaudible.)

8 Q So your testimony is going to be that the Rodeo was
9 still at the other end of the bar when the passenger shot
10 one time in the air?

11 A Not the passenger of the Rodeo. The passenger of the
12 Rodeo shot when they past the bar on this end of the bar.
13 Not on this end. (Indicting.)

14 Q All right. Here's what I want you to do and then I'm
15 going to leave it. Read those two sentences right there.
16 Starting there. Read it out loud to the jury.

17 A Okay. The Rodeo was still parked at the other end of
18 the bar when the passenger shot one time. That it?

19 Q The next sentence.

20 A Okay. After the one shot was fired the Rodeo made a U-
21 turn and started towards Farrow Road.

22 Q So my question to you, then, is this; based upon what
23 you've put under oath in your statement that night, or that
24 day, July 1, that the Rodeo was still by the other end of
25 the bar when the passenger shot one time in the air. After

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1 this one shot the Rodeo made a U-turn and started towards
2 Farrow Road on Hardscrabble?

3 A Right.

4 Q You are still insisting that the Rodeo was down across
5 from the club drive towards Hardscrabble Road; is that
6 right?

7 A Yes.

8 Q Right?

9 A That car was. Yes, sir, that's what I'm saying.
10 That's my statement.

11 MR. SWERLING: Excuse me one minute, Your Honor.

12 BY MR. SWERLING:

13 Q Did you not tell Mr. McRae on June 30, 2007, that Mr.
14 Jacobs continued to explain that the white Isuzu Rodeo had
15 originally come out of the parking lot of the club up by the
16 gas pumps, started to turn right, the opposite direction of
17 the tan Suburban, and then after the passenger fired one
18 shot in the air the driver of the white Rodeo did a U-turn
19 on Hardscrabble Road and traveled down Hardscrabble Road
20 toward Farrow Road.

21 Isn't that what you told him on June 30, the morning of
22 June 30?

23 A That is -- Yeah. Turned right -- yeah, he pulled on
24 the side of the road and turn around and fired the gun and
25 went towards Farrow Road.

1 Q Well, let me ask you something. I guess I'm still
2 confused. How -- you're saying it happened here, but on two
3 different occasions on June 30 and July 1, in this oral
4 statement you gave him and in the written statement you said
5 after the passenger fired one shot in the air the driver of
6 the white Rodeo did a U-turn on Hardscrabble and traveled
7 down Hardscrabble Road towards Farrow Road. It's the same
8 thing that I just read you out of your statement?

9 A Yeah.

10 Q Mr. Jacobs, you have no idea what happened out there
11 that night?

12 A Okay. No.

13 Q You're giving one version to the police on June 30, and
14 July 1 and you're giving an entirely different version to
15 the jury.

16 You identify the guys in the Isuzu as the guys who
17 fired the shot, right?

18 A Yes, sir.

19 Q I guess there's no question that they fired a shot
20 whether you say it was in the corner across the road, or
21 maybe somewhere else in Columbia, maybe up in the sandhills.

22 A Up in the air.

23 Q Up in the air. Let me ask you something. This was on
24 July -- I'm sorry, June 30, in the morning of June 30, and
25 you were supposed to meet Mr. McRae on July -- that day, you

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1 were supposed to come down to the Richland County Sheriff's
2 Department and give him a statement and look at some
3 lineups; isn't that true?

4 A On June 30?

5 Q On the 30th. You had an appointment to meet with him
6 that afternoon and look at some lineups; isn't that true?

7 A It was on the 1st.

8 Q No. On July 30, (sic) the same day of the shooting.

9 A The morning of -- the evening of, yes.

10 Q And you didn't show up.

11 A No, I didn't. I didn't show up at the time I was
12 supposed to show up. No.

13 Q You didn't show up at all?

14 A Yeah. I was late. He wasn't there when I woke up.
15 Because when I woke up it was after the time --

16 Q So the answer to my question is that you didn't show
17 up?

18 A No, I didn't. I was asleep.

19 Q So he had to go find you and he had to do that on July
20 1st?

21 A No, he didn't have to find me. He called me.

22 Q Well, he couldn't find you that day?

23 A I was asleep.

24 Q Well, you weren't sleep at home?

25 A (No response.)

1 Q You were at some motel, according to what you told him.

2 A Okay.

3 Q But you didn't cooperate with the police that day?

4 A No, not that morning. I didn't woke up because I was
5 sleep.

6 Q Now, getting ready to finish, because I know everybody
7 wants to go to lunch. If you were up here in the middle of
8 the road, and the Suburban was down here -- and it's dark on
9 Hardscrabble Road, correct?

10 A This area is, yes, sir.

11 Q And now you can't tell the jury whether the shot came
12 out of the driver's window or the passenger window.

13 A You mean on the same side?

14 Q I'm talking about on the -- out of the driver's window
15 and rear window on the driver's side, you can't tell them
16 which one?

17 A No.

18 Q How was it on July 1, 2007, you said it was Tremaine
19 was shooting in the crowd?

20 A No. I didn't say that.

21 Q You didn't say that?

22 A No, I didn't see him.

23 Q Well, that's a good question. How did you tell Mr.
24 McRae that under oath?

25 A Well, I didn't see that, because I couldn't see that.

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1 Q You didn't say that? Mr. McRae got it wrong, an
2 experienced law enforcement officer?

3 A I -- didn't say that.

4 Q Did you read it?

5 A Yes, I read it.

6 Q Did you swear to it under oath?

7 A Yes, it's right there.

8 Q And it says right there that you told Mr. McRae that
9 night that Tremaine was shooting at the crowd at the car
10 wash?

11 A No.

12 Q Is it written there?

13 A It's written there.

14 Q So it's a lie?

15 A I didn't say that, sir. I couldn't see it.

16 Q So it's a lie?

17 A Yes. I couldn't see it.

18 Q I'm sorry.

19 A I couldn't see who was shooting. I know it came out
20 the driver's side.

21 Q So what you put in this statement under oath that you
22 read and swore to under oath is a lie; isn't it?

23 A I would --

24 Q Isn't it?

25 A No. I would say that what I seen is what I told him

1 the driver's side.

2 Q No. That not what you told him. It says here Tremaine
3 was shooting --

4 A No.

5 Q -- into the crowd?

6 A I didn't say that.

7 Q You didn't say that?

8 A No.

9 Q So if this fellow over here wrote it down wrong; he
10 wrote it down wrong?

11 A Could very well be. But I couldn't see who was
12 shooting but --

13 Q But you signed it?

14 A Yeah.

15 Q You swore to it, didn't you?

16 A Yes.

17 Q You did something on that morning, July 1, all these
18 discrepancies, the same thing you did today in front of the
19 jury you said was the truth?

20 A I'm saying it was the truth, yes.

21 Q When?

22 A Now.

23 Q Well, how does the jury know when you're telling the
24 truth; was it on July 1, or the morning of June 30, or is it
25 now? How do they know?

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1 A I --

2 Q How do they know?

3 A I guess by the evidence, sir.

4 Q Pardon?

5 A I guess by the evidence.

6 Q Well, you've given conflicting evidence; you agree to
7 that?

8 A Okay.

9 Q You agreed you lied in the statements?

10 A No, I didn't lie in the statements, sir.

11 Q Well, you obviously -- you couldn't see Tremaine
12 shooting in the crowd, so it's a lie, isn't it?

13 A I didn't see him.

14 Q If you say something under oath, and it's not true,
15 it's a lie, isn't it?

16 A Yes, it is.

17 Q So how does this jury know when you're lying or telling
18 the truth?

19 A (No response.)

20 Q When, how?

21 A I know that I told him I seen fire come out of the
22 driver's side of the door.

23 Q So you do admit lying to him about that?

24 A No, I didn't lie to him about that, sir.

25 Q I'm sorry. So which the truth --

1 A I seen gunfire --

2 Q Either you saw Tremaine firing out of the car or you
3 didn't see him firing out of the car?

4 A I didn't -- I seen gunfire come from the driver's side
5 of the Suburban.

6 Q So when you said Tremaine was shooting, you saw
7 Tremaine, that's a lie?

8 A He asked me who was driving the Suburban and I told
9 him.

10 Q That's not what you just said.

11 A Okay.

12 Q Mr. Jacobs, you agree with what I just read, don't you?

13 A Oh, yeah.

14 Q Huh?

15 A This is what it said.

16 Q I read it exactly like it was written didn't I?

17 A Yes.

18 Q Didn't I?

19 A Yes.

20 Q You can say whatever you'd like to, but I read it
21 exactly like it was written, didn't I?

22 A (No response.)

23 Q Didn't I?

24 A I read it the same way.

25 Q Mr. Jacobs, thank you very much.

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1 THE COURT: Okay. I know we're in the middle of a
2 witness, but I cannot hold the jury any longer in terms of
3 the lunch. It's way late, and I apologize for that.

4 So I'm going to remind Mr. Jacobs that you are still
5 under oath, because there maybe more questioning, and so you
6 are not to speak to anybody about your testimony; you
7 understand that?

8 MR. JACOBS: Nodding. (Affirmative response.)

9 THE COURT: Jurors you can be at ease for lunch.
10 Let's report back at 3:00 o'clock. I'll remind you not to
11 discuss the case.

12 (Jury out at 1:44 p.m.)

13 THE COURT: Anything we need to take up at this
14 time?

15 MS. SHIPLEY: Your Honor, we have made arrangements
16 for Saturday.

17 THE COURT: Okay. Okay. All right. You all are
18 free until 3:00. I want everyone to start on time because
19 I'm going to try to push until 5:30. I've got somebody with
20 child care and we'll deal with that. I'm staying in. If
21 you need me I'll come back early, but 3:00 o'clock I plan on
22 starting. So make sure equipment or whatever is going on is
23 ready.

24 MR. SWERLING: Your Honor, can you admonish the
25 witness not to discuss his testimony?

1 THE COURT: Yes. I did so.

2 MR. SWERLING: Oh, I'm sorry.

3 THE COURT: That's okay.

4 You're under oath, and you can't discuss your testimony
5 with anyone. Okay.

6 All right, you can step down.

7 (Court at recess for lunch at 1:45 p.m.)

8 (Court in session after lunch at 3:00 p.m.)

9 THE COURT: Is there anything that needs to go on
10 the record before the jury comes in?

11 MS. SHIPLEY: No, Your Honor, nothing from the
12 state.

13 THE COURT: Ms. Johns?

14 MS. JOHNS: No, Your Honor.

15 THE COURT: Anything from Mr. Bax?

16 MR. BAX: No, not at this time, Your Honor. If we
17 can get Mr. Swerling up here we will be set to go.

18 THE COURT: Okay.

19 Mr. Swerling, anything you need to put on the record
20 before we proceed?

21 MR. SWERLING: No. Sorry, Your Honor.

22 THE COURT: You're fine.

23 Jurors, please.

24 (Mr. Jacobs has returned to the witness stand.)

25 (Jury in at 3:01 p.m.)

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1 THE BAILIFF: Jury is all seated, Your Honor.

2 THE COURT: Thank you.

3 Ladies and gentlemen of the jury, thank you so much for
4 your patience. I do want you all to know that I do respect
5 and appreciate your patience. Sometimes we're in the middle
6 of a witness, sometimes as we were here and ready to start
7 at 9:30, but I'm going to try to make sure I give you more
8 frequent breaks even if I have to cut the lawyers off and
9 let them resume. So let me just apologize, because I don't
10 want you in any way to think that we are not respectful of
11 your time, that we are not appreciative of your service. As
12 you're aware there's a lot of information to get through.
13 We want everybody to have their day in Court so to speak.

14 So I apologize to you on behalf of us all.

15 And we are ready to proceed, state.

16 MS. SHIPLEY: Thank Your Honor.

17 RICKY JACOBS - REDIRECT EXAMINATION

18 BY MS. SHIPLEY:

19 Q Mr. Jacobs, I'm going to be handing you your statement
20 that you gave to Investigator McRae?

21 A Okay.

22 MS. SHIPLEY: And Your Honor pursuant to Rule 106.

23 BY MS. SHIPLEY:

24 Q Please read the highlighted portions of that statement?

25 A I was walking to my car that was parked across the

1 street to move the vehicle over to in front of the club as I
2 was ready to close the club. On the way over to get my car,
3 some tires --

4 Q I'm sorry. Can you slow down a little.

5 A -- on the way over I saw Taurus walking towards the
6 club. I told him that the club was closing.

7 MR. SWERLING: First of all, Rule 106, doesn't
8 allow him to go into the entire statement, only the points
9 she needs to go ahead and -- so he can't just read a prior
10 inconsistent statement, and that's the objection.

11 MS. SHIPLEY: Your Honor, this is the portion that
12 Mr. Swerling asked Mr. Jacobs about on cross-examination.

13 THE COURT: That's fine as long as it's not any
14 other part of the writing.

15 MS. SHIPLEY: Yes, ma'am.

16 THE COURT: To complete the remainder of the
17 writing.

18 MS. SHIPLEY: Correct. I'm trying to put this in
19 context. He did ask him to read certain portions and this
20 is the entire context.

21 THE COURT: What he's indicating is not to read the
22 entire statement.

23 MS. SHIPLEY: Oh, no, ma'am. We're not -- I only
24 highlighted the portions that Mr. Swerling --

25 MR. SWERLING: Can I see them. I may not have an

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1 objection?

2 MS. SHIPLEY: Sure. I'll be happy to show you.

3 MR. SWERLING: I may not have an objection.

4 THE COURT: Okay. All right. Thank you. Proceed.

5 MS. SHIPLEY: And, Your Honor, for purposes of the
6 record, this is State's Exhibit No. 121 for identification
7 purposes.

8 BY MS. SHIPLEY:

9 Q Please start from the beginning and read the
10 highlighted portions of your statement?

11 A I was walking to my car that was parked across the
12 street to move the vehicle over to in front of the club,
13 because I was getting ready to close the club. On my way to
14 my car I saw Taurus walking towards the club. I told him
15 that the club was closing. He turned around and went back
16 to the vehicle he arrived in. I also saw Tremaine with
17 Taurus. Both of the guys walked back to the vehicle they
18 were in. Tremaine got into the driver's seat, Taurus got in
19 the front passenger seat. As I got closer to Taurus I saw
20 the gun in his hand. The gun like -- it was a short barrel
21 and had a very long clip and was wrapped in some type of
22 clothing. I saw Taurus with the gun and I turned around and
23 watched him get into the vehicle. They both got in the car
24 heading down Hardscrabble Road towards Farrow Road. When
25 they got to the end of the bar and the car wash, Tremaine

1 fired a gun out of the driver's side door. I didn't know
2 how many rounds he fired, but it was several rounds. I also
3 remember the white Isuzu Rodeo with two black males in the
4 vehicle. Once the vehicle that Tremaine and Taurus was in
5 shooting was -- okay -- once the vehicle that Tremaine and
6 Taurus was in started shooting the passenger in the Rodeo
7 fired one shot in the air. The Rodeo was behind the SUV and
8 then the shot was -- this shot was -- oh, sorry -- this shot
9 was fired straight up in the air. Tremaine was shooting in
10 the crowd of the car wash, the Rodeo was still on the other
11 end of bar when the passenger shot one time in the air.
12 After one shot was fired the Rodeo made a --

13 MR. SWERLING: That's not what it says. It says
14 after this one shot.

15 A -- after this one shot was fired, this one shot was
16 fired the Rodeo made a U-turn and started towards Farrow
17 Road on Hardscrabble Road. The vehicle that Tremaine was
18 driving was a Suburban, tan in color.

19 BY MS. SHIPLEY:

20 Q And go to the next page and read that portion?

21 A Okay. This person who fired the gun out of the
22 driver's side window from the tan Suburban. No fire came
23 from the driver's side window (sic), but I did not see him
24 firing the gun because the Suburban was too far down the
25 road for me to see.

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1 Q And so you told Investigator McRae that you did not --

2 MR. SWERLING: Objection. Leading.

3 BY MS. SHIPLEY:

4 Q Are you done reading?

5 A Yes.

6 Q The very last --

7 THE COURT: Okay.

8 MS. SHIPLEY: Okay.

9 BY MS. SHIPLEY:

10 Q And so the very last question that you just read, what
11 was that, did you explain --

12 A Yeah.

13 Q -- what did you explain to Investigator McRae on June
14 30, 2007 about who fired the shot from the tan SUV?

15 A I told him that I was in the middle of the street, and
16 I was crossing the street, and I couldn't see who was
17 shooting, but it came out the driver's side. That's what I
18 said.

19 Q That's all I have for you, Mr. Jacobs.

20 THE COURT: Okay.

21 MR. SWERLING: Back and forth, one second, Your
22 Honor.

23 THE COURT: Sure.

24 RICKY JACOBS - RECROSS EXAMINATION

25 BY MR. SWERLING:

1 Q Mr. Jacobs, on two occasions what you just read to the
2 jury -- right here -- it said when they got to the end of
3 the bar as the car wash, Tremaine fired the gun out the
4 driver's side door. Is that what you said there?

5 A That's what it says.

6 Q Okay. And then a second time on Page 2, Tremaine was
7 shooting at the crowd at the car wash. Is that what you
8 said?

9 A That's what it said.

10 Q Is that your signature?

11 A That is.

12 Q Is that under oath?

13 A It is.

14 Q And then you say, the last, the third page, the gunfire
15 was coming from the driver's side window, but I did not see
16 him firing the gun because the Suburban was too far down the
17 road for me to see that.

18 A Right.

19 Q How do you reconcile those three different statements?

20 A Well, I did not say Tremaine was doing the shooting. I
21 said that the shooter was shooting out of the driver's side
22 door. Now --

23 Q That's not what you said.

24 A Okay.

25 MS. SHIPLEY: Your Honor, may the witness please

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1 finish his response?

2 THE COURT: Yes.

3 A Okay. That is what I said. Okay.

4 BY MR. SWERLING:

5 Q Okay. That's all.

6 A That is what I said.

7 MS. SHIPLEY: Thank Your Honor.

8 THE COURT: Okay.

9 MS. JOHNS: Thank you, Your Honor.

10 RICKY JACOBS - RECROSS EXAMINATION

11 BY MS. JOHNS:

12 Q When you say the Suburban was too far down the road for
13 you to see that -- on Page 3 you say, I did not see him
14 firing the gun. Him, you're talking about Tremaine, right?

15 A Yes, because he was the driver of the Suburban.

16 Q And he was the driver, right?

17 A Yes.

18 Q And when you saw my client, Mr. Watts, get into a
19 vehicle --

20 A It was the Suburban.

21 Q -- doesn't ask which car, right?

22 A Right.

23 Q And when you saw, you said you saw mussel fire coming
24 out of the driver's side -- driver's side of the vehicle,
25 isn't that right?

1 A Correct.

2 Q With the gun all the way out the window?

3 A Was the gun all the way out the window?

4 Q Yes. All the way out the window?

5 A No. I seen fire coming from the window.

6 Q Because it was dark and you couldn't see a gun could
7 you.

8 A No. I just said it was dark. It was a lighted area,
9 but I couldn't see if the arm was all the way or not. No.

10 Q Okay. So the arm was or was not --

11 A I did not see the arm out the window.

12 Q You did not see the arm out the window?

13 A No, but I could see fire coming through.

14 Q Did you see a white cloth on the hand of Mr. Watts
15 hanging out the window?

16 A Did I see a white cloth? I can't say if it was Mr.
17 Watts hand or not. I was behind the Suburban.

18 Q Okay. And you admit you saw the Rodeo make a U-turn
19 and start heading towards Farrow Road, correct?

20 A Correct.

21 Q Okay. And you saw a passenger out of that vehicle
22 shoot --

23 A In the air.

24 Q -- in the air, right?

25 A Correct.

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1 Q Not with his body out shooting towards -- is that what
2 it was, was his body out and he was going over the top of
3 his car?

4 A His body was out, but he was shooting in the air.

5 Q And you also say on Page 1 in that narrative, you say
6 he turned around and went back to the vehicle he was riding
7 in. You were talking about Taurus at that time?

8 A Both of them.

9 Q You never told anybody you witnessed him riding in that
10 vehicle when they were out of the car?

11 A And when I said that I meant the vehicle he rode in
12 leaving the scene.

13 Q Okay. So it should say turned around and went back to
14 the vehicle he was riding in. That being past tense. You
15 just mean --

16 A He was past when I was talking to Mr. McRae. It was
17 after it happened.

18 Q So he went back to the car he was riding in, meaning he
19 was in the car earlier?

20 A That he was riding, yes. That he rode in.

21 Q And both of these guys walked back to the vehicle they
22 were in, right?

23 A Yes.

24 Q But they were in the vehicle at one time, is that what
25 your testimony is today?

1 A I seen them in the vehicle. Yes. I seen them in the
2 vehicle.

3 Q You saw them in the vehicle, and you saw them get out,
4 and you saw them get back in; is that your testimony today?

5 A Yes.

6 Q And this narrative you say the gun had a short barrel
7 and a very long clip?

8 A Yes.

9 Q Okay. And then Investigator McRae asked you -- I
10 showed you a picture of a gun, is this the type of gun you
11 saw Taurus with just prior to the shooting. You answer is
12 Yes. Correct?

13 A Yes.

14 Q So Mr. McRae showed you a picture of the gun, then you
15 identified it, right?

16 A He showed me a picture of several guns.

17 Q Okay. And this particular picture that you signed, Mr.
18 McRae showed you this, and you say he showed you this gun?

19 A Yes.

20 Q Is this the type of gun you saw Taurus with?

21 A Yes.

22 Q And your answer was yes. The only difference was
23 something about a brace, right?

24 A Yes.

25 Q So this is the kind of gun you think you saw?

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1 A Yes.

2 Q Did he show you any pictures of a gun the Isuzu Rodeo
3 had?

4 A No.

5 Q Did he show you any pictures of a gun that the guy that
6 was backing out of the club had when you told him about
7 that?

8 A No.

9 Q Okay. So the only pictures that he showed you was of a
10 gun that was supposedly held by my client?

11 A Yes.

12 Q Okay. Nothing further.

13 THE COURT: All right. Sir, you can step down.

14 MS. SHIPLEY: May he be excused, Your Honor?

15 THE COURT: Yes. You can be excused.

16 MS. SHIPLEY: State calls Ray McDonald.

17 (WHEREUPON, Ray McDonald was sworn
18 to tell the truth.)

19 THE CLERK: Thank you. Have seat in the witness
20 stand and give the court reporter your name.

21 MR. MCDONALD: Raymond McDonald. M-c-D-o-n-a-l-d.

22 RAY MCDONALD - DIRECT EXAMINATION

23 BY MS. SHIPLEY:

24 Q Mr. McDonald, can you please tell the jury where you're
25 employed?

1 A I work for T-Mobile, the wireless phone company.

2 Q And where exactly are you headquartered?

3 A We're in -- the company itself is in Belleview,
4 Washington. Our location where our group is is Parsipity,
5 New Jersey.

6 Q And at one time did your company buy SunCom
7 Telecommunications Wireless?

8 A Yes, we did.

9 Q And as part -- the jury a little bit about your job and
10 you duties?

11 A I'm a manager for group which is the Subpoena
12 Compliance Group. It's actually called the law enforcement
13 release group. We do legal compliance. We take in
14 subpoenas and court orders, we process that information, we
15 sent that back out to the requesting party whether that be
16 attorneys, courts, law enforcement, private individuals. We
17 also do all the emergency work for the company throughout
18 the country; lost children, lost hikers, kidnap victims,
19 hikers. We locate them; we find them. We process wiretaps
20 for the company. We probably -- I think last year we pushed
21 out about 120,000 written requests back out the door.

22 Q And I'm going to bring you to the case at hand. Did
23 you're company receive a subpoena from the state of South
24 Carolina for a phone number pertaining to area code
25 803.477.7175?

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1 A Yes, it did.

2 Q Okay. I'm going to show you what's been marked as
3 State's 130, and ask you if you recognize this document?

4 A Yes, I do.

5 Q And what is it, sir?

6 A This is a screen print, which is the subscriber
7 information for a particular account with the subscribers
8 name, address, phone number, and the account number.

9 Q And the pages that are attached to that front page;
10 what are those?

11 A These are what we call, Call Detail Records. These are
12 calls that go to the subscriber telephone or go from the
13 subscriber telephone to whoever the person is calling.

14 Q And sir, are you also considered a custodian of records
15 for your company?

16 A Yes. Our group acts as custodian of records for T-
17 Mobile.

18 Q And as custodian of records you are familiar with how
19 to maintain these records; correct?

20 A Yes.

21 Q And how these records are -- what they mean?

22 A Yes, that's correct.

23 Q Okay.

24 MS. SHIPLEY: Your Honor, at this time the state
25 seeks to introduce State's No. 130 into evidence.

1 MR. SWERLING: No additional objection other than
2 what has already been previously argued and --

3 THE COURT: Okay.

4 MS. SHIPLEY: It does not relate to that, Your
5 Honor.

6 THE COURT: Okay.

7 MS. JOHNS: No objection as to defendant Watts.

8 THE COURT: Okay. Thank you. Admitted.

9 (State's Exhibit No. 130, phone
10 records, was marked and entered.)

11 MS. SHIPLEY: Thank you, Your Honor.

12 BY MS. SHIPLEY:

13 Q Mr. McDonald, let's go ahead and get started on the
14 phone calls -- first of all, whose phone number is 477.7175
15 with the area code 803; whose phone number or who is the
16 registered subscriber of that phone number.

17 A The subscriber, the customer on the subscriber document
18 is Tremaine Wray, W-r-a-y.

19 Q And is there an address assigned to that subscriber?

20 A Yes, there is. It's 425 Briarcliff Drive, Columbia,
21 South Carolina.

22 Q I'm going to bring your attention to phone calls placed
23 by Mr. Wray's cell phone. If I could bring your attention
24 to June 30, 2007, at 1:45 a.m. What call was placed on his
25 cell phone to which number?

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1 A This was from the subscriber number to 803.269.5796, on
2 June 30, 2007, at 1:45 a.m.

3 Q And how long did that call last?

4 A 44 seconds.

5 Q When is the next time Mr. Wray calls that same number,
6 269.5796?

7 A I'm sorry, what time did you say --

8 Q The next time that --

9 MS. SHIPLEY: Your Honor, is it okay if I direct
10 him to the date and time of the call just to speed the
11 process?

12 THE COURT: Sure.

13 BY MS. SHIPLEY:

14 Q I'm going to direct your attention to June 30, 2007 at
15 4:14 in the morning?

16 A Okay, again that number was called by the subscriber,
17 803.269.5796, on June 30, 2007 at 4:14 a.m., and the call
18 lasted for six seconds.

19 Q And the next time that number is called by Mr. Wray's
20 cell phone is when?

21 A Looks like 4:35 a.m.

22 Q Okay. And what -- how long did that phone call last?

23 A A minute and 54 second.

24 Q Then on June 30, 2007, at 13:30 hours, can you tell
25 this jury whether that phone call was made to that same

1 number again?

2 A Yes, it was.

3 Q And can you tell the jury how long that conversation or
4 the phone call lasted?

5 A Two minutes, 29 seconds.

6 Q Two minutes, 29?

7 A Yes.

8 Q And I'll direct your attention June 30, 2007, at 14:03
9 hours?

10 A Okay, again, that's a call from the subscriber to the
11 same number, and it lasted for one minutes, 57 seconds.

12 Q And then on July 1, 2007, at 9:27 a.m.?

13 A Again a call from the subscriber's phone to that same
14 number, 803.269.5796, July 1, 2007, at 9:27 a.m. for 11
15 minutes, 52 seconds.

16 Q And then the next call at 10:14 a.m.?

17 A Subscriber calling the same number July 1, 2007, at
18 10:14 a.m. for 24 seconds.

19 Q And you can't tell the jury the contents of these
20 conversations or anything like that?

21 A No, cannot.

22 MS. SHIPLEY: Beg the Court's indulgence.

23 BY MS. SHIPLEY:

24 Q And I'm sorry, I overlooked one, sir. If you can go
25 back to June 30, 2007, at 12:11 p.m., and let me know when

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1 you find that day and time. Oh, sorry, it starts at 12:09.

2 A At 12:09, this was an incoming call to the subscriber's
3 number from 803.269.5796, and that was June 30, at 12:09,
4 and that lasted for a minute, 33 seconds.

5 Q Thank you, Mr. McDonald. Please answer any questions
6 the defense may have.

7 MR. SWERLING: I only have one.

8 RAY MCDONALD - CROSS EXAMINATION

9 BY MR. SWERLING:

10 Q Six seconds or 24 seconds, does that indicate no --
11 that it had reached somebody?

12 A It's a connection. So what happens is I don't know
13 what happens.

14 Q Is it a connection to a voice mail box?

15 A It could be. I don't know what occurs at the other
16 end.

17 Q Pardon?

18 A I don't know what occurs at the other end.

19 Q Well, it could be voice mail?

20 A Could be.

21 Q Okay. That's all I wanted. Thank you.

22 MS. JOHNS: No questions.

23 THE COURT: Okay. Sir, you can step down and be
24 excused.

25 MS. SHIPLEY: He's excused, Your Honor. Thank you.

1 Your Honor, at this time the state calls Deputy Ryan
2 Galinski.

3 MR. BAX: And Your Honor while he's being sworn in,
4 if you don't mind we'd like to approach the bench?

5 THE COURT: Certainly.

6 (Off the record bench conference with counsel and the
7 Court.)

8 (WHEREUPON, Ryan Galinski was sworn
9 to tell the truth.)

10 THE CLERK: Thank you. Have a seat in the witness
11 stand, please, and give the court reporter your name.

12 MR. GALINSKI: Deputy Ryan Galinski, Richland
13 County.

14 RYAN GALINSKI - DIRECT EXAMINATION

15 BY MS. SHIPLEY:

16 Q Good afternoon, Deputy Galinski. Could you please tell
17 the jury how long you've worked with the Richland County
18 Sheriff's Department?

19 A I'm sorry, can you repeat that?

20 Q Yeah, sur. Can you please tell the jury how long you
21 have been employed with the Richland County Sheriff's
22 Department?

23 A Part-time for one year, full time, three years for a
24 total of four years.

25 Q A total of four years?

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1 A Yes, ma'am.

2 Q I'm going to ask you to pull the microphone up a little
3 closer to that we can all hear you.

4 A (Witness complies.)

5 Q Can you tell the jury what your duties are and what
6 your role is with the Sheriff's Department?

7 A Yes. I'm a Deputy Sheriff, Special Operations, Traffic
8 Safety Unit.

9 Q And as a -- what are your duties; what do you have to
10 do?

11 A Enforce the law, apprehend criminals. I do a lot of
12 traffic right now. General duties of a law enforcement
13 officer.

14 Q And so you work around a particular part of Richland
15 County?

16 A I do. I respond to all calls and I patrol all of
17 Richland County. No particular jurisdiction. All of
18 Richland County in general.

19 Q Okay. And do you patrol with your patrol car?

20 A I do.

21 Q And are there particular shifts that you work?

22 A There are.

23 Q Okay, and do you sometimes work nights and sometimes
24 work days?

25 A That's correct.

1 Q I'm going to bring your attention to June 30, 2007, can
2 you tell the jury whether or not you were on duty that day?

3 A June 7?

4 Q June 30, 2007?

5 A June 30, 2007, I was working the evening shift.

6 Q Okay, and what time does that shift start?

7 A Approximately 8:00 at night.

8 Q And what time does it end?

9 A About 4:30 in the morning.

10 Q Okay. On this date in question, June 30, 2007, do you
11 recall being involved in looking for suspect vehicle --

12 A Yes.

13 Q -- and responding to shots fired?

14 A Yes.

15 Q All right. Tell the jury, do you remember the exact
16 time that you were called?

17 A It was approximately 4:00 o'clock in the morning,
18 roughly. It was out in the Two Notch Road area when a shots
19 fired call was dispatched over the radio. Myself and other
20 deputies attempted to respond to the location. I was --

21 Q When you say attempted, what happened; did you make it
22 to the location?

23 A Well, several other deputies were responding to the
24 location. I was patrolling and looking for a vehicle that
25 was dispatched over the radio.

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1 Q And can you tell the jury the description of that
2 vehicle?

3 A Yes, ma'am. The dispatch put out a BOLO, which is a
4 bee on the lookout for a white in color, SUV, which had
5 pinstripping down the side, black pinstripping. And would
6 be occupied by two black males.

7 Q And did they give you a make and model of that vehicle
8 at the time it was dispatched.

9 A I don't recall make and model. All I recall was just a
10 white SUV with black pinstripes.

11 Q Okay. And tell the jury where you happened to be when
12 you got this call?

13 A I was on Two Notch Road near the Hardscrabble Road
14 area.

15 Q And once you got the call and the description of this
16 type of vehicle where did you go next?

17 A I knew that several deputies were coming down to Farrow
18 Road towards Hardscrabble. I also heard that the vehicle
19 was in route towards Farrow Road from Hardscrabble, and
20 there are a couple of road that cross over from Rabon Road
21 over to Hardscrabble, so I felt it would be imperative for
22 me to go down Two Notch towards Rabon Road to see if any
23 vehicles matching that description were coming towards Two
24 Notch from that general area.

25 Q And so did you go to that area?

1 A That's correct.

2 Q And tell the jury whether or not you were able to spot
3 a vehicle fitting that description?

4 A That's correct. I was on Two Notch Road, I had turned
5 onto Rabon Road. Soon as I turned on Rabon Road, I went
6 just a very, very short distance down Rabon when I observed
7 a white Isuzu Rodeo with black pinstripping. It passed me
8 coming up to the light at Rabon and Two Notch. I turned
9 around, and it took a left on Two Notch going north, going
10 out towards Sandhill. At which time I turned around and I
11 followed it. I radioed dispatch that I was behind a vehicle
12 that matched that description. I waited for backup to
13 arrive before I made the traffic stop on the vehicle. Soon
14 as I saw Deputy Brantley coming towards me on Two Notch I
15 initiated a traffic stop. We stopped at approximately the
16 9800 block of Two Notch behind Blockbuster.

17 Q As soon as you initiated your blue lights did that
18 vehicle stop?

19 A It did.

20 Q And did you pull into a parking lot of that Blockbuster
21 or where did you stop?

22 A It was just behind the Blockbuster. It's a road that
23 goes up to, I believe it's a Food Lion. We stopped on the
24 drive going up to the Food Lion.

25 Q Okay. And did you get the occupants out of the vehicle

1 once the stop was made?

2 A We did.

3 Q And can you tell the jury a little bit about what the
4 occupants looked like?

5 A The description that was given to us was two black
6 males, the driver having dreads in his hair. The passenger
7 was given as short hair and he was wearing a yellow shirt
8 with stripes on it. When I made contact with the
9 individuals, I did notice that the driver did have dreads in
10 his hair. And the passenger was, indeed, wearing a yellow
11 shirt with stripes in it. He has short hair, as well. So
12 it did match the description that was given to us.

13 Q And at that point, did you know where these
14 descriptions were coming from besides through dispatch?

15 A Yes. The witnesses at the location, the incident
16 location on Hardscrabble were communicating with other
17 deputies supplying them with the information.

18 Q Okay. At that point when you first take someone out of
19 a vehicle, tell the jury what you have to do for your own
20 safety?

21 A We like to frisk them to make sure they don't have any
22 weapons on them, especially on a call with shots fired. We
23 had pretty accurate descriptions. All the descriptions met
24 the suspects that were in the vehicle at the time. We
25 wanted to make sure that there was no guns in the vehicle.

1 No guns on the persons, so we did a frisk on them.

2 Q And did you -- first of all, before we proceed, I'm
3 going to show you State's 47 and 46. Do you recognize the
4 people in those photos?

5 A Yes, ma'am, both of these are the subjects that were in
6 the vehicle that I stopped.

7 Q And can you show the jury which one was the driver?

8 A The driver would be State's Exhibit No. 46.

9 Q Okay.

10 A Luther, I believe his name is. Luther Landrum.

11 Q Okay, and was that the color shirt that he was wearing
12 when you stopped him?

13 A That's correct.

14 Q All right. And the other individual, where was he
15 seated?

16 A This would be the passenger of the vehicle, Earl
17 Greene.

18 Q And is the color -- in that photograph, does that show
19 the same clothes as he was wearing that night?

20 A Yes.

21 Q And tell the jury what, if anything, you found on Mr.
22 Landrum when you frisked him?

23 A When we did a frisk of him we found a small aluminum
24 foil in his pocket. When we were removing the individuals
25 out of the vehicle we notice there was bullets in the

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1 passenger seat. So we did a little bit more extensive frisk
2 on them. When we removed that aluminum foil out of his
3 pocket there was green material which was believed to be
4 marijuana and did test positive for marijuana after a
5 forensic report was done, forensic analysis was done.

6 Q And at that point did you arrest Luther Landrum for
7 that marijuana?

8 A That's correct.

9 Q And what about the passenger, what, if anything, was he
10 charged with at the scene?

11 A He was charged with open container. There was a beer
12 within his general possession, directly behind him in the
13 vehicle on the passenger seat, and it was open. He was
14 charged with open container and arrested, as well.

15 Q Did you search the vehicle for any firearms?

16 A Yes, we did.

17 Q And did you locate a firearm?

18 A We did not locate a firearm. As I stated there were
19 several rounds of ammunition that were found on the
20 passenger seat.

21 Q And do you recall the caliber of those rounds?

22 A I believe one of them was a 38, and I believe there
23 were some 9 millimeter, if I'm correct.

24 Q But you did not collect those, correct?

25 A I did not.

1 Q In fact, tell the jury what you did with this vehicle
2 after the stop?

3 A After the stop we did the Terry frisk of the vehicle to
4 make sure there was no weapons in there. We secured the
5 vehicle. We then notified the investigators that we had a
6 possible vehicle. We secured the vehicle and it was towed
7 to the Richland County Sheriff's Department where it would
8 be scrutinized and inventoried.

9 Q Okay. So you were not involved in searching or
10 processing forensically the vehicle?

11 A No, I was not.

12 Q Were you in charge of having it towed to the Sheriff's
13 Department?

14 A I have the two slip. We notified a Puff Howard, who --
15 Puff Howard Towing, who responded, and they did tow the
16 vehicle to the Sheriff's Department. Deputies did follow
17 the vehicle to make sure nothing was tampered with the
18 vehicle.

19 Q I'm going to show you a photograph and see if you
20 recognize it. State's No. 17. Do you recognize what's in
21 that photo?

22 A Yes. This is the Isuzu Rodeo that I stopped that
23 night.

24 Q Okay. And that's the car that you had towed to be
25 processed by the crime lab?

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1 A That's correct.

2 Q Now, did you remain -- how long did you remain at that
3 Blockbuster area that morning?

4 A Oh, we were there for approximately two hours, give or
5 take.

6 Q And is that normal?

7 A No, that's not normal.

8 Q Tell the jury why you had to sit around for two hours?

9 A We had to wait, one for investigators. They were
10 investigating -- talking with several witnesses. We had to
11 wait for these witnesses to possibly identify the two
12 subjects. We were looking for a firearm that may have been
13 involved that could have been tossed out. So we had
14 deputies searching the path that that vehicle likely took
15 from Rabon Road down to Two Notch. Unfortunately, we were
16 not able to find a firearm. Getting the names of the
17 individuals and pretty much just waiting to get information
18 from the investigators.

19 Q Okay. And at one point did investigators who up with a
20 witness to identify these people?

21 A I believe it would have been roughly around 6:00
22 o'clock in the morning.

23 Q Okay. And do you recall which investigator that was?

24 A McRae showed up.

25 Q Investigator McRae?

1 A That's correct.

2 Q And do you recall who the witness was that he brought
3 with him?

4 A I do not know.

5 Q Okay. While you're at the scene do you hear calls from
6 dispatch at all times; do you keep your radio on at all
7 times?

8 A Yes, ma'am. We had a lot of back and forth with the
9 officers at the scene on Hardscrabble and with them trying
10 to cooperate information with each other. And really bring
11 the situation together to make sure we had who we needed,
12 and to get our information correct with one another.

13 Q Okay. And did you receive any other information about
14 any other possible cars, description of other cars involved
15 in the shooting?

16 A We did hear another individual -- I don't recall hear
17 -- I mean, I recall hearing about another vehicle. I didn't
18 pay much attention to it. I was out with this one vehicle.
19 Most of my attention was focused on this one vehicle and
20 these two individuals. However they did -- they did
21 indicate there was possibly another vehicle involved.

22 Q And were you made aware of what the passenger of your
23 vehicle may have done at the scene?

24 A That's correct. The officers on Hardscrabble Road
25 indicated to us that the passenger that we had, indicating

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1 Mr. Greene, had fired one shot from the Isuzu Rodeo, and
2 that one shot was fired in the air as they were driving
3 away.

4 Q And did you have your dash cam, video camera on during
5 this time?

6 A During the time of the traffic stop?

7 Q Yes, sir?

8 A Yes.

9 Q And did you have an opportunity to review the video
10 pertaining to this stop?

11 A Yes, I have.

12 Q Does it accurately depict the events of that night?

13 A Yes, it does.

14 MS. SHIPLEY: Your Honor, at this time, State would
15 see to introduce State's 114.

16 MR. BAX: No objection at this time. We want the
17 times that --

18 (State's Exhibit No. 114, video,
19 was marked and entered.)

20 MS. SHIPLEY: Beg the Court's indulgence.

21 (Pause. Video equipment is set up.)

22 MS. SHIPLEY: Your Honor, permission to publish the
23 video to the jury?

24 THE COURT: Certainly.

25 BY MS. SHIPLEY:

1 Q Incidentally, before I play the video tape, did you
2 hear a name dispatched over the radio besides the name Earl
3 Greene or Luther Landrum at any time during your stop?

4 A Yes, ma'am. Shortly after the stop, within minutes,
5 approximately 4:30 a.m. is what I have indicated, deputies
6 at the scene on Hardscrabble requested the names of the two
7 individuals that I was out with. And they had asked if
8 either one of them was named Taurus Watts. I asked them. I
9 identified the two subjects. Of course, neither one of them
10 was Taurus Watts.

11 Q Thank you, sir. And if you could --

12 MS. SHIPLEY: Permission for the witness to step
13 down, Your Honor.

14 THE COURT: Certainly.

15 BY MS. SHIPLEY:

16 Q Without interrupting the calls or -- come on down.
17 Just explain to the jury initially what you're doing on the
18 tape. Just be mindful not to interrupt anything being
19 dispatched.

20 (Video is playing.)

21 A This is the call prior to the call for shots fired.
22 This was after the traffic stop on Two Notch Road.

23 Q Is this time accurate?

24 A It is. At that point, we received the call for shots
25 fired. We got back on the road. I felt it imperative to

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1 respond to shots fired. That BOLO, be on the lookout was
2 for -- the vehicle headed towards Farrow. They were coming
3 up -- those officers were already in the area. So I went
4 back down Two Notch to see if I could find the vehicle. I
5 turned on Rabon Road and just turned my lights off -- just
6 minutes later this vehicle approached me coming down Rabon
7 Road. I just heard the report and that's when I turned
8 around and went toward Two Notch, outbound. And it picks up
9 here. This is the Blockbuster. That's me talking to them
10 on the loudspeaker. That's where we put them in handcuffs
11 to restrain them for our safety. We didn't know whether
12 they had a gun on them or in the vehicle. I just instructed
13 dispatch that there was ammunition that was found in the
14 vehicle. All right. Now deputies are in the vehicle
15 attempting to find a firearm. Here they're talking about
16 whether they possibly threw out the gun. At that point
17 they're coordinating officers go down and check the woods
18 line and sides of the road to see if a gun was possibly
19 tossed out. One of the deputies at the club just asked if
20 the subject's name was Taurus Watts. And I radioed back
21 their names were Luther Landrum and Earl Greene. That was a
22 call from dispatch saying that they had a subject that had
23 been shot. He was at the hospital. That was my
24 conversation with the deputy at the scene. He gave me the
25 information that was passed on by witnesses about these two

1 subjects, what they were wearing, what they looked like. I
2 confirmed it. I explained to them that 259 is a gun. Now,
3 that's me explaining to him that we're still looking for the
4 gun. I also explained to them that they were in custody.
5 That's where we're requesting a lab unit investigation,
6 investigators to come out there. Now, we're waiting on the
7 investigators. GSR is gunshot residue. Gunshot residue is
8 on your hand after you shoot a gun off. The put bags on
9 your hands -- unfortunately, I didn't have bags to put over
10 their hands. So she instructed us that basically make sure
11 they don't wash their hands. We're waiting for the
12 investigators right now. We're doing the paperwork.
13 They're saying it's a signal 4. Signal 4 is a homicide.
14 (Video stopped.)

15 Q And Deputy Galinski, did these two suspects remain
16 handcuffed the entire time they were in custody?

17 A Yes, they did.

18 Q Were they allowed to wash their hands at any time?

19 A They did not.

20 Q And you were not able to find paper bags, correct?

21 A That is correct. We checked with some of the other
22 deputies. Nobody had a paper bag to put on their hands.

23 Q Did they maybe -- were they both observed the entire
24 time in your custody?

25 A Yes. Each subject had a deputy that was watching him

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1 at all times; at least one deputy.

2 Q Also, you indicated the initial call came out on the
3 Nissan Pathfinder?

4 A That's correct. That's the first vehicle that came
5 across was a white Nissan Pathfinder.

6 Q Are Isuzu Rodeos -- in case the jury is not familiar
7 with the make and models, are Isuzu Rodeos similar in model
8 and style as a Nissan Pathfinder?

9 A Very similar. Yes.

10 Q Regardless you were looking for a white SUV with a
11 stripe, speckled stripe or something?

12 A A black pinstripe, yes.

13 Q And eventually did you participate in removing the
14 suspects from the patrol cars for the witness to come and
15 identify them once investigators arrived?

16 A They were removed from the investigators, yeah, once
17 the investigators got there.

18 Q And you don't participate in that side of the
19 investigation, correct?

20 A No.

21 Q You don't have contact with the witnesses or anything
22 like that?

23 A Did not.

24 Q Thank you, Deputy Galinski.

25 A Thank you.

1 THE COURT: Yes.

2 MR. BAX: Please the Court.

3 RYAN GALINSKI - CROSS EXAMINATION

4 BY MR. BAX:

5 Q Good afternoon, Deputy.

6 A Good afternoon.

7 Q Thank you for coming in. I've got a few questions
8 here. That traffic stop, looks like you were on a traffic
9 stop there and the call came -- there was a bluish car?

10 A Yes, sir. I was on a traffic stop. Yes, sir.

11 Q Okay. All right. Based on your testimony you already
12 had your blue lights on and obviously your camera was
13 running. Is your camera -- well, let me ask you this, your
14 patrol car is outfitted with a camera, correct?

15 A That's correct.

16 Q And it's located near your rear-view mirror on your
17 front windshield; is that correct?

18 A That's correct.

19 Q Okay. And Deputy Galinski is that one of the dash-cams
20 that directly connected to the blue lights in the car? In
21 other words, it will come on when the blue lights come on?

22 A Sure. You can either turn them on manually or they
23 turn on when the blue lights turn on.

24 Q Okay.

25 A There is a slight delay when you turn on the blue

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1 lights. It doesn't record for approximately five to six
2 seconds after you hit the blue lights, but they do come on.

3 Q So there about a five or six second delay?

4 A Approximately, yes.

5 Q Now, on the video that we just saw after you drove down
6 Two Notch Road towards Rabon Road the video goes blue for a
7 few seconds and then kicks back on, correct?

8 A Correct.

9 Q To your knowledge was that because the blue light went
10 off and you had cut them back on?

11 A No. When I was turning onto Rabon Road I turned my
12 blue lights off and I manually shut off my recording system.

13 Q Okay. So when the blue lights go off do you have to
14 manually turn off the camera?

15 A Yes, you have to manually turn it off.

16 Q So the blue lights will turn them on, turn on the
17 camera, but it won't turn it off?

18 A That's correct.

19 Q All right. So you manually turned that camera off when
20 -- was it before you got to Rabon Road?

21 A I believe it was right as I was turning onto Rabon Road
22 or just prior -- as I was making the turn I turned the blue
23 lights off and the video off.

24 Q So there's a portion that we don't have on that video.
25 Let me ask you a couple of questions about that. How far

1 did you get down Rabon Road before you saw this white
2 vehicle that matched this description that you talked about?

3 A It was very brief. If you're familiar with Rabon Road
4 there's a BiLo right here. As I was coming up on the BiLo
5 was when the vehicle was -- the white SUV Rodeo was passing
6 me. So approximately 50, 60 yards, maybe.

7 Q So you got a little bit past -- for anybody who's not
8 familiar with that area there's a Grease Monkey or Lube
9 Express; you'd gotten past that?

10 A I believe when I saw the vehicle I was right there at
11 the BiLo. As I was turning around, of course, the momentum
12 to turn around went just past the BiLo.

13 Q And I believe you said you did not initiate your blue
14 lights at that time, correct?

15 A That's correct.

16 Q Now, you had gotten this over dispatch, correct, and
17 believe you testified that you really kind of focused on the
18 BOLO for the white SUV with the black pinstripe; is that
19 correct?

20 A That is correct.

21 Q I believe there was another description for a box-like
22 Chevy that came over?

23 A Correct.

24 Q But you didn't really focus on that because you were
25 busy working on this car, right.

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1 A Right. I had seen that vehicle -- I focused my
2 attention on the first vehicle I was first BOLO-ed out.

3 Q Okay. And the dispatcher had indicated that this was
4 based on shots fired, it had indicated that shots had been
5 fired?

6 A Correct. They had multiple calls that shots were fired
7 at that location.

8 Q And I believe some of that information had come over
9 dispatch was that this car was alleged to have had shots
10 come out of it, correct?

11 A That's correct.

12 Q Now, there was also a description given of the
13 individuals in this Rodeo, individuals who were alleged to
14 have been in this car that indicated two black males; is
15 that correct?

16 A That's correct.

17 Q Okay. The description give to you was the driver with
18 the dread lock hairdo; is that correct?

19 A That's correct.

20 Q And that matched the description of Mr. Landrum; is
21 that correct?

22 A That's correct. Luther Landrum.

23 Q And Luther was the driver of the car; is that right?

24 A That's correct.

25 Q I'm just going to show you this. That's him from that

1 night; correct?

2 A That's correct.

3 Q And this was the passenger, and I believe that's what
4 they call a low haircut?

5 A That's correct. Short, yeah, short haircut. That
6 would be Earl Greene.

7 Q Earl Greene. Now, did you determine whose actually
8 vehicle it was; was it determined if it was his or Mr.
9 Landrum's?

10 A Yeah. While we were out there deputies requested --
11 it's called a 1028, it's a vehicle information. The vehicle
12 came back to a Dolores Thompson of 705 Catawah Circle, in
13 Columbia, 29201.

14 Q All right. Okay. So it didn't come back as being in
15 the name of either Earl Greene or Luther Landrum; is that
16 correct?

17 A That's correct.

18 Q But it did not come back as stolen did it?

19 A No. It did not. It was clear.

20 Q You said a Dolores Thompson?

21 A Dolores Thompson.

22 Q Officer, after you pulled -- well, let's go to this.
23 You indicated in the vehicle -- excuse me, you indicated in
24 your testimony that you saw or waited until you saw Officer
25 Brantley, I believe that's what you said. I believe you

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1 said he was coming towards you in a different patrol unit?

2 A That's correct.

3 Q And officer, why did you wait for Officer Brantley to
4 be near you in his patrol car before you initiated the stop?

5 A It was a shots fired call, which, of course, would
6 require a gun, and for safety purposes we like to have
7 backup before we make any contact with individuals,
8 specifically there's two individuals in the car with a
9 possible gun. So we just wanted to make sure I had plenty
10 of backup before I initiated the traffic stop.

11 Q So this was definitely something that was done based on
12 officer safety; is that correct?

13 A Correct.

14 Q So there was a danger there based on the allegation
15 that there could be an armed individual that could pose
16 danger to you as an officer?

17 A That's correct.

18 Q Now, you also indicated that -- well, number one, you
19 removed these individuals from the vehicle once you made the
20 stop; correct?

21 A That's correct.

22 Q And you said you found some ammunition. Isn't it true
23 that the passenger, the individual with the low haircut was
24 actually sitting on that ammunition?

25 A That's correct.

1 Q Now, let me ask you that one more time as far as what
2 that constituted. I believe you said there was one round
3 that was a 38 caliber ammunition?

4 A Yes, sir, that's correct.

5 Q Okay. I believe it was a hollow point?

6 A I don't recall if it was hollow point or not.

7 Q And I believe you stated there was more than one round
8 of 9 millimeter ammunition in that same location?

9 A Correct. 9 millimeter -- I can't recall how many, but I
10 believe there as 9 millimeter.

11 Q If I said there were three would that sound accurate?

12 A I don't recall.

13 Q Officer, do you recall whether they were full metal
14 jacket or not?

15 A I don't recall that either.

16 Q Can you explain to the jury what that is?

17 A A full metal jacket is a larger -- a larger round
18 within the casing.

19 Q Let me ask you this; is it not true that a full metal
20 jacket it turned that way because the lead projectile is
21 covered in a brass surrounding, a metal surrounding; isn't
22 that correct?

23 A I'm not an ammunition expert, so I can't answer that.

24 Q Thank you. I appreciate that. Now, you also indicted
25 in a couple of places during your testimony and we can hear

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1 on the video that you were actually looking for a firearm;
2 is that correct?

3 A That's correct.

4 Q And I believe you stated the code for that is 1059?

5 A That is correct. That would be a gun.

6 Q And you had said when you were communicating over the
7 phone, I believe you said -- with the supervising officer
8 that you were still looking for that?

9 A That's correct.

10 Q You -- there was some talk on the video about a 38
11 caliber. I believe around 4:30 on the dash cam there's some
12 discussion about a 38 Special; is that correct?

13 A That's correct. That's the round that was found in the
14 vehicle.

15 Q Okay. But as you said, there were also 9 millimeter
16 rounds; is that correct?

17 A That's correct.

18 Q So you were basically looking for any kind of gun that
19 could fire either one of those rounds or any kind of round;
20 is that correct?

21 A I was looking for a gun in general. Not any specific
22 firearm.

23 Q Okay. Now, let me ask you this, and you may not be
24 able to answer. To your knowledge, as an officer can a 9
25 millimeter round be shot out of a 38 caliber pistol?

1 A I do not believe so.

2 Q Moving on, you also talked about in your testimony as
3 well as in the video, as we've heard, that you had the
4 belief that they might have ditched the gun; is that
5 correct?

6 A Yes. That was a possibility.

7 Q What was that based on; can you tell us a little bit
8 about that?

9 A Sure. Since the firearm wasn't located in the car, the
10 two subjects did state that they were coming from the
11 Hardscrabble Road area, that particular area by the club.
12 He did have ammunition on him. We were concerned that there
13 was a gun in their possession within their -- very recently.
14 Also, with the large amount of deputies that were coming,
15 they could have very easily have seen several blue lights,
16 several officers. So it's reasonable to believe that
17 fearing that they may be stopped that the gun could have
18 been tossed out.

19 Q And going to that -- and this was my count -- and you
20 can correct me if I'm wrong. I believe I counted five
21 officers -- when Earl and Luther actually pulled over I
22 counted five officers that I actually saw, Highway Patrol
23 Officers; does that sound about right?

24 A Sure. There may have been more officers behind the
25 camera as well.

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1 Q Okay. So at that point you didn't know whether they
2 had seen blue lights even before you saw their car?

3 A I have no knowledge whether they saw blue lights or not
4 prior to mine.

5 Q But you had said when you were narrating for the jury,
6 I believe you kind of turned up North Brickyard there and
7 then you turned back around and got on Two Notch; is that
8 correct?

9 A Correct.

10 Q And I believe you said to the jury that's because some
11 officers had indicated through radio that they were in that
12 location already?

13 A That's correct.

14 Q Is that correct?

15 A Yes, sir.

16 Q I --

17 A They were in the location of the incident.

18 Q Okay. So you changed direction because you didn't need
19 to go to the incident, at this point, you wanted to go down
20 to Two Notch Road?

21 A Correct.

22 Q Just a couple of quick more things here and then I'll
23 let you go, deputy. You testified -- well, excuse me, we
24 just talked about it, but you testified that you thought
25 that they had ditched this gun on Rabon Road, so I'm

1 guessing that that area you just described is near the BiLo?

2 A It could have been. My understanding is that it could
3 have possible been on Rabon Road. My thought after I had
4 stopped them was that there was a fairly decent distance
5 between me and them by the time I got turned around, and
6 they had made a left on Two Notch. Most probable to me it
7 would have been right there on Two Notch near Windsor Lake,
8 which is where I caught up with them at Windsor Lake
9 Boulevard. So it --

10 Q From the time that you turned and the time that you
11 caught up to them?

12 A That's correct.

13 Q Did you ever get the opportunity yourself to go back to
14 that area and look?

15 A I, myself, did not.

16 Q Do you know or to your personal knowledge did any other
17 officers get back to those areas and look?

18 A Yes. Other officers were sent down there. I couldn't
19 tell you which ones they were. I don't recall the names of
20 which ones were sent down there. We did request for other
21 officers go to down there. We did get confirmation that
22 they were, indeed, looking for the gun. No gun was found.

23 Q But not you, yourself; correct?

24 A No.

25 Q And until Officer Brantley came up from the opposite

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1 direction near that Blockbuster there, were there any other
2 officers in other patrol units that were in pursuit at that
3 time?

4 A No. Just myself.

5 Q So you were the only officer present to see that area
6 where you think they may have ditched that gun; is that
7 correct?

8 A Matter of fact, I don't think there were any other cars
9 around, also, at that time.

10 Q So just you and this white SUV?

11 A That's correct.

12 Q And, of course, to your knowledge, you did not see
13 anything go out of the car; is that correct?

14 A I did not see anything; that is correct.

15 Q So to your knowledge it could have been further up
16 Rabon Road?

17 A It possibly could have been. If it was thrown out it
18 could have come from numerous locations. Several different
19 roads.

20 Q And to your knowledge did any of these deputies that
21 looked in the area that you indicated that they looked,
22 further up Rabon and looked in other areas?

23 A I don't know.

24 Q You don't know. Thank you, officer. Now, one final
25 matter I want to talk to you about briefly here. At

1 approximately about 4:50 on that dash cam, a female officer
2 with the crime scene investigations unit that you guys have
3 with the Sheriff's Department called in and made that
4 request that you talked to the jury about, about the bags;
5 is that correct?

6 A That is correct.

7 Q Okay. She had asked you to put brown paper bags or
8 some kind of bags, if you had them, over their hands; is
9 that correct?

10 A That's correct.

11 Q And that is to preserve any --

12 A Gunshot residue.

13 Q -- gunshot residue that may be present; is that right?

14 A That's correct.

15 Q But y'all didn't have any bag; is that right?

16 A That's correct.

17 Q Officer, this stop goes on for quite some time after
18 where we stopped watching here; is that correct?

19 A That's correct.

20 Q Okay. In fact, I think you testified that it's
21 sometime after 6:00 or 6:00 a.m when Investigator McRae
22 comes?

23 A Correct.

24 Q So these individuals hands were not bagged at all
25 during that time; is that correct?

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1 A That's correct.

2 Q Did you specifically instruct them to keep their hands
3 clear of anything and not wipe them together like this?
4 (Indicating.)

5 A One of the other deputies, Deputy Brantley, explained
6 to them not to touch anything, not to wipe their hands. I,
7 myself, did not instruct them to do that.

8 Q Were you aware or did you see during the times, not
9 only the parts that we watched on that video, but times
10 later on where there were multiple times where I think
11 Luther was complaining --

12 MS. SHIPLEY: Objection, Your Honor.

13 Q -- about his arms hurting?

14 MS. SHIPLEY: Your Honor, he's asking about facts
15 that were not shown in front of the jury. If he wants to
16 show the jury --

17 MR. BAX: Your Honor, I'm just asking about what
18 he'd specifically during that stop, which is something I can
19 ask without --

20 THE COURT: His personal observation.

21 MR. BAX: Exactly. His personal observation,
22 correct.

23 THE COURT: Okay. That's fine.

24 MR. BAX: Thank Your Honor.

25 BY MR. BAX:

1 Q In your observation throughout the entire stop, whether
2 it be what we watched or not, did you see or observe or
3 hear, I believe Luther Landrum complaining about his arms
4 and they were hurting, that he felt like his cuffs were too
5 tight?

6 A That's right.

7 Q And did you try to help him with that or try to adjust
8 his cuffs or anything like that.

9 A We checked for tightness. It was sufficient.

10 Q And do you recall doing that multiple times throughout
11 the time you were standing outside the car?

12 A I couldn't tell you how many times we checked it, but
13 visually inspected it to make sure -- we made sure, you
14 know, that the handcuffs themselves could not tighten down
15 any more. We had double locked them. And his hand was
16 turned a little bit, so it was a little awkward, him being
17 in the handcuffs, but we visually inspected it several times
18 on both subjects.

19 Q And as a result of his complaints, he was kind of
20 moving his arms around quite a bit there for a while.

21 A Probably initially it would be rather uncomfortable to
22 be in handcuffs.

23 Q Now, at some point Mr. Landrum is placed in a patrol
24 car, I think your patrol car; is that correct?

25 A That's correct.

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1 Q And I believe also Mr. Greene is placed in a patrol
2 car; is that correct?

3 A He was placed in, I believe it was Deputy Brantley's
4 car, if I'm correct.

5 Q Would it sound accurate when I say it was about 5:30
6 a.m. when Landrum was placed in your car?

7 A Right around there. About that time. I couldn't tell
8 you exactly, but roughly.

9 Q And I think the juror's observed this, but let me ask
10 you, were they cuffed in front or back?

11 A In back.

12 Q Okay. And when they were placed in the backseat of the
13 respective patrol units were they sitting on their hands?

14 A I couldn't tell you if they were sitting on their
15 hands. They certainly would have been leaning up against
16 them.

17 Q So were their hands visible to you in that position
18 when they're sitting in the car cuffed behind?

19 A I don't believe they were at the time. I couldn't tell
20 you if he had his hands down to his side. Quite often
21 suspects put their hands to their sides. I couldn't tell
22 you. I wasn't paying that close of attention.

23 Q So they could have been sitting on them or leaning
24 against them; you don't know?

25 A They could have been.

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1 Q And if I said it wasn't until about 6:23 or 6:24 that
2 they were removed from the car towards Investigator McRae;
3 does that sound about accurate?

4 A I don't recall the time. If they were put in the car
5 at 5:30, they couldn't have been removed from the car at
6 5:20. They were removed a short time after being put in the
7 car; I can tell you that.

8 Q But you couldn't specifically say whether or not it was
9 6:20 or after 6:20, at this point, based on your
10 remembering?

11 A I don't recall. I really don't recall.

12 Q Thank you, Officer.

13 MR. BAX: One moment, Your Honor.

14 THE COURT: Okay.

15 BY MR. BAX:

16 Q A couple more brief questions for you, here, Deputy.
17 Now, obviously, this was a big reason why this stop was
18 based on the fact that dispatch had sent out this BOLO on
19 this vehicle as a result of the fact that it was alleged to
20 have been involved in a shooting; correct?

21 A Correct.

22 Q And obviously if these guys -- the report was that this
23 vehicle was specifically involved, and that shots were
24 coming out of this vehicle, for them not to have a gun it
25 had to have been ditched at some point; does that make

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1 sense?

2 A Yes. That's correct.

3 Q In other words --

4 A Assumably it had to have been tossed out or handed off
5 to somebody else.

6 Q Exactly. Did you or anyone else that you observed ever
7 asked them where is the gun?

8 A Yes.

9 Q What was the response that you got?

10 A He's saying he didn't have it. Matter of fact, that
11 was one of my first questions I asked at the beginning of
12 the traffic stop. They indicated that they didn't have one.

13 Q But, of course, this is in the face of these
14 allegations and the fact that they had ammunition in the
15 car, as well?

16 A We didn't explain to them immediately what they were
17 being stopped for. But we did explain to them that somebody
18 was shot at that time. We had just asked them where the gun
19 was.

20 MR. BAX: Excuse me just one minute, Your Honor.

21 THE COURT: Okay.

22 BY MR. BAX:

23 Q Going back to that really quick. You were actually
24 doing an incident report in this case based on your contact
25 with these individuals?

1 A I'm sorry?

2 Q Do you recall doing an incident report in this case --

3 A I did a supplement report to the incident.

4 Q Okay.

5 A Yes, sir.

6 Q And you recall putting in that report that the
7 passenger was the subject who was shooting the gun and that
8 the traffic stop was on a suspicious vehicle and it was
9 confirmed that the individuals that were described as being
10 the ones that were shooting the gun over the top of the car,
11 and over the car, matched the descriptions of the people
12 that you had in custody at that time?

13 A I believe what came out to us was that the passenger
14 had fired one shot into the air from the passenger side of
15 the vehicle as the vehicle was driving off.

16 MR. BAX: A moment's indulgence, Your Honor.

17 BY MR. BAX:

18 Q You were given information and it's on your report
19 here, I think on the first page, I think, that the passenger
20 was the subject who was shooting the gun; is that correct?

21 A That would be correct.

22 Q And I believe you put in your report also, subject
23 vehicle fitted the description of the vehicle leaving the
24 scene of shots fired where one person was injured on
25 Hardscrabble Road?

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1 A That's correct.

2 Q A white SUV with black stripping down the sides?

3 A That's correct.

4 MR. BAX: A moment's indulgence, Your Honor.

5 BY MR. BAX:

6 Q I'm sorry to belabor this, Deputy, but can you point
7 out to me or can you indicate in your report it doesn't say
8 passenger shot one shot, it just says passenger was shooting
9 the gun; is that correct?

10 A That's correct. That's what was written in my report

11 --

12 Q Now, did you also --

13 MS. SHIPLEY: Your Honor, I don't believe he was
14 done answering the question.

15 MR. BAX: My apologies if I --

16 THE COURT: Okay. Go ahead and finish your answer.

17 A -- that's what had written in the report was that the
18 passenger fired the gun out the -- well, I didn't put out
19 the passenger window, but the information that was given to
20 us later was that the passenger had fired one shot directly
21 in the air as the vehicle was leaving.

22 BY MR. BAX:

23 Q That's not in that typewritten report is it?

24 A I did not put that detail --

25 Q And you did a handwritten report before you typed it

1 up, is that correct, when you were on scene you did a hand
2 written report; is that correct?

3 A I don't recall doing a handwritten report. It's
4 possible I did. I just don't recall.

5 Q Let me just hand this up to see if it refreshes your
6 memory?

7 A Sure.

8 Q I want to see if you can ID the handwriting there?

9 A That's not my handwriting.

10 Q So that's a handwritten report from another officer; is
11 that correct?

12 A That's correct.

13 Q Now, I believe we were here for the video. There was a
14 BOLO for the vehicle we just discussed, the white SUV with
15 black pinstripping, that was described as a Nissan
16 Pathfinder, even though it ended up being an Isuzu Rodeo; is
17 that correct?

18 A Correct.

19 Q There is also mentioned on the dispatch about a two-
20 toned Chevy box style car. I did not hear, but I want to
21 ask you, you did not hear any kind of a BOLO for a tan
22 Suburban at that time?

23 A I believe there was a BOLO that came out for a two-
24 tone, but I don't recall whether it was a Chevy or a
25 Suburban or what. I just don't recall.

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1 Q Just a two-tone, you don't recall anything else?

2 A Yeah, I don't recall anything else.

3 Q You don't recall it being described as a box style
4 Chevy two-tone?

5 A No, I don't recall that. It's possible, I just don't
6 recall.

7 Q Let me hand you something and see if that refreshes
8 your memory.

9 A Okay.

10 Q This is highlighted portions from the camera.

11 A This is from dispatch?

12 Q Yeah.

13 A This say about 4:15 a box Chevy two-tone leaving the
14 area, as well. Moments -- within a minute comes across as
15 a '96 white Pathfinder. Then moments later, a few minutes
16 later states that the white Pathfinder is outbound on Two
17 Notch.

18 Q Now, does that refresh your recollection, you recall
19 hearing anything other than what you've looked at in the --

20 A Just when -- looking over the video again when we were
21 out with the subjects, just that one BOLO for the vehicle,
22 the car, other than that, no.

23 Q Nothing else.

24 MR. BAX: One moments indulgence, Your Honor.

25 THE COURT: Sure.

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1 MR. BAX: No further questions at this time.

2 THE COURT: Okay. Ladies and gentlemen of the
3 jury, do you wish to have a short break before we resume
4 this questions. Okay. Let's do that. I'll remind you not
5 to discuss the case. And you all just knock on the door
6 when you're ready to proceed.

7 (Jury out at 4:48 p.m.)

8 MS. MCDUFFIE: Your Honor, just in terms of
9 guidance for our -- what time are you going to stop?

10 THE COURT: We probably need to stop by 5:30, or
11 not much longer. How long are your other witnesses?

12 MS. MCDUFFIE: Our questions shouldn't be that
13 long, but I have no idea, Your Honor. We have to go over
14 the crime scene.

15 THE COURT: Have you decided who they are?

16 MS. MCDUFFIE: We have Michael Smith, Harold
17 Bouknight and Anna Elsey.

18 THE COURT: Okay. Talk to that one juror and see
19 if she can stay. Can we push on until about 5:40.

20 THE BAILIFF: Can they go smoke?

21 THE COURT: Oh, they can go quickly and then come
22 back, but just ask that one juror about child care. Can we
23 push on until about 5:40 or so.

24 THE BAILIFF: Yes, Your Honor.

25 THE COURT: All right. You all take your quick

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1 break. We will resume at least by 5:00.

2 (Court in recess for short break.)

3 (Court in recess after short break.)

4 THE BAILIFF: All rise. Court's now in session.

5 THE COURT: Thank you. Please take your seats.

6 They're not back yet, so anything that we can take up,
7 go ahead.

8 MS. MCDUFFIE: Your Honor, our next witness is the
9 deputy that responded to the hospital, and witnessed the
10 victim arriving and also collected the projectile from the
11 victim at the hospital.

12 State is seeking to enter State's Exhibit No. 133.

13 THE COURT: Okay.

14 MS. MCDUFFIE: I can hand that up to Your Honor,
15 and I believe Mr. Swerling has no objection.

16 THE COURT: All right.

17 MR. SWERLING: Judge, I don't have any problem with
18 the other pictures showing blood splatter on the street, and
19 the car going into the hospital. I don't see any probative
20 value as to putting that massive amount of blood in the car
21 when we've already agreed to these other photographs.

22 MS. MCDUFFIE: Your Honor, if I may, 133 is the
23 only one of the interior or the car. We significantly
24 limited the numbers of shots of the interior of the car.
25 The rest show the exterior and the hospital grounds. The

1 exterior of the hospital.

2 THE COURT: Okay.

3 MS. MCDUFFIE: The probative value, Your Honor, is
4 that Dr. Nichols will testify that the victim died from
5 massive blood loss due to a gunshot wound to the leg. Your
6 Honor, we believe this is part of that --

7 MR. SWERLING: Which is not disputed, but I think
8 that the pictures showing blood on the ground at the scene,
9 going to the car, going to the -- outside the car I think is
10 sufficient without emphasizing the amount of blood on the
11 car seat. That is not the crime scene, that is merely where
12 he was transported. So I would object to it under 403.

13 MS. MCDUFFIE: Your Honor, we believe it is
14 relevant. Typically, gunshot wounds to the leg is not
15 lethal injuries and --

16 THE COURT: Okay. I'm going to allow it in.

17 (State's Exhibit No. 133, photo,
18 was marked and entered.)

19 MS. JOHNS: Judge, just for purposes of speeding
20 things up today, we don't any objection to --

21 THE COURT: Okay. And then I'll try to talk to the
22 jurors about maybe working a little later tomorrow night,
23 but I also don't want to overtire you all because you have
24 to keep prepping each day, but --

25 MS. SHIPLEY: Did you find out whether the person

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1 can stay --

2 THE COURT: She said at least until 5:40.

3 MS. SHIPLEY: Okay. Great.

4 MS. JOHNS: And is there a possibility that we can
5 start back on Monday instead of Saturday?

6 THE COURT: That's fine with me.

7 MS. SHIPLEY: That's fine with the state.

8 MS. MCDUFFIE: Your Honor, we have no objection to
9 starting at 8:30 or 9:30.

10 THE COURT: Okay. You all want to start at 9:00 in
11 the morning?

12 MS. MCDUFFIE: 8:30.

13 MR. SWERLING: 9:00.

14 THE COURT: 9:00. They don't get in until 8:30.

15 MS. SHIPLEY: Okay. That's fine.

16 THE COURT: And then I'm ordering lunch tomorrow
17 and I'll include you-all.

18 MS. SHIPLEY: We get lunch?

19 THE COURT: We're only getting a one hour break.
20 So you-all can find a work room here or go to your office,
21 but it's going to be one hour.

22 You all just keep communicating. My law clerk will
23 start working on these jury charges. We usually try to do
24 that because we know you-all are tired, and I don't want
25 that charge conference to be two hours. So we'll try to get

1 everything done. If you know something other than just
2 general standards that you want in, that's precise language.
3 That's the stuff you all should be working on now. General
4 charge --

5 Are we ready?

6 MCDUFFIE: Your Honor, Mr. Swerling told me that
7 his cross with the crime scene person would probably put us
8 past 5:45. So we --

9 THE COURT: Okay. That's fine.

10 MS. MCDUFFIE: -- are just going to have Smith and
11 that will be the last one for today.

12 THE COURT: That's fine.

13 MR. SWERLING: I think by the time they do direct
14 and we cross, it will be a while.

15 THE COURT: Sure. Sure.

16 MR. SWERLING: There's probably two crime scene
17 people.

18 THE COURT: That's okay. I'm not limiting you all,
19 because you have your cases to go forward on.

20 And that is up to you-all, but let's talk at least by
21 12:00 tomorrow about the duration of the trial because of
22 what you-all indicated as an option --

23 MS. SHIPLEY: Yes, ma'am. The stipulations too.

24 THE COURT: Okay.

25 MS. SHIPLEY: Stipulations to the fingerprints of

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1 the one witness, all the chains stipulated to.

2 THE COURT: Okay.

3 MS. SHIPLEY: So that knocked out --

4 THE COURT: My point is we don't have to work late
5 tomorrow is -- if it's going to be inevitable, see what I'm
6 saying?

7 MR. SWERLING: I just wanted to be sure I wasn't
8 building up to some point with all these stipulations.

9 THE COURT: Okay. Okay. We'll just try to make a
10 priority at least by 2:00 tomorrow as to what we --

11 MS. JOHNS: I'm sure the courthouse people would
12 like to know that as well.

13 THE COURT: Oh, absolutely. Yes. But if I hear
14 you all you're not trying to push it beyond 6:00 or close to
15 that tomorrow? Okay. I just need to make arrangements.
16 Just keep communicating.

17 Okay. Jurors, please.
18 (Jury in at 5:08 p.m.)

19 THE BAILIFF: Jury is all present, Your Honor.

20 THE COURT: Thank you.

21 Defense you may proceed.

22 MS. JOHNS: Thank Your Honor. Please the Court.

23 RYAN GALINSKI - CROSS-EXAMINATION

24 BY MS. JOHNS:

25 Q Hello.

1 A Hello.

2 Q I just want to ask a few questions. There were two
3 ways that you knew about this incident. One was through the
4 911 calls; is that correct?

5 A Correct.

6 Q And those calls were transmitted over the radio, right?

7 A That's correct.

8 Q Okay. And one of those calls that you received from
9 your radio that you're wearing on your shoulder right now is
10 a description of a white Nissan Pathfinder; is that correct?

11 A Correct.

12 Q And another call across your radio through dispatch was
13 a box Chevy two-tone leaving the area?

14 A Correct?

15 Q Okay. And with regard to your involvement in this
16 case, you did not go to the crime scene, right?

17 A I did not go to the crime scene.

18 Q Okay. And so you don't have any personal knowledge of
19 what happened on the crime scene, correct?

20 A Just what was relayed to me over the radio and over my
21 phone with phone conversations with other officers at the
22 crime scene.

23 Q Right. And just as part of your investigation you have
24 to hear those things, correct?

25 A Absolutely.

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1 Q And that stuff is pretty much hearsay because you don't
2 get to witness it; kind of hearsay, don't you think?

3 A Correct.

4 Q Okay. And the information that you did receive over
5 the radio or the information that was transmitted through
6 another police officer; is that right?

7 A At first it came over dispatch, so -- our central
8 dispatch and then the officers that were at the crime scene
9 relayed information.

10 Q Do you have any independent information about which
11 officers called in over the radio; do you know which officer
12 called it in over the radio?

13 A We had numerous officers giving us information.
14 Different information at different times. Depending on what
15 piece of information you're requesting.

16 Q Okay. Do you guys go by numbers, like you're six-
17 something, six, six --

18 A Correct. At the time my call sign was 966.

19 Q 966?

20 A That's correct.

21 Q So each deputy would have a call number?

22 A That's correct.

23 Q Okay. And 966 is you. Do you know -- do you have a
24 recollection of who 964 is?

25 A 964, would have been Deputy Brantley at the time, I

1 believe.

2 Q Okay. And even though Brantley -- Brantley was coming
3 towards you he was in a separate car than you, right?

4 A That's correct.

5 Q So these numbers that are on the 911 call sheet when
6 they refer to 226, 962, 966. All those are call numbers of
7 deputies, right?

8 A That's correct.

9 Q Do you know Mr. McRae's call number?

10 A I do not.

11 Q Okay. Now, you had an opportunity to fill out an
12 incident report in this case, didn't you?

13 A I filled out a supplemental report. I didn't fill out
14 an incident report.

15 Q Okay. I'm going to show you this and see if this is
16 the report that is submitted by you?

17 A This is not the incident report that I submitted. No.

18 Q Okay. What name is at the bottom?

19 A My name is listed at the bottom.

20 Q Okay. Do you know who submitted that report, then?

21 A We have Corporeal Gore is listed on it, and then the
22 follow up investigation by Officer -- Investigator McRae.

23 Q Okay. So that Officer Gore is the approving officer,
24 is that right?

25 A Correct.

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1 Q Okay. And it lists on there the reporting officer as
2 Ryan Galinski, right?

3 A That's correct.

4 Q And that would be you, right?

5 A That is correct.

6 Q Okay. So you generated that report?

7 A I did not.

8 Q You did not. And do you know whether or not Officer
9 Gore generated that report?

10 A I have no knowledge of who generated it. I couldn't
11 tell you.

12 Q All right. So this is not familiar to you then?

13 A That's correct.

14 Q Now, your supplemental report, let me show this to you
15 to see if this is actually your report or somebody else's
16 report? I was under the impression the incident report, the
17 initial incident report was yours with your name on it. Is
18 that familiar to you?

19 A This is my supplemental report. Both of these sheets
20 are.

21 Q And it would be supplemental to what, sir?

22 A The incident report.

23 Q Okay. Where is your incident report?

24 A I don't have an incident report. I was not the first
25 officer on the scene. Generally, the first officer on the

1 scene is responsible for that. They will fill out the
2 incident report.

3 Q Okay.

4 A And then any supplementals are done by any other
5 officers that are possibly involved.

6 Q Okay. And in your supplemental report you recall that
7 the complaint described a white SUV with the suspects in it
8 began shooting towards the club?

9 A I'm sorry. State that one more time?

10 Q Complainant described a vehicle, SUV with the suspects
11 in it began shooting towards the club?

12 A Are you referencing my supplemental or is that just a
13 general question?

14 Q I'm representing your knowledge of this?

15 A Yeah. The call that came out was a white SUV and that
16 was the BOLO for the vehicle involved in a reference to a
17 1075, which a shots fired.

18 Q Okay. And a BOLO, you've already explained is be on
19 the lookout, right?

20 A That's correct.

21 Q And that -- it receives certain urgency because it is
22 be on the lookout for these particular suspects or this
23 particular vehicle, right?

24 A Correct. It would be in reference to the incident.

25 Q Okay.

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1 A Correct. We'd be looking for a vehicle involved in an
2 incident at that location.

3 Q Okay. Now, when you -- and I'm going to just submit
4 that the video will speak for itself, but when you had these
5 two suspects pulled over the description given to you
6 through that video was that the driver had on a white t-
7 shirt and dread locks, correct?

8 A I don't recall that the color of the t-shirt came over.
9 It could have been. What I recall was that the driver was
10 wearing -- had dread locks.

11 Q Okay. And do you recall whether or not it was
12 transmitted the driver was the shooter?

13 A I believe that -- I believe that possibly came over the
14 radio. Listening to the video tape you could hear where
15 somebody referenced that the driver was the shooter. I
16 can't state that I heard that at that time. At the time I
17 was with the vehicle with the two subjects I was with. I
18 was focusing my attention primarily on them. I can't answer
19 that. I don't know.

20 Q Okay. Well, when we were viewing the video at 4:42,
21 witness said a word, he had a gun and he was the driver.

22 A I don't deny that.

23 Q And then it was transmitted to communicated in some way
24 through hearsay that the passenger had on a black and yellow
25 shirt; correct?

1 A Yellow shirt with black stripes.

2 Q Okay. And that the passenger had shot over the top of
3 the vehicle; correct?

4 A I believe it was fired a shot into the air. Straight
5 up into the air.

6 Q All right. Do you have any where, any independent
7 recollection or any memorialization of the shot being fired
8 in the air in your incident report. I know you've had an
9 opportunity to review it?

10 A No. I didn't put the direction of the fired shot, if
11 that's what you're asking. I did not put that in that
12 report.

13 Q Shooting in the air is not in your supplemental report?

14 A No, it is not.

15 Q Okay. Now, let me ask you this, in this incident
16 report that has your name at the bottom as part of a
17 departmental document, does it reference anything, shooting
18 over the air?

19 MS. SHIPLEY: Your Honor, I'm going to object. He
20 already testified that it wasn't in his report.

21 MS. JOHNS: Well, he may not have generated the
22 report, but it does have his name on it. I don't know who
23 else would have generated it. We don't know.

24 THE COURT: You can expound on any information that
25 he is aware of. So to that extend I'll let you question

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1 him.

2 BY MS. JOHNS:

3 Q Deputy Galinski --

4 A Yes, ma'am?

5 Q -- the information that you received was that there
6 were shots fired over the top of this vehicle, right?

7 A No. The information that I received was the vehicle
8 were shots --

9 Q Shots were fired from the vehicle?

10 A Shots were fired from the vehicle.

11 Q Okay.

12 A They didn't specify or I did not hear any direction or
13 where they were fired to.

14 Q All right. When was the last time you had fired your
15 service revolver, sir, prior to June 30, 2007?

16 A We had --

17 MS. SHIPLEY: relevance, Your Honor.

18 THE COURT: How is it relevant?

19 MS. JOHNS: Your Honor, I believe that they said
20 that they were bagging the suspects hands for GSR. I want
21 to know if he had GSR on his hands.

22 THE COURT: Okay.

23 BY MS. JOHNS:

24 Q When was the last time you went to the range or
25 practice or fired your service revolver prior to June 30,

1 2007?

2 A The incident occurred June 30, 2007. My last service
3 record would be approximately February or March of 2007, I
4 believe. If I'm correct.

5 Q Okay. And there's no question that the passenger was
6 sitting on ammunition?

7 A That's correct.

8 Q Okay. And who -- who was the owner of that vehicle
9 again? Ms. Thomas, you said, is that correct?

10 A Yes, ma'am. It was Dolores Thompson.

11 Q Dolores Thompson. And who did she give permission to
12 drive the vehicle?

13 A I didn't ask that question. I have no knowledge
14 whether she gave permission or not.

15 Q Okay. But there is no question in your mind that Luther
16 Landrum, the guy with the dread locks was the driver of that
17 vehicle when you pulled it over?

18 A That's correct.

19 Q And you don't have any information about them pulling
20 over, switching drivers at any time, do you?

21 A No, I do not.

22 Q And you don't have any information about somebody in
23 the backseat jumping out of the vehicle at any time do you?

24 A No, ma'am, I do not.

25 Q You don't have any evidence of that, do you?

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1 A No, ma'am, I do not.

2 MS. JOHNS: Beg the Court's indulgence.

3 That's all I have. Thank you.

4 MS. SHIPLEY: No further questions, Your Honor.

5 THE COURT: You can step down and be excused.

6 DEPUTY GALINSKI: Thank Your Honor.

7 THE COURT: Next witness?

8 MS. MCDUFFIE: State would call Deputy Smith.

9 (WHEREUPON, Michael Smith was sworn
10 to tell the truth.)

11 THE CLERK: Have a seat in the witness box. State
12 your name for the record, please.

13 DEPUTY SMITH: Michael Smith.

14 MICHAEL SMITH - DIRECT EXAMINATION

15 BY MS. MCDUFFIE:

16 Q Good afternoon, Deputy Smith. Where are you currently
17 employed?

18 A Forest Acres Police Department.

19 Q And in June of 2007, where were you employed?

20 A Richland County Sheriff's Department.

21 Q And what were your duties with Richland County
22 Sheriff's Department in June of 2007?

23 A I was working the road, patrol officer.

24 Q And as part of that you would respond to calls?

25 A That's correct.

1 Q And were you on duty on June 30, 2007?

2 A I was.

3 Q And did you have occasion to Providence Northeast
4 Hospital?

5 A I did.

6 Q And what was that in reference to?

7 A A shooting.

8 Q And approximately what time did you arrive at
9 Providence Northeast?

10 A Probably between 4:30 and 5:00 o'clock in the morning,
11 I believe.

12 Q And what was the first thing you do when you respond to
13 the hospital?

14 A I went into where the victim was.

15 Q And what was the condition of the victim when you
16 arrived?

17 A He was deceased.

18 Q And what, if anything, did you do next.

19 A I sat with the victim. I knew there was going to be a
20 lab unit coming in for the coroner. So I sat with the
21 victim just to make sure nothing got disturbed.

22 Q Were there also nurses present?

23 A Yes.

24 Q And did you collect any evidence from the deceased at
25 that time?

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1 A I did.

2 Q And what did you collect from him?

3 A It was a projectile.

4 Q I'll show you what's been marked in evidence as State's
5 Exhibit No. 136; do you recognize this?

6 A Yes. It's the evidence with my handwriting on it.

7 Q And what's contained in the evidence bag?

8 A The projectile, the bullet.

9 Q That you collected from where?

10 A From the room that the deceased was in.

11 Q On June 30, 2007?

12 A Yes.

13 MS. MCDUFFIE: Your Honor, at this time we move 136
14 into evidence.

15 MR. SWERLING: No objection.

16 MS. JOHNS: No objection.

17 THE COURT: Admitted.

18 (State's Exhibit No. 136, bullet,
19 was marked and entered.)

20 BY MS. MCDUFFIE:

21 Q And where was this projectile located?

22 A The nurse had picked up a pair of clothing like a long
23 pair of shorts the deceased had and when she picked it up
24 the bullet, the projectile fell out on the floor.

25 Q And did you also observe while you were at the hospital

1 how the victim got to the hospital; the vehicle he came in?

2 A I saw the vehicle out front.

3 Q I'll show you State's 131 to 135, and ask you if you
4 recognize these photos?

5 A Yes, ma'am.

6 Q Are those a fair and accurate depiction of what you
7 observed on June 30, 2007?

8 A Yes, ma'am.

9 MS. MCDUFFIE: Your Honor, at this time, state
10 would move 131 through 135 into evidence?

11 MR. SWERLING: No objection to all the photos
12 except the one that I've already -- what was that?

13 MS. MCDUFFIE: 133, Your Honor.

14 THE COURT: Okay.

15 MS. JOHNS: Join in the same.

16 THE COURT: Okay. The Court will stand by its
17 ruling. You can go ahead. Admitted.

18 (State's Exhibit No. 131, photo,
19 was marked and entered.)

20 (State's Exhibit No. 132, photo,
21 was marked and entered.)

22 (State's Exhibit No. 134, was
23 marked and entered.)

24 (State's Exhibit No. 135, photo,
25 was marked and entered.)

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1 BY MS. MCDUFFIE:

2 Q Please describe for the jury what is in Exhibit No.
3 131?

4 A It's in the parking lot with what appears to be blood
5 splatter on the ground.

6 Q And is that also what appears in State's No. 132?

7 A Yes, ma'am.

8 MS. MCDUFFIE: Your Honor, if I may publish these
9 to the jury?

10 THE COURT: Certainly.

11 BY MS. MCDUFFIE:

12 Q Please describe for the jury what's depicted in State's
13 No. 133?

14 A That looks to be the passenger side to the vehicle?

15 MS. MCDUFFIE: Your Honor, can I publish?

16 THE COURT: Yes, you may.

17 BY MS. MCDUFFIE:

18 Q And Deputy Smith when you were at the hospital there
19 were also friends, family members of the decedent as well?

20 A Yes, ma'am.

21 Q And did you take down basic contact information from
22 them?

23 A From the people that were there, yes, ma'am.

24 Q And the projectile you collected, what did you do with
25 it after you collected it?

1 A I put it in like a plastic bag and I stuck it in my
2 pants pocket, cargo pocket.

3 Q And after you left the hospital what did you then do
4 with the projectile?

5 A I took it and dropped it off at the Sheriff's
6 Department.

7 Q Where at the Sheriff's Department?

8 A I believe there's a drop box, a secured drop box.

9 Q And that is a secure drop box?

10 A Yes, ma'am.

11 Q And that goes to the evidence room at the Sheriff's
12 Department?

13 A Yes, ma'am.

14 MS. MCDUFFIE: Beg the Court's indulgence.

15 Nothing further for this witness, Your Honor.

16 THE COURT: Okay.

17 MR. SWERLING: No questions.

18 MICHAEL SMITH - CROSS EXAMINATION

19 BY MS. JOHNS:

20 Q Did you find any cocaine or marijuana from the victim's
21 clothing?

22 A No, ma'am.

23 Q You did not?

24 A No, ma'am.

25 Q How long did you have the projectile with you before

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1 you turned it in?

2 A I believe I turned it in a 7:27, so --

3 Q In the morning?

4 A Yes, ma'am.

5 Q Did you witness the nurse finding it?

6 A Well, when she picked up the pants it fell out?

7 Q So you witnessed her finding it? Yes?

8 A I'm the one that actually found it. When she picked up
9 the pants it fell out on the ground, so I picked it up.

10 Q Okay. That's what I'm getting at.

11 A Okay.

12 Q You actually saw it fall --

13 A Yes, ma'am.

14 Q -- to the ground?

15 A Yes, ma'am.

16 Q And then you took possession of it immediately?

17 A Yes, ma'am.

18 Q Not the coroner involved in finding it, correct?

19 A No, ma'am. That's correct.

20 Q And you were not a witness to the shooting?

21 A No, ma'am.

22 Q You were only a witness to what was going on in the
23 hospital, right?

24 A Yes, ma'am.

25 Q Okay, and while you were in the hospital you were in

1 the emergency room area?

2 A Yes, ma'am.

3 Q And are you insistent in guarding the victim?

4 A Yes, ma'am.

5 Q Okay. Are you in the back where the doctors are
6 performing their services to the victim?

7 A Yes, ma'am.

8 Q Okay. So you're not out in the waiting room --

9 A That's correct.

10 Q -- where all the other people were, right?

11 A That's correct.

12 Q Okay. Thank you.

13 MS. JOHNS: Nothing further.

14 MS. MCDUFFIE: Nothing from the state, Your Honor.

15 THE COURT: Okay, you can step down and be excused.

16 Thank you.

17 DEPUTY SMITH: Thank you, ma'am.

18 MS. SHIPLEY: Your Honor, at this time the state
19 would stipulate that the victim did have cocaine and
20 marijuana on his possession.

21 THE COURT: Okay. All right. Anything further.

22 MS. SHIPLEY: No, ma'am.

23 THE COURT: All right, ladies and gentlemen of the
24 jury, as I indicated earlier how trials go, we just never
25 know how long something is going to take or not. So I'm

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1 going to ask if it's possible that we start at 9:00 in the
2 morning. Then I'm going to have the county pay for your
3 lunch tomorrow. So that we can have a contained one hour
4 lunch break. Of course, you can exercise comfort breaks
5 outside that room, but that way we'll have a contained one
6 hour lunch break, and then we can keep moving on.

7 All right. Thank you all. Have a good evening, and
8 please do not discuss the case in any shape, form, or
9 fashion.

10 (Jury out at 5:29 p.m.)

11 THE COURT: Okay. Anything we need to take up at
12 this time?

13 MS. MCDUFFIE: Your Honor, we went over the photos
14 that we want to seek to introduce from the crime scene with
15 the defense. Mr. Swerling, I believe, has an objection to
16 State's Exhibit -- I believe it was State's 82.

17 MR. SWERLING: We pulled out the one that we
18 objected to.

19 THE COURT: Okay. All right. Anything further?

20 Okay. Thank you all. Continue to communicate and
21 we'll be ready to start sharply at 9:00. Have a good
22 evening.

23 (Court in recess for the evening at 5:35 p.m.)
24
25

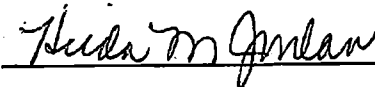
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CERTIFICATE

I, THE UNDERSIGNED HILDA M. JORDAN, CVR, OFFICIAL COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR RICHLAND COUNTY, SOUTH CAROLINA, ON THE 7TH DAY OF OCTOBER, 2009.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.



HILDA M. JORDAN, CVR

COLUMBIA, SOUTH CAROLINA

MAY 23, 2010

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FIFTH JUDICIAL CIRCUIT
 COUNTY OF RICHLAND)

STATE OF SOUTH CAROLINA)

PLAINTIFF,)

VS.)

07-GS-40-5913

07-GS-40-5914

TREMAINE WRAY AND TAURUS WATTS,)

DEFENDANT.)

VOLUME 4

OCTOBER 8, 2009
 COLUMBIA, SOUTH CAROLINA

TRANSCRIPT OF RECORD

B E F O R E:

THE HONORABLE MICHELLE CHILDS, JUDGE, AND A JURY

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

ATTORNEYS FOR THE STATE:
 VANESSA SHIPLEY, ESQUIRE
 JOANNA MCDUFFIE, ESQUIRE

ATTORNEY FOR DEFENDANT WRAY
 JACK SWERLING, ESQUIRE
 ARIE BAX, ESQUIRE

ATTORNEY FOR DEFENDANT WATTS
 THERESA JOHNS, ESQUIRE

HILDA M. JORDAN, CVR
 CIRCUIT COURT REPORTER

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E-X-I-B-I-T-S

	ID	ENTERED
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1 THE BAILIFF: All rise, please.

2 THE COURT: Okay. Keep your seats.

3 I spoke with the jurors. They're fine. They
4 appreciated me going back there and chatting with them. I
5 understand the other -- one of your client's is here. So
6 we'll go ahead and do this on the record and go ahead and
7 get started.

8 Anything we need to put on the record?

9 MS. SHIPLEY: Your Honor, as far as Jarrell Dansby,
10 the witness, is concerned he has no convictions that can be
11 used to impeach him. As far as Rashonda Simpson is
12 concerned, she has a conviction for three fraudulent checks.
13 One from '08, one from '09, and another one from '09. So a
14 total of three fraudulent checks.

15 THE COURT: Okay.

16 MS. SHIPLEY: Then, as far as Brian Watson is
17 concerned, there's a 1998 shoplifting that is exceeding 10
18 years. I'll leave it to the Court's discretion if you're
19 going to allow the defense to go into that. I submit that
20 there's plenty of other convictions that they can use to
21 impeach his credibility.

22 THE COURT: Brian Watson, you said?

23 MS. SHIPLEY: Yes. Brian Watson.

24 THE COURT: Okay.

25 MS. SHIPLEY: But they're seeking to introduce the

1 1998 shoplifting.

2 THE COURT: Okay.

3 MS. SHIPLEY: We're opposed to that.

4 Your Honor, November, 1999, there's eight counts of
5 forgery and one shoplifting. April of '99, one shoplifting.
6 May of 2000, burglary third, petit larceny, two counts of
7 financial transaction fraud theft. Two counts of financial
8 transaction card fraud. At that time, Your Honor, he got
9 revoked. We submit that not admissible. June 2003, three
10 counts of possession of crack cocaine and one fraudulent
11 check. June -- I'm sorry, August of '06, one shoplifting,
12 and then he's got two pending armed robberies that carry 10
13 to 30 each.

14 THE COURT: Okay.

15 MR. SWERLING: Judge, we pretty much agree, we
16 think that under criteria established under Rule 609, that
17 the additional shoplifting would obviously be admissible.
18 It's very close to the 10 year period. Plus when you look
19 at the subsequent history, so it is just one more charge.
20 It is another charge and it should be admitted to impeach
21 his credibility. The fact that his probation was revoked, I
22 also think would be admissible, and all I intend to ask him
23 is was your probation revoked when you entered a plea to
24 these other charges.

25 THE COURT: Okay.

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1 MR. SWERLING: This guy was not getting out,
2 getting out, getting out, getting sentenced, getting
3 sentenced and never went to prison. Fact is, he's been in
4 prison. I think that's an issue on his credibility, and his
5 motive to lie in this particular case.

6 THE COURT: Okay. State?

7 MS. SHIPLEY: Your Honor, under Rule 609, it is
8 clear that a conviction is required. He's already been
9 convicted and it's not an additional conviction for these
10 offenses.

11 MR. SWERLING: Your Honor, I'm not seeking
12 admissibility under 609. It goes toward the constitution
13 which -- supersedes the rules and the rules just define
14 certain legislative and court mandates or rules the court
15 wants to establish. The Sixth Amendment still gives us the
16 right to confront the witness and I think when someone is
17 looking at 10 to 30 years on two armed robbery charges, he
18 comes up in May, two years after the offense and decides to
19 come and cooperate against the defendants in this case we're
20 entitled to explore all history related to motive, interest,
21 and bias, and one of them would be going back to prison.

22 I think that's it.

23 THE COURT: All right. Were you arguing on the
24 pending armed robbery or just the probation revocation?

25 MS. SHIPLEY: The probation revocation from 2000.

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8

1 In other words, Your Honor, he was convicted for the -- for
2 eight counts of forgery and one shoplifting in 1999.

3 THE COURT: Right.

4 MS. SHIPLEY: And then he got re-arrested for
5 burglary third, petit larceny, two counts of financial
6 transaction card theft, and two counts of financial
7 transaction card fraud, and at that time he was revoked --

8 THE COURT: Right.

9 MS. SHIPLEY: -- for his prior conviction.

10 THE COURT: Okay.

11 MS. SHIPLEY: And it's the state's position that
12 you don't get to repeat over and over. If this is --
13 conviction the revocation in itself is not a conviction, and
14 the rule is clear that only convictions are admissible.

15 MR. SWERLING: I'm not going under the rule. I
16 think the case is Delaware verses Van Arsdall, which is
17 gives full cross-examination even with regards to the rules
18 where it goes to motive, interest, and bias, and what I'm
19 advising the Court is that I think when someone has had his
20 probation revoked and gone to prison and is now facing
21 additional prison time, that is something we should be
22 exploring.

23 THE COURT: Okay, but that's different from the
24 armed robbery. When you said the --

25 MR. SWERLING: We're talking about the revocation.

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1 THE COURT: Right.

2 THE COURT: What do you mean by bias?

3 MR. SWERLING: Because his probation is revoked.

4 THE COURT: Right.

5 MR. SWERLING: He was not a law abiding citizen.
6 He was allowed to be on probation. He got arrested again,
7 was convicted again, and sent to prison, but also his prior
8 probation was revoked. So I believe that's admissible
9 because it shows now that he has an interest, motive, or
10 bias because of a possible incarceration, and he's already
11 been in prison. So it enhances --

12 THE COURT: Enhances what may happen to him on
13 the armed robbery. Okay.

14 MR. SWERLING: And he also knows what he's facing
15 by going to prison.

16 THE COURT: Okay.

17 MR. SWERLING: I don't think there's any question
18 that we're allowed to go into the armed robberies, pending
19 armed robberies, as to what he's facing.

20 MS. SHIPLEY: Your Honor, we don't dispute that
21 they're allowed to go into -- the only thing they're allowed
22 to go into is the fact that he's got two pending armed
23 robberies and the potential sentences, but they can't go
24 into the facts and details.

25 MR. SWERLING: I agree.

1 MS. SHIPLEY: And Your Honor for purposes -- you
2 can't use a 2000 revocation of forgeries for eight counts,
3 shopliftings that resulted in a conviction in 1999 to
4 establish bias. I mean, he didn't come forward until after
5 he was arrested on the armed robbery. So he's going to have
6 the opportunity to say, aren't you trying to seek leniency
7 by testifying against Taurus and Tremaine. So, Your Honor,
8 the bias they're trying to establish on two pending armed
9 robberies. That revocation in 2000 has nothing to do with
10 it. He didn't come forward until this past May of 2009.

11 MR. SWERLING: But that's exactly my point. What's
12 he's facing now is something we should be able to explore
13 because he's already been in prison. And those were by that
14 revocation.

15 THE COURT: Okay.

16 MS. SHIPLEY: Your Honor, he's not testifying until
17 this afternoon, but I still submit that a revocation is not
18 a conviction as applied by Rule 609, and any bias they would
19 like to establish is already available to them for the two
20 pending armed robberies --

21 THE COURT: Okay. We'll look into it.

22 MS. SHIPLEY: Thank you.

23 THE COURT: Okay. Anything else?

24 And tell me who the first person you mentioned that
25 there was no record?

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1 MS. SHIPLEY: That would be Jarrell Dansby, no
2 record.

3 THE COURT: Okay. That's fine.

4 MS. SHIPLEY: And Rashonda Simpson has three
5 fraudulent checks.

6 THE COURT: I've got all that.

7 Anything further?

8 MS. SHIPLEY: No, ma'am.

9 THE COURT: All right. We're ready to proceed.
10 Jurors.

11 THE BAILIFF: Yes, ma'am.
12 (Jury in at 9:50 a.m.)

13 THE BAILIFF: Your Honor, the jury is present.

14 THE COURT: Okay. Thank you.

15 Ladies and gentlemen of the jury, we are ready to
16 proceed.

17 State call your next witness.

18 MS. MCDUFFIE: State calls Investigator Harold
19 Bouknight.

20 (WHEREUPON, Harold Bouknight, was
21 sworn to tell the truth.)

22 THE CLERK: Thank you. Have a seat in the witness
23 stand and give the court reporter your name.

24 MR. BOUKNIGHT: Harold Bouknight.

25 HAROLD BOUKNIGHT - DIRECT EXAMINATION

1 BY MS. MCDUFFIE:

2 Q Morning, Investigator Bouknight.

3 A Morning.

4 Q Where are you employed?

5 A With the Richland County Sheriff's Department, Crime
6 Scene Unit.

7 Q And what are your duties with the crime scene unit?

8 A To respond to crime scenes, to document, photograph,
9 process and collect evidence, and also to do latent print
10 examination, footwear comparisons, blood stain analysis, and
11 process vehicles that may be in our compound or in our
12 garage, and take supervisor on call, which is when one of
13 our investigators has a major scene they will call me out to
14 assist them.

15 Q Please tell the jury a little bit about your
16 educational -- your education and your training in crime
17 scene investigation?

18 A I have a criminal justice degree from Midland Technical
19 College. I got that in 1995. I've been in the Richland
20 County Crime Scene Unit since August of 2005. During that
21 time I completed our in-house training program. I've been
22 through courses in the Mayfield print, crime scene
23 reconstruction, forensic photography, forensic art,
24 fundamentals of crime scene investigation. Advanced blood
25 stain pattern analysis, a DNA overview, forensic pathology,

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1 advanced blood stain analysis, a 40 hour course. Complex
2 latent print examination, and in 2008, I was certified as a
3 crime scene investigator by the International Association
4 for identification.

5 Q And have you ever testified in courts of record in this
6 state in crime scene investigation?

7 A Yes, ma'am.

8 Q And how many times?

9 A Two.

10 MS. MCDUFFIE: Your Honor, at this time we would
11 offer Investigator Bouknight as an expert in crime scene
12 investigation.

13 THE COURT: Objection?

14 MR. BAX: No objection.

15 THE COURT: All right. So qualified.

16 I'm sorry, Ms. Johns, any objection?

17 MS. JOHNS: No objection.

18 THE COURT: Okay. Thank you.

19 BY MS. MCDUFFIE:

20 Q Investigator Bouknight, in June 2007, the duties you
21 just described to the jury, are those the same duties you
22 had then?

23 A At that time I was not a supervisor.

24 Q And on June 30, 2007, did you have a chance to process
25 a 2001 Isuzu Rodeo?

1 A Yes, ma'am, I did.

2 Q And where did you encounter that vehicle?

3 A That vehicle was at our forensic garage at our
4 headquarters on Two Notch Road.

5 Q And how did that vehicle get to your forensic garage?

6 A It was towed and placed in there the night before.

7 Q And when a vehicle is placed in the forensic garage is
8 it secure?

9 A Yes, ma'am. The only people who have access to that
10 forensic garage are the crime scene investigators.

11 Q And approximately what time did you begin processing
12 the 2001 Isuzu Rodeo?

13 A Approximately 11:19 that morning.

14 Q And that would be what day?

15 A June 30, 2007.

16 Q And when you encountered the vehicle it was secured?

17 A Yes, ma'am.

18 Q It hadn't been tampered with, to your knowledge, in any
19 way?

20 A Not to my knowledge.

21 Q And when you began to process the vehicle, explain to
22 the jury what the first thing you do is or how do you begin
23 processing?

24 A The first thing that we do is I'll photograph the
25 vehicle. When I'm processing the vehicle I'll photograph it

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15

1 the way I find it. I don't know if anything has been moved,
2 but I document the way it is when I get there. And then
3 I'll process for latent prints, for gunshot residue, and
4 then collect DNA. Gunshot residue is very fragile, so we
5 usually get that first, and then fingerprints and then DNA.
6 Then any other trace evidence.

7 Q The 2001 Isuzu Rodeo, is that depicted in State's
8 Exhibit No. 17?

9 A Yes, ma'am, it is.

10 Q And is that the condition you found the vehicle when
11 you processed it?

12 A Yes, ma'am.

13 MS. MCDUFFIE: Your Honor, if I may publish to the
14 jury?

15 THE COURT: Yes.

16 BY MS. MCDUFFIE:

17 Q So the first thing you do when you encounter a vehicle
18 is photograph it?

19 A Yes, ma'am.

20 Q And then the next thing you do is what?

21 A Depending on the type of case it is, if there's gunshot
22 residue involved, then I'll collect the gunshot residue.

23 Q And did you try and collect gunshot residue in this
24 case?

25 A Yes, ma'am, I did.

1 Q And is gunshot residue -- explain to the jury -- is
2 gunshot residue something you can see?

3 A No, ma'am. It's -- basically, it's what we call latent
4 evidence, which is invisible without some type of
5 processing. The only way we collect it is by using sticky
6 tabs, which come packaged in a kit. Usually they're used on
7 people's hands, but is also used on vehicles to collect the
8 particles. It's just a tab. That has an adhesive side to
9 it. And you dab it in the suspected areas where there may
10 be gunshot residue. Then it's sealed up and sent off to a
11 lab for analysis.

12 Q And what area of the 2001, Isuzu Rodeo did you process
13 for gunshot residue?

14 A The interior of the front doors and the roof.

15 Q Both the driver and passenger doors?

16 A Yes, ma'am.

17 Q And the roof, do you meant he interior roof or the
18 exterior roof?

19 A The exterior roof.

20 Q I'm going to show you what's been marked as State's
21 Exhibits 3 and 4, and ask if you recognize these?

22 A Yes, ma'am.

23 Q And are those the paper work and the gunshot residue
24 kit that you collected?

25 A This is the gunshot residue kit that I collected. It

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1 has my name on it and our agency case number. And the seal
2 on the back that I placed there with my initials and the
3 date that I sealed it.

4 Q And this is also the paper work that you submitted with
5 the gunshot residue --

6 A That's a copy of it, yes, ma'am.

7 MS. MCDUFFIE: Your Honor, at this time we would
8 officer State's 3 and 4 into evidence.

9 COURT REPORTER: Which is which? Judge, which is
10 which?

11 THE COURT: Indicate which is three and which is
12 four.

13 MS. MCDUFFIE: Your Honor, the gunshot residue is
14 three and the paper work is four.

15 THE COURT: Okay.

16 MR. BAX: No objection, Your Honor, of course,
17 subject to testimony by whoever does the test --

18 THE COURT: Okay.

19 MS. JOHNS: Join in that, Your Honor.

20 THE COURT: Okay. Admitted under that --

21 MS. MCDUFFIE: Thank Your Honor.

22 (State's Exhibit No. 3, gunshot
23 residue kit, was marked and entered.)

24 (State's Exhibit No. 4, paper work,
25 was marked and entered.)

1 BY MS. MCDUFFIE:

2 Q Investigator Bouknight, in State's Exhibit 3, could you
3 open up the GSR kit and show the jury the tabs you use?

4 A Yes, ma'am. These are the tabs that I talked about.
5 It's right here, the brown cap on the bottom side of it is
6 the adhesive area. And whenever it's taken it's placed back
7 in, under that cap.

8 Q And when you're processing for gunshot residue, do you
9 take the tap and just stick it in one area on the roof or do
10 you stick it in multiple areas?

11 A Multiple areas.

12 Q And then you mark where -- do you mark where each tab
13 was taken from or where that tab was placed on the vehicle?

14 A Yes, ma'am. This was passenger roof, from the
15 passenger side.

16 Q Okay. After you collect the gunshot residue in that
17 kit that is sent off to SLED at some point?

18 A Yes, ma'am.

19 Q Y'all do not test that in-house?

20 A No, ma'am.

21 Q And State's Exhibit No. 4, is that the paper work you
22 submitted to SLED?

23 A Yes, ma'am, it's a copy of it.

24 Q After you collected the gunshot residue from the
25 vehicle in this case, what did you then do?

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19

1 A With the gunshot residue I placed it in my locker, and
2 I had to wait on some other paper work to come in. Then
3 whenever the other paper work got in, I placed it -- I
4 turned it into evidence to Will Cedarstaff.

5 Q And on what day did you turn that into evidence?

6 A On June 7, 2008 at 8:19 in the morning.

7 Q So it wasn't until almost a year later that you turned
8 it in?

9 A It was six months, seven months.

10 Q And that entire time that the evidence was in your
11 locker, was it secured?

12 A Yes, ma'am.

13 Q Who had access to your locker?

14 A Only my supervisors would have a key to it.

15 Q And to your knowledge, is gunshot residue, once it's
16 been -- or once the sticky tab has been applied to an area,
17 if they had collected gunshot residue could it degrade or
18 erode it's condition?

19 A Not to my knowledge.

20 Q And then that was eventually taken to SLED to be
21 processed?

22 A Yes, ma'am.

23 Q And then after you collected the GSR, what did further
24 do to process the vehicle?

25 A I also processed using black powder for latent prints

1 on the driver and passenger doors with -- I lifted two sets
2 of prints from the front driver's door and one from the rear
3 passenger's door.

4 Q And to your knowledge, the prints that you lifted, were
5 those of any value?

6 A No, ma'am.

7 Q Did you also collect the contents of the vehicle and
8 photograph that?

9 A The other things that I collected were DNA swabs, which
10 -- the swabs for possible DNA, which is a sterile swab,
11 moistened with distilled water and you rub it in the
12 suspected area, such as the mouth of a bottle of something
13 like that. Or if you have an obvious, like a blood stain,
14 then you'll collect it that way. And then it's sealed in a
15 box and sent to our lab for analysis.

16 Q What areas of this vehicle did you process for DNA?

17 A The passenger door and a Tropicana drink bottle.

18 Q And were those then sent to an in-house DNA lab?

19 A Yes, ma'am.

20 Q And did you also collect some shell casings from this
21 vehicle?

22 A I --

23 Q I'm sorry. Live rounds?

24 A Live rounds. Yes, ma'am. Three Winchester 9
25 millimeter Luger rounds and one Remington Peters 38 special

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21

1 round.

2 Q I'll show you State's Exhibit No, 20. Is that what's
3 depicted in State's Exhibit No. 20?

4 A Yes, ma'am, it is.

5 Q And also State's 19?

6 A Yes, ma'am.

7 Q And did you also photograph the rest of the interior of
8 the vehicle, Exhibit 18?

9 A Yes, ma'am. The rear compartment of the SUV.

10 MS. MCDUFFIE: Your Honor, at this time we'd offer
11 State's Exhibit Nos. 18, 19, and 20.

12 MR. BAX: Your Honor, I think we need to approach
13 at this point.

14 THE COURT: Okay.

15 MR. BAX: Never mind, Your Honor, we just needed to
16 ask a question. My apologies.

17 THE COURT: That's fine.

18 MR. BAX: No objection.

19 THE COURT: Okay. Admitted.

20 (State's Exhibit No, 18, photo
21 interior of SUV, was marked and entered.)

22 (State's Exhibit No. 19, photo
23 passenger seat Rodeo, was marked and entered.)

24 (State's Exhibit No. 20, photo
25 close up Exhibit 19, was marked and entered.)

1 BY MS. MCDUFFIE:

2 Q Investigator Bouknight, please explain to the jury
3 what's depicted in State's Exhibit No. 19?

4 A This is the passenger seat of the Isuzu Rodeo. And in
5 there is some keys and then the center console, and then
6 where the seat back and the seat meet is the three
7 Winchester 9 millimeter Luger rounds and the Remington
8 Peters 38.

9 Q And is State's Exhibit a close up picture of that?

10 A Yes, ma'am.

11 MS. MCDUFFIE: Your Honor, may I publish to the
12 jury?

13 THE COURT: Yes.

14 BY MS. MCDUFFIE:

15 Q And did you actually collect these live rounds from the
16 vehicle?

17 A Yes, ma'am, I did.

18 Q I'll show you State's Exhibit No. 120, and ask if you
19 recognize this?

20 A Yes, ma'am.

21 Q Are those the rounds you collected from the vehicle?

22 A Is it okay if I open this?

23 Q Yes.

24 A Yes, ma'am.

25 Q Okay. And these are the rounds depicted in State's 19

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23

1 and 20?

2 A Yes, ma'am, they are.

3 Q And after you collected those what did you then do with
4 those live rounds?

5 A They were turned into evidence?

6 Q And after you processed the vehicle for fingerprints,
7 GSR and removed anything you is of evidentiary value, what
8 then happens to the vehicle?

9 A Either one of two things. It's either taken to the
10 compound, which is secured by a fence on Powell Road or it
11 is given -- turned over to the owner, the registered owner
12 of the vehicle.

13 MS. MCDUFFIE: Beg the Court's indulgence.

14 Your Honor, at this time we move State's 120 into
15 evidence.

16 MS. JOHNS: No objection.

17 MR. SWERLING: No objection.

18 THE COURT: Okay. Admitted.

19 (State's Exhibit No. 120, live
20 rounds, was marked and entered.)

21 BY MS. MCDUFFIE:

22 Q And I have another question about the GSR kit. Can you
23 check the date that you turned that into the evidence room?

24 A January 7, 2008.

25 Q So it was January 7, not June 2008?

1 A Yes, ma'am.

2 Q And from June 30, 2007 until January 2008, that GSR kit
3 was secured in your locker?

4 A Yes, ma'am.

5 Q And it was not tampered with in any way?

6 A No, ma'am.

7 MS. MCDUFFIE: Nothing further..

8 MR. BAX: May it please the Court, Your Honor.

9 HAROLD BOUKNIGHT - CROSS-EXAMINATION

10 BY MR. BAX:

11 Q Morning, officer.

12 A Morning.

13 Q Just a couple quick questions for you. You processed
14 the -- it was a white Isuzu Rodeo with black pinstripes; is
15 that correct?

16 A It appears to have black pinstripping and a graphic on
17 the side of it.

18 Q And I believe you testified that you processed it for a
19 number of things. You photographed it and processed it for
20 gunshot residue. Did you also process it for the
21 possibility of any latent prints?

22 A Yes, sir.

23 Q Okay. And did you collect some possible prints?

24 A Yes, sir.

25 Q And do you recall where were the locations that you

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25

1 looked at for possible prints on this car?

2 A The exterior of the vehicle. The front driver's door,
3 read driver's door, and the passenger door, both side
4 passenger doors on the outside and inside.

5 Q Did you -- I know you've testified you processed the
6 roof of the car for gunshot residue, the possibility of
7 gunshot residue. Did you process the roof of the car for
8 any latent prints or palm prints, either one?

9 A Right next to the doors.

10 Q Right next to the doors?

11 A Yes, sir.

12 Q How about on top?

13 A I didn't get all the way on top of it, no, sir.

14 Q But when you were talking about the gunshot residue you
15 did go on top for that; is that correct?

16 A Right. Not all the way to the middle.

17 Q Not to the middle?

18 A The passenger side of it and then the driver's side of
19 it.

20 Q Okay. Additionally, you processed the interior of the
21 car and I think that's where the photographs that we've
22 referred to -- I think the jury may have those -- of the
23 interior of the car -- actually, they're right here.
24 State's 19, that shows the live rounds that were in the
25 passenger seat. You took that photograph; correct?

1 A Yes, sir.

2 Q Okay. And those were -- that's as it was when you
3 opened the car to take a look at it?

4 A Yes, sir.

5 Q All right. And I believe you testified that three of
6 those rounds were 9 millimeter ammunition; correct?

7 A Yes, sir.

8 Q Winchester ammunition; is that correct?

9 A Yes, sir.

10 Q Officer Bouknight, are you familiar with the term full
11 metal jacket?

12 A Yes, sir.

13 Q Can you recall whether these rounds are full metal
14 jacket or not?

15 A I believe they were. I don't believe they were hollow
16 points.

17 Q If you can look in there and see if that refreshes your
18 memory?

19 A Yes, sir, they are full metal jacket.

20 Q Officer Bouknight, can you explain to the jury the
21 difference between a full metal jacket round and what you
22 call a normal un-jacketed round?

23 A Projectile jackets come in different shapes and
24 composition. Full metal jacket is a full lead core
25 projectile that's completely surrounded by a copper jacket.

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1 Then a hollow point round would have a portion of that
2 jacket removed at the end which would cause greater
3 expansion when the bullet impacts something. Then some are
4 not jacketed at all and they're just a round lead
5 projectile. They have no type of jacket or anything
6 attached to them.

7 Q And these rounds, and indicating that these are full
8 metal jacket, these have a copper metal jacket that fully
9 surrounds the outer exterior of that lead projectile; is
10 that correct?

11 A I may not on the base. I notice some full metal jacket
12 the base of the projectile is open and just lead, but
13 without examining them I wouldn't know.

14 Q But the front portion that's visible on top of that
15 unspent cartridge is covered; correct?

16 A Yes, sir.

17 Q Okay. Thank you. Now, on the gunshot residue, you
18 testified that you use a tab that has a sticky portion on it
19 to collect whatever evidence may be in that place that
20 you're sticking it to; is that correct?

21 A Yes, sir.

22 Q Okay. I believe you testified that you kind of used
23 that one tab and kind of hit it a couple of different times
24 in that one little area?

25 A I hit it several times, depending on the size of the

1 area.

2 Q And for -- in one particular area is there anything
3 that indicates to you how many tabs you would use for a
4 particular area; in other words, does one tab work for six
5 inches square or do you use it for a foot square?

6 A I've used tabs before for one tab for a door panel.
7 And then we -- whenever we do it for an individual it's one
8 tab for the back of their hand and one tab for the front of
9 their hand. It's just depends on what I'm looking for and
10 what I'm processing.

11 Q And there was one tab, in this case, for each side of
12 the roof above --

13 A Yes, sir.

14 Q -- driver and passenger side; correct?

15 A Yes, sir.

16 Q Now, you testified that after collecting those tabs you
17 placed them in your locker; is that correct?

18 A Yes, sir.

19 Q Where is your locker?

20 A My locker is in our crime scene laboratory, which is
21 secured in our headquarters building.

22 Q And who has access to your locker?

23 A Myself and my supervisors.

24 Q And what kind of things do you use your locker for?

25 A Use it to store evidence. If I collect something from

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1 a scene to process later or if I check something out of
2 evidence to process or if I have several things I've
3 collected and are packaged before they're turned in, they
4 they're secured in my locker.

5 Q So other things, different kinds of evidence go in and
6 out of that locker; is that correct?

7 A Yes, sir.

8 Q And other kinds of evidence have been in and out of
9 that locker during the seven months period that this GSR was
10 there; correct?

11 A Yes, sir.

12 Q Is that locker got any kind of climate control?

13 A It's -- the room that it's in has climate control.

14 Q The room that it's in, but not the locker itself?

15 A No, sir.

16 MR. BAX: A moment's indulgence, Your Honor.

17 BY MR. BAX:

18 Q Briefly, officer. What kind of evidence do you
19 typically keep in your locker verses turning into the main
20 evidence depository?

21 A Usually they are turned in as soon as possible.
22 Sometimes we have to wait on paper work. Like for gunshot
23 residue kits we have to have copies of incident reports, as
24 soon as it is available.

25 Q So the protocol that you have it to turn it in as soon

1 you're done with it; is that correct?

2 A Yes, sir.

3 Q And why was the evidence in this case kept for so long?

4 A Because whenever I put it in there -- I have a box in
5 my locker that has distilled water, evidence tape and
6 envelopes in it, and it was behind it whenever I put all of
7 it in there and I didn't see it. And whenever I moved that
8 box again I saw it and went downstairs and turned it in.

9 Q So it was behind the box and you didn't see it?

10 A Yes, sir.

11 Q So typically that wouldn't be your process to have it
12 there for that amount of time?

13 A Correct.

14 Q Final question Officer Bouknight, what on that piece of
15 evidence identified it as being something you had taken from
16 the Isuzu Rodeo?

17 A The case number on there, and then the paper work that
18 was attached with it.

19 Q So this white envelope is the one that was behind that
20 box; is that correct, in your locker?

21 A Yes, sir.

22 Q And it has something on that envelope that indicates --

23 A The case number right here.

24 Q Uh-huh. (Affirmative response.)

25 A And that's the only GSR kit that I collected and it's

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1 sealed on the back for that date, and then this paper work,
2 it shows that it's a gunshot residue kit from a 2001 Isuzu.

3 Q Was the paper work with it or just the envelope?

4 A Just the envelope.

5 Q Let me see that. And this has a case number on it,
6 but it does not have the make and model of the car. Did you
7 have to look up that case number when you found this
8 envelope to see what it was about?

9 A No. It was already -- I had already filled it out
10 whenever I collected it and sealed it that day.

11 Q Let me repeat my question. I think I may have asked it
12 incorrectly. When you saw that behind the box it had been
13 about seven months; correct?

14 A Yes, sir.

15 Q Were you immediately able to identify what that was or
16 did you have to look it up to remember what case that went
17 with, because you had a case number and you had a name. Was
18 that enough to remind you automatically what this was about?

19 A The case number. Yes, sir.

20 Q The case number reminded you, without having to look
21 this up what this was about?

22 A Yes, sir. Back then I did.

23 MR. BAX: No further questions at this time, Your
24 Honor.

25 Thank you, officer.

1 MR. BOUKNIGHT: You're welcome.

2 MS. JOHNS: Thank Your Honor. Please the Court.

3 THE COURT: Sure.

4 HAROLD BOUKNIGHT - CROSS-EXAMINATION

5 BY MS. JOHNS:

6 Q You don't have any problems admitting the mistake with
7 this gun powder residue kit left in your locker, because
8 that could happen, right?

9 A Yes, ma'am.

10 Q And let me just take a look at this first. These are
11 kind of like a little dipstick or something where you take
12 it off and then you dab it, right?

13 A Yes, ma'am. They come out of the clear plastic tube
14 and then they have an adhesive pad on them, and the adhesive
15 pad would collect the gunshot residue if there were any.

16 Q Can you open one?

17 A It's got tape around it.

18 Q Okay. Okay, can I look at that, please, and the
19 bottle. Okay, this is just like a little black sticky pad,
20 right?

21 A Yes, ma'am.

22 Q And you're just going to go and dab a particular area,
23 whatever it is your looking for, right?

24 A Yes, ma'am.

25 Q Then when you put it back into this bottle like that

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1 and you've got a label that's underneath and then you've got
2 something that's taped over the top of it?

3 A Yes, ma'am.

4 Q Do you know what was written underneath that new label
5 that you have written on it?

6 A The original label on here is left back.

7 Q It's what? Left back?

8 A Yes, ma'am.

9 Q Why'd you cover it up?

10 A Because I didn't take it -- it's for the left back of
11 someone's hand --

12 Q Oh, okay.

13 A -- and to identify where I got it from I put driver's
14 roof on there, that's where I got it from.

15 Q So can you tell what's underneath each of these little
16 labels that you recovered. Like that looks like a D to me
17 underneath that original label.

18 A Now, are you talking about under the original label?

19 Q No.

20 A I'm confused, I think.

21 Q You have like a label that comes with the container?

22 A Yes, ma'am.

23 Q And then what you've done is you've taken a sheet of
24 paper and you've cut it and you've taped that sheet of paper
25 over the top of it?

1 A Yes, ma'am.

2 Q Okay. One of those you say that underneath the piece
3 of paper that you taped over the top of it says left hand?

4 A It's says -- the original label says left back.

5 Q Left back?

6 A Yes, ma'am.

7 Q Okay. Well, what about the other one in your right
8 hand, what does it say on that original label?

9 A It says right back.

10 Q Right back? Okay. And I'm going to give you a third
11 one, and can you tell me what that says?

12 A The original label says right palm.

13 Q Right palm?

14 A Yes, ma'am.

15 Q Now, are these labels that you say have left palm, left
16 back; are they preprinted labels?

17 A Yes, ma'am. Applied by the manufacturer.

18 Q On, let's say the one that says passenger door,
19 underneath it, that's not handwritten to you?

20 A There's -- you can see through the back where it was
21 originally printed.

22 Q Uh-huh. (Affirmative response.)

23 A And then I'd written over that, passenger door, and
24 then I taped over that because I didn't want any confusion
25 at SLED as to where it came from.

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1 Q Okay. So the original label you wrote on, you said
2 passenger door, and then you took another label and taped
3 over it and what does that label say?

4 A Passenger door.

5 Q Okay. So you double labeled it?

6 A Yes, ma'am.

7 Q So you didn't want SLED to be confused?

8 A I didn't want any confusion as to -- because I had
9 written passenger door on there and it also said right palm.
10 I didn't want anything mixed up.

11 Q Okay. So you didn't have any vials, new one available
12 to you where you could have gotten one that didn't have
13 something already written on it?

14 A No, ma'am.

15 Q You did not?

16 A No, ma'am. They come pre-packaged from Tri-Tech with
17 the four tabs in these containers already labeled with the
18 left back, left back, right back and right palm on them.

19 Q Okay. And is your testimony that this one label that
20 has right palm. Above right palm you have passenger, and
21 below palm you have door. That's handwritten by you?

22 A Yes, ma'am.

23 Q And then you've taken an extra label and taped it over
24 and put passenger door?

25 A Yes, ma'am.

1 Q Instead of crossing through it or whatever?

2 A Yes, ma'am.

3 Q Can you tell me where these containers -- you have a
4 case number?

5 A There isn't one, ma'am.

6 Q There's not. Okay. Now, you went to the scene the
7 night of June 30, is that correct?

8 A No, ma'am.

9 Q You did not. I was looking at your report and crime
10 scene investigation analysis report?

11 A Yes, ma'am.

12 Q So you were not called to the crime scene?

13 A No, ma'am.

14 Q So the first time you ever looked at this Isuzu Rodeo
15 it was in the garage?

16 A Yes, ma'am.

17 Q Okay. And that was 11:14 or sometime after 11:00?

18 A 11:19 that morning.

19 Q That morning. Now, Investigator Bouknight, during your
20 direct testimony you told this jury that you in 2008 were
21 certified as a crime scene investigator?

22 A Yes, ma'am.

23 Q And this case occurred in 2007; isn't that right?

24 A Yes, ma'am.

25 Q So, I'm not trying to be disrespectful, but when you

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1 processed this Isuzu Rodeo you were not certified; is that
2 right?

3 A Not through the International Association for
4 Identification.

5 Q All right. You were in training for forensic
6 investigator's position?

7 A No, ma'am. I had completed the in-house training at
8 the Richland County Sheriff's Department, the in-house
9 training program that we have to go through and complete
10 certain portions of it before you are allowed to process
11 crime scenes.

12 Q Okay. How many hours is that?

13 A All total it took me about a year and a half to
14 complete it.

15 Q So it's like on the job training, little hours here,
16 and there?

17 A For certain portions of it, like foot wear examination
18 and comparison.

19 Q I'm just talking about stuff that would be particular
20 to this case. We don't have footwear in this case do we?

21 A No, ma'am. I'm not involved in any footwear evidence.

22 Q You didn't do any footwear, right?

23 A No, ma'am.

24 Q So I'm talking about how many hours did you devote to
25 the collection of gunshot residue -- in your training?

1 A In my training? I don't know right off.

2 Q Okay. And you said you received an associate's degree
3 in criminal justice in 2005; is that right?

4 A 1995.

5 Q Oh, 1995. And how long have you been with the
6 department?

7 A Seven years.

8 Q Okay. So you'd been with the department a little over
9 five years when this incident happened; is that right?

10 A I would say right at five years.

11 Q Okay. Right at five years. Now, you also drew some
12 diagrams in this particular case?

13 A Yes, ma'am.

14 Q And those diagrams help assist prosecutors, law
15 enforcement officers in your explanation of where you may
16 have received or collected particular evidence, right?

17 A Yes, ma'am.

18 Q That's your diagram, right?

19 A I'm not sure they are. Yes, ma'am. Those are the same
20 copies I have.

21 Q And these diagrams, do they assist in any way with
22 regard to where you collected the gunshot residue or
23 fingerprints?

24 A These are for the latent prints.

25 Q Fingerprints, right?

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1 A Yes, ma'am.

2 MS. MCDUFFIE: Could we ask that if Ms. Johns is
3 going to show that to the jury that she identify it?

4 MS. JOHNS: I apologize, Your Honor.

5 THE COURT: Sure.

6 BY MS. JOHNS:

7 Q The diagram that you provided to the state is the
8 diagram of where you collected the latent fingerprints,
9 right?

10 A Yes, ma'am.

11 Q Do you have your diagram where you collected the
12 gunpowder residue?

13 A No, ma'am.

14 Q You do not. Now, Mr. Bouknight, when did you witness
15 Mr. Greene with his hands bagged at the sheriff's
16 department?

17 A I didn't.

18 Q You did not?

19 A No, ma'am.

20 Q Okay. So you were not responsible for collecting the
21 gunpowder residue from his hands?

22 A No, ma'am.

23 Q You were not instructed to do that?

24 A No, ma'am.

25 Q And you're at the sheriff's department on the morning

1 of June 30, 2007?

2 A I was there at some time. I believe I was working the
3 10:00 to 10:00 shift then. 10:00 a.m. to 10:00 p.m.

4 Q Okay. Were you aware that Mr. Jerome Greene and Mr.
5 Luther Landrum were at the sheriff's department?

6 A I don't recall being aware of it, no, ma'am.

7 Q Okay. But you were not involved in any way in
8 collecting gunpowder residue from their hands, correct?

9 A Correct.

10 Q And you were at no time instructed to go to their
11 location, whether it be on Two Notch Road or the sheriff's
12 department headquarters to bag their hands, correct?

13 A Correct.

14 Q So you did not submit at any time a gunpowder residue
15 kit for their hands, you were not involved in that part?

16 A Correct.

17 Q Now, let me ask you about the gunpowder residue kit
18 that you did collect. You say it is from the roof?

19 A Yes, ma'am.

20 Q Is that the head liner?

21 A No, ma'am, that's the roof.

22 Q Okay. And what about -- you've got listed here in your
23 narrative a driver's and passenger's door?

24 A Yes, ma'am.

25 Q That's the interior?

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1 A Yes, ma'am.

2 Q That's the interior door, right?

3 A Yes, ma'am.

4 Q Would that be a door handle?

5 A A door panel.

6 Q A door panel on the inside?

7 A Yes, ma'am.

8 Q Okay. What about the steering wheel, sir. Did you
9 collect an dipsticks from the GSR kit from the steering
10 wheel?

11 A No, ma'am.

12 Q How about the gear shift?

13 A No, I did not.

14 Q Okay. What about the glove box?

15 A No, ma'am.

16 Q What about the back passenger seat?

17 A No, ma'am.

18 Q What about the hood of the car?

19 A No, ma'am.

20 Q What about the back driver's roof top?

21 A No, ma'am.

22 Q Okay. The console in the middle, did you collect
23 anything from that?

24 A Are you talking about gunshot residue?

25 Q Yes.

1 A Okay. No, ma'am.

2 Q So even though you have three things listed, one being
3 the passenger, driver -- wait, let me see. You have the
4 roof listed. You have the driver's door interior listed,
5 and you have the passenger doors interior listed. You have
6 four vials right here?

7 A Yes, ma'am.

8 Q And these little kits are readily available for you
9 through Tri-Tech Incorporated?

10 A Yes, ma'am.

11 Q So you have plenty of them?

12 A Yes, ma'am.

13 Q So you've got a driver's roof, you've got a passenger
14 door, you've got a driver's door, and a passenger's roof.

15 A Yes, ma'am.

16 Q So in your narrative what you're missing is driver's
17 roof and passenger roof to be detailed?

18 A Yes, ma'am.

19 Q And these labels alone do not say whether they're
20 interior or exterior, you're just testifying based on your
21 memory?

22 A Correct. Yes, ma'am.

23 Q Okay. And you -- let's move on to the bullets. You
24 collected these bullets from the forensics garage. You
25 didn't collect them from the scene?

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1 A They were in the vehicle that was in the forensic
2 garage, yes, ma'am.

3 Q Okay. Would you mind opening the second part of
4 State's Exhibit No --

5 A It's already open.

6 Q The envelope itself?

7 A It's already open.

8 Q Can you get those out for me. Oh, I see. Okay. Those
9 three bullets right here, but I know that they probably have
10 a fancier name, but those are ammunition and those are 9
11 millimeter ammo, ammunition?

12 A It's 9 millimeter Luger ammunition. Yes, ma'am.

13 Q Okay. And Luger, is that the producer of the bullet?

14 A It's manufacturer is Winchester.

15 Q And Luger is a type of bullet?

16 A Yes, ma'am. It's on the head stamp. It says 9
17 millimeter Luger.

18 Q Okay. Now, you are certified now, but wasn't at the
19 time, nationally, but you had training on collecting latent
20 prints, right?

21 A Yes, ma'am.

22 Q Do you have the fingerprint report on any of these
23 bullets?

24 A No, ma'am.

25 Q Okay. What about this 38?

1 A No, ma'am.

2 Q Okay. Now, looking at State's Exhibit No -- excuse me
3 for reaching -- 120, this evidence and property bag, does it
4 have a date when you turn this in?

5 A Yes, ma'am.

6 Q Could you tell us what the date is when you turned this
7 in?

8 A June 30, 2007, at 13:38 hours. 1:38.

9 Q 1:38. So even though you turned this property in at --
10 on the same date as the incident you did not turn State's
11 Exhibit No. 3. You did not turn this in until January of
12 '08?

13 A Yes, ma'am.

14 Q Okay. Now, does the manilla envelope itself have an
15 independent date on it that's written by you?

16 A The manilla envelope?

17 Q The manilla envelope, yes, sir.

18 A I believe -- it appears right there where it's covered
19 by SLED's evidence label.

20 Q Can you see what that date is?

21 A I can see '08.

22 Q '08. Okay. And the sheet that is written out, it has
23 a date of 6/3/07, is that right? Incident date 6/3/07?

24 A Yes, ma'am.

25 Q Okay. And the date submitted is 1/7/08, is that right

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1 there at the bottom?

2 A Yes, ma'am.

3 Q That's your handwriting?

4 A Yes, ma'am.

5 Q Okay. So there's no indication that this label itself
6 was written on June 30?

7 A No, ma'am.

8 Q Okay. Now, on the inside that contains the GSR report,
9 is there a date on this envelope in your handwriting?

10 A Yes, ma'am. It's 6/30/07.

11 Q Okay. And that is through this red evidence tape that
12 you have here?

13 A Yes, ma'am.

14 Q And that's your handwriting?

15 A Yes, ma'am.

16 Q Okay. Did your supervisor label this in any way?

17 A Did my supervisor?

18 Q Yes.

19 A No, ma'am.

20 Q Okay. He was the only one or she was the only one
21 other than you that had access to the locker, right?

22 A Yes, ma'am.

23 Q And what else do you keep in that locker, I think you
24 said a water bottle and something else?

25 A It's a box with coin envelops and things like that in

1 it for evidence collection.

2 Q So it would be like an envelope such as these that are
3 empty?

4 A Yes, ma'am.

5 Q And these kits envelopes you have to get somewhere
6 else?

7 A Yes, ma'am.

8 Q So this envelope was stuck behind something else in
9 your locker?

10 A Yes, ma'am.

11 Q Which is the blots and things like that?

12 A Yes, ma'am.

13 Q Does the GSR kit have a number that has been assigned
14 to it for the purposes of inventory for the Richland County
15 Sheriff's Department?

16 A Yes, ma'am. It's Item No. 57.

17 Q Item No. 57. Okay. And when that item was turned in
18 as Item No. 57, how was it labeled in regards to it's
19 further testing at SLED; how is it labeled?

20 A It's marked for GSR testing, gunshot residue testing at
21 SLED with copies of this -- the SLED laboratory request form
22 which we have to fill out to let SLED know what we want
23 tested?

24 Q Okay, may I see the request form, please, which is
25 State's No. 4?

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1 A Yes, ma'am.

2 Q Okay, and on this SLED laboratory forensics request
3 form you've got listed down here, subjects name, and what
4 name is that down there in that box?

5 A Subject I have is Jerome Greene.

6 Q And Jerome Greene is the driver of this Isuzu Rodeo?

7 A I believe so.

8 Q Now, on Page 2 of 4, Page 2 of 4, you have on there --
9 I think this is for SLED. Part of it was filled out by
10 SLED, but it's a description of evidence that says one Tri-
11 Tech GSR kit from 2001 Isuzu Rodeo, right?

12 A Yes, ma'am, it's does.

13 Q And the analyst request a GSR analysis?

14 A Yes, ma'am.

15 Q And who is KMW, if you know?

16 A I don't know.

17 Q And what is hand written at the top of this, "ADD'L"?

18 A Yes, ma'am, it appears so.

19 Q And your handwriting?

20 A No, ma'am.

21 Q Would you agree with me that that represents
22 additional?

23 A I wouldn't know what it means, ma'am. I didn't put it
24 on there.

25 Q Okay. If you were to read that, would you interpret

1 that as additional?

2 A That may be what I'd think. I can't say that's what it
3 means.

4 Q Okay.

5 MS. JOHNS: Beg the Court's indulgence, Your Honor,
6 one moment.

7 THE COURT: Sure.

8 BY MS. JOHNS:

9 Q Now, are you aware of a GSR kit on a Jerome Greene?

10 A No, ma'am.

11 Q You're not?

12 A No, ma'am.

13 Q Well, there's no way for this jury to know, since these
14 dipsticks have been relabeled as to whether or not they were
15 originally from the hand of Jerome Greene or whether they're
16 now relabeled as GSR kits from the Rodeo, right?

17 A Yes, ma'am.

18 MS. JOHNS: I have nothing further.

19 HAROLD BOUKNIGHT - REDIRECT EXAMINATION

20 BY MS. MCDUFFIE:

21 Q Investigator Bouknight, did you have any contact with
22 an Earl Jerome Greene?

23 A No, ma'am.

24 Q Did you ever take a GSR kit from Earl Jerome Greene?

25 A No, ma'am.

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1 Q If another investigator had, would you know about that?

2 A Possibly.

3 Q Are you aware of what other forensic investigators in
4 your lab are doing all the time?

5 A No, ma'am.

6 Q So if someone else had been called out to do that you
7 necessarily wouldn't know about it?

8 A No, ma'am.

9 Q Where did you take the GSR kit from?

10 A From a 2001 Isuzu Rodeo.

11 Q And is that what is contained in State's Exhibit No. 3?

12 A Yes, ma'am.

13 Q Please read for the jury how you labeled it?

14 A It's labeled, subjects name is Jerome Greene. The
15 officer's name is Harold Bouknight. My badge number is 157.
16 The agency's name is Richland County Sheriff's Department.
17 And the case number is 0706279030, which is the case number
18 with this case.

19 Q And did you label it as a vehicle?

20 A No, ma'am. Not on the outside. On the inside I
21 labeled them with where they were collected from.

22 Q And at the Richland County Sheriff's Department do you
23 have special GSR kits only for collection on vehicles?

24 A No, ma'am.

25 Q Do you have vials that come pre-marked with hood,

1 interior door, and things of that nature?

2 A No, ma'am.

3 Q How do the vials come pre-marked?

4 A With left back, right back, left palm, right palm.

5 Q So if you were to take GSR from anywhere other than a
6 person hand what would you have to do with those vials?

7 A Re-label it to show where it came from.

8 Q Because you don't have vials with any other pre-printed
9 labels?

10 A Correct.

11 Q Where did the GSR kit in State's Exhibit No. 3 come
12 from?

13 A From the Isuzu Rodeo, from the passenger side roof, the
14 driver's side roof, and the interior of the driver's and
15 passenger's doors.

16 Q And you sealed it with your initials on what day?

17 A June 30, 2007.

18 Q And that was the day it was collected?

19 A Yes, ma'am.

20 Q When you turned it into evidence had that seal been
21 broken or tampered with in any way?

22 A No, ma'am.

23 Q And then on that day you put it into that envelope, the
24 manilla envelope?

25 A Yes, ma'am.

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1 Q And you filled out the paper work?

2 A Yes, ma'am.

3 Q And when you send something to SLED and you fill out
4 the paper work, do you typically list the subjects that were
5 in the vehicle and also the vehicle?

6 A The subjects that I have listed in the incident report,
7 as a subject, suspect, and victim.

8 Q And also the make and model of the vehicle?

9 A Yes, ma'am.

10 Q Where did the GSR kit in State's Exhibit No. 3 come
11 from?

12 A The 2001 Isuzu Rodeo.

13 Q Any question in your mind about where it came from?

14 A No, ma'am.

15 Q Did you any other GSR kits pertaining to this case in
16 your possession?

17 A No, ma'am.

18 Q Had the seal ever been broken with or tampered with?

19 A No, ma'am.

20 Q The fact that it was in your locker until January of
21 '08, rather than in the evidence room, did that -- to your
22 knowledge, did that effect the contents of what was in that
23 piece of evidence in any way?

24 A No, ma'am.

25 Q Did it allow for the evidence to degrade or erode in

1 any way, to your knowledge?

2 A Not to my knowledge.

3 Q Was that evidence tampered with in any way?

4 A No, ma'am.

5 Q Ms. Johns showed you a diagram of the latent
6 fingerprints that you took?

7 A Yes, ma'am.

8 Q Why do you do a diagram of latent fingerprints rather
9 than GSR?

10 A The diagram for the latent prints is for the latent
11 print examiner. So they know where -- and there's an arrow
12 drawn that points up. So the latent print examiner when
13 they examine the prints they can orient that print, because
14 if you just have a print stuck on a blank card, we have no
15 idea where it came from or how -- if it could be a left hand
16 or right hand and things like that.

17 Q And so when you're dusting a vehicle for prints and you
18 find a print, that print is in one specific area?

19 A Yes, ma'am.

20 Q And you diagram that so the print examiner knows what
21 specifically --

22 MR. BAX: Objection, Your Honor, she's leading the
23 witness at this point.

24 THE COURT: Sustained.

25 BY MS. MCDUFFIE:

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1 Q Why do you diagram that?

2 A To show where that fingerprint lift came from and to
3 assist the latent print examiner.

4 Q And when you do GSR do you take that GSR from one
5 specific area only?

6 A It's from a larger area?

7 Q Would a diagram be of any use to an analyst?

8 A No, ma'am.

9 Q And you're certification that you received in 2008?

10 A Yes, ma'am.

11 Q Purely from the fact that you became certified in 2008,
12 did that change the way you did any procedures in the lab?

13 A No, ma'am.

14 Q Was that a class you attended or something that you get
15 in your training, how --

16 A It was -- it involved reading study materials and then
17 taking a written test.

18 Q And the way you collected gunshot residue in 2007,
19 verses present has that changed in any way?

20 A No, ma'am.

21 MS. MCDUFFIE: Nothing further, Your Honor.

22 MR. BAX: Briefly, Your Honor.

23 HAROLD BOUKNIGHT - RE-CROSS EXAMINATION

24 BY MR. BAX:

25 Q Officer, a couple questions. Are you aware of the fact

1 that the Richland County Sheriff's Department maintains an
2 evidence log or a property log?

3 A Yes, sir.

4 Q And that list all the property or pieces of evidence
5 involved in a particular case; is that correct?

6 A Yes, sir.

7 Q In this particular case did you ever look at the
8 property log?

9 A Yes, sir. I did.

10 Q Do you recall checking with the description of the GSR
11 that was listed as that came from you in this case?

12 A I believe it's listed the same as it is on the evidence
13 label here where they printed it out with the bar code as
14 Jerome Greene.

15 Q So it was labeled as Jerome Greene on the evidence log?

16 A Yes, sir.

17 Q And it was not labeled as GSR from a white Isuzu was
18 it?

19 A Not on the evidence log, no, sir.

20 MR. BAX: No further questions. Thank you, Your
21 Honor.

22 MS. JOHNS: Briefly.

23 HAROLD BOUKNIGHT - RE-CROSS EXAMINATION

24 BY MS. JOHNS:

25 Q Mr. Bouknight, you stated that you provided diagrams

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1 for latent prints so they have the benefit of seeing the
2 orientation of the print?

3 A Yes, ma'am.

4 Q Okay. And there's no --

5 A And where it's lifted from. Yes, ma'am.

6 Q So there is more than one benefit for a diagram, right?

7 A Yes, ma'am.

8 Q Okay. For example you didn't remember that you had
9 collected the GSR kit until you just happened upon it in
10 your locker; isn't that right?

11 A Yes, ma'am.

12 Q And that's a human mistake; do you agree with that?

13 A Yes, ma'am.

14 Q So if you can't remember that you even collected the
15 GSR kit, then isn't it possible that you can't remember
16 where you collected it from?

17 A No, ma'am, because it was already labeled with where I
18 collected it from.

19 Q And the vials are labeled where you collected them
20 from?

21 A Yes, ma'am. Because it was sealed that day.

22 Q Okay. And there's no X on a diagram because you know a
23 driver's side top of the roof can be pretty expansive or can
24 be pretty narrow; could you agree with that?

25 A Yes, ma'am.

1 Q Okay. So would you -- are you saying that a diagram
2 depicting where you took the GSR kit would not help in your
3 memory?

4 A No, ma'am.

5 Q And it wouldn't assist any other technician or
6 prosecutors or defense attorneys in determining where that
7 was lifted or dabbed?

8 A No, ma'am.

9 Q It would not? That's your testimony?

10 A Yes, ma'am.

11 Q Okay.

12 MS. JOHNS: I have nothing further.

13 THE COURT: Okay.

14 Sir, you can step down and be excused.

15 MR. BOUKNIGHT: Thank you, ma'am.

16 MS. MCDUFFIE: May it please the Court, Your Honor?

17 THE COURT: Yes.

18 MS. MCDUFFIE: State would call Lt. Elsey.

19 (WHEREUPON, Anna Elsey, was sworn
20 to tell the truth.)

21 THE CLERK: Have a seat in the witness stand and
22 give the court reporter your name.

23 LT. ELSEY: Anna Elsey, E-l-s-e-y.

24 ANNA ELSEY - DIRECT EXAMINATION

25 BY MS. MCDUFFIE:

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1 Q Lt. Elsey, where are you currently employed?

2 A Richland County Sheriff's Department.

3 Q And what are your duties with the Richland County
4 Sheriff's Department?

5 A Currently the Lieutenant Supervisor over the Crime
6 Scene Latent Print Section.

7 Q And how long have you been a supervisor over the crime
8 scene unit?

9 A I was a sergeant for three years, and a lieutenant for
10 two.

11 Q And in June 2007, what were your duties with the crime
12 scene unit at the sheriff's department?

13 A I was a sergeant with the unit.

14 Q And how long have you been in law enforcement?

15 A I started with the Richland County Sheriff's Department
16 in July of 1998.

17 Q And please tell the jury a little bit about your
18 education and training in the field of crime scene
19 investigation?

20 A I graduated from the College of Charleston in '95 with
21 a bachelor of science in biology and psychology. I received
22 my master's from University of Florida in forensic DNA and
23 serology. I started with the department in '98. I worked a
24 couple of years on the road as a first responder and then
25 was promoted to the crime scene unit. I worked as an

1 investigator responding to calls anywhere from a burglary to
2 a homicide, and while doing that, I also received in-house
3 training and formal training. Some of the formal training
4 courses that I attended are; emergency crime scene
5 responder, IV Tech, advanced palm print identification,
6 crime scene investigation, basic fingerprint, chemical
7 development, forensic aspects of investigation, blood scene
8 pattern analysis, crime scene reconstruction, advanced blood
9 pattern analysis, and the detection and recovery and
10 examination of footwear impression evidence. I'm also
11 certified by the International Association for
12 Identification as a Crime Scene Investigator.

13 MS. MCDUFFIE: Your Honor, at this time, we would
14 offer Lt. Elsey as an expert in crime scene investigation.

15 THE COURT: Any objection?

16 MR. BAX: No objection.

17 MS. JOHNS: Without objection, Your Honor.

18 THE COURT: Okay. So admitted as an expert.

19 BY MS. MCDUFFIE:

20 Q Lt. Elsey, on July 2, 2007, did you process a 1999
21 Chevy Suburban?

22 A I did.

23 Q And where was that vehicle located when you encountered
24 it?

25 A It was secured in our forensic garage at headquarters

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1 on Two Notch Road.

2 Q And how did it arrive at your forensic garage?

3 A According to our log for the garage it was entered into
4 that location on July 1, at 5:21 by Investigator Livingston.

5 Q And who has access to the forensic garage at the
6 sheriff's department?

7 A Crime scene investigators. It's secure access. We
8 have key access and also it's monitored by camera.

9 Q And when a vehicle is being towed to the garage for
10 processing an investigator has to let the vehicle into the
11 garage?

12 A That's correct.

13 Q And secure the vehicle in the garage?

14 A Yes.

15 Q So a road deputy couldn't just put a vehicle in there
16 or take one out?

17 A No. There's very limited access to that garage.

18 Q And when was the 1999 Chevy Suburban placed in the
19 forensic garage?

20 A July 1st, at 5:21.

21 Q P.m?

22 A Yes.

23 Q And it was secured until you processed it the next
24 morning?

25 A Correct.

1 Q And what time did you begin processing the Chevy
2 Suburban?

3 A It was on July 2nd, at 10:00 a.m.

4 Q I'm going to show you what's in evidence as State's 40.
5 Is that the Suburban you processed?

6 A Yes, it is.

7 MS. MCDUFFIE: Permission to publish, Your Honor.

8 THE COURT: All right.

9 BY MS. MCDUFFIE:

10 Q Lt. Elsey, when you began to process the Suburban,
11 what's the first thing you did?

12 A The first thing I did would be to photograph that
13 vehicle as I found it. The exterior and then the interior
14 of the vehicle.

15 Q I'll show you what's been marked as State's Exhibits 21
16 to 39 and 41 to 45 and ask you if these are the photographs
17 you took of the Suburban on July 2, 2007?

18 A These are.

19 MS. MCDUFFIE: Your Honor, at this time, we'd offer
20 State's 21 through 39 and 41 to 45.

21 MS. JOHNS: Your Honor, I don't have any objection.
22 I think we've been over these.

23 MR. BAX: Your Honor, I just want to check --
24 Without objection, Your Honor.

25 THE COURT: Okay. Those will be admitted, as well.

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1 (State's Exhibit No. 21, photo, was
2 marked and entered.)
3 (State's Exhibit No. 22, photo, was
4 marked and entered.)
5 (State's Exhibit No. 23, photo, was
6 marked and entered.)
7 (State's Exhibit No. 24, photo, was
8 marked and entered.)
9 (State's Exhibit No. 25, photo, was
10 marked and entered.)
11 (State's Exhibit No. 26, photo, was
12 marked and entered.)
13 (State's Exhibit No. 27, photo, was
14 marked and entered.)
15 (State's Exhibit No. 28, photo, was
16 marked and entered.)
17 (State's Exhibit No. 29, photo, was
18 marked and entered.)
19 (State's Exhibit No. 30, photo, was
20 marked and entered.)
21 (State's Exhibit No. 31, photo, was
22 marked and entered.)
23 (State's Exhibit No. 32, photo, was
24 marked and entered.)
25 (State's Exhibit No. 33, photo, was

1 marked and entered.)

2 (State's Exhibit No. 34, photo, was
3 marked and entered.)

4 (State's Exhibit No. 35, photo, was
5 marked and entered.)

6 (State's Exhibit No. 36, photo, was
7 marked and entered.)

8 (State's Exhibit No. 37, photo, was
9 marked and entered.)

10 (State's Exhibit No. 38, photo, was
11 marked and entered.)

12 (State's Exhibit No. 39, photo, was
13 marked and entered.)

14 (State's Exhibit No. 41, photo, was
15 marked and entered.)

16 (State's Exhibit No. 42, photo, was
17 marked and entered.)

18 (State's Exhibit No. 43, photo, was
19 marked and entered.)

20 (State's Exhibit No. 44, photo, was
21 marked and entered.)

22 (State's Exhibit No. 45, photo, was
23 marked and entered.)

24 BY MS. MCDUFFIE:

25 Q Lt. Elsey, what was the license number of the vehicle

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1 that you processed?

2 A 621 SBP.

3 Q Is that depicted in State's 41?

4 A It is.

5 Q And you also -- did you also document the VIN number of
6 the vehicle?

7 A I did.

8 Q And as depicted in State's 39?

9 A Correct.

10 Q And what -- after you photograph a vehicle, what's the
11 next thing you do?

12 A In this particular case, I collected a GSR residue kit.

13 Q And explain to the jury how you did that, in this case,
14 on this vehicle.

15 A Well, sometimes a GSR kit. When a weapon is fired
16 microscopic particles of that residue are released in the
17 vicinity of where it was fired. So we are going to look for
18 those types of particles. We have a kit. I received it
19 sealed. The kit is opened, and in this particular case we
20 use what we call sticky tabs. They're in the kit, they're
21 sealed with a cap. We pull the cap off. Within that vial
22 is a sticky tab, and we use that sticky tab and we collect
23 evidence from the area specifically that's labeled on that
24 tab and then we seal it and place it back into the kit?

25 Q State's Exhibit 2 and ask if you recognize that?

1 A Yes. This is the kit that collected.

2 MS. MCDUFFIE: Your Honor, at this time, we'd
3 officer State's Exhibit No. 2 into evidence.

4 MR. BAX: Without objection, Your Honor.

5 MS. JOHNS: No objection, Your Honor.

6 THE COURT: It's in.

7 (State's Exhibit No. 2, GSR kit,
8 was marked and entered.)

9 BY MS. MCDUFFIE:

10 Q And this is the GSR kit you lifted from the Chevy
11 Suburban?

12 A Correct.

13 Q And before you process a vehicle for things such as
14 GSR, are you briefed by the investigators on where to look
15 for potential evidence?

16 A Yes. Prior to starting the vehicle I make contact the
17 investigators who worked the case to get a background to see
18 exactly what it is they're looking for and this was one of
19 the things they requested I collect.

20 Q And so they're information helps you focus in on
21 certain areas that need to be processed?

22 A Correct.

23 Q And please tell the jury the first area you processed
24 for GSR in the vehicle?

25 A What I did was I labeled each door area a specific

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1 letter. For instance, the driver's door was labeled A. The
2 driver's back door area was labeled B.

3 Q And is that what's depicted in State's 33?

4 A It is.

5 MS. MCDUFFIE: Your Honor, if I may publish to the
6 jury?

7 THE COURT: Yes.

8 A And also the passenger side, the front area was labeled
9 C. The back area was labeled D.

10 BY MS. MCDUFFIE:

11 Q And is that State's 34?

12 A Yes.

13 Q And then after you labeled them what did you do?

14 A I labeled all of the vials that I was speaking of for
15 each of the areas that I labeled. I also labeled a vial for
16 the area above the window frame and also above the door
17 frames, two separate ones for each one of those locations.

18 Q And is this one of those vials you were just talking
19 about?

20 A Yes.

21 Q And --

22 A So by opening that, you can see this brown part here,
23 this clear top comes off. This contains the sticky tab and
24 so we collect it and the top goes back on.

25 Q And these containers come with a pre-made label?

1 A They actually do. The label on these are actually ones
2 that I made. These kits are generally made to do GSR on
3 someone's hands. So we re-label those sticky tabs to relate
4 to where we collected from.

5 Q And --

6 A So that's what those labels are there.

7 Q And that's where you handwrote it onto the original
8 label?

9 A Yes. I did, and there's also a typed label.

10 Q And why did you label it twice?

11 A In case the label came off, the exterior label.

12 Q And you told the jury that you processed all four of
13 the doors of the vehicle for gunshot residue?

14 A Yes.

15 Q Was that the interior of the door or the exterior of
16 the door?

17 A Interior.

18 Q So State's 38, that would be the interior of the
19 driver's door?

20 A Yes.

21 Q And explain to the jury how you processed that for
22 gunshot residue?

23 A Again, I take my sticky tabs and I do the top of the
24 window frame and then I did the door handle area of each one
25 of the door frames. And then I also did the steering wheel,

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1 the gear shift, the exterior of the center console and glove
2 box.

3 Q And were each one of those areas that you just
4 described; the door frame, the door handle, and the center
5 console, and glove box, you did a different sticky tab on
6 each one of those?

7 A Correct.

8 Q And after you tested each area you sealed that tab in
9 the container?

10 A Yes.

11 Q State's Exhibit 32; is that a picture of the steering
12 wheel?

13 A Yes.

14 Q And you also tested that for gunshot residue?

15 A Yes.

16 Q And you mentioned the center console and gear shift, as
17 well?

18 A Yes.

19 Q All these areas were tested that day?

20 A Correct.

21 Q After you tested the vehicle for gunshot residue what
22 did you then do?

23 A I then collected a couple of items from inside the
24 vehicle; a Mugg root beer can, some cigarette butts, and a
25 black head rag.

1 Q State's 26, 27, 28, 29, and 30. Are these photographs
2 of the contents of the vehicle?

3 A Yes. That's the items that I photographed from the
4 interior of the vehicle.

5 Q And you photographed them, why?

6 A To show what was in the vehicle.

7 Q And you mentioned a Mugg root beer can?

8 A Yes.

9 Q And is that depicted in State's 31?

10 A It is. It's in between the front driver and passenger
11 seats.

12 Q And you collected this Mugg root beer can?

13 A I did.

14 Q And did you do any further processing of it?

15 A I did. On July 11th, I processed it with black powder
16 and then swabbed the mouth area.

17 Q And after you collected the items from the car and
18 processed them for gunshot residue, what did you do next?

19 A I then placed hot shot containers in the vehicle. Hot
20 shot containers are -- it uses a super glue, which is
21 something that we use for processing something for
22 fingerprints.

23 Q And when you place the containers in the vehicle what
24 happens?

25 A The super glue is released from the canisters and

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1 releases a fume and if there are fingerprints present it
2 will adhere to the fingerprint residue and turn it a whitish
3 color. Once that is completed and the canisters are removed
4 and I process the interior with white powder.

5 Q And so looking at State's Exhibit No. 21, a photo of
6 the interior of the car, everything looks a little dirty or
7 has black color all over it and --

8 A That's after the vehicle had been searched and
9 processed.

10 Q So after you had dusted the vehicle for fingerprints?

11 A Yes.

12 Q And that would be the fingerprint powder that is
13 displayed in the photograph?

14 A You can see some in there, yes.

15 MS. MCDUFFIE: Your Honor, permission to publish?

16 THE COURT: Yes.

17 BY MS. MCDUFFIE:

18 Q And did you also process the exterior of the vehicle
19 for fingerprints?

20 A I did.

21 Q And were you able to lift any fingerprints from this
22 vehicle?

23 A There were four cards submitted to our latent print
24 section.

25 Q And after you processed the vehicle for fingerprints

1 did you do any further processing?

2 A I did. I searched the interior for any spent shell
3 casings. None were located. I collected some swabs from
4 different areas within the vehicle. Interior and exterior.

5 Q And what was the purpose of collecting those swabs?

6 A For potential -- possibly to determine the different
7 people that had had contact with the vehicle.

8 Q And after you had -- I'm sorry. Did you do anything
9 further to process this vehicle?

10 A Additionally, a brownish stain was located on the rear
11 barn door of the vehicle. That was tested, the presumptive
12 test for blood and that came back negative. A swab was
13 collected.

14 Q But that did come back negative for blood?

15 A It did. Then prior to release of the vehicle, I
16 contacted both of the lead investigators. They also
17 searched the vehicle to see if they needed anything else
18 collected from the vehicle, and they did not.

19 Q Let's go back to the gunshot residue kit that you
20 collected from this vehicle. Can you please tell the jury
21 the date and time that you collected it?

22 A Yes. It was July 2, and I started collection at 10:30.

23 Q And when -- do know when you sealed this kit with your
24 initials?

25 A My seal is covered up. It was submitted on the 12th of

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1 July to our evidence room.

2 Q And from the 2nd of July when you collected it, until
3 the 12th of July when you submitted it to the evidence room,
4 where was that kit kept?

5 A It was kept in my -- our secured locker and in my
6 evidence locker, which is also secured. I'm the only one
7 that has a key to it. Each investigator has a locker and
8 they have the key to that locker and the only persons who
9 have access are supervisors.

10 Q And why was that kit kept in your locker for those 10
11 days?

12 A To complete additional processing, so I could submit
13 all the evidence related to this case at one time.

14 Q And you submitted it to where?

15 A To our evidence room.

16 Q And after you submitted it to the evidence room, at
17 some point in time it was taken to SLED?

18 A Correct.

19 Q And you were not responsible for that?

20 A No.

21 Q And the 10 days that that kit was in your locker was it
22 tampered with in any way?

23 A No.

24 Q Was your seal broken?

25 A No. It was not sealed until after -- until being

1 submitted to evidence.

2 Q Okay. And from the time that you collected the on July
3 2, 2007, until you turned it in on July 12th was that kit
4 tampered with?

5 A No.

6 Q Did anyone have access to that kit besides you?

7 A My lieutenant would have. We also -- if a supervisor
8 enters a locker, we have a log that identifies that
9 supervisor and when he entered the locker and the type of
10 evidence, the case that they look at and would have come in
11 contact with. So there is a log of that.

12 Q And you searched this vehicle, the 1999, Chevy
13 Suburban, pursuant to a search warrant?

14 A I did.

15 Q And pursuant to that search warrant you fill out what
16 you removed from that vehicle on a search warrant return?

17 A I do.

18 Q And are you aware of the date that you put on the
19 search warrant return?

20 A I put June 2nd, which was a clerical area. It should
21 have been July 2nd.

22 Q And in your notes and in all of your reports you
23 submitted, what was the date of the processing of this
24 vehicle?

25 A July 2nd.

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1 Q This evidence was eventually sent to SLED?

2 A It was.

3 Q Did you have any further contact with the SLED analyst,
4 Michael Moskol?

5 A I did. After receiving the initial report, I contacted
6 him to get some clarification --

7 MR. BAX: Objection, Your Honor, that would be
8 hearsay if she's going to testify anything that he told her.

9 THE COURT: Correct.

10 MS. MCDUFFIE: Your Honor, she has not -- she will
11 not testify as to anything --

12 THE COURT: Just make sure you don't say what he
13 told you in your conversation to him.

14 LT. ELSEY: Okay.

15 A Once I relayed to him what I knew about the case I
16 requested that the items be sent back to him for analysis.

17 BY MS. MCDUFFIE:

18 Q Was it ever analyzed the first time by him?

19 A Not to my knowledge.

20 Q So he sent it back and did not analyze it?

21 A Correct.

22 Q And then after you spoke with him you re-submitted
23 that?

24 A Yes.

25 Q What is your -- can you explain to the jury what is

1 your understanding of secondary transfer?

2 A Based on my conversation with him my understanding was
3 that --

4 MR. BAX: Objection, Your Honor. She's testifying
5 to things that have been told to her by Mr. Moskol. She has
6 not been qualified as an expert in GSR either.

7 MS. JOHNS: That would be my objection. I don't
8 think this witness is qualified to give a conclusion or an
9 opinion as to what was found.

10 MS. MCDUFFIE: Your Honor, we're not asking for a
11 conclusion or opinion.

12 THE COURT: Okay. Narrow your question. I'll
13 overrule the objection.

14 BY MS. MCDUFFIE:

15 Q Lt. Elsey, based on your knowledge and experience, what
16 is secondary transfer?

17 A My understanding of that term is that it would be a
18 transfer from someone who maybe handled a weapon at some
19 point in time and then touched another object after handling
20 the weapon or weapon that was discharged.

21 Q Do if I fired a weapon and got GSR on my hands and then
22 touched it, and left some GSR there, that would be secondary
23 transfer?

24 A That's my understanding of it. That's the term that we
25 use in our lab.

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1 Q And after your conversations with SLED, the items were
2 re-submitted to them for testing?

3 A Yes.

4 Q And when it was returned back to the Richland County
5 Sheriff's Department was that item kept secure?

6 A Yes. It was kept in our evidence room the whole time.
7 Our evidence submitted it back to SLED. And it was returned
8 from SLED to our evidence room.

9 MS. MCDUFFIE: Beg the Court's indulgence.

10 THE COURT: Sure.

11 BY MS. MCDUFFIE:

12 Q And the Chevy Suburban that you processed, what color
13 did you indicate it was in your notes when you were
14 processing the vehicle?

15 A Tan.

16 Q And some other places did you refer to it as silver?

17 A Is there somewhere specific that you're referring to?

18 Q I'll rephrase the question. The vehicle that you
19 processed, please tell the jury the license tag of that
20 vehicle?

21 A It was 621 SBP.

22 Q And this was the vehicle that was processed by you in
23 State's Exhibit No. 41?

24 A Yes.

25 MS. MCDUFFIE: No further questions.

1 MR. BAX: Please the Court.

2 ANNA ELSEY - CROSS-EXAMINATION

3 BY MR. BAX:

4 Q Morning, Officer Elsey.

5 A Morning.

6 Q And just for clarification, I cannot recall the
7 solicitor asking you this, but is that a married name that
8 you have now, Elsey?

9 A No, it's not.

10 Q Okay. Did you have a different --

11 A I did. It was Clemmons, at the time.

12 Q Okay. My apologies. So your married name or whatever,
13 you went by Clemmons then?

14 A Yes.

15 Q Okay. So when we're looking at this and we see Sgt.
16 Clemmons that's --

17 A That would be me.

18 Q Okay. Just wanted to clarify that. Thank you. Couple
19 of things. First of all, you testified that when you saw
20 this 1999 Chevy Suburban it was in your forensic garage,
21 which you testified is a secure locations; correct?

22 A Right.

23 Q So when they pull it in they pull down, like, a big
24 garage door and that gets locked; is that right?

25 A That's right.

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1 Q And that garage is connected to the main building at
2 the sheriff's department?

3 A It's actually not connected. It's a separate building.

4 Q It's a separate building?

5 A Yes.

6 Q Okay. All right. And you said that officers assigned
7 to criminal scene investigation department are the ones that
8 have access to that garage, right?

9 A That's correct.

10 Q About how many people were in the division or had
11 access to that garage in 2007, do you recall?

12 A Eleven or 12 actually in the crime scene area, and then
13 there are a supervisors that have access to that area.

14 Q So between 12 and 15, somewhere around in there?

15 A That would be my guess. We have a log for someone who
16 has a key, a log for that.

17 Q Isn't it true that that garage can contain more than
18 one vehicle; is that correct?

19 A It can, yes.

20 Q How many vehicles can go in that particular garage?

21 A We have put two back there.

22 Q Two. Do you recall if there was another vehicle in
23 that garage at the time you processed this one?

24 A Not to my knowledge. Let me check my log to confirm
25 that. No. There was not. The last vehicle was on June 30.

1 Q So a vehicle had been in that garage for processing on
2 June 30, right?

3 A Yes.

4 Q Now, you also testified -- obviously you took the
5 photographs that had been introduced, and that was the first
6 thing you did; is that correct?

7 A That is correct.

8 Q I believe you testified you kept taking photographs. I
9 believe you testified you photographed after you processed
10 the black powder?

11 A I did.

12 MR. BAX: Moments indulgence, Your Honor, there's a
13 lot of photographs here.

14 BY MR. BAX:

15 Q I'll refer you to State's Exhibit No. 25. It appears
16 that this picture was one of the initial pictures that was
17 taken, correct?

18 A No, that is not correct.

19 Q So this was taken at what point?

20 A That appears to be after it was -- items removed -- I
21 cannot -- it appears to be after it was processed.

22 Q And how are you able to tell that?

23 A Well, the center console is open, items disturbed and
24 the search warrant and all are right there in the driver's
25 seat.

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1 Q Okay. Was the search warrant laying there when you
2 first opened the car, left there by the officers that seized
3 it?

4 A I don't recall exactly where the incident report was.
5 I don't know if it was there or it was in the lab, where it
6 was left for me.

7 Q So you don't recall whether it was in that vehicle when
8 you got there?

9 A No, sir. I do not.

10 Q So it could have been in the vehicle, right?

11 A It could have been, but I think it was left in the
12 laboratory for me, but I'm not positive.

13 Q All right. So you don't remember?

14 A No, not off-hand.

15 Q Now, obviously -- you've testified that it was in a
16 secured garage, but prior to that did you have any knowledge
17 of where that vehicle had been or who had been around that
18 vehicle prior to it being in the garage?

19 A No.

20 Q And were you part of the group that seized the vehicle
21 in the first place?

22 A No.

23 Q Now, you testified that you've been certified by the
24 National Association. I forget the exact wording for it, I
25 apologize. There's a lot of national associations that I'm

1 a part of and I can't remember all of them. When was that?

2 A The actual certification?

3 Q Yes, ma'am.

4 A December of '08.

5 Q December of '08, which is after this period of time,
6 correct?

7 A That's correct.

8 Q Now, also in your direct testimony you testified that
9 you labeled the doors A, B, C, D; is that correct?

10 A That's correct.

11 Q And I believe you said you took two separate tabs,
12 sticky tabs from each door; is that correct? Two different
13 locations?

14 A Two different locations under that particular label,
15 yes.

16 Q All right. And that is what you've shown to the jury
17 here that was contained in this little bottles; correct?

18 A In these vials, yes.

19 Q And you labeled those; correct?

20 A I did.

21 Q Okay.

22 A The handwriting is mine on the original label and then
23 I had a set of label maker --

24 Q Oh, okay. So you used a label maker to create these?

25 A I did.

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1 Q To individualize them; correct?

2 A Correct.

3 Q And that's so the person that is doing the examination
4 is able to tell from what you've labeled where it came from;
5 is that correct?

6 A That's correct.

7 Q And inside of these -- now, at this point these are
8 empty; is that correct?

9 A They appear to be.

10 Q Okay. So what --

11 A I haven't had contact with them since --

12 Q All right. Can you tell me if there was more than one
13 of those sticky tabs in these or was there just one in each
14 bottle?

15 A There's one in each bottle as far as when I collected
16 it.

17 Q Okay. So you have all these different ones. In fact,
18 it looks like -- gosh, I couldn't count, but it looks like
19 -- one, two, three, four, five, six, seven, eight, nine,
20 ten, eleven, twelve; is that right?

21 A Yes. You can see that the bottles are not empty.

22 Q Oh.

23 A The part that is black is the sticky tabs.

24 Q So that black thing is the sticky tab?

25 A Yes.

1 Q Okay. All right. Thank you. You've got all these
2 different ones that you've taken and you've labeled these
3 different bottles, correct?

4 A That's right.

5 Q Now, as a result of this, is there an evidence/property
6 form that you fill out to indicate what you collected during
7 the processing?

8 A There's an evidence label.

9 Q And that is there on the exterior of that manilla
10 folder or that manilla envelope; is that correct?

11 A That is correct.

12 Q And if you can can you indicate what's written under
13 items contained?

14 A That's one GSR kit collected from a 1999 -- I actually
15 put silver Chevy Suburban, South Carolina tag 621 SBP.

16 Q Okay. It just indicates GSR kit?

17 A Correct.

18 Q It does not list or indicate all the separate little
19 tabs or bottles inside that envelope, does it?

20 A It does not. That was in my bench notes that I took at
21 the time of collection.

22 Q Now, you obviously filled out more of those same exact
23 labels for some of the other things that you collected;
24 correct?

25 A For the -- on each one of these?

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1 Q No. For the other things that you collected when you
2 processed this vehicle, ma'am. For example --

3 A Oh, you mean evidence label?

4 Q -- for example --

5 MR. BAX: May I approach?

6 THE COURT: Yes.

7 BY MR. BAX:

8 Q See if that will refresh your memory. That is another
9 label that you filled out after processing the Suburban; is
10 that correct?

11 A Yes.

12 Q And that's a label listing all the swabs that you took
13 from the vehicle; correct?

14 A Correct.

15 Q And it lists each individual swab and it's location on
16 that label, does it not?

17 A It does.

18 Q But that's not what's on the label for the GSR kit?

19 A No, it's not.

20 Q And this label is what the evidence custodians that
21 formulate the property log. They look at the label. They
22 don't open it up and go through everything; correct, because
23 it gets sealed when you turn it in to evidence, correct?

24 A That's correct.

25 Q So from your swabs they can tell exactly what's inside

1 each and every one of them, but from your GSR kit they only
2 see GSR kit; correct?

3 A Well, each swab has to have a separate evidence number
4 because they will be analyzed. Each one of those will be
5 analyzed separately. That's why we do those separately.
6 The GSR kit is considered evidence to be sent off. They
7 don't need to be labeled separately for our evidence
8 purposes.

9 Q Okay. So your protocol does not require that the GSR
10 kit, sticky tabs get labeled individually?

11 A Oh, no. That's labeled -- no.

12 Q Now, also in your direct testimony, I believe Solicitor
13 McDuffie was asking you about -- I believe her words were,
14 when you tested for GSR, but let me ask you this; the
15 correct way to say it is that you collected, that you
16 weren't actually testing anything. You were only
17 collecting, at that point?

18 A That's right. I do collecting.

19 Q So those stickies put onto things, they don't change
20 color, they don't do any sparks or anything like that to
21 indicate you've just found something do they?

22 A I don't do any analysis on it.

23 Q So it's purely collection purposes on that GSR?

24 A That's correct.

25 Q You have no idea when you use those stickies whether

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1 there's anything getting picked up or not?

2 A Correct. I don't do the analysis on it.

3 Q Gunshot residue is microscopic. It can't be seen by
4 the naked eye; is that correct?

5 A That's correct.

6 Q Now, after you collected this you testified --

7 A If I can clarify. Sometimes you can see sooting, but as
8 far as the collection of what I did, I did not see anything,
9 any of the microscopic particles.

10 Q You didn't see --

11 A As far as the testing, yes.

12 Q So you weren't seeing anything when you were putting
13 these tabs down?

14 A I didn't see anything obvious, no.

15 Q Now, after you -- you've made these collections when
16 you processed the car on July 2nd, is that correct?

17 A That's correct.

18 Q And you have a locker, you testified to, that you
19 placed the kit into?

20 A That's correct.

21 Q Is that in the same room where the other CSI
22 investigators have their lockers?

23 A We have one secure laboratory, and the lockers are
24 located in there. Each one has an individual lock on it.

25 Q And that locker is accessible by the person whose

1 locker it is as well as their supervisor?

2 A That's correct.

3 Q And that locker is used for storage of any evidence
4 that you're processing at the time; correct?

5 A Any evidence that is collected, is in the process of
6 being processed or has not been submitted to evidence yet.

7 Q And the protocol is that once you've collected the
8 evidence you need to turn that into the evidence room as
9 soon as possible; is that correct?

10 A Within a reasonable amount of time, depending on the
11 type of evidence, what needs to be done to it, what type of
12 paper work needs to be done, other evidence related to the
13 case, and, of course, other case loads and having access to
14 the evidence to --

15 Q And I believe you testified you turned it into the
16 evidence room on July 12, approximately 10 days later?

17 A Correct.

18 Q And I believe you said the reason for that was that you
19 wanted to get all of your evidence together on this
20 particular case and turn it all in at one time?

21 A That's what I did, yes, in this particular case.

22 Q So based on that, 10 days is reasonable delay between
23 putting it in your locker and turning into the evidence
24 room?

25 A Yes.

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1 Q What about seven months?

2 A In my experience that would not be reasonable for me.

3 Q Now, you also testified that the white envelope, I
4 believe, you testified it was not sealed until it was
5 submitted.

6 A That's correct.

7 Q Now, is that standard, in other words, when you put
8 these white envelopes in your locker they are not sealed
9 until they go to the evidence room?

10 A This envelope was inside this manilla envelope. It was
11 not sealed, but it was closed. I had additional paper work.
12 I had to make copies of some additional paper work and I had
13 to make sure I had copies of everything prior to submitting
14 it. So I did not seal it right away.

15 Q Is that pretty standard operating procedure not to seal
16 that until you turn it into the evidence room so you make
17 sure you put extra paper work in there if necessary?

18 A It wasn't extra paper work. It's paper work that I
19 filled out when I was processing it. And I had to make a
20 copy of it from my records and I had to make a copy of it
21 before I sealed it and submitted it.

22 Q Let me ask you again. Is it fairly standard operating
23 procedure to not seal it until it goes to the evidence room?

24 A It depends on the item of evidence, but it doesn't have
25 to be sealed if it's in your locker. No.

1 Q There's no requirement that it be sealed when it's in
2 your locker?

3 A That's correct.

4 Q Now, you testified, also that after this evidence was
5 submitted to the evidence room that an officer with state
6 law enforcement division sent the GSR back to you; is that
7 correct?

8 A He sent it back to the evidence room.

9 Q Sent it back to the evidence room. And he indicated --
10 you talked about secondary transfer and that was the reason
11 why it was returned; correct?

12 A That's what was stated on the report. Yes.

13 Q And, in fact, you also testified that you sent it back
14 to SLED after that?

15 A After our conversation he requested it be sent back to
16 him so he could complete an analysis on it.

17 Q Officer Elsey, do you recall sending an email to Mr.
18 Moskol?

19 A I did.

20 Q And I believe that was September 12th; is that correct?

21 A Yes.

22 Q 2008?

23 A Yes.

24 Q Excuse me 2007.

25 A 2007.

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1 Q Okay. And in that email you referenced the phone
2 conversation that you testified to; correct?

3 A Yes.

4 Q And in that email you reference the fact that you do
5 further investigation -- or, excuse me, you talked to the
6 main investigators in this case; is that correct?

7 A Yes. Would you like to hand me the email?

8 Q No. I'm just asking you if you indicate in that email
9 that you had conversations with the main detectives or the
10 homicide detectives in the case?

11 A It indicates I had contact with them. Yes. In
12 reference to this case.

13 Q And you provided information they provided you in that
14 email to Mr. Moskol; is that right?

15 A I did.

16 MR. BAX: A moment's indulgence, Your Honor.

17 THE COURT: Okay.

18 This is what we're going to do, ladies and gentlemen,
19 we've going to go ahead and take a short break now. I'll
20 remind you not to discuss the case before we conclude with
21 that -- okay.

22 MR. BAX: Thank Your Honor.

23 (Jury out at 11:45 a.m.)

24 THE COURT: Ma'am, you can step down. I'll just
25 remind you you're under oath. Don't discuss your testimony.

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1 (Court in recess for morning break.)

2 (Court in session after morning break.)

3 THE BAILIFF: All rise, please.

4 THE COURT: Thank you. We have a little extended
5 break to exercise the comfort needs of the jurors. So we're
6 ready to proceed.

7 MS. MCDUFFIE: Your Honor, for scheduling purposes,
8 our next witness is going to be considerably more lengthy.
9 So we went ahead and told her to go to lunch.

10 THE COURT: Okay. How long will this one last?

11 MR. BAX: It won't take long to finish this and
12 from my remembrance we're on cross or recross --

13 MS. JOHNS: I haven't done cross.

14 THE COURT: She hasn't done cross.

15 MR. BAX: Oh, you haven't. I'm sorry.

16 THE COURT: I was going to try to break at
17 approximately 1:00. So let's push on to 1:00 or so.

18 MS. MCDUFFIE: I don't think we can do the direct
19 on the next witness by 1:00.

20 THE COURT: Okay. That's okay.

21 All right. We're ready to proceed. Jurors, please.
22 (Jury in at 12:03 p.m.)

23 THE BAILIFF: Your Honor, the jury is all present.

24 THE COURT: Okay. Thank you.

25 You may proceed.

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1 MR. BAX: Thank Your Honor.

2 ANNA ELSEY - CONTINUATION OF CROSS-EXAMINATION

3 BY MR. BAX:

4 Q Just continuing briefly Lieutenant, you had testified
5 to before, just to refresh your memory, you had had some
6 communications with SLED about the GSR collected from the
7 Chevy; correct?

8 A Correct.

9 Q At any time prior to the GSR kit that you collected
10 from the Chevy being sent back, prior to it being sent back,
11 did you have any communication written or otherwise or
12 anything on the actual paper work in that case that would
13 indicate that it was a secondary transfer?

14 A That I wrote?

15 Q That is correct?

16 A I did not write that.

17 Q So to your knowledge, you did not communicate that to
18 Mr. Moskol?

19 A I don't understand the question?

20 Q Did you ever give him any indication that there may be
21 a secondary transfer?

22 A No. That was the first conversation that we had was
23 once I received the paper work back in reference to the
24 initial report he sent out.

25 Q Okay. So that information that he had did not come

1 from you; is that correct? About the secondary transfer?

2 A I don't know where. I don't know why he came to that
3 conclusion.

4 Q Okay.

5 MR. BAX: No further questions at this time.

6 THE COURT: Okay.

7 MS. JOHNS: Thank Your Honor. Please the Court.

8 ANNA ELSEY - CROSS-EXAMINATION

9 BY MS. JOHNS:

10 Q And you're Ann Elsey?

11 A Anna Elsey.

12 Q Elsey. E-l-s?

13 A Correct.

14 Q Ms. Elsey, I just want to verify a couple of points
15 that were brought out. First of all, you do recall
16 submitting a crime scene investigation analysis report;
17 right, that was dated July 2, 2007?

18 A Are you referring to my report that I wrote?

19 Q Yes, ma'am.

20 A Yes, ma'am.

21 Q Okay. And this crime scene investigation analysis
22 report you stated that you made contact with case officers
23 in this case, being, Investigator McRae and Investigator
24 Gallegos for additional processing information, right? In
25 fact, you met with them, did you not?

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1 A I don't recall if I met with them or if I spoke with
2 them on the phone.

3 Q In fact, if you had met with them in person they would
4 have given you information about the crime; is that correct?

5 A At some point we made contact and they gave me
6 additional information about the crime so that I would know
7 how to process the vehicle.

8 Q Okay. Now, if you are -- let me ask you this way. You
9 are a crime scene analysis; right?

10 A I'm a crime scene investigator.

11 Q Investigator. And if you were to collect evidence you
12 would collect evidence based on what you're instructed to
13 collect?

14 A I collect based on what is probative based on what I
15 know about the case and what I know about evidence
16 collection.

17 Q Okay. So the information that you receive -- well, let
18 me rephrase that. The investigation that you conduct is
19 connected to and related to the information that you
20 received from somebody else?

21 A That is a factor that comes into play.

22 Q Okay.

23 A I mean, obviously the more we know about the crime we
24 are investigating the more we know what type of evidence to
25 focus on in addition to the types of evidence we would focus

1 on in general.

2 Q Okay. So therefore, your investigation is contingent,
3 in some ways, on the information you receive from another
4 person; correct?

5 A In this particular case, speaking with Investigator
6 McRae and Investigator Gallegos was important in reference
7 to what specifically happened and what I needed to look for
8 in a vehicle.

9 Q And the information that you received from them was
10 that they were not eye witnesses; right?

11 A That the investigators were eye witnesses?

12 Q Yes, ma'am. They were not eye witnesses, right?

13 A Correct.

14 Q Okay. So the information, you can deduct, the
15 information they received was information they received from
16 somebody else that was there?

17 A I don't know -- I know it's information they received
18 from investigating the case. I don't know who they received
19 it from at the time.

20 Q Okay. But you can conclude they were not eye witnesses
21 based on what you know about this case?

22 A Correct.

23 Q You have bench notes; right?

24 A The written notes?

25 Q Yes.

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1 A Yes.

2 Q Okay. And in those bench notes you have indicated that
3 you took sticky tabs, right, from four areas of this
4 Chevrolet Suburban?

5 A The GSR tabs?

6 Q Yes, ma'am.

7 A Yes. Well, the four areas I marked A thru D and then
8 the additional areas after that.

9 Q So instead of drawing a diagram, basically what you did
10 is you took it one step further and you just marked with a
11 label four quadrants of the interior of the Suburban; right?

12 A I marked the four door areas.

13 Q Okay. And A is the driver's door area?

14 A Correct.

15 Q B is the rear door behind the driver's door area?

16 A Correct.

17 Q Okay. C is the front passenger front door area; right?

18 A Yes.

19 Q And then D is the rear passenger door area; is that
20 correct?

21 A Rear passenger side, yes.

22 Q Rear passenger side. Now, is there any labels that you
23 have whatsoever for the outside of the vehicle?

24 A No. Those are referenced to the GSR that I collected.

25 Q So you didn't take any GSR, you didn't like do any of

1 these sticky tabs on the outside of the vehicle, did you?

2 A I did not. No.

3 Q Now, you did a request form that is necessary for SLED
4 to conduct an analysis on what you collect; is that correct?

5 A I did.

6 Q Okay. And what you did on the request form is that
7 standard operating procedure for the South Carolina Law
8 Enforcement Division to send you a letter or a report with
9 regards to their testing?

10 A They send their analysis report back. Their forensics
11 laboratory report.

12 Q And you did receive sometime subsequent, in or around,
13 August 20, 2007, a report from a Michael Moskol; is that
14 right?

15 A Yes. The report was actually sent to Investigator
16 Reed-Ensor, but it included items of evidence that I
17 submitted.

18 Q Okay. And this particular case you had labeled the GSR
19 kits from the interior four areas, A, B, C, and D as Item
20 No. 10; is that correct?

21 A I guess Item No. 10 is SLED's item number.

22 Q Okay.

23 A Our label is actually the GSR samples, the GSR kit was
24 how I entered it into evidence.

25 Q So the GSR kit for item 10 is a different item number

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1 for your departmental reason, right?

2 A It appears to be SLED's item number.

3 Q Okay. Item No. 10 is a complete envelope of all of
4 these sticky tabs?

5 A Yes, it appears to be.

6 Q And on the report that you received from SLED, the
7 results no analysis performed?

8 A That's the first report.

9 Q Yes, ma'am.

10 A That was prior to him completing the analysis.

11 Q Prior to him what?

12 A He did not do analysis at that point.

13 Q Okay.

14 A And then he sent me another report once the analysis
15 was complete.

16 Q Okay. So when you received this, you received it
17 through Reed-Enzor, you noticed there was not an analysis
18 performed due to secondary transfer?

19 A That's what his report states, yes.

20 Q Okay. And then in September Mr. Bax has referenced an
21 email that you sent to Mr. Moskol; correct?

22 A Correct.

23 Q And in that email you had told him or discussed with
24 him that due to a recent telephone conversation that
25 afternoon with him you are going to submit or resubmit a GSR

1 analysis pertaining to this case; right?

2 A Correct.

3 Q Okay. And you went on to say that after the initial
4 report was completed by the responding officer -- what
5 initial report are you referring to?

6 A When I was speaking -- I have to say what he told me to
7 answer that question.

8 Q No. I'm talking about who's initial report?

9 A The initial case report based on my conversation with
10 the analyst.

11 Q Okay. So after the initial report was completed by the
12 responding officer, I just want to know who the responding
13 officer is?

14 A I don't have the initial report, I don't have a copy of
15 that. The initial report that was written in reference to
16 this case.

17 Q Okay. So you don't know whose initial report you're
18 referring to; is that correct?

19 A It was based on my conversation with him, with the
20 analyst.

21 Q Okay. All right. So you had a conversation with the
22 analyst and then you went and looked at the initial report
23 by a responding officer who you don't know who that is?

24 A No, that's correct. My conversation with him is that
25 he came to the conclusion to not analyze the GSR kit based

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1 on what he knew about the initial report.

2 Q Okay. But this is your email to him?

3 A That's correct.

4 Q And you say after the initial report was concluded by
5 the responding officer, further investigation by our
6 homicide --

7 MS. MCDUFFIE: Your Honor, I'm going to object to
8 Ms. Johns reading this to the jury unless she --

9 MS. JOHNS: I will rephrase my question, Your
10 Honor...

11 THE COURT: Okay.

12 BY MS. JOHNS:

13 Q In your email to Mr. Moskol at SLED, you make a
14 reference to an initial report completed by a responding
15 officer. You don't know who that officer is, do you?

16 A I do not. No.

17 Q And based on your further investigation, which means
18 your conversations with or meetings with the homicide
19 investigators in this case, it was revealed that subjects
20 fired from inside vehicle?

21 A Correct. I explained to him why I collected the
22 evidence that I collected.

23 Q Okay. And your explanation for collecting the evidence
24 that you collected was because there was a gunfire from a
25 vehicle?

1 A That was the information that was provided to me that,
2 yes, that could be the case.

3 Q Okay. And you don't know whether that was the case or
4 not because that was based on hearsay, right?

5 A I was not at the incident when it happened.

6 Q Right. So you're relying on somebody else telling you
7 this information, right?

8 A I'm relying on a case investigator's information. Yes.

9 Q Okay.

10 A In relation to the search warrant that he obtained.

11 Q And so your information that you received, which was
12 secondary information, you processed the interior of this
13 vehicle, right?

14 A The information I received was directly from
15 Investigator Gallegos and --

16 Q McRae?

17 A -- McRae.

18 Q And based on information that you received from them
19 initially on July 2, 2007, you processed the interior of
20 this vehicle?

21 A Correct.

22 Q And you were further explaining that to Mr. Moskol?

23 A Correct.

24 Q Now, you have any other information that you relied
25 upon with regards to the facts of this case other than the

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1 information you received from McRae and Gallegos?

2 A No. Just what was requested in the search warrant and
3 my conversations with them.

4 Q Okay.

5 A And I may have had a conversation with Investigator
6 Bouknight, but I don't recall anything specific.

7 Q You didn't note that in your bench notes, did you?

8 A No. I just know that he requested that I do it.
9 That's why he and I may have had a conversation about it.

10 Q Investigator Bouknight, he's with the crime scene
11 investigation team?

12 A He's with -- yes, with the crime scene unit.

13 Q All right. Now, you have a photograph in here that
14 shows the interior of the Suburban, State's Exhibit No. 25,
15 and that picture clearly depicts a search warrant in there,
16 right?

17 A Correct. That's after I placed the search warrant in
18 there after I completed the vehicle.

19 Q So you had an opportunity to view the search warrant;
20 right?

21 A Yes.

22 Q And in this search warrant description of person, place
23 or thing to be searched. It clearly says a tan colored
24 vehicle; right?

25 A It does.

1 Q And in all or the majority of your reports you listed
2 the vehicle as being silver; right?

3 A There are places where I put silver on the label and on
4 the GSR form. It had -- to me it kind of had a silver tint
5 to it, but it is manly tan. And I have that indicated in my
6 analysis report.

7 Q All right. But we have photographs; right?

8 A Yes.

9 Q Because color would be a matter of opinion unless it's
10 documented somewhere on the door frame; right?

11 A It's -- I mean, it was a tan vehicle.

12 Q It was?

13 A Yes.

14 Q But you listed it as silver because it could have been
15 silver at the time, as well; right?

16 A Well, it kind of had a silver hue to it, I guess.

17 Q Well, what color was the interior?

18 A I believe it was tan. I'd have to look at the
19 photograph to -- it was gray.

20 Q Gray.

21 A Gray, and I think the seats were --

22 Q I'll show you 24.

23 A It's kind of hard to --

24 Q The seats are --

25 A -- fairly dirty.

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1 Q No. 24. Does that help?

2 A They appear grayish. I -- it's fairly dirty inside the
3 vehicle.

4 Q What about No. 40. Would you agree now that color is a
5 matter of opinion?

6 A Well, it's tan, but it has kind of a silver tone to it.
7 But it is labeled as tan in the search warrant, that's why I
8 labeled it in most of my reports.

9 Q You took these photographs provided to me by the state.
10 Let me see if I can get that to help you refresh your
11 opinion. What's your opinion about that color depicted in
12 those photographs you took?

13 A I would say a tanish silver colored vehicle. It's also
14 listed on the log that the investigator entered it in as
15 silver. So --

16 Q Okay. I'm not trying to trip you up. I was just --

17 A I understand.

18 Q Now, based on these capsules -- and you call them what
19 -- sticky --

20 A They're vials with like a sticky surface, sticky tab.

21 Q And these are the GSR to SLED's No. 10, in this case.
22 And you have gone through this pretty much with Mr. Bax with
23 regard to how these were labeled; correct?

24 A Yes.

25 Q Okay. And you know I can tell by the way you labeled

1 them how precise and how -- you had stated with a label
2 already on it; correct?

3 A Yes. Those are made to do GSR on hands, not on --

4 Q Okay. And what you did is you took another label and
5 you put door A to coincide with the photograph; right?

6 A Yes.

7 Q And then you handwrote, specifically -- can't really
8 make that out?

9 A That's why I did the label also so the analyst would be
10 able to read exactly where it came from.

11 Q So door handle, but does it say --

12 A Door A, door handle.

13 Q What's the handwritten stuff say for example?

14 A Door handle, and then it has driver's.

15 Q Driver's. Okay. So door A would be driver's and then
16 door handle would be where you took it?

17 A Correct.

18 Q Okay. So you're very meticulous about labeling these,
19 because you had to write it down and then you went back to
20 your office and you made your own labels and then you taped
21 them --

22 A Actually, I made the labels while I was out there.

23 Q Okay.

24 A Doing the collection.

25 Q All right. And you know how many of these there are?

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1 A I believe there -- that were collected total?

2 Q Yes?

3 A I believe there were 12. Let me double check. There
4 are 12.

5 Q And Ms. Elsey, do you have your original gunshot
6 analysis residue form with you?

7 A That was submitted with the kit? Let me see what you
8 -- Yes, I do.

9 Q My copy is cut off at the bottom, so may I see yours?

10 A Sure.

11 Q All right. This analyst information form was signed on
12 July 2, 2007; right?

13 A Right.

14 Q And that was at 10:30 in the morning; right?

15 A Yes, that's when I started.

16 Q Okay. And this was done after you met with McRae and
17 Gallegos; right?

18 A I spoke with them prior to starting the processing of
19 the vehicle.

20 Q And there's a portion of that forma that has relation
21 to the shooting information, that's obviously the gunshot
22 residue, is powder residue. It's going to have to do with
23 the shooting; right?

24 A Correct.

25 Q So in that shooting information block that you have on

1 that, the date and time that the shooting occurred, you've
2 got June 30, 2007 at 4:00 a.m.; right?

3 A Can I -- yes.

4 Q Okay. And it says place. For example, in parking lot,
5 indoors or outdoors, and you've got outdoors/from vehicle;
6 right?

7 A Right.

8 Q And so nothing has changed about that; right?

9 A In reference to the information that the shooting was
10 from a vehicle?

11 Q Outdoors/from a vehicle. That's the information that
12 you wrote down there to assist Moskol in determining whether
13 or not he should even be performing an analysis; right?

14 A Correct.

15 Q And did anything change --

16 A That the information I received that it was from a
17 vehicle?

18 Q No, ma'am. Has anything changed from July 2, 2007,
19 with regard the place, outdoors/from vehicle?

20 A No.

21 Q Okay. So in July it was outdoors, from vehicle and in
22 September it was outdoors from vehicle.

23 A If you're asking if I changed the form at all; no, I
24 did not.

25 Q Okay.

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1 MS. JOHNS: Your Honor, we would ask if we could
2 substitute these copy of Ms. Anna Elsey Clemmons report and
3 mark it as ID only.

4 MS. MCDUFFIE: No objection.

5 THE COURT: Okay.

6 (Defendant's Exhibit No. 2 GSR
7 form, was marked for ID.)

8 BY MS. JOHNS:

9 Q Now, do you -- let's go back just a little bit in your
10 testimony. I just want to make sure I covered your
11 credentials. You have a bachelor's of science degree that
12 you received from the College of Charleston, and then you
13 have a master's degree from the University of Florida;
14 right?

15 A Correct.

16 Q And the master's degree is in what area?

17 A Forensic DNA and serology.

18 Q Forensic DNA and serology?

19 A Correct.

20 Q Okay. And then you listed a number of other things;
21 emergency crime scene technology and so on; right?

22 A Do you want me to list them again or --

23 Q No.

24 A Okay.

25 Q A number of other things --

1 A Training since I've been with the department, yes.

2 Q A number of other things you've been trained in. Do
3 you know anything about the effect of wind when it comes to
4 gunshot --

5 A Gunshot residue powder?

6 Q Yes, ma'am?

7 A No. I'm not a firearms expert. I'm a trace analyst.

8 Q Okay. Do you know anything in regards to fireworks,
9 gun powder in fireworks?

10 A No.

11 Q Okay. Do you know what happens to a bag of flour when
12 it's dropped on the floor?

13 A (No response.)

14 Q All purpose cooking flour when it's dropped on the
15 floor?

16 A I'm not sure I understand your question?

17 Q Have you ever had an experience where that happens --

18 A No.

19 Q -- and it goes everywhere?

20 A No. It's not happened to me personally. No.

21 Q And are you aware of shell casings from a weapon that
22 had been used at Hardscrabble Road that the shell casings
23 were found outside on the roadway?

24 A No.

25 Q Do you know that?

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1 A No.

2 MS. JOHNS: One moment, please, Your Honor.

3 That's all I have.

4 MS. MCDUFFIE: Briefly, Your Honor.

5 ANNA ELSEY - REDIRECT EXAMINATION

6 BY MS. MCDUFFIE:

7 Q Lt. Elsey, after you submitted the GSR kit to the
8 evidence room and the subsequent conversations you had with
9 SLED, you're not aware of whether the kit was sent back or
10 --

11 MR. BAX: Objection, Your Honor. Leading.

12 THE COURT: Sustained.

13 MS. MCDUFFIE: I'll rephrase the question.

14 BY MS. MCDUFFIE:

15 Q Lt. Elsey, you're not in charge of handling of the
16 evidence after it's submitted to the evidence room?

17 A Correct.

18 Q All right. You received back from SLED a report;
19 correct?

20 A Correct, through Investigator Reed-Enzor.

21 Q Are you aware of whether or not the kit itself was sent
22 back?

23 A Can you rephrase? I'm not sure.

24 Q Are you aware of whether SLED sent back a report or
25 sent back the kit that's in front of you?

1 A I'm not aware of the kit. All I know is the report
2 that I received.

3 Q All you received is the report?

4 A Correct.

5 Q And did you find any shell casings in the vehicle?

6 A No.

7 Q When you list the vehicle, the description on your
8 forms you list the license plate number?

9 A I do.

10 Q The VIN number?

11 A Yes.

12 Q And then you also list the make and model?

13 A Correct.

14 Q The year of the vehicle?

15 A Yes.

16 Q And then you also list color?

17 A Yes.

18 Q Why do you list all those factors?

19 A To be as complete as we can about the actual vehicle
20 that we process, and in this case if it's silver or tan, you
21 could still write that it's the same tag, the same VIN, same
22 make and model of the vehicle.

23 Q Because those are not subjective?

24 A Yes.

25 MS. MCDUFFIE: No further questions.

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1 MR. BAX: Briefly.

2 ANNA ELSEY - RE-CROSS-EXAMINATION

3 BY MR. BAX:

4 Q Officer Elsey, just to clarify. Your testimony in
5 response to the solicitor's questions is that in between the
6 time when you first submitted the GSR kit and then received
7 a report back saying no analysis was done, and the point at
8 which the analysis was done, did you do anything further to
9 those sticky tabs; did you take them back out, did you add
10 any to them, did you take any more samples?

11 A No.

12 Q So there was absolutely nothing changed about that GSR
13 kit to your knowledge between the time that they said no
14 analysis and the time that they did any analysis?

15 A The last time I had contact with the kit was on July
16 12th, when I submitted -- yeah, July 12th, when I submitted
17 it, until today.

18 Q So the answer would be yes that you did not do anything
19 or have any contact or change it in any way between those
20 two times?

21 A That is correct.

22 Q And the vehicle here -- just very briefly -- it's
23 listed as a Chevy Suburban, that's a GMC vehicle; is that
24 correct?

25 A I believe so.

1 Q It is a GMC?

2 A Yes, it is.

3 Q Thank you.

4 MR. BAX: No further questions.

5 MS. JOHNS: Just one thing, briefly.

6 ANNA ELSEY - RECROSS-EXAMINATION

7 BY MS. JOHNS:

8 Q Ms. McDuffie asked you about subjectivity as to the
9 description of the vehicle; right, she did ask you that?

10 A In reference to the color?

11 Q Didn't she?

12 A Yes, she did.

13 Q Well, you photographed the door frame, in this
14 particular case, let me see if I can find it, which does not
15 refer to the color. Let me see -- it's in here somewhere.

16 A Are you looking for this one?

17 Q Yes, I am. State's Exhibit No. 39. Is there -- the
18 door frame there that gives you the VIN number?

19 A Yes.

20 Q Any reference to color there?

21 A Not that I see.

22 Q Okay. So it would be subjective, wouldn't it.

23 A Yes. I think that's what she was referring to is the
24 color.

25 Q All right. And it also says nothing about the --

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1 that's okay. I'll withdraw that. Thank you.

2 MS. MCDUFFIE: I ask that the witness be excused,
3 Your Honor.

4 THE COURT: You can step down and be excused.
5 Thank you.

6 MS. SHIPLEY: Your Honor, may the lawyers approach?

7 THE COURT: Yes.

8 (Off the record bench conference with attorneys and the
9 Court.)

10 MS. SHIPLEY: Your Honor, state calls Tina Goff.

11 THE COURT: Ladies and gentlemen of the jury, Ms.
12 Goff will not be available as a witness today. A couple of
13 weeks ago, I took her testimony, because she's not available
14 this week, Ms. Shipley will read her testimony into the
15 record. You should pay just as much attention to that as if
16 she was here, because she was sworn and under oath at the
17 time of this testimony.

18 MS. SHIPLEY: Your Honor, my paralegal, Ms. Jones,
19 is going to read for Ms. Goff.

20 THE COURT: Okay. Great.

21 (The sworn and transcribed testimony of Tina Goff was read
22 into the record by Ms. Shipley and Ms. Jones, and is as
23 follows.)

24 TESTIMONY OF TENA GOFF:

25 Q Good afternoon, Ms. Goff.

1 A Good afternoon.

2 Q Ms. Goff, can you tell the Court where you are
3 employed?

4 A The Richland County Sheriff's Department.

5 Q How long have you worked there?

6 A Over 16 years.

7 Q And what are your duties and your title at the
8 sheriff's department?

9 A I am the evidence custodian. My job is to oversee and
10 supervise and train people who are staffing the evidence
11 room and to make sure that policies and procedures are
12 followed. To accept evidence, to log it in, and also to make
13 sure that the evidence is transported or chained over to the
14 appropriate labs or chemists or analyst, and to make sure
15 the evidence remains secure at all times.

16 Q Okay. And is that basically to maintain the chain of
17 custody on all items of evidence entered into your property
18 room?

19 A Yes.

20 Q Okay. I'm going to go ahead and bring your attention
21 to the case at hand. The Richland County case number of
22 0706279030. Did you have an opportunity to become involved
23 with the evidence with that case number?

24 A Yes.

25 Q Okay. Specifically, when was it that you came into

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1 contact with items of evidence, first tell us which items of
2 evidence?

3 A The first time I got involved in this case, I accepted
4 the first four items into evidence from Investigator Don
5 McRae.

6 Q Okay. Back on June 30, 2007 -- I'm sorry. Can you
7 answer that.

8 A Back on June 30, 2007.

9 Q All right. And I'm going to go ahead and bring your
10 attention to the items of evidence in this issue. Actually
11 in this case. Did you have contact with Item Nos, 20, 21,
12 29 and 57?

13 A I'm sorry. I'm looking over my notes.

14 Q Yes, ma'am. Take your time.

15 A I did.

16 Q Okay. Item 20; can you please explain what that is?

17 A Item 20 is a GSR kit with the name of Earl J. Greene on
18 it.

19 Q Okay. And what is Item 21?

20 A A GSR kit with Luther Landrum's name.

21 Q Okay. And I'm going to show you what has been marked
22 State's No. 1 for purposes of identification; do you
23 recognize this item?

24 A I do.

25 Q And State's No. 1 for identification purposes, what

1 items are contained in that envelope?

2 A Items 20 and 21.

3 Q And that would be the GSR kit from one Earl Jerome
4 Greene and one Luther Landrum?

5 A Yes.

6 Q And do you see your initials on that package?

7 A Yes, I do.

8 Q And what date was that?

9 A July 25, 2007.

10 Q Okay, and what did you do with that item of evidence on
11 July 25, 2007?

12 A I took possession of it and transported it over to
13 SLED.

14 Q Okay. And while you had that item of evidence in your
15 possession did it appear to be tampered with in any way?

16 A No.

17 Q And when you had it in your possession to take it to
18 SLED did you tamper with it in any way?

19 A No.

20 Q Once you got to SLED, please explain the procedures you
21 are required to follow in order to allow them to accept your
22 evidence?

23 A The investigator who submitted the evidence has to fill
24 out some paper work for SLED, and when I log it out and when
25 I take it to SLED, I have to hand that paper work over to

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1 the ladies in Log-In there. They log it in, and then they
2 have me with their evidence tape, seal the package again,
3 and put my initials and date and time on the date that I'm
4 actually dropping it or handing it to them.

5 Q And do you see that evidence tape on this package?

6 A I do.

7 Q Okay. Now, to bring your attention to the next item of
8 evidence in question. Item No. 29; did you have contact
9 with that item?

10 A I did. I took that to SLED, as well, on the 25th of
11 July, 2007.

12 Q I'm going to show you what has been marked State's
13 Exhibit No. 2 for identification purposes; do you recognize
14 that item?

15 A I do.

16 Q And what is in there?

17 A The GSR kit, a GPR kit for the 1999 silver Chevy
18 Suburban.

19 Q Okay. And do you see your initials on that item?

20 A I do.

21 Q And what day did you initial it?

22 A July 25, 2007.

23 Q Okay, and can you explain when you first received this
24 item from your property room did it appear to be tampered
25 with in any way?

- 1 A No.
- 2 Q And did you tamper with it in any way?
- 3 A No.
- 4 Q And once you got to SLED, what did you do with it?
- 5 A The same thing. Gave it to ladies in Log-In. They had
6 me put their yellow evidence tape on it. I initialed it and
7 dated it and gave it to them, and they accepted it in.
- 8 Q Okay. Can you explain the SLED request forms that are
9 filled out by the investigators; do they attach that SLED
10 request form to the item of evidence they need analyzed?
- 11 A Yes. When they submit it to our evidence room they
12 submit these forms already filled out by them, the
13 investigator, along with a copy of the incident report,
14 because these are required by SLED before they will take or
15 accept any evidence in.
- 16 Q Okay. The next item of evidence that you came in
17 contact with that you transported to SLED, I'll bring it to
18 your attention, Item No. 57; did you have contact with that
19 item?
- 20 A I did.
- 21 Q And what time or date did you receive it?
- 22 A I signed it out of the evidence room on January 25,
23 2008.
- 24 Q Okay. To transport it to SLED? Oh, I'm sorry. Okay.
- 25 A To transport it to SLED.

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1 Q And I'm going to show you what has been marked State's
2 No. 3 for purposes of identification; do you recognize that
3 item?

4 A I do.

5 Q And do you see your initials on that item?

6 A Yes.

7 Q And is it covered a little bit by the SLED tape?

8 A The SLED tape and other tape, yes.

9 Q Okay. Can you tell what day it is that you initialed
10 that item?

11 A January 25, 2008.

12 Q Okay, and can you explain how do you identify the
13 contents of that item? Does an investigator, the person who
14 submits the item into the Richland County Sheriff's
15 Department property room, are they required to fill out a
16 property form?

17 A Yes. Well, now we have what we call evidence label
18 forms.

19 Q Okay.

20 A And this is a sticker form, and they fill out all the
21 blocks or lines that they have information on, and there is
22 a -- in the middle of it there's items contain the
23 description, and that is where they put a description of
24 what is in the sealed package.

25 Q Okay. Can you please read what is in that sealed

1 package on that label?

2 A One GSR kit for a 2001 Isuzu Rodeo.

3 Q And typically would you expect the Richland County
4 Sheriff's Department sticker from the property room to match
5 the same description?

6 A Yes.

7 Q And can you explain why it is that it is not matching
8 in this matter on this case or this item?

9 A I did not accept it in.

10 Q Who accepted it in?

11 A My partner, Will Cedarstaff.

12 Q Okay. How was it entered in your computer system?

13 A It was entered in as a GSR kit, Greene, Jerome.

14 Q Okay. And I'm going to show you a document; do you
15 recognize this document?

16 A I do. It is a copy of the SLED request form that I
17 signed when I took the evidence out to SLED.

18 Q Okay, and incidentally, did SLED assign an item number
19 to Richland County No. 57?

20 A Yes, it did.

21 Q What item number?

22 A No. 11.

23 Q Okay. And does that correspond with that form that I
24 just showed you?

25 A Yes, it does. On the second page the evidence tech

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1 there wrote in No. 11.

2 Q Okay.

3 A The SLED item number.

4 Q And what was the description that was entered as Item
5 No. 11 at SLED?

6 A Tri-Tech GSR kit from 2001 Isuzu Rodeo.

7 Q Okay. And I'm going to bring to your attention to the
8 first page of that document, and what is the name of the
9 listed subject on that document?

10 A Greene, Jerome.

11 Q And how was Item No. 57 entered into the Richland
12 County Sheriff's Department System?

13 A As a GSR kit, Greene, Jerome.

14 Q Okay. And when you took all three items to SLED did
15 you then seal them to analyze?

16 A They were never opened. They were still in a sealed
17 state. We just add another seal to the SLED's required
18 yellow tape was put on it with my initials and date.

19 Q Okay. And so if an officer submits any evidence to the
20 property room are they required to seal it?

21 A Yes.

22 Q With one tape?

23 A Yes.

24 Q And what color is that tape?

25 A Red.

1 Q And is that the Richland County Sheriff's Department
2 tape used in sealing property at the evidence room?

3 A Yes.

4 Q And then SLED evidence tape; what is that?

5 A Yellow.

6 Q Okay. And do you see both yellow and red tape on these
7 items of evidence?

8 A Yes, I do.

9 Q I'm going to show you a document, marking it as Exhibit
10 No. 4, and so the document that I am showing you now is
11 marked State's Exhibit No. 4; is that correct?

12 A It is.

13 Q And once you submitted those items of evidence to SLED,
14 did that end your involvement with this case?

15 A It did.

16 Q And I'm going to show you the SLED chain of custody
17 real quick. Incidentally, I didn't ask you about the item
18 number assigned to State's No. 1. Did they assign a SLED
19 number to the items of evidence contained in State's No. 1?

20 A According to the SLED sticker that is on here, it is D.

21 Q Okay. I'm going to show you -- do you see your
22 signature on that document, the SLED chain of custody on the
23 bottom right corner?

24 A I do.

25 Q And do you see what is marked State's No. -- excuse me,

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1 SLED's No. 8?

2 A Yes.

3 Q What is that?

4 A One sealed envelope containing gunshot residue
5 described as one GSR kit from Greene.

6 Q Okay. And then I'm going to show you and see if you
7 recognize your signature at the top of this page?

8 A It is.

9 Q And what item is that for?

10 A No. 9.

11 Q And what is it described as by SLED?

12 A One sealed envelope containing gunshot residue
13 described as GSR kit from Landrum.

14 Q Okay. Lastly, do you see on State's No. 2, already an
15 assigned item number by SLED on that envelope?

16 A I do.

17 Q And what number did they assign to the GSR kit
18 belonging to the Tahoe or -- excuse me -- the 1999 Chevy
19 Suburban?

20 A No. 10.

21 Q Okay. And then you already covered Richland County's
22 57 is SLED No. 11; is that correct?

23 A It is.

24 Q Okay. And the initial -- excuse me -- and the
25 individual that received these items, Nos. 8, 9, and 10,

1 which were submitted on the same day to SLED, can you tell
2 us who that person is, according to the chain of custody on
3 July 25, 2007?

4 A Amy Stevens.

5 Q Okay. And then as to Item No. 57, who received that
6 from you?

7 A Ms. Karonda Williams (sp).

8 Q Okay.

9 MS. SHIPLEY: Your Honor, I have no further
10 questions at this time.

11 TINA GOFF - CROSS-EXAMINATION

12 BY MR. SWERLING:

13 Q Ms. Goff let me ask you -- I don't have a lot of
14 questions about 28, 21, and 29. Those were all turned into
15 the evidence room and then transported out to SLED by you on
16 July 25, 2007; correct?

17 A Yes.

18 Q Now, Item 57. When was the first time that anybody at
19 the sheriff's department realized that that had some
20 connection with this case?

21 A I can't answer that. I do not know.

22 Q Okay. When were you first made aware that that
23 particular item had something to do with this case?

24 A On January 25, 2008, when I signed it out to take it to
25 SLED.

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1 Q Okay. And who asked you to sign it out?

2 A It would have been Investigator Bouknight.

3 Q Okay. And for what purpose, did you understand what
4 you were being requested to do other than to take it out to
5 SLED?

6 A No, sir. He just filled the SLED paper work and
7 provided a copy fo the incident report and his request that
8 it be taken to SLED.

9 Q Were you made aware of the significance of that
10 particular item No. 57?

11 A No.

12 Q Okay. Were you told what was in it?

13 A No.

14 Q Where was -- now, you actually worked in the evidence
15 room as well?

16 A Yes, sir.

17 Q Now, how is that logged into the evidence room; I mean,
18 when something is brought into evidence it has to be logged
19 in somewhere?

20 A Yes.

21 Q Okay. Where was that logged in, that particular
22 envelope Item No. 57?

23 A Depending on the nature of how it is received into the
24 evidence room, whether it is a person to person or hand to
25 hand transaction of if they place it in one of our temporary

1 storage lockers or drop box. Once it is given to us, we see
2 that it has been properly filled out and properly sealed.
3 We then take it to the actual evidence room itself. Where
4 we work it is called evidence office.

5 Q Right.

6 A And depending on how busy we are, how many cases we are
7 working with it would go into a stack or pile waiting for us
8 to log it in. Once we finish with one case, we just start
9 logging in the next case, and this is what happened with
10 this one.

11 Q Okay. And when was it actually logged in, then?

12 A It was logged in on January 7, 2008. Investigator
13 Bouknight turned it in, and Mr. Cedarstaff logged it in.

14 Q And do you know where that was between July 30, 2007
15 and January of 2008?

16 A I do not.

17 Q Where that particular document, I mean, that envelope,
18 where that envelope was?

19 A No, sir.

20 Q So you don't even know if it was in the evidence room?

21 A It wouldn't have been in the evidence room that long
22 without being logged in.

23 Q Well, maybe it would not have been in the evidence room
24 that long, so it did not come into the evidence -- well, do
25 you know when it came into the evidence room? Let me back.

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1 up a minute.

2 A It came into the evidence room and was accepted on
3 January 7, 2008.

4 Q Okay. Well that -- Okay, so the first time the
5 evidence room actually got physical possession of Item 57
6 was on January 25, 2008?

7 A January 7th.

8 Q I'm sorry. January 7, 2008. And then you were asked
9 to take it up to SLED subsequent to that?

10 A Yes.

11 Q And then you logged it in how?

12 A I did not log it in.

13 Q Okay. You know who did log it in?

14 A My partner, William Cedarstaff.

15 Q Okay. So that is what you -- all right, was any
16 explanation given to you as to where it had been from June
17 30, 2007, until January 7, 2008?

18 A No. I have no knowledge of where it was or that it
19 even existed.

20 Q Okay. If anybody had come into the evidence room at
21 any time prior to January 8, 2008, and asked for all the
22 evidence in connection with this particular prosecution,
23 this particular envelope would not have been there; correct?

24 A That is correct.

25 Q It does not show up on any particular entry logs

1 dealing with this particular case; is that correct?

2 A That is correct.

3 Q Now, from what I understand and looking at the envelope
4 itself, it says it was logged in as from Greene, Jerome,
5 James?

6 A Jerome.

7 Q It doesn't -- where was that, did you log it in. I
8 don't remember which document that Vanessa was showing you?

9 A Again, I didn't log it in.

10 Q Okay. Do you have a document that shows that it was
11 logged in?

12 A The label itself that is on the package.

13 Q This is the document, itself. Okay. All right. So
14 this is 57, State's Exhibit No. 3, now; correct?

15 A Yes. It is our No. 57.

16 Q And it says on here GSR kit from 2001, Isuzu Rodeo;
17 correct?

18 A Yes.

19 Q Now, one of the forms that Ms. Shipley had showed us
20 before, and I think some of the questions she was asking you
21 only dealt with whether or not it showed how it was listed
22 Greene, Jerome?

23 A Yes.

24 Q Okay. It did not have on there Isuzu, it was a GSR kit
25 for an Isuzu. It said GSR kit, Greene, Jerome?

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1 A That is what our evidence label says.

2 Q Okay. So somebody had picked up this particular --
3 well, let me back up a minute -- strike that. Who generated
4 this label?

5 A Our computer data base.

6 Q In your evidence room?

7 A Yes.

8 Q Okay. And what you would have gotten was the envelope
9 that was contained in here; correct?

10 A We received this manilla envelope sealed with this
11 label on it.

12 Q This is -- this was already in it -- well, when I say,
13 this, because the record won't reflect it, the gunshot
14 residue evidence collection kit from Tri-Tech, which has a
15 No. 11 on the back. I don't know what that signifies, but
16 this was contained in the manilla envelope or separated; was
17 this what was in the evidence room?

18 A This envelope came in sealed.

19 Q With this?

20 A With the GSR kit in it. I cannot testify that is the
21 actual evidence that was in here because I can't see through
22 the manilla envelope. I can only go by what the officers
23 have written on the sealed package.

24 Q Okay. So this envelope came sealed and you don't know
25 what was actually in it?

1 A This is true.

2 Q And until July 25 -- I'm sorry -- January 25, I think I
3 have the dates correct, when you took it out to SLED you
4 still did not know what was in it?

5 A That is correct.

6 Q And when you dropped it off at SLED, you still did not
7 know what was in it?

8 A That is correct.

9 Q Until today?

10 A Until today.

11 Q When this was opened?

12 A Yes.

13 Q So the first time that you've ever seen that it was a
14 gunshot residue kit that says, Greene, Jerome and it has got
15 some identifying mark like 11 on the back, would have been
16 today?

17 A Yes, sir.

18 TINA GOFF - CROSS-EXAMINATION

19 BY MS. JOHNS:

20 Q Thank you, Ms. Goff, I just want to clear up some
21 things. You said Deputy Bouknight, Investigator Bouknight
22 that brought you or brought Cedarstaff this Item No. 57,
23 right?

24 A Yes, ma'am.

25 Q Okay. And if he, if Bouknight brought it to the

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1 evidence room and your partner, Cedarstaff, logged it in,
2 you really wouldn't have had any person knowledge of
3 receiving that would you?

4 A No, because I didn't receive it in.

5 Q Okay. What you did is your first connection with that
6 piece was on January 25 when you delivered it to SLED, is
7 that correct?

8 A Yes, ma'am.

9 Q Okay. When you delivered it to SLED, you left it with
10 SLED?

11 A I did.

12 Q Okay. And on your inventory that was printed in June,
13 2008, it is listed that Item No. 57 is still checked out?

14 A June of 2008?

15 Q Yeah, I believe that is the print-out date that I have
16 from your inventory list. It is at the very bottom. It
17 says -- sorry, March of '08. I know you have this, I just
18 wanted to help you refer to it. This is the print-out which
19 we received in discovery, which is the property report form
20 and when it was printed out was March 6, 2008, and on this
21 property report form it shows that a particular item is
22 still checked out?

23 A On your form it shows it as still checked out. But
24 Item 57 was brought back into evidence on August 20, 2008,
25 when it was brought back from SLED.

1 Q And did you bring it back from SLED to the evidence
2 room?

3 A I did not.

4 Q And are you familiar with all the evidence in this
5 case, as far as what is on the list; correct?

6 A Yes, ma'am.

7 Q And Deputy Bouknight, he did some other things into the
8 evidence room, right?

9 A I believe so. Yes.

10 TINA GOFF - REDIRECT EXAMINATION

11 BY MS. SHIPLEY:

12 Q Can you pull the contents out of the bag, State's No.
13 3. Okay, on that GSR kit is there a case number there?

14 A There is.

15 Q And can you please read it?

16 A 0706279030.

17 Q And can you please look at the label on 57, and see if
18 that matches the case number?

19 A It does.

20 Q And I noticed that the label says, point five-seven?

21 A Yes.

22 Q Is that how items are assigned items numbers, items of
23 evidence are assigned an item number?

24 A Through out date base in evidence, yes, ma'am.

25 Q Okay. So that would have been the last item in

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1 evidence entered into the evidence for this case, correct?

2 A It was not the last item entered in.

3 Q What else is there?

4 A Items 58 and 59.

5 Q Which are?

6 A Half DNA card from Demuria Johnson.

7 Q From the victim, okay.

8 A And a VHS tape.

9 Q Okay. Item 57 is the last GSR item, correct?

10 A Yes.

11 Q And who filled out the form that is on the outside, the
12 Richland County/Evidence Property Form on the outside of
13 State's No. 3; who fills that out?

14 A In this particular case it would have been Investigator
15 Bouknight.

16 Q And was this a person to person transaction?

17 A Yes.

18 Q And did Investigator Bouknight sign it?

19 A He did.

20 Q And who signed it as receiving it?

21 A William Cedarstaff.

22 Q And is the date the same?

23 A Yes.

24 Q Okay, and again, how does Mr. Bouknight describe the
25 items contained?

1 A Item contained is one GSR kit from one 2001 Isuzu
2 rodeo.

3 Q And then on State's No. 4, who filled this out?

4 A Investigator Bouknight.

5 Q And is that the document that would -- copy of the
6 document that would have been attached to item of evidence,
7 State's No. 3?

8 A Yes.

9 Q On the second page of that document, State's No. 4,
10 what item is listed?

11 A Item No -- SLED Item No. 11, Tri-Tech GSR kit from 2001
12 Isuzu Rodeo.

13 Q And on the contents of State's No. 3 do you see an Item
14 No. 11 on the actual GSR kit?

15 A Yes. SLED put one of their labels on the bag, on the
16 pouch.

17 Q So SLED would have been the one to open the envelope to
18 find out what the contents are inside, correct?

19 A Yes.

20 Q And to analyze them?

21 A Yes.

22 Q And your duty is simply to maintain the chain of
23 custody from the sheriff's department to SLED, correct?

24 A Yes.

25 Q And to make sure that it is not tampered with in any

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1 way?

2 A That is correct.

3 Q Had it been tampered with in any way, have you ever
4 been -- turned away -- let me start over. Had it been
5 tampered with in any way, have you ever been turned away by
6 SLED for any sort of evidence. In other words, my question
7 is, would SLED accept evidence from you if it appeared to be
8 tampered with in any way.

9 TINA GOFF - RECROSS - EXAMINATION

10 BY MR. SWERLING:

11 Q The number that Ms. Shipley was referring to at first,
12 which is the case number, where was that that we were
13 referring to?

14 A Agency case number on the front.

15 Q Okay. That is on the actual white envelope that had
16 the actual kit in it?

17 A Yes.

18 Q Okay. And then there's a corresponding number from
19 there to some other document?

20 A It is here on the evidence label.

21 Q So that is what the two -- Okay. I just wanted to make
22 sure that I understood where the numbers were.

23 A And then when it was entered in the computer generates
24 this bar code and assigns it an item number.

25 Q Okay. So all three of these items numbers are the

1 same?

2 A Yes.

3 Q And does that correspond with the case number that was
4 originally generated in this case or not; is it the same
5 case number that was generated in this case?

6 A For?

7 Q For the case itself?

8 A Yes.

9 Q And where is that; is that evidence sheet there?

10 A For Richland County it is here. For SLED, our case
11 number is here.

12 Q Okay.

13 A And then this is SLED's case number.

14 Q Right.

15 A Their lab number.

16 Q But on this particular data base property report, is
17 there a case number there, as well?

18 A Yes. It is here at the top. It says Property Report.

19 Q Okay.

20 A And then it is listed for every item because that is
21 part of the item number.

22 Q Okay. Just for clarification again. This is the case
23 number that was assigned when the case first happened?

24 A Yes.

25 Q Okay, and that number is followed all the way through?

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1 A Yes, it is.

2 Q Up until Item No. 57, or SLED's 11, or Exhibit No. 3;
3 it's all the same?

4 A Yes.

5 (End of reading of testimony of Tina Goff.)

6 MS. SHIPLEY: Thank you, Your Honor.

7 Thank you, Ms. Jones.

8 THE COURT: Thank you. You may step down.

9 Okay. It's lunch time. Lunch is here so I'm going to
10 excuse you-all. You can take your comfort breaks as needed.
11 I remind you not to discuss the case. You will report back
12 promptly at 2:00 o'clock.

13 (Jury out at 1:01 p.m.)

14 THE COURT: Anything we need to take up at this
15 time?

16 MS. SHIPLEY: Nothing from the state.

17 THE COURT: Okay. We'll see you at 2:00.

18 (Court at recess for lunch break.)

19 (Court in session after lunch break.)

20 THE COURT: All right. Are we ready to proceed?

21 The witness is coming from upstairs?

22 MS. SHIPLEY: Yes, ma'am.

23 MR. BAX: In the meantime, can we approach briefly?

24 THE COURT: Sure.

25 (Off the record bench conference with counsel and the

1 Court.)

2 THE COURT: Are we ready for the jury?

3 MS. SHIPLEY: State's ready.

4 (Jury in at 2:05 p.m.)

5 THE BAILIFF: Your Honor, the jury's all present.

6 THE COURT: Thank you all. We are ready to
7 proceed.

8 State?

9 MS. MCDUFFIE: Your Honor, state would call
10 Rashonda Simpson.

11 (WHEREUPON, Rashonda Simpson was
12 sworn to tell the truth.)

13 THE CLERK: Have a seat in the witness stand and
14 give the court reporter your name.

15 MS. SIMPSON: Rashonda Miller.

16 RASHONDA SIMPSON - DIRECT EXAMINATION

17 BY MS. MCDUFFIE:

18 Q Good afternoon, Ms. Simpson. Ms. Simpson, where do you
19 currently live?

20 A At 202 Baker Road.

21 Q And where did you live the end of June 2007?

22 A 202 Baker Road.

23 Q And who was living there with you in June and July of
24 2007?

25 A Me my husband, Jarrell Dansby, and my two kids.

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1 Q And are you still married to Jarrell Dansby?

2 A No.

3 Q And when did you separate from him?

4 A Two years ago, May. I can't think of the right date.

5 Q I'm going to show you what's been marked as State's
6 138, and ask you is you recognize this?

7 A Yeah.

8 MS. MCDUFFIE: Your Honor, we'd offer State's No.
9 138 into evidence.

10 THE COURT: Okay.

11 MR. SWERLING: No objection.

12 MS. JOHNS: No objection.

13 THE COURT: All right.

14 (State's Exhibit No. 138, photo 202
15 Haygood, was marked and entered.)

16 BY MS. MCDUFFIE:

17 Q Rashonda, can you show the jury which house is yours?

18 A (Indicating.)

19 Q Right there?

20 A (Nod affirmatively.)

21 Q And who lives here?

22 A My -- that's my mom's.

23 Q That's your mom's house?

24 A Uh-huh. (Affirmative response.)

25 Q And who lives here?

1 A My grandmother and my aunt.

2 Q Okay. So your whole family lives in this one area?

3 A Yeah.

4 Q And you were in the process of separating from Jarrell
5 Dansby in 2007?

6 A Uh-huh. (Affirmative response.)

7 Q And where were you employed in 2007?

8 A McDonald's.

9 Q And where are you currently employed?

10 A School District Two.

11 Q And what do you do for School District Two?

12 A Drive -- transportation.

13 Q I'm going to bring you back to the first weekend or
14 first of July, 2007. Do you recall coming home -- I'm
15 sorry. Did you come home from work at the beginning of July,
16 2007 and witness something?

17 A Yes.

18 Q And what did you see?

19 A Well, I got home from work, Jarrell's in the back yard.
20 I had talked to the kids for a little while, and then when I
21 went out I heard him digging something in the backyard. I
22 didn't know what it was and I started asking him, I was
23 like, what are you doing. And we began to argue because he
24 didn't want to tell me what he was doing.

25 Q And did you see what he was doing?

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1 A It would appear that he was burying something.

2 Q And at that time did you know what he was burying?

3 A No.

4 Q What happened next?

5 A We had began arguing about what he was doing, because I
6 wouldn't go back I the house. And by that time, he was
7 fussing at me, telling me to go back in the house and he
8 began to pick up whatever he was digging and I noticed it
9 was a gun.

10 Q And do you remember what the gun looked like?

11 A No. I just seen that it was black. I don't know what
12 kind of gun it was or nothing.

13 Q Are you familiar with guns?

14 A No.

15 Q You don't know much about guns at all?

16 A No.

17 Q When you realized it was a gun, what did you then do?

18 A I started asking him because I knew what had happened
19 over the weekend with his cousin and I was like --

20 Q Let me stop you. Who is Jarrell's cousin?

21 A Tremaine Wray.

22 Q And do you know Tremaine Wray?

23 A Uh-huh. (Affirmative response.)

24 Q And do you see him in the courtroom today?

25 A Uh-huh. (Affirmative response.)

1 Q Can you please identify him for the jury?

2 A (Indicating.)

3 Q And how long have you known Tremaine?

4 A Years. We went to school together.

5 Q You said you knew what happened over the weekend, and
6 then you saw him burying the gun. What happened next?

7 A I began asking him, you know, is that the gun, the
8 murder weapon.

9 Q When --

10 MR. SWERLING: Objection. Something he said.

11 THE COURT: Thank you.

12 BY MR. MCDUFFIE:

13 Q Without saying what he told you, what happened next?

14 A He put it back in the bag, a black book bag.

15 Q Like a book bag a kid would take to school?

16 A Yeah, a regular book bag.

17 Q And what happened after that?

18 A He walked by the house and my uncle was outside and I
19 came out and saw him talking to my uncle.

20 Q And who's your uncle?

21 A Brian Watson.

22 Q And how long have you known Brian?

23 A My whole life.

24 Q And you saw Jarrell talking to Brian?

25 A Uh-huh. (Affirmative response.)

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1 Q And so you saw Jarrell talking to Brian?

2 A Uh-huh. (Affirmative response.)

3 Q And what happened to that?

4 A I walked over there and they -- Brian was taking the
5 gun apart for Jarrell.

6 Q And what happened next?

7 A They put it in the black book bag, and they left home.

8 Q And whose car did they leave in?

9 A Mine.

10 Q And what kind of car was that?

11 A A Montero Sport.

12 Q And about how long did it take them before they
13 returned?

14 A Less than 45 minutes.

15 Q And did you -- when they returned home did you see the
16 gun or the black bag again?

17 A No.

18 Q When this incident happened, did you call the police?

19 A No.

20 Q Did you go report it to anyone?

21 A No.

22 Q When was the first time you told law enforcement about
23 this?

24 A When they came to my house.

25 Q And that was -- recently?

1 A Maybe three weeks ago, four week -- a month.

2 Q So within the last couple of months law enforcement
3 came to your house?

4 A They came to my house and -- well, they called me over
5 the cell phone and they told me they needed me for
6 questioning. I told them I didn't know what they was
7 talking about. And 30 minutes later they showed up at my
8 house.

9 Q And what happened after that?

10 A They said they had a statement from my uncle --

11 MR. SWERLING: Don't tell anything anybody said.

12 THE COURT: Sustained.

13 BY MS. MCDUFFIE:

14 Q Don't say what anyone told you.

15 A Okay.

16 Q After they came to your house, what happened next?

17 A I had to tell them what I know.

18 Q And is that what you did?

19 A Uh-huh. (Affirmative response.)

20 Q And you have three prior convictions for fraudulent
21 checks in 2008 and 2009?

22 A Yes.

23 Q And when the police came to your house in May 2009, you
24 told them about this incident, what you knew?

25 A Well, actually when they came I wouldn't talk to them.

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1 My mom went and talked to a lawyer and we went over to my
2 lawyer's house.

3 Q So you went to your lawyer's house with the police?

4 A With the solicitor, a man who came with two officers.
5 We went to my lawyer house and I talked to them there. I
6 didn't talk to them at my house.

7 Q Okay, so you all went to your lawyers house?

8 A Uh-huh. (Affirmative response.) We drove separate
9 cars there.

10 Q And what's your lawyer's name?

11 A Nathaniel Roberson.

12 Q So y'all went to Mr. Roberson's house --

13 A Uh-huh. (Affirmative response.)

14 Q -- and you talked to police with your lawyer present?

15 A Uh-huh. (Affirmative response.)

16 Q And you gave them a written statement?

17 A Uh-huh. (Affirmative response.)

18 MS. MCDUFFIE: Beg the Court's indulgence.

19 BY MS. MCDUFFIE:

20 Q And after you told the police what had happened after
21 you talked to them about this incident, did anything else
22 happen after that?

23 A Oh, me and him, we fell out and my grandma got threats
24 from him.

25 Q And who is him?

1 A Jarrell Dansby.

2 MS. MCDUFFIE: Nothing further, Your Honor.

3 THE COURT: Okay.

4 RASHONDA SIMPSON - CROSS-EXAMINATION

5 BY MR. SWERLING:

6 Q Ms. Simpson, I'm Jack Swerling. How are you?

7 A Fine.

8 Q You've taken an oath, okay. Do you understand what
9 that means?

10 A Yes, I do.

11 Q And you understand that if you do not tell the truth.
12 under the oath that you took that you are subjecting
13 yourself to a charge of perjury?

14 A Uh-huh. (Affirmative response.)

15 Q And are you still telling the jury that what you just
16 told Ms. McDuffie is the truth?

17 A Uh-huh. (Affirmative response.)

18 Q And specifically that you did not get in a car and help
19 dispose of the gun?

20 A No, I didn't.

21 Q You did not?

22 A No.

23 Q So if somebody was saying that, they're not telling the
24 truth?

25 A Yes.

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1 Q You are; is that right?

2 A Uh-huh. (Affirmative response.)

3 Q What is Brian Watson's relationship to you?

4 A He's my uncle. He's my mom's brother.

5 Q Mom's brother.

6 A Uh-huh. (Affirmative response.)

7 Q How old are you?

8 A 28.

9 Q Now, you filed a report -- well, actually I guess it
10 wasn't you that filed the report, but you're aware -- you
11 testified, I think, when Ms. McDuffie asked you that Mr.
12 Jarrell Dansby, who is the person you were married to?

13 A Uh-huh. (Affirmative response.)

14 Q Subsequent to this occasion, sometime around May 18 --
15 not subsequently, actually it was May 18, the same day that
16 you spoke to the police, correct --

17 A (No response.)

18 Q -- on that day he called and threatened you?

19 A No. He talked to my grandma. Him and my grandma
20 discussed -- I don't know anything about that --

21 Q Well, you just told Ms. McDuffie that you got a threat.

22 A No. I said my grandmother got a threat.

23 Q Your grandmother got a threat?

24 A Yes.

25 Q About you or herself?

1 A No, she got one from Jarrell. I didn't get a threat
2 from him. He threatened my grandmother. That's what I
3 said.

4 Q And you're aware that he did threaten your grandmother?

5 A Yes.

6 Q And that was if they cooperated, if you cooperated, if
7 Brian Watson cooperated in this case?

8 A Excuse me?

9 Q The threat was based upon them cooperating or if they
10 cooperated in this case?

11 A I don't know what the threat was based on. I said
12 Jarrell and my grandmother talked on the phone and I wasn't
13 there.

14 Q So you have no idea what the threat was related to?

15 A No.

16 Q But it was the same night that this happened?

17 A I don't know what night it was. It was in the daytime,
18 I believe, after all this stuff had happened he called my
19 grandmother and he talked to her. I wasn't there, and I
20 don't know what he told her.

21 Q All right. Where were you -- did you get a call from
22 Jarrell prior to finding out when you went home what he was
23 doing?

24 A Yes, I did.

25 Q And where were you at that time?

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1 A At work -- No, he didn't tell me what he was doing. He
2 called me and asked me what time I was getting home from
3 work and I told him.

4 Q And what time did you tell him you got off?

5 A I think 4:00 or 5:00. I don't really remember.

6 Q All right. Where was he at the time he called; where
7 did he tell you he was?

8 A He was home, I believe.

9 Q And so you got home, and as I understanding what you're
10 saying is when you first got in and spoke with the kids you
11 went out back and you saw him burying something?

12 A Uh-huh. (Affirmative response.)

13 Q Okay. And that's when you had a conversation with him?

14 A Uh-huh. (Affirmative response.) It was more like
15 fussing. It was an argument.

16 Q You were arguing. All right. And as a result of that
17 argument, whatever he was burying in the backyard he picked
18 back up?

19 A Uh-huh. (Affirmative response.)

20 Q Is that right?

21 A Uh-huh. (Affirmative response.)

22 Q And you said you actually saw that it was a gun?

23 A Yeah, but I didn't see what kind of gun it was, which I
24 don't know anything about guns. But I know it was a gun,
25 but I don't know what kind it was.

1 Q You don't know what color it was?

2 A It was black.

3 Q Nobody in law enforcement ever showed you a photo
4 spread or a photo of a bunch of guns?

5 A They showed me a couple, but I don't know guns.

6 Q So you were not able to identify the weapon?

7 A Yeah. I showed them a gun that was similar to the one
8 I seen, but I told them I was not for sure it this was it,
9 because I wasn't up close to it, and I didn't see it.

10 Q So this was in May. You said you got home about
11 quarter to --

12 A I didn't say what time I got home.

13 Q Okay. What time did you get off?

14 A I can't remember. I told him I was getting off like
15 4:00 to 5:00. And I don't know the exact time that I got
16 home.

17 Q Is that normally the time when you get off?

18 A Yes. When I was working there.

19 Q So there would still be light out at that time?

20 A Uh-huh. (Affirmative response.) It was light out.

21 Q And you went out to the back yard it was still light
22 out?

23 A Uh-huh. (Affirmative response.)

24 Q Now, after he picked the gun back up out of the ground,
25 your uncle came over --

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1 A No. He --

2 Q -- or next thing you saw he was talking to your
3 husband?

4 A No. When he picked the gun up he placed it in the book
5 bag, and he walked around our trailer and walked - my uncle
6 was sitting on the porch, and he walked to Brian under the
7 shed, they met under the shed. And he talked to him.

8 Q Where Brian lives?

9 A Uh-huh. (Affirmative response.)

10 Q So he walked over to Brian?

11 A Uh-huh. (Affirmative response.)

12 Q With the bag?

13 A Uh-huh. (Affirmative response.)

14 Q And how long were they over there talking?

15 A Probably about 30 to 45 minutes. But when he walked
16 over there, maybe about five to 10 minutes, I walked over
17 there.

18 Q And were you there when they were discussing the gun?

19 A They weren't discussing it when I walked over there.
20 When I walked over there Brian was taking the gun apart.

21 Q And how was he taking it apart?

22 A I can't remember. He was taking it apart. Hammer,
23 with a hammer.

24 Q He was doing it with a hammer?

25 A Yeah.

1 Q Now, I looked at your statement because I believe
2 that's what you told Ms. McDuffie, but there's nothing
3 concerning him taking it apart with a hammer. And I
4 certainly don't want to misrepresent -- but can you look in
5 your statement and find where you told the police he was
6 taking it apart with a hammer?

7 A Well, I might have left it out.

8 Q It's not in there?

9 A No.

10 Q Have you talked to Jarrell since this day?

11 A Oh, course, I've got three kids with him.

12 Q That's what I figured.

13 A Uh-huh. (Affirmative response.) Talk to him every
14 day.

15 Q And you've discussed this case?

16 A No, we don't talk about it.

17 Q So since May 18, when you were confronted by the police
18 and he was confronted by the police, you're telling the jury
19 y'all have never discussed this or the events of that
20 evening?

21 A We don't talk about it.

22 Q You're telling the jury that since May 18, you and he
23 have never discussed what happened that evening; that's what
24 I'm asking you?

25 A No. We talk about other things, but we don't talk

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1 about the case at all; not in front of our kids.

2 Q So the answer to my question is you've never discussed
3 it?

4 A No. It's no.

5 Q Now, after a period of time where did they go and what
6 did they do?

7 A They got in my car and left. When they got back he
8 told me that Brian threw it in the river.

9 Q How long were they gone?

10 A 30 to 45 minutes, like I said.

11 Q Do you have any recollection of it, whatsoever?

12 A No.

13 Q Was it after dark when they came back?

14 A No.

15 Q Was it after dark -- I mean, do you have any idea?

16 A It was getting dark; it wasn't dark.

17 Q How long after you walked over to Brian's house did
18 they leave?

19 A About 15 minutes.

20 Q Who was driving?

21 A Jarrell.

22 Q And Brian is how old?

23 A I have no idea.

24 Q You don't know how old your uncle is?

25 A No.

- 1 Q He lives next door to you?
- 2 A He stays with -- by my mom with my grandmother.
- 3 Q Which is next door?
- 4 A No, it's a little bit -- it's not that far. My mom is
- 5 next door to me. A little bit up the road. We stay on land.
- 6 Q All right. Is he in his 20s, 30s, 40s?
- 7 A No. He probably late 30s.
- 8 Q Okay. So Jarrell gets in the car driving; it's your
- 9 car, right?
- 10 A It's our car.
- 11 Q You own it together?
- 12 A Uh-huh. (Affirmative response.)
- 13 Q Did you give me an estimate of how long they were gone?
- 14 A I just said 30 minutes.
- 15 Q Pardon?
- 16 A About 30 to 45 minutes.
- 17 Q 30 to 45 minutes? Do that's what you reckon it was at
- 18 that time?
- 19 A I can't give the exact time. I mean, this was years
- 20 ago. About 30 to 45 minutes.
- 21 Q So this is on May 18th. And after May 18th, -- I'm
- 22 sorry, May 18th was the first time you were asked to recall
- 23 this event; correct?
- 24 A I don't know.
- 25 Q May 18th was the day the police came out there?

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1 A To my house?

2 Q To your house?

3 A No. The police came out to my house three weeks ago.
4 Three -- a month ago.

5 Q Could you look at your statement and tell me what date
6 is on there? It's down at the bottom.

7 A Down here?

8 Q Yes. May 18th?

9 A Uh-huh. (Affirmative response.)

10 Q Is that correct?

11 A Yes.

12 Q I'm sorry I can't hear you?

13 A Yes.

14 Q So they came out on May 18th and they were asking you
15 about events that took place some time maybe two years ago?

16 A Uh-huh. (Affirmative response.)

17 Q Is that right?

18 A Uh-huh. (Affirmative response.)

19 Q Do you even recall what date these events that you're
20 describing happened?

21 A I don't -- I mean, I don't remember.

22 Q That's all right. I'm just asking you.

23 A I don't know what date this accident happen. I just
24 know it was a couple of years ago. I told them I didn't
25 remember what -- you know, actually what day.

1 Q Do you remember what month it was?

2 A No.

3 Q Do you remember what season it was?

4 A I know it was kind of warm outside. I don't remember.

5 Q So two years later --

6 A All this stuff --

7 Q -- it's coming back and that was the first time you
8 talked about it?

9 A Uh-huh. (Affirmative response.)

10 Q And you haven't talked about it since with anyone?

11 A (No response.)

12 Q And you were asked to relate events that took place
13 whatever evening this was that you're describing?

14 A Uh-huh. (Affirmative response.)

15 Q So we have, as far as assisting the jury, you have no
16 way to tell the jury as to when these events took place?

17 A I mean, I just can't remember the exact date. I don't
18 remember. It was a couple of years ago.

19 Q Well, you had a problem, you said they just came out to
20 see you a couple of weeks ago for the first time, so your
21 time reference is pretty sordid, if May is just a couple of
22 weeks ago.

23 A Well, I mean, that's what it feels like, a couple of
24 weeks.

25 Q Well, when they came back, did Brian and Jarrell come

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1 into the house; did you talk with them?

2 A Everybody went they own home.

3 Q Separate homes. Now, were you staying with Jarrell at
4 that time?

5 A We were staying together.

6 Q All right. Now, let's just jump forward whether it was
7 six month or a year or whenever it was, because we really
8 don't know, but what we do know is it was May 18th?

9 A Uh-huh. (Affirmative response.)

10 Q Now, when the police came out to see you what time was
11 it?

12 A It was late at night. When they first came?

13 Q Yes, ma'am.

14 A When they called me it was almost 11:00 o'clock at
15 night, I think. It was real late.

16 Q I'm sorry?

17 A It was almost 11:00 because by the time we got to the
18 lawyer house it was like midnight.

19 Q All right. They wanted to talk with you and you told
20 them you wanted to have the lawyer there. Actually you
21 wanted to come in the next day --

22 A Yeah. I didn't want them to come to my house because I
23 didn't know what they wanted or anything.

24 Q Okay.

25 A But they told me they was going to come.

1 Q And so as a result of that you arranged to meet down at
2 your lawyers house?

3 A No. They came -- before they came they said they would
4 be there in like 15 to 20 minutes. So when they got there,
5 my mom immediately called the lawyer and he told me to bring
6 them to his house. And we went to his house.

7 Q Y'all eventually arranged to meet down at your lawyer's
8 house about 12:00 o'clock at night?

9 A Uh-huh. (Affirmative response.)

10 Q And at that time they started asking you questions
11 about a particular weapon; is that right?

12 A Uh-huh. (Affirmative response.) They started asking me
13 questions about what I knew about what had happened.

14 Q And you gave a written statement to that effect on May
15 18th; is that correct?

16 A Uh-huh. (Affirmative response.)

17 Q Now, they told you that if you did not cooperate you
18 could be charged as an accessory after the fact; isn't that
19 true?

20 A They told me what -- well, really they told me and
21 Jarrell that --

22 Q Really the answer to the question is --

23 A -- they would -- I mean, it was different things that
24 they were saying. Like different charges, that the best is
25 for me to tell what happened.

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1 Q They at least were telling you could be charged with
2 accessory after the fact of felony murder?

3 A Uh-huh. (Affirmative response.)

4 Q And up to 15 years in the penitentiary?

5 A Yeah.

6 Q And they told you you could be charged with other
7 offenses, as well?

8 A They named different things.

9 Q Conspiracy?

10 A I can't say --

11 Q Do you remember what the other charges were that they
12 threatened you with?

13 A I was -- I don't remember.

14 Q Well, you were a little nervous at that time, weren't
15 you, scared?

16 A Yes, I was.

17 Q You didn't want to go to jail?

18 A No.

19 Q And as a matter of fact, to this day, no one has ever
20 served you with a warrant have they?

21 A No.

22 Q No one has charged you with being an accessory after
23 the fact; isn't that right?

24 A No.

25 Q And was that deal cut that night that you were not

1 going to be charged?

2 A No. It wasn't a deal cut. They said -- I asked them
3 would I have to testify and he said that it probably want
4 even make it to trial. That they'll probably plea or
5 something. I didn't want to testify.

6 Q You didn't want to testify?

7 A No.

8 Q But you're here testifying?

9 A Yeah. I didn't ask to testify.

10 Q So they didn't tell you the truth?

11 A They told me they'd probably plea.

12 Q Right.

13 A Yeah.

14 Q But there's a trial going on?

15 A Yes, it is.

16 Q So they told you something that wasn't true; turned out
17 not to be true. Is that true?

18 A I was told that I probably would not have to testify.

19 Q So the answer to my question is; Yes, I was told
20 something that wasn't true?

21 A That's what they said.

22 Q And as a result of what they told you is what you gave
23 this statement?

24 A I know I gave the statement because I know the truth
25 about what happened.

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1 Q Okay. Now, was Jarrell there at that time?

2 A No.

3 Q Where was Jarrell at that time that you gave this
4 statement?

5 A He was at home.

6 Q Did they -- when they called you did they also call
7 him?

8 A Like the next day, I believe.

9 Q Next day. Did they ask for him?

10 A Huh?

11 Q They didn't ask for him when they talked to you?

12 A Huh?

13 Q I'm talking about when they called you on the phone?

14 A No. They asked for me, for Rashonda.

15 Q Did you go back and tell Jarrell what happened when you
16 were over at Nathaniel Roberson's house?

17 A No. I told him that I had to go or he would -- the
18 people and my lawyer -- and that was it.

19 Q He wasn't curious as to what you had told them?

20 A I mean, we kind of got into an argument about it.

21 Q Well, did you discuss with him what you discussed with
22 the police?

23 A No, I didn't.

24 Q So he would not have had any idea according to your
25 testimony what --

- 1 A He already knew --
- 2 Q Let me ask my question.
- 3 A He already knew, because he got a phone call from
- 4 somebody. So he already knew what had happened.
- 5 Q Here's my question. Did you tell him what you had told
- 6 the police?
- 7 A No, I didn't.
- 8 Q And he didn't ask you?
- 9 A No.
- 10 Q And did you get a copy of your statement?
- 11 A Yes, I did.
- 12 Q Did you show it to Jarrell?
- 13 A No, I didn't.
- 14 Q Well, you took it home when you went home?
- 15 A Yeah. We weren't staying together. You heard me say
- 16 that we had been separated for two years.
- 17 Q Okay. So did you speak with him after you got done
- 18 with the police?
- 19 A Not --
- 20 Q How did you speak with him -- did you go see him?
- 21 A I saw him the next day because he had the kids.
- 22 Q Okay. Did you speak with him in person or did you
- 23 speak with him on the phone?
- 24 A I had to pick my kids up, so I saw him.
- 25 Q And did you, at that time, when you met him in person

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1 you're saying you did not discuss the case or show him the
2 statement?

3 A No. We didn't -- we discussed it, but we didn't get
4 into details about what was said that night.

5 Q The night before?

6 A Yeah, when we talked to the lawyer and everything. He
7 knew that I had talked to them, the solicitor, he knew I had
8 went to my lawyer house, but everything stated, we did not
9 discuss. Like I said, we was fussing.

10 Q And about when did y'all separate. I'm not sure I got
11 that correct?

12 A Two years ago, right before all this stuff happened.

13 Q Pardon?

14 A Two years ago. May -- I don't know what date it was in
15 May. Almost three years.

16 Q Have you and Brian ever discussed, since May 18, 2009

17 --

18 A No.

19 Q -- what you discussed with the police?

20 A No.

21 Q Has Brian discussed with you what he told the police?

22 A No.

23 Q Has Jarrell discussed with you what he told the police?

24 A No. I told you no --

25 Q No. My other question was did you tell him.

1 A No.

2 Q Now, I'm asking you has Jarrell told you what he told
3 the police?

4 A No.

5 Q Have you ever seen a statement by Mr. Watson?

6 A No.

7 Q Have you ever seen a statement by Jarrell?

8 A Jarrell? No.

9 Q Did anybody in law enforcement indicate to you what one
10 of them has said, if anything?

11 A What my uncle said.

12 Q They did.

13 A When I first got picked up -- well, not picked up, when
14 they -- at first -- they told me why I was there.

15 Q So --

16 A Because they had got a statement from my uncle.

17 Q So you're aware of the fact that at the time they came
18 to see you they had a statement from your uncle already?

19 A Huh?

20 Q So you're aware that when they came to see you they had
21 a statement from your uncle already?

22 A No. When they called me on the phone they told me that
23 they had some information about me knowing about the murder
24 of such and such.

25 Q They had gotten that from your uncle?

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1 A I didn't know -- on the phone, I didn't know until I
2 got over there and talked to them. I didn't know what had
3 happened.

4 Q So when you got over there and you talked to them they
5 told you the information came from your own uncle, is that
6 right?

7 A Yes.

8 Q Now, they must have asked you about the discrepancy
9 between what he told and what you told -- what you're saying,
10 is that he said -- and what was your answer?

11 MS. MCDUFFIE: Your Honor, objection. Pitting
12 witnesses.

13 MR. SWERLING: No. I'm actually asking her, Your
14 Honor, what her position is with respect to being in the car
15 when they dumped the gun. That's my question.

16 MS. MCDUFFIE: Your Honor, I believe the question
17 was he said.

18 BY MR. SWERLING:

19 Q Well, let me ask you something.

20 THE COURT: Thank you.

21 BY MR. SWERLING:

22 Q Did they tell you anything about what he said and you
23 being in the car?

24 A Yes.

25 Q When the gun was disposed of?

1 A Yes.

2 Q And you're telling the jury that your uncle did not
3 tell the truth about your being there?

4 MS. MCDUFFIE: Your Honor, objection.

5 MR. SWERLING: It's not pitting the witnesses. I
6 mean, first of all, there's no such ruling.

7 A No, because actually when I --

8 THE COURT: Hold on. He's entitled to know this.
9 Go ahead.

10 A When I talked to them I told them when they walked back
11 over there before they got the keys and stuff, I was
12 originally going with them. But no one would watch the kids
13 so I had to stay with the kids. I told everybody who I
14 talked to that the thing was I started off to go with them.
15 We started to pull out the driveway and I couldn't go because
16 the kids came out my mom's house and said no one would watch
17 them. So I go out the car and didn't go.

18 BY MR. SWERLING:

19 Q I'm sorry.

20 A Yeah, so I didn't go.

21 Q So you were in the car with them?

22 A In the car, yes.

23 Q I'm just making sure I understand and the jury
24 understands that when the police confronted you what your
25 uncle said that you were there when they disposed of the gun,

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1 you said, your response was, well, originally you were going
2 to go and you got in the truck, but then you got out; isn't
3 that right?

4 A I told them I didn't go with them because I didn't have
5 nobody to watch the kids.

6 Q And obviously if you had been there when the gun was
7 disposed of that would have further incriminated you; isn't
8 that true?

9 A Probably.

10 Q Have you see Jarrell today?

11 A Today?

12 Q Yeah.

13 A No.

14 Q He's not up in the solicitor's office waiting with you?

15 A I haven't seen Jarrell.

16 Q Did you tell him to come to the trial?

17 A He knows.

18 Q And you have discussed it with him?

19 A Huh?

20 Q You haven't discussed with him what your testimony is
21 going to be?

22 A No. We don't talk about it.

23 MS. JOHNS: Thank Your Honor. Please the Court.

24 THE COURT: Yes.

25 RASHONDA SIMPSON - CROSS-EXAMINATION

1 BY MS. JOHNS:

2 Q Ms. Simpson --

3 A Uh-huh. (Affirmative response.)

4 Q -- your uncle was arrested for armed robbery in
5 February of 2009 wasn't he?

6 A I guess. I don't know the exact dates, but he was
7 arrested for armed robbery.

8 Q And doesn't he live with your grandmother?

9 A He did.

10 Q Okay, and is that at 202 Haygood Road?

11 A Uh-huh. (Affirmative response.)

12 Q And you still live there, right?

13 A Uh-huh. (Affirmative response.)

14 Q And so you haven't seen him around lately, right?

15 A No.

16 Q So that's normal for you not to see your uncle around?

17 A I mean, he's in jail.

18 Q Okay. But you haven't seen him since he was arrested
19 for armed robbery; you mean that, right?

20 A Yes.

21 Q Okay. And he was arrested in February, 2009, right?

22 A I don't know exactly what month he was arrested, but
23 he's incarcerated.

24 Q All right. Is he still using drugs?

25 A I guess not. Can he use them in jail?

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1 Q Did he use them before he went to jail?

2 A I guess. I never seen him do it.

3 Q Okay. Now, when you pointed out on this diagram -- do
4 you still have that pointer with you?

5 A Yes.

6 Q Where is it that you stay?

7 A About here.

8 Q All right.

9 A Right here.

10 Q And who's between the two of you?

11 A My mom.

12 Q Your mom. So your mom and Brian Watson are brother and
13 sister, correct?

14 A Uh-huh. (Affirmative response.)

15 Q So Brian's mother, your uncle Brian's mother is also
16 your grandmother, right?

17 A Uh-huh. (Affirmative response.)

18 Q So when was the last time that you talked to your uncle
19 Brian?

20 A Maybe when he was at Alvin S. Glenn, maybe about two
21 times.

22 Q When was the last time you saw him?

23 A Months ago.

24 Q Before his statement, right?

25 A Uh-huh. (Affirmative response.)

1 Q And when was the last time that you talked to your
2 grandmother about this gun?

3 A We don't talk about it.

4 Q Your grandmother and you do not talk about this gun?

5 A No, we sure don't.

6 Q And your grandmother and you did not discuss Brian's
7 statement?

8 A When all of it first happened, my grandmother went over
9 there with me. We don't talk about it.

10 Q She went over there where with you?

11 A To my lawyer house that night.

12 Q And this was subsequent to your uncle Brian's arrest
13 for armed robbery, right?

14 A It was months later.

15 Q Months later?

16 A Uh-huh. (Affirmative response.)

17 Q But before the police came to your house, right?

18 A Before the police came to my house, what?

19 Q Before the police came to you and started asking you
20 questions about a gun that has disappeared in a murder case.
21 You talked to your grandmother about it, didn't you?

22 A No.

23 Q You didn't?

24 A She didn't know anything about it.

25 Q She didn't know anything about it?

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1 A No one knew.

2 Q No one knew?

3 A No.

4 Q So you're saying that the only person that knew was you
5 and Brian and your husband, Jarrell, right?

6 A Right. And a couple of his family members.

7 Q Whose family members?

8 A Jarrell.

9 Q What about your family members; didn't your grandmother
10 know about it?

11 A She didn't.

12 Q All right. This is the same grandmother that was
13 threatened; is that what you're saying?

14 A Uh-huh. (Affirmative response.)

15 Q Okay. Was it your uncle Brian that threatened her?

16 A No. It was Jarrell. I don't know what threat, how it
17 took place. Like I said, I wasn't there.

18 Q So you just heard about it?

19 A Yes.

20 MS. JOHNS: I have nothing further.

21 MS. MCDUFFIE: Nothing further from the state. May
22 this witness be excused?

23 THE COURT: Certainly. Ma'am, you can step down to
24 be excused.

25 MS. SHIPLEY: State calls Jarrell Dansby.

1 (WHEREUPON, Jarrell Dansby was
2 sworn to tell the truth.)

3 THE CLERK: Have a seat in the witness stand and
4 give the court reporter your name.

5 MR. DANSBY: Jarrell Dansby.

6 JARRELL DANSBY - DIRECT EXAMINATION

7 BY MS. SHIPLEY:

8 Q Good afternoon, Mr. Dansby. Mr. Dansby, can you tell
9 the jury a little bit about yourself, where are you from?

10 A Columbia, South Carolina. I'm a chef.

11 Q You're a chef. Where do you work?

12 A At Forest Lake County Club.

13 Q At Forest Lake County Club? And can you tell the jury
14 whether or not you're married or divorced or if you have any
15 kids?

16 A I'm separated. I've been separated and I got three
17 kids.

18 Q And who is your wife from whom you're separated?

19 A Rashonda Simpson.

20 Q And was that the lady that just walked out?

21 A Yes.

22 Q To bring your attention to the case at hand, tell the
23 jury how you are related to Tremaine Wray?

24 A My cousin.

25 Q And exactly who are your parents related?

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1 A His mother and my mother are first cousins.

2 Q And your grandmothers were --

3 A Sister.

4 Q -- sisters?

5 A Yes.

6 Q And tell the jury did you see a lot of Tremaine growing
7 up?

8 A Yes. Either he was at our house or I was at his.

9 Q And do you consider him more like a brother than a
10 cousin?

11 A Yeah.

12 Q Is it easy for you to be here today, sir?

13 A No.

14 Q Did you really want to be involved in this?

15 A No.

16 Q Do recall being approached or contacted around May,
17 2009, about this case?

18 A Yes.

19 Q And specifically on May 20, 2009, do you recall having
20 an interview with law enforcement?

21 A Yes.

22 Q Do you recall meeting Investigator McRae who just left
23 the courtroom, but Investigator McRae?

24 A Yeah.

25 Q Where did you meet with law enforcement?

- 1 A My lawyer office.
- 2 Q And who is your lawyer?
- 3 A Todd Rutherford.
- 4 Q And do you recall whether or not you're attorney made
- 5 arrangements with law enforcement that you would cooperate?
- 6 A Yeah, at that time, he did.
- 7 Q Were you aware that they were going to seek a warrant
- 8 for your arrest?
- 9 A Yes.
- 10 Q For accessory after the fact of murder?
- 11 A Yes.
- 12 Q And what was your understanding with your arrangement
- 13 with your attorney and with law enforcement?
- 14 A If I cooperated they would resend the warrant.
- 15 Q And by cooperate, if you told the truth, they would
- 16 resend the warrant?
- 17 A Yes.
- 18 Q Did you agree to meet with law enforcement and your
- 19 lawyer?
- 20 A Yes.
- 21 Q And was that on May 20, 2009?
- 22 A Around there.
- 23 Q And who is your lawyer?
- 24 A Todd Rutherford.
- 25 Q Todd Rutherford. Do you recall the line of questioning

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1 that you were asked by law enforcement at your attorneys
2 office?

3 A Yeah, pretty much.

4 Q And tell the jury what you were asked?

5 A Tremaine, how did I know Tremaine. Pretty much what
6 you just asked me, and then about the gun. They asked me
7 about the gun.

8 Q What about the gun?

9 A Did I receive the gun.

10 Q And what did you tell law enforcement?

11 A Yes.

12 Q And tell the jury -- do you remember the dates that he
13 gave you the gun?

14 A It was like Saturday before or after 4th of July. I
15 don't remember.

16 Q Either the Saturday before or the Saturday after the
17 4th of July?

18 A Yes.

19 Q Of what year?

20 A 2007.

21 Q And just to assist you with the dates, sir, I'm going
22 to show you a calendar on State's 139 of June and July 2007.
23 Does that reflect the dates of those months?

24 A Yes. I just remember it was close to 4th of July.

25 Q Okay.

1 MS. SHIPLEY: Your Honor, at this time, the state
2 seeks to introduce 139 into evidence?

3 MR. SWERLING: No objection.

4 MS. JOHNS: No objection.

5 THE COURT: It's admitted.

6 MS. SHIPLEY: Thank you.

7 (State's Exhibit No. 139, calendar, was
8 marked and entered.)

9 BY MS. SHIPLEY:

10 Q And so back in July of 2007, the 4th was a Wednesday,
11 correct?

12 A Yes.

13 Q And your testimony is that it was either the Saturday
14 before or the Saturday after July 4th?

15 A Yes.

16 Q Of the year 2007?

17 A Yes.

18 Q Where were you working back in that year?

19 A Columbia Country Club.

20 Q And where is Columbia County Club located?

21 A Blythewood.

22 Q Blythewood. Do you recall whether or not you were at
23 work that day?

24 A Yeah, I was at work.

25 Q And what time did you work until?

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1 A Probably like about 4:00 or 5:00.

2 Q Was that your normal schedule back then?

3 A Yeah.

4 Q And so you would also works Saturdays?

5 A Yes.

6 Q Tell the jury how it was that you came into contract
7 with Tremaine?

8 A Uh --

9 Q Did he call you on his cell phone?

10 A I guess. I'm not really sure. He called me on my cell
11 phone. I didn't know where he was calling from.

12 Q And do you recall what your cell phone was back then?

13 A No, ma'am.

14 Q And do you recall what time he may have called you on
15 that day?

16 A Maybe around 1:00 o'clock.

17 Q Maybe around 1:00 o'clock?

18 A Right.

19 Q And I'm going to read some numbers off to you and ask
20 you if you recognize any of these numbers, okay.

21 A Okay.

22 Q 608.8364?

23 A Mine.

24 Q Was that ever your number?

25 A Yes.

1 Q 605.0294? Does that ring a bell?

2 A (No response.)

3 Q 338.9006.

4 A I wouldn't know. I've been through cell phones.
5 Rashonda, she was responsible for the phone bill, so we
6 pretty much changed phones every month.

7 Q Okay. So you honestly just don't know what number you
8 had?

9 A Yes.

10 Q Do you normally get those type of disposable cell
11 phones?

12 A Yes.

13 Q Pay for the minutes?

14 A Yes.

15 Q So you recall that one that day you got a call from
16 him?

17 A Yes.

18 Q And you were at work?

19 A Yes.

20 Q Tell the jury what happened next?

21 A He was like, he had to go to work. He didn't have time
22 to hide his gun. He didn't want his grandma to find it,
23 could he leave it at my house. I told him yes.

24 Q And back then were you living with Rashonda Simpson?

25 A Unfortunately.

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1 Q And was that -- give us the address, please?

2 A 202 Haygood Road.

3 Q And does this map, State's No. 138, does that show your
4 old house over here?

5 A Yes.

6 Q Where did Brian Watson reside?

7 A This house up here in the corner.

8 Q This house up in the front?

9 A Yes.

10 Q Okay, and who lived in this house?

11 A Rashonda's mother.

12 Q All right. And is there a shed between where Brian
13 Watson stayed and where you stayed?

14 A Yes.

15 Q And can you point that out to the jury on this diagram?

16 A (Indicating.)

17 Q And that's the shed?

18 A Yes.

19 Q Okay. When you told Tremaine to go ahead and take it
20 to your house where did you instruct him to put it?

21 A He already knew. We used to -- I have like this little
22 underpinning to the mobile home, and we just stash -- speaker
23 boxes and pretty much anything.

24 Q And so were you home when he brought the gun over?

25 A No.

1 Q Now, when you saw you worked until about 4:00 or 5:00
2 that afternoon, by the way, where was Tremaine working back
3 then?

4 A Outback Steakhouse.

5 Q Outback Steakhouse?

6 A Yes.

7 Q And you know what time he had to report to work that
8 day?

9 A About 4:00 or 5:00. I'm not sure.

10 Q And so if he called you at 1:00 telling you he didn't
11 have time to get rid of it because he had to be at work, you
12 say you were at work when he dropped the gun off?

13 A Yes.

14 Q When you get home do you go look for the gun?

15 A No.

16 Q How is it that you find the gun?

17 A I mean, I knew it was back there. What brought it to
18 my attention was one of my friends called and was like did
19 you heard about the (inaudible).

20 Q And at that point what were -- were you aware of
21 anything that happened at the H&J?

22 A No.

23 Q And when you had this discussion -- you can't say what
24 your friend said, but as a result of that conversation did
25 you call Tremaine?

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1 A Yes.

2 Q And tell the jury what you told Tremaine?

3 A I said, listen why did you bring this gun up here, they
4 just told me that you shot somebody last night at the club.
5 He said, no, I didn't. We began to argue. Sometimes I get a
6 little irate. I was yelling and I was screaming. He was
7 like, no, I ain't do nothing, don't worry about it. I was
8 like, man, you need to come get it. And he was like, man,
9 I'm sorry, for giving it to you if you going to act like this
10 when ain't nothing happened. I was like, well, you need to
11 come get it. And he was like, man, I got to go to work.

12 Q Do you remember asking him why he lied to you?

13 A Yeah.

14 Q And how did he respond?

15 A He didn't.

16 Q Do you recall giving a written statement back on May
17 20, 2009?

18 A Yes.

19 Q Would it help you to review your statement to help you
20 remember what you told police he told you when you asked him
21 why he lied to you?

22 A I didn't write it. They typed it.

23 Q Did you get a chance to review it before you signed it?

24 A No. I didn't say he started crying. I started crying.

25 Q You started crying?

1 A Yeah.

2 Q Who started apologizing?

3 A He did. And he was sorry for bring it up there because
4 I was acting like this.

5 Q Okay. Now, when you had this conversation with him did
6 your wife come home from work?

7 A Yes. Yes, she was there the whole time. Before I had
8 the conversation with him.

9 Q And tell the jury what you did with the gun as a result
10 of that conversation?

11 A Okay. Me and her was fussing about it. She was like,
12 why I let him bring it up here. I was like, I didn't. I was
13 like I'm going to call the police and then Brian came over
14 there. And he was like, no, don't call the police, I'll get
15 rid of it.

16 Q And by Brian, do you mean Brian Watson?

17 A Yeah.

18 Q Told you he'd get rid of it?

19 A Yeah.

20 Q Did you get a look at the gun?

21 A No.

22 Q You didn't look at the gun underneath the house?

23 A No. I showed Brian where it was at and that's it.

24 Q I'm going to direct you to your statement and ask you
25 if you recall telling the police about the gun?

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1 A Yeah, that's what I said. I showed Brian where it was
2 at.

3 MR. SWERLING: Excuse me, can you tell me where
4 you're at --

5 MS. SHIPLEY: Yes. It's the second to last
6 sentence is the first paragraph of the first page of the
7 statement?

8 BY MS. SHIPLEY:

9 Q I'm sorry. Can you please repeat what you just said to
10 me?

11 A I said, yeah, that's exactly what I said. I went in
12 the back yard and showed Brian where it was at. I never saw
13 it was in a bag.

14 Q Isn't it true your statement says you never saw it
15 again?

16 A Yeah, I mean, I never saw the bag.

17 MS. SHIPLEY: Beg the Court's indulgence.

18 BY MS. SHIPLEY:

19 Q Do you remember being asked by law enforcement to
20 describe the gun, and were you able to describe the gun?

21 A No.

22 Q Did you know what kind of gun it was?

23 A I told them I had heard he had --

24 MR. SWERLING: Objection. He heard -- hearsay.

25 THE COURT: Sustained.

1 BY MS. SHIPLEY:

2 Q Did Tremaine tell you what kind of gun it was?

3 A No.

4 Q If you could, please refer to Page 2 of your statement
5 to refresh your memory right there.

6 A I said I heard it was a Mac. Like I said, she was
7 typing -- I didn't write that. She was typing. I didn't see
8 it, but I heard it was a Mac.

9 Q A Mac?

10 A Yeah.

11 Q Tremaine didn't tell you it was a Mac?

12 A No.

13 Q Do you recall going to the shed right over here on your
14 property to talk to Brian Watson about getting rid of the
15 gun?

16 A No.

17 Q So your testimony is you did not go to the shed to
18 destroy the gun with Brian Watson?

19 A No.

20 Q Your testimony is you did not see this gun at all that
21 day?

22 A No.

23 Q Did you see Brian get the gun from your back yard?

24 A I saw where it was at, and I saw it was in a bag. I
25 mean, I don't know what was in the bag, but I showed him

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1 where the bag was and he got it. That was it.

2 Q And did you see where Brian went with it?

3 A No. He came back about an hour or an hour and a-half
4 later and told me don't worry about it.

5 Q Did he tell me where he disposed of it?

6 A No. Didn't ask him.

7 Q And so you are denying that you accompanied him to go
8 get rid of the gun?

9 A Oh, yeah.

10 Q And you're denying that you ever laid your eyes on the
11 gun?

12 A Yes.

13 Q Describe the bag for this jury?

14 A It was like a travel bag or a souvenir bag, a brown,
15 burlap bag.

16 Q A brown burlap bag?

17 A Yes.

18 Q Not a black book bag?

19 A No.

20 MR. SWERLING: Objection. That's leading.

21 THE COURT: Sustained.

22 BY MS. SHIPLEY:

23 Q And you indicated that you had a conversation with
24 Brian Watson when he returned?

25 A Yes.

1 Q How did Brian Watson get to -- how did he -- what
2 vehicle did he use?

3 A I don't know.

4 Q He didn't use your and Rashonda's Montero?

5 A No, not to my knowledge.

6 Q Well, where were you?

7 A I was at home. So was Rashonda.

8 Q And Mr. Watson, Brian Watson came back and told you he
9 had gotten rid of it?

10 A Yes.

11 Q And he didn't tell you where he had gotten rid of it?

12 A No.

13 Q How long did you say you think he was gone?

14 A About an hour or an hour and a-half.

15 Q So you did not see the gun at all that night; that's
16 your testimony?

17 A Yes, ma'am.

18 Q Do you remember finding out that law enforcement had
19 contacted Rashonda on May 18, 2009?

20 A Yes.

21 Q And do you recall calling Brian Watson's mother, her
22 grandmother?

23 A Yes.

24 Q And did you threaten her or her son Brian Watson?

25 A No, I didn't.

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1 Q You did not?

2 A No.

3 Q So if she filed a police report about that, that would
4 be untrue?

5 A Yes.

6 Q Have you had an conversations with Tremaine Wray since
7 you talked to the police.

8 A No, ma'am. (Cell phone rings.)

9 Q Make sure your phone is off, please.

10 A No, ma'am.

11 MS. SHIPLEY: Beg the Court's indulgence.

12 BY MS. SHIPLEY:

13 Q Did you receive a letter from Tremaine?

14 A Yes.

15 Q And did you read it?

16 A No.

17 Q How long ago did you get it?

18 A Maybe three weeks, a month ago.

19 Q And have you spoken with him since you've given a
20 statement to police?

21 A No, ma'am.

22 Q And, again, he's like a brother to you?

23 A Yes.

24 MS. SHIPLEY: Nothing further, Your Honor.

25 THE COURT: Okay.

1 MR. SWERLING: Excuse me on minute, Your Honor.

2 THE COURT: Sure.

3 JARRELL DANSBY - CROSS-EXAMINATION

4 BY MR. SWERLING:

5 Q Mr. Dansby?

6 A Yes, sir.

7 Q I'm Jack Swerling; how are you doing?

8 A I'm all right.

9 Q On May 18, you hear the police were investigating this
10 case with respect to you and Brian Watson and your wife; is
11 that correct?

12 A Yes, sir.

13 Q And on May 18, 2009, you received a call from some
14 folks in my office didn't you?

15 A Yes, sir.

16 Q And asked if you had any knowledge about this situation
17 at all?

18 A Yes, sir.

19 Q And you told them, no. Isn't that true?

20 A Yes, sir.

21 Q So when you spoke with police, I think it was a couple
22 of days earlier. I think it was on the 20th May 2009, all of
23 a sudden you had some knowledge about what had happened a
24 couple of years before; is that correct?

25 A Yes, sir.

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1 Q So what you told the folks in my office was not true?

2 A That's right.

3 Q All right. So on May 18, did you get a call from your
4 wife or did your wife tell you that she had been confronted
5 by the police?

6 A Yes.

7 Q I don't know, maybe I'm confused at this point, but
8 were you and she living together?

9 A No.

10 Q But you were living together when the gun was at your
11 house?

12 A Yes.

13 Q When had you broken up, when had you separated?

14 A March of '08.

15 Q March of '08. So maybe a year, almost a year before --
16 after these events, but a year before you get the call?

17 A Yes.

18 Q But you did get a call on May 18th from her?

19 A Yes.

20 Q Telling you that the police were looking for you,
21 looking for her and looking for Brian Watson, or that they
22 had talked to Brian Watson?

23 A Yeah.

24 Q Is that right?

25 A Yes, sir.

1 Q And she told you at that point what the allegations
2 were; isn't that true?

3 A Yes.

4 Q And you got pretty upset didn't you?

5 A Yes..

6 Q And did you and she meet that night?

7 A No, sir. She came to pick up the kids. I had the kids
8 at my house. She came to pick up the kids.

9 Q Okay, and when she came to pick up the kids she had
10 been to the police the night before, correct?

11 A Yes.

12 Q And did she tell you she went down to the lawyers house
13 and gave a statement?

14 A Yes.

15 Q Did you go over her statement with her?

16 A No.

17 Q Did you discuss what she had told the police?

18 A No.

19 Q So when you -- at that point in time when you talked to
20 the police you had no idea what Rashonda had told the police?

21 A No. She told me she hadn't told the police anything.

22 Q She told you she hadn't told them anything?

23 A Yes.

24 Q Because she didn't know anything about it, either?

25 A Yes.

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1 Q Is that right?

2 A Yes.

3 Q So she wasn't telling the truth, either?

4 A Correct.

5 Q According to her testimony and her statement; is that
6 right?

7 A Yes.

8 Q So if she told you she didn't know anything, then
9 certainly there would have been no reason to call her
10 grandmother and threaten her; correct?

11 A Yes.

12 Q And you're denying that, correct?

13 A Yes.

14 Q Are you denying that you ever threatened her?

15 A I never threatened her.

16 Q Because actually the complainant was Shonda Dansby.
17 Shonda is short for Rashonda?

18 A Yes.

19 Q And did you ever tell her or her grandmother, either
20 one of them, did you ever tell her or her grandmother on May
21 18, at 21:30, that would be about 9:30 in the evening. Did
22 you ever tell her or her grandmother to keep her mouth shut.
23 That complainant's brother Brian Watson is talking with
24 police concerning a murder investigation and is implicating
25 you. And that if you got involved in this matter he would

1 involve complainant as well --

2 A No.

3 Q And that you stated that when he catches up with Brian
4 Watson that he would bring him harm as well?

5 A No.

6 Q You never told anybody that?

7 A No.

8 Q And on May 19, in the morning, did you visit with
9 either Shonda Dansby or her grandmother and reiterate those
10 threats?

11 A No.

12 Q Where does her grandmother live?

13 A Next door, maybe 100 away from her.

14 Q Which was where you were living in June, 2007?

15 A Yes.

16 Q Where was Brian living?

17 A With them, I guess. I don't know. He had been in
18 Charlotte. I don't know if he was still in Charlotte.

19 Q What's Brian's relation to Shonda?

20 A Uncle.

21 Q Uncle. What's his relationship to her grandmother?

22 A Her son.

23 Q So Shonda's mother and Brian are brother and sister?

24 A Yes.

25 Q How old is Brian?

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1 A I don't know. Maybe 35 or 36. I'm not sure.

2 Q How far would it be from where you were living to where
3 they were living?

4 A Like 100 yards.

5 Q 100 yards and that's it?

6 A Yes.

7 Q No houses in between?

8 A No. Well, it's one house but it sits back. Look out
9 the front door at Shonda's house and it goes straight to her
10 grandmother's..

11 Q Now, so the police started looking for you on the
12 evening of May 18?

13 A Yes.

14 Q And you were avoiding them; isn't that true?

15 A Yes.

16 Q You didn't want to talk to them?

17 A No.

18 Q But they caught up with you?

19 A Yeah.

20 Q And that was on May 20, 2009 at 2:30 in the afternoon;
21 correct?

22 A Yes, sir, that sounds right.

23 Q And you got a lawyer at that time?

24 A Yes, sir.

25 Q Where did the interview take place?

- 1 A At the lawyers office.
- 2 Q And you gave a statement?
- 3 A Yes.
- 4 Q You signed the statement?
- 5 A Yes.
- 6 Q You swore it was the truth?
- 7 A Yes.
- 8 Q Just like you're swearing before this jury today?
- 9 A Yes, sir.
- 10 Q All right, so you understand what the implications are
- 11 if you lie?
- 12 A Yes, sir.
- 13 Q You can be prosecuted for perjury with a penalty of up
- 14 to seven years in prison?
- 15 A Yes, sir.
- 16 Q Now, on May 18, 2009 -- or May 20, actually, 2009, is
- 17 that the first time you told anybody about the events that
- 18 took place on this evening that you say Tremaine came over to
- 19 your house?
- 20 A Yes, sir.
- 21 Q Since May 20, 2009, have you and Rashonda discussed
- 22 what you told the police or she told the police or your
- 23 testimony today?
- 24 A Yes, sir. Not in detail, but --
- 25 Q When did you do that?

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1 A Soon as I left the lawyers office, I called her.

2 Q Called her and told her what you had told the police?

3 A Yes.

4 Q And did she tell you at that time what she told the
5 police?

6 A No. She didn't say anything.

7 Q So she was still denying it even after you told her?

8 A Yes.

9 Q Did you give her a copy of your statement to read?

10 A No.

11 Q All right. When after that, approximately, did you and
12 she talk about it again?

13 A Oh, I don't know. I'd say it was a couple of months.
14 Maybe like the end of August or something.

15 Q Where were you when you discussed it again?

16 A I don't know. Maybe on the phone when she called me.

17 Q And did you -- when you discussed the case you were
18 telling her what your version of the events were and did she
19 tell you what her version of the events were?

20 A No.

21 Q So she was still denying that she had one anything,
22 knew anything?

23 A Yes.

24 Q And you spoke with her again about it after that?

25 A Yes.

1 Q I assume from what you're telling me that you spoke to
2 her on several occasions about the events of this day back in
3 2007?

4 A Yes.

5 Q And you've discussed it with her in person?

6 A Yes, sir.

7 Q You've discussed it with her on the phone?

8 A Yes, sir.

9 Q She knows fully what your version of what you're
10 telling the jury today --

11 A Yes, sir.

12 Q -- or what you told the police?

13 A Yes, sir.

14 Q And up until today has she ever told you that she knew
15 anything?

16 A No.

17 Q She's always told you that she denied knowing anything?

18 A Yes. She didn't have nothing to say.

19 Q Nothing.

20 A Nothing.

21 Q When was the last time you spoke with her; today?

22 A Yeah, this morning.

23 Q This morning? Where up in the solicitor's office?

24 A No. She called and asked me what time did I have to be
25 in court.

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1 Q So you all were speaking as early as today about the
2 case?

3 A Yes, she was asking what time I had to be here.

4 Q And had you spoken in the last few days?

5 A Yes. We speak everyday. We got kids.

6 Q About the kids, but sometimes in those conversations
7 you and she talked about this case?

8 A No, sir.

9 Q Never, other than the times you've just told us?

10 A Yes.

11 Q So on May 20, almost two years later was the first time
12 that you were asked to recall the two years before?

13 A Yes, sir.

14 Q Is that right?

15 A Yes, sir.

16 Q Now, you said you haven't talked to Tremaine since you
17 gave your statement?

18 A No.

19 Q But you did talk to him prior to that time?

20 A Yes, sir.

21 Q In fact you visited him down in the detention center
22 prior to giving the statement in May of 2009?

23 A Yes, sir.

24 Q Visited him on a couple of occasions; he's your cousin?

25 A Yes, sir.

1 Q But since May 20, there's been no contact between the
2 two of you?

3 A No, sir.

4 Q All right. So let's talk about May 20, for a minute
5 when you were talking to the police?

6 A All right.

7 Q At this point, your wife's telling you she didn't do
8 anything, she didn't tell them anything?

9 A Yes, sir.

10 Q You can't get in touch with Brian, correct?

11 A Correct.

12 Q Because you tried to get in touch with Brian?

13 A Yes.

14 Q You're trying to find out what Brian told the police?

15 A Yes.

16 Q Did you ever get in touch with him?

17 A No, sir.

18 Q I guess you were aggravated with him, mad with him?

19 A Yes, sir.

20 Q Because from what you were hearing he was implicating
21 you in something; is that right?

22 A Yes, sir.

23 Q All right. So you never did get to speak with him, but
24 you kept trying to get in touch with him?

25 A I didn't keep trying. I just -- Rashonda, she goes to

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1 visit him all the time. I just told her to tell him to just
2 keep us out of this, you know what I mean. He's trying to
3 save hisself. Just keep us out of it.

4 Q And you said you told Rashonda to tell him that?

5 A Yes.

6 Q And -- but if he was telling the truth, then you were
7 telling him to not tell the truth?

8 A No.

9 Q Well, if you and he did something together, you were
10 telling him to keep you out of it, then you were telling him
11 not to tell the truth.

12 A Okay, I guess so.

13 Q And you never communicated a threat to him that you
14 would harm him if he implicated you?

15 A No, sir.

16 Q Never did. So May 20, you get confronted with the fact
17 that they got a warrant for you for accessory after the fact
18 of murder.

19 A Yes, sir.

20 Q Correct?

21 A Yes, sir.

22 Q And they told you they were going to serve that warrant
23 on you?

24 A Yes, sir.

25 Q And did you see a copy of the warrant?

- 1 A No, sir.
- 2 Q They showed it to you?
- 3 A No, sir.
- 4 Q Tell you it carried up to 15 years in the penitentiary?
- 5 A Yes, sir.
- 6 Q What other charges did they threaten you with?
- 7 A That was it.
- 8 Q Scare you a little bit?
- 9 A Oh, yes.
- 10 Q Didn't want to go to the penitentiary?
- 11 A No, sir.
- 12 Q Now, you worked out a pretty good deal, you and your
- 13 lawyer?
- 14 A Yes.
- 15 Q That if you gave them a statement and came into court
- 16 and testified they would withdraw the warrant?
- 17 A Yes, sir.
- 18 Q So you don't have anything hanging over you?
- 19 A No, sir.
- 20 Q And if you were an accessory to a murder you're not
- 21 going to get charged with because you're coming in here to
- 22 court today; correct?
- 23 A Correct, I guess.
- 24 Q I guess. Well, you know better than I do?
- 25 A All right.

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1 Q Well, if you hadn't agreed to give them that statement
2 and come in here to court today you'd be charged with
3 accessory after the fact of murder; correct?

4 A Correct.

5 Q And you'd be on trial?

6 A Correct.

7 Q And the jury would be -- would say -- I mean, the
8 solicitor would say you did something wrong; is that right?

9 A Yes, sir.

10 Q But today, you're their witness?

11 A Yes, sir.

12 Q And they're not prosecuting you for what you did that
13 evening?

14 A No, sir.

15 Q Not prosecuting Rashonda either for what she did that
16 evening; correct?

17 A I guess.

18 Q As far as you know?

19 A As far as I know.

20 Q So the two of you get a free ride for giving a
21 statement and coming in here to Court, correct?

22 A Yes, sir.

23 Q Now, when you met with the investigators in the case
24 they did tell you what Brian said, didn't they?

25 A Yes.

- 1 Q They outlined it for you what he said?
- 2 A Yes.
- 3 Q And you agreed with some of it and disagreed with some
- 4 of it; right?
- 5 A Yes, sir.
- 6 Q And gave your own statement?
- 7 A Yes, sir.
- 8 Q I guess when you first went in there you probably
- 9 denied it to them, too, didn't you?
- 10 A Yes, sir.
- 11 Q So not only did you lie to whoever called you on the
- 12 phone or whoever else you were talking to you lied to the
- 13 police as well; is that right?
- 14 A Yes, sir.
- 15 Q You told them you didn't know anything about it?
- 16 A Yes, sir. Don't want to go to jail.
- 17 Q Pardon?
- 18 A Said I don't want to go to jail.
- 19 Q How long were you down there before you finally decided
- 20 to cooperate?
- 21 A Not long at all.
- 22 Q Not long at all?
- 23 A No. I talked to them and then I talked to my lawyer.
- 24 My lawyer told me it would be in my best interest.
- 25 Q Once you found out they would withdraw that warrant,

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1 right?

2 A Yes, sir.

3 Q Fair enough. So when you gave a statement, you knew
4 what Brian was saying and they asked you about what Brian was
5 saying, and then you gave a statement about that, correct?

6 A Yes.

7 Q About the events?

8 A Yes.

9 Q Now, I guess I'm going to ask you a couple of
10 questions. Were you at the house when Tremaine came over
11 there?

12 A No.

13 Q You didn't know what time Tremaine went over to your
14 house?

15 A It had to be around 12:00 or 1:00.

16 Q Okay. What did Tremaine do with the gun, according to
17 you?

18 A Put it under the house.

19 Q Was the gun under the house when you came home?

20 A Yes.

21 Q And I believe you described it as being in a souvenir,
22 a brown travel bag or a souvenir weave bag, something like a
23 potato bag?

24 A Yeah.

25 Q So when you saw a potato bag, you're talking about the

1 kind of thing that's kind of mesh burlap kind of thing, but
2 you can see through it?

3 A No. It had a design on the front.

4 Q Okay. So it was a material like burlap --

5 A Yes.

6 Q -- brown weave, I guess we have some potato bags that
7 have openings in it, but this was a burlap, closed burlap,
8 correct?

9 A Yes.

10 Q And it was under your house. Now, how did you know it
11 was under your house, did he tell you it was under the house?

12 A Tremaine?

13 Q Yeah.

14 A Well, that's where I told him to put it. I knew that's
15 where it would be.

16 Q Okay. So you and he never had a discussion about
17 putting it under the house?

18 A No.

19 Q And so you just knew to go under the house that evening
20 or whenever you got home from work, and you just suspected it
21 would be there?

22 A Yes, sir.

23 Q He didn't tell you it was there, you didn't have to
24 tell him to put it there?

25 A Yes, sir.

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1 Q It just happened; is that right?

2 A Yes, sir.

3 Q And how long after you spoke with him on the phone did
4 you get off?

5 A Maybe about three or four hours?

6 Q Now, we understand now you're remembering this two
7 years later?

8 A Yes, sir.

9 Q So was anybody home when you got home?

10 A No, sir. I believe the wife and kids were gone
11 somewhere.

12 Q Was Rashonda not working at that time?

13 A It was Saturday. She was off on the weekends.

14 Q So whatever day it happened she was not working?

15 A No.

16 Q She was just not there when you got home?

17 A Yes.

18 Q And how long after you got home did she get home?

19 A I don't know, maybe about 30, 40 minutes. I'm not
20 sure.

21 Q All right. And between the time that she got home --
22 between the time that you found the bag and she got home what
23 did you do with the bag?

24 A It was under the house. I never touched it until I got
25 the phone call. That's when I showed Brian where it was.

1 Like I said, me and her was arguing and he came over there
2 like, what's wrong. I told him to get out, and he asked me,
3 he said, man, tell me what's wrong. I told him. He said
4 he'd get rid of it.

5 Q So I guess -- Ms. Shipley asked you this, that bag
6 stayed under the house until Brian came?

7 A Yes.

8 Q The brown potato bag?

9 A Yes.

10 Q And did you -- you never looked inside the bag?

11 A No, sir.

12 Q You don't even know what was in the bag, do you?

13 A No, sir.

14 Q And you never -- I guess that means that you never
15 tried to bury what's in the bag, either?

16 A No, sir.

17 Q And I guess that means that when Rashonda came out you
18 wouldn't have unburied it or pulled it out of the ground?

19 A No, sir.

20 Q So if someone said that they'd be mistaken about that?

21 A Yes, sir. Extremely.

22 Q Can have -- obviously, not the same if it was under the
23 house or being put into the ground and being pulled out of
24 the ground, that's two different stories isn't it?

25 A Yes, sir.

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1 Q Well, that obviously means the two of you didn't get
2 together and discuss what supposedly happened out there that
3 day?

4 A I guess so.

5 Q Because you got it under the house?

6 A Yeah.

7 Q And she had it in the ground, how do you explain that?

8 A She fabricated. She knows she's not telling the truth,
9 just like her uncle.

10 Q Okay. Did you go over to see Brian or did he come over
11 to see you?

12 A He came to see us. He always came to our house bumming
13 cigarettes.

14 Q So you didn't go over to his house that day and talk to
15 him about the gun?

16 A No, sir.

17 Q Well, when he came over, what was the purpose of him
18 coming over, bumming cigarettes?

19 A Yes, sir. And me and her was fussing about it, and he
20 asked what was wrong.

21 Q So you told him -- what did you tell him?

22 A I told him Tremaine had brought a gun and my home boys
23 had called and said he killed somebody. I didn't know what
24 to do. And I was going to call the police. He was like, no,
25 don't call the police, he would get rid of it.

1 Q So your version of the events was that you were going
2 to be the good samaritan and you were going to call the
3 police and tell them you had this bag, this brown potato bag?

4 A Yeah. I watch CSI all the time. I know what happens to
5 people, you know what I mean.

6 Q You like CSI?

7 A Yeah.

8 Q So do I. So you -- what you intended to do on the day
9 that he came over is you intended to go ahead and go to the
10 police?

11 A Yes.

12 Q But you never did?

13 A No.

14 Q And you never did for two years?

15 A No.

16 Q In fact, you never did ever?

17 A No.

18 Q They came to you?

19 A Yes.

20 Q And had they not come to you you never would have gone
21 to them?

22 A No, sir.

23 Q Never would have told this story?

24 A No, sir.

25 Q Never would have been in this courtroom?

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1 A No, sir.

2 Q Never would have told the jury anything?

3 A No, sir.

4 Q So now what you're saying is Brian said to you, don't
5 do that?

6 A Yeah.

7 Q That he will get rid of it for you?

8 A Yes.

9 Q The two of you never discussed the two of you getting
10 rid of it together?

11 A No, sir.

12 Q And so I guess you're saying that you never took the
13 gun out of the bag and started banging it with a hammer or
14 trying to break it apart, or bend it, or bite it or whatever?

15 A No, sir.

16 Q Because you never saw the gun?

17 A No, sir.

18 Q So how long was Brian at the house before he left?

19 A Maybe about 10 to 15 minutes.

20 Q So you thought that was a pretty good idea when he said
21 he would get rid of the evidence in the case?

22 A Yes.

23 Q I mean, you didn't care, did you?

24 A No, I just wanted it away from me. I wasn't going to
25 jail for something I didn't have nothing to do with.

1 Q But your initial reaction was to go ahead and call the
2 police, but when Brian say, hey, you know, I can get rid of
3 it for you, you thought that was a pretty good idea?

4 A Yeah. He's a career criminal. I gave him the gun.

5 Q Career criminal. You said you watched CSI, that's not
6 the correct thing to do?

7 A No. You see what happens when people do.

8 Q So when he said I'll get rid of it for you, where did
9 you go?

10 A I went in the house.

11 Q Well, where did he go?

12 A I don't know.

13 Q Well, how did he get the gun?

14 A I went back and showed him where it was.

15 Q And did you go under the house to get it?

16 A Yes, sir.

17 Q Prior to that had you gone under the house to retrieve
18 it?

19 A No.

20 Q So when did you find out it was under the house, when
21 Brian came or when you first came home?

22 A I knew it was under the house because I talked to
23 Tremaine.

24 Q I thought you said you didn't talk him about where it
25 was under the house because you knew it would be under the

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1 house?

2 A I did. I talked to Tremaine. We always put everything
3 under the house. We always set thing up under the house,
4 like I said, speakers and all kind of stuff. Old furniture,
5 anything.

6 Q I think what you -- let me see if I understand what you
7 said. You said before that he never told you he put it under
8 the house, that's just where you always put things; is that
9 right?

10 A Right. That's what I just told you.

11 Q So my question is, when did you first go to see whether
12 or not this brown potato bag was under the porch, under the
13 house?

14 A With Brian.

15 Q With Brian?

16 A Yeah.

17 Q First time?

18 A First time.

19 Q And it was there?

20 A Yes.

21 Q And you went under the house and got it and you gave it
22 to Brian?

23 A Yes.

24 Q Now, did he tell you where he was going to dispose of
25 it?

1 A No, sir.

2 Q Did he tell you how he was going to dispose of it?

3 A No, sir.

4 Q Did you give him anything to dispose of it?

5 A No, sir.

6 Q He was just doing you a favor because he was a career
7 criminal?

8 A That's what he said.

9 Q Well, when he left the house, left your house, where
10 did he go?

11 A I don't know.

12 Q Did he have a vehicle?

13 A No, he didn't.

14 Q Is there a vehicle at that house?

15 A There was vehicles all up in there.

16 Q Rashonda had a vehicle, right?

17 A Yes.

18 Q What kind of vehicle did she have?

19 A A Montero.

20 Q What kind of vehicle is that; is it a sedan or an SUV?

21 A An SUV.

22 Q SUV. Okay.

23 A Yeah.

24 Q Did you get in car that night, the SUV?

25 A No, sir.

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1 Q Did you drive away from the house --

2 A No, sir.

3 Q -- with Brian?

4 A No, sir.

5 Q Did he drive away from the house with you in the
6 vehicle?

7 A No, sir.

8 Q Do I understand correctly that at no time did you get
9 in the vehicle with Brian and go with Brian to dispose of the
10 gun, correct?

11 A No, sir.

12 Q And if somebody said that, that was not true?

13 A That's not true at all.

14 Q According to you -- you're saying that under oath?

15 A Yes, sir.

16 Q Is that right?

17 A Yes, sir.

18 Q And my understanding is that you didn't see him later
19 on, ever?

20 A Who?

21 Q I mean that night?

22 A Brian?

23 Q Yeah?

24 A Yeah, he came back and told me that I didn't have to
25 worry about that no more.

1 Q That he had gotten rid of it?

2 A Yeah.

3 Q Did he tell you where he had gotten rid of it?

4 A No, sir.

5 Q How long after he left did he come back?

6 A It was like an hour or an hour and a-half.

7 Q And how did he come back, did you see him, was he
8 driving, walking, was he on a bicycle?

9 A No. He knocked on the door.

10 Q That's how he --

11 A He said let me get a cigarette, and that's it.

12 Q And he didn't tell you where he did it, he just said
13 you don't have to worry about it any more?

14 A Yes, sir.

15 Q All right. So let me make sure I understand. You did
16 not go with him in the vehicle?

17 A No, sir.

18 Q To go dump the gun?

19 A No, sir.

20 Q You didn't get in the vehicle, you and Rashonda
21 certainly didn't get in the vehicle together and go with him
22 to get the gun?

23 A No, sir.

24 Q You never saw the gun, but you never even saw the
25 potato sack after you handed it to Brian, is that right?

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1 A No, sir.

2 Q And in return for that story the police are not
3 prosecuting you for accessory after the fact, is that right?

4 A Yes, sir.

5 Q There's no question when you talked to Tremaine about
6 this incident when you got upset about it, that he said,
7 nothing happened. I didn't do anything. Isn't that true?

8 A Yes, sir.

9 Q Thank you.

10 MS. JOHNS: Your Honor?

11 THE COURT: Yes.

12 MR. JOHNS: Thank you.

13 JARRELL DANSBY - CROSS-EXAMINATION

14 BY MS. JOHNS:

15 Q Mr. Dansby, let me see if I got this straight. Okay.
16 You never saw the gun, correct?

17 A Correct.

18 Q You never laid eyes on it?

19 A Correct.

20 Q At any time?

21 A Correct.

22 Q And you still don't know what that gun looks like?

23 A Correct.

24 Q Is underneath the trailer -- it's underpinning, right?

25 A Yes, ma'am.

1 Q All right. Did you let your uncle Brian store his
2 stolen items from a burglary underneath there, too?

3 A Not that I know of, but he might have unknowing.

4 Q So it's a secret hiding place?

5 A Yes.

6 Q And the people that know about it are the people that
7 store things under there?

8 A Correct.

9 Q All right. So if Brian knew about this secret hiding
10 place he would have been able to hide things in there, too,
11 right?

12 A Yes, ma'am.

13 Q Now, is he still using drugs?

14 A Last time I see him.

15 Q He was?

16 A Yeah.

17 Q And you know he got arrested in February for two armed
18 robberies?

19 A Yes, I know.

20 Q Now, have you ever seen Brian Watson with a gun?

21 A No, I can't say I have.

22 Q You haven't?

23 A No.

24 Q Do you know -- well, let me put it to you this way --
25 you don't have any idea -- well, I'll go back one more step.

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1 You really don't know what was in that bag, do you?

2 A No, ma'am.

3 Q Okay. And based on that, you really don't know if that
4 weapon was used at any time, correct?

5 A No, ma'am. Correct.

6 Q Okay. You don't know if the weapon was ever shot or
7 fired, correct?

8 A Correct.

9 Q And you don't know if that weapon, if it was a weapon,
10 was the weapon that was used in any homicide?

11 A No, ma'am.

12 Q You don't know if that weapon was used in any armed
13 robbery, right?

14 A Right.

15 Q You don't know if that weapon was stolen from a
16 burglary, you know nothing about the weapon, right?

17 A Right.

18 Q That's because you said you talked to your cousin,
19 Tremaine, and he told you he put something up underneath the
20 house, right?

21 A He said he was going to bring it up there.

22 Q But you didn't witness him doing that?

23 A No, ma'am.

24 Q And you don't know of anybody that did witness him
25 doing that, right?

1 A No, ma'am.

2 Q For all you know, it could have been Brian Johnson,
3 right?

4 A Right.

5 Q You said something earlier about trying to save
6 yourself, right?

7 A Right.

8 Q Okay. And when you said you tried to save yourself,
9 that means to keep yourself from harm, right?

10 A Yes, ma'am.

11 Q And you have three children, right?

12 A Yes, ma'am. One on the way.

13 Q So you have another child coming into this world?

14 A Right.

15 Q And you wouldn't want to see the mother of your child
16 go to jail would you?

17 A No.

18 Q And you as a father wouldn't want to be taken away from
19 your children ever would you?

20 A Definitely not.

21 Q And you work a steady job as a chef, is that right?

22 A Yes, ma'am.

23 Q In fact, you're taking off work to be here right now,
24 right?

25 A Yes, ma'am.

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1 Q Okay. And you said also that Rashonda was known for
2 not telling the truth?

3 A Yes, ma'am.

4 Q Just like her uncle Brian?

5 A Yes, ma'am.

6 Q So the fact that you know that she doesn't tell the
7 truth, she could be lying about you?

8 A Yes.

9 Q And her uncle Brian could be lying about you as well?

10 A Yes.

11 Q And if your uncle Brian knows how to save himself then
12 he could tell us what he did with it?

13 A Yes.

14 Q Now, to be honest with you, in 2007, just to go through
15 it again, you did not see a gun?

16 A Right.

17 Q Right? You just heard about what happened at the club?

18 A Yes, ma'am.

19 Q You been to this club before?

20 A Plenty of times.

21 Q You drive an SUV?

22 A No, ma'am.

23 Q Does your wife drive an SUV?

24 A Yes, ma'am.

25 Q What color is it?

- 1 A Burgundy.
- 2 Q Not tan?
- 3 A No, ma'am.
- 4 Q Not silver?
- 5 A No, ma'am.
- 6 Q Does Brian have a driver's license?
- 7 A I doubt it.
- 8 Q Where was Brian that night?
- 9 A Don't know.
- 10 Q Brian ever been out to the club?
- 11 A Brian?
- 12 Q Yes?
- 13 A I'm pretty sure he has.
- 14 Q Been out with you?
- 15 A Not with me.
- 16 Q He lives with his mother?
- 17 A Yes.
- 18 Q And he's 35 years old?
- 19 A Yes.
- 20 Q And is he their only child, this grandmother,
- 21 grandfather that lives there?
- 22 A Yes.
- 23 Q He's a bum?
- 24 A Pretty much.
- 25 Q And you ever see Brian talk to his mother in a

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1 derogatory manner?

2 A Yes, ma'am.

3 Q And describe that for me?

4 MS. SHIPLEY: Your Honor, I'm going to object.

5 What is the relevance of how this man speaks to his mother?

6 MS. JOHNS: Your Honor, the reason why it's

7 relevant is because there is a threat that had been

8 communicated that's been testified this afternoon and I --

9 THE COURT: You can verify that through Mr. Watson.

10 MS. JOHNS: Okay. Let me rephrase the question.

11 BY MS. JOHNS:

12 Q You witnessed Mr. Watson disposition?

13 A Yes.

14 Q And his behavior?

15 A Yes.

16 Q And his conduct, right?

17 A Yes.

18 Q And the way that he treats people. You've witnessed
19 that, right?

20 A Yes.

21 Q And would you agree with me that it is rude?

22 A Yes.

23 Q And it is ugly?

24 A Yes.

25 Q And --

1 MS. SHIPLEY: Your Honor, again, this is not
2 relevant to this witnesses testimony.

3 THE COURT: Approach.

4 (Off the record bench conference with counsel and the court.)

5 THE COURT: Objection sustained.

6 BY MS. JOHNS:

7 Q When did Brian call you and tell you that he was going
8 to turn in a weapon or testify about a weapon?

9 A He never did.

10 Q Okay. When did Rashonda tell you he was going to do
11 that?

12 A Say what? Repeat that?

13 Q Did Rashonda ever do that --

14 A No, ma'am.

15 Q -- did she ever tell you that she's going to tell the
16 truth about what happened?

17 A No. She called me when Brian got into some stuff.

18 Q Okay. Brian got into some stuff?

19 A Yes.

20 Q And Brian knows how to save himself, right?

21 A Yes.

22 Q Okay. And Rashonda's grandmother, who is Brian's mom,
23 has lived right -- 500 yards from each other?

24 A Correct.

25 Q Correct?

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1 A Yes, ma'am.

2 MS. JOHNS: That's all I have, Your Honor. Thank
3 you.

4 THE COURT: Okay.

5 MS. SHIPLEY: May it please the Court, Your Honor?

6 THE COURT: Certainly.

7 JARRELL DANSBY - REDIRECT EXAMINATION

8 BY MS. SHIPLEY:

9 Q Mr. Dansby, I'm going to just ask you what was touched
10 on by the defense on your cross?

11 A Yes, ma'am.

12 Q I believe you were asked by Mr. Swerling, first of all,
13 as to when is the first time you had told anybody about what
14 had taken place either that Saturday before or the Saturday
15 after 4th of July, 2007; do you remember that question?

16 A Yes.

17 Q And what was your answer?

18 A When I talked to the police.

19 Q When you talked to the police on May 20th, when you
20 gave your statement?

21 A Yes, ma'am.

22 Q Did you ever discuss your statement with Rashonda?

23 A Not in detail.

24 Q And, in fact, she never discussed what statement she
25 provided to police to you, did she?

1 A No.

2 Q And in fact, I believe you answered Mr. Swerling that
3 she indicated to you that she never told the police anything?

4 A Yes.

5 Q And Mr. Swerling's office contacted you before law
6 enforcement, isn't that true?

7 A Correct.

8 MR. SWERLING: Well, Your Honor, I don't want to
9 mislead now. We'll bring it out through Mr. McRae, but we
10 were all made aware of that on May 18th.

11 BY MS. SHIPLEY:

12 Q Then my question is, you spoke with Mr. Swerling's
13 office before you spoke to the police, correct?

14 A Yes.

15 Q And also along the lines, you indicated what you
16 discussed with Rashonda Simpson about your statement, your
17 statement was given two days after he statement, correct?

18 A I don't know.

19 Q You didn't even know she gave a statement?

20 A Yes, ma'am.

21 Q And have you ever discussed your testimony or your
22 statement to the police with Brian Watson?

23 A No.

24 Q And he's been in jail since February of 2009, correct?

25 A Yes.

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1 Q And first of all who involved you in this case; who
2 involved you in this case?

3 A Because he brought me the gun.

4 Q Who?

5 A Tremaine.

6 Q So Tremaine's the one that got you involved?

7 A Yeah.

8 Q Not Brian Watson?

9 MR. SWERLING: Your Honor, object to leading.

10 THE COURT: Sustained.

11 BY MS. SHIPLEY:

12 Q Did Brian Watson get you involved?

13 A No.

14 Q And you were advised by your attorney that it is in
15 your best interest to cooperate with the police?

16 A Yes.

17 Q And are you telling the truth?

18 A Yes.

19 Q Did Tremaine bring a gun to your house?

20 A Yes.

21 Q And although you're testifying you did not physically
22 see the gun, how -- who told you what object they were
23 bringing to your home?

24 A Tremaine.

25 Q And what did he tell you he was bringing to your home?

1 A His gun.

2 Q And who brought this gun to Brian Watson's attention?

3 A I did.

4 Q And isn't it true you knew it was wrong not to report
5 this to the police back then and you admit that, right?

6 A Yes, ma'am.

7 Q You were asked about what kind of car you drove or your
8 wife drove around that time. I believe Ms. Johns asked you
9 that?

10 A Yeah.

11 Q And what color car were you all driving then?

12 A Burgundy.

13 Q And what color -- what kind of car did Tremaine drive
14 back then?

15 A A Suburban.

16 Q What color?

17 A Gold.

18 Q And you had never seen Brian Watson with a gun before?

19 A No.

20 Q Would it be a truth or a lie for Brian Watson to say
21 that he got rid of the gun?

22 A Truth.

23 MS. SHIPLEY: No further questions.

24 MR. SWERLING: Can I follow up?

25 THE COURT: Yes.

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JARRELL DANSBY - RECROSS EXAMINATION

BY MR. SWERLING:

Q Ms. Shipley said to you that you knew it was wrong not to tell the police at the time this happened, correct?

A Correct.

Q But you're on the stand right now telling the truth?

A Yes, sir.

Q Correct?

A Correct.

Q Your version of the truth is that the -- whatever was in that potato sack, you remember that?

A Yes, sir.

Q You never buried it?

A Correct.

Q You never picked it back up?

A Correct.

Q You never took it out of the bag?

A Correct.

Q You never discussed it with -- you were not holding it and discussing it with Rashonda at the time, at the same time, correct?

A Correct.

Q Is that right?

A That's right.

Q You never went over to Brian's house to help him get

1 rid of the gun, that you never helped destroy the gun?

2 A Correct.

3 Q That you never got in the vehicle with your wife or
4 Brian Watson?

5 A Correct.

6 Q To go ahead and dispose of the gun?

7 A Correct.

8 Q That's what you're telling this jury is the truth.

9 A Yes, sir.

10 Q Okay.

11 MS. JOHNS: Just a few things.

12 THE COURT: Sure.

13 JARRELL DANSBY - RECROSS-EXAMINATION

14 BY MS. JOHNS:

15 Q And the last time you saw that potato sack was when it
16 was in Brian Watson's hand, is that right?

17 A Yes, ma'am.

18 MS. JOHNS: That's all.

19 THE COURT: All right, sir, you can step down and
20 be excused.

21 MS. SHIPLEY: Your Honor, can he have his phone
22 back? Can he have it back now so he can leave?

23 THE COURT: That's fine.

24 MS. SHIPLEY: Your Honor, our next witness is going
25 to be lengthy. Can we take a break.

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1 THE COURT: All right, ladies and gentlemen, I'll
2 excuse you to your jury room. I remind you not to discuss
3 the case.

4 (Jury out at 3:44 p.m.)

5 THE COURT: All right. You all are at ease.

6 Oh, you-all had asked me earlier about Mr. Watson's
7 prior record and the pending arm robberies and I believe all
8 of those various crimes come in because the state is not
9 objecting to those. There is an objection to the probation
10 revocation. While the Rule 609, I believe it is, does talk
11 about convictions it refers to crimes punishable for over a
12 year. So to the extent that any party is able to also able
13 to mention the crime that also fits under that rule, you can
14 also mention what punishment was given. So I'm going to take
15 the position that the punishment includes whether it was
16 probation or not because if the punishment, if you had a
17 crime punishable for more than a year and then you got
18 probation, I'm sure that would have been brought out by
19 either party in that regard. And so the fact that what
20 happened with the crime, probation and then therefore
21 subsequent revocation of a probationary sentence. I think
22 that's relevant. I think that also fits under the
23 computation clause as well. And then with respect to the '98
24 shoplifting, that's the one that's over the 10 years, right?

25 MR. SWERLING: That's correct.

1 MS. SHIPLEY: Yes, ma'am. That's from 1998.

2 THE COURT: And you've already got other
3 shipliftings in as well, right?

4 MS. SHIPLEY: Yes.

5 THE COURT: Okay. And what's the rationale for one
6 on that one?

7 MR. SWERLING: Well, I think the cases say that one
8 of the things that go beyond 10 years, there's the subsequent
9 history of an individual, and while I think the rule is
10 intended to protect somebody who was law abiding for 10
11 years. But here you have an individual who's been on a crime
12 spree repetitively for over the years. So I think the rule
13 does not shield him and should not shield him. And it just
14 shows he repetitive criminal conduct.

15 MS. MCDUFFIE: Well, Your Honor, the defense is
16 also -- or any party seeking to introduce a conviction is
17 required to give the person 10 days notice, and the defense
18 has not done that in this case, Your Honor.

19 MR. SWERLING: Well, I gave Ms. Shipley notice.

20 MS. MCDUFFIE: Mr. Swerling gave us notice on the
21 convictions of Ricky Jacobs, however, he did not give us --

22 MR. SWERLING: Well, I did this morning.

23 MS. MCDUFFIE: Your Honor, that's not sufficient.

24 THE COURT: Okay. Yeah, the rule does indicate the
25 time period.

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1 MS. JOHNS: I'd ask you wave the rule under these
2 circumstances we were getting ready for trial, and this is
3 our third time.

4 MS. MCDUFFIE: Your Honor --

5 MS. JOHNS: This is new evidence that came in then.

6 MS. MCDUFFIE: Which is way more than 10 days, Your
7 Honor.

8 MS. JOHNS: Well -- as far as being provided his
9 full criminal record, Your Honor, I think --

10 MR. SWERLING: I beg to differ with everybody. The
11 rule doesn't say I have to give 10 days notice.

12 THE COURT: It didn't say -- it says, notice.
13 Right.

14 MR. SWERLING: Notice.

15 THE COURT: Okay. Let me look at it.

16 MR. SWERLING: I mean, the purpose of notice is to
17 give them a fair opportunity to contest the use of the
18 evidence. So you're talking about one shoplifting charge in
19 this criminal history. Your Honor, I'll abide by whatever
20 your ruling is, but notice can be at any time as long as it's
21 fair notice.

22 THE COURT: Okay. It is --

23 MS. MCDUFFIE: I'm sorry, Your Honor, it's not 10
24 days, but it is written notice and we have not received that.

25 THE COURT: You have not received written notice?

1 MS. MCDUFFIE: No, ma'am, Your Honor.

2 THE COURT: Okay. They're going to hold you to the
3 technicality on that.

4 MR. SWERLING: Okay. All right.

5 THE COURT: I'm going to rule with the state on
6 that issue. There's plenty of other things in there.

7 MS. SHIPLEY: He'll have a field day with this
8 witness, Your Honor.

9 THE COURT: Right. Okay. All right. You all be
10 at ease for at least 15 minutes.

11 MS. JOHNS: Thank Your Honor.

12 (Court in recess for short break.)

13 (Court in session after short break.)

14 THE COURT: Thank you. Are we ready to proceed?

15 MS. MCDUFFIE: Your Honor, we just have a minute?

16 THE COURT: Right. Just tell me when you're ready.

17 MS. SHIPLEY: Watch your step going down these
18 stairs. Have a seat in the witness stand.

19 THE COURT: Is the jury ready? Jurors, please.

20 MS. SHIPLEY: And we'll need him sworn while he's

21 --

22 THE COURT: Absolutely.

23 MS. SHIPLEY: Thank you.

24 THE BAILIFF: Jury's all present, Your Honor.

25 (Jury in at 4:13 p.m.)

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1 THE COURT: Okay. State please call your next
2 witness.

3 MS. SHIPLEY: Your Honor, at this time the state
4 calls Brian Watson.

5 THE COURT: Okay.

6 (WHEREUPON, Brian Watson was sworn
7 to tell the truth.)

8 THE CLERK: Thank you. Would you state your name
9 for the record, please?

10 MR. WATSON: Brian L. Watson.

11 THE CLERK: Thank you.

12 BRIAN WATSON - DIRECT EXAMINATION

13 BY MS. SHIPLEY:

14 Q Good afternoon, Mr. Watson.

15 A Good afternoon.

16 Q Mr. Watson, can you tell the jury where you're from?

17 A Blythewood, 140 Haygood Road.

18 Q And are you neighbors with a woman named Rashonda
19 Simpson?

20 A Yes.

21 Q And who is Rashonda Simpson to you?

22 A She's my niece.

23 Q And who did you live with at 140 Haygood?

24 A With my mother and father.

25 Q And I'm going to show you a diagram and ask you if this

1 is an accurate reflection of your family property, just to
2 orient you, that would be the main street, Haygood Road. Do
3 you see your residence on this --

4 A That's my house. (Indicating.)

5 Q That's your house?

6 A Uh-huh. (Affirmative response.)

7 Q Okay, and is there a back porch to that house?

8 A Yes, there is.

9 Q Okay. And where does Rashonda Simpson live?

10 A Right here. (Indicating.)

11 Q All right. And who lives in this house?

12 A Jackie Simpson, her mother, my sister.

13 Q Your sister. And what is this building right here?

14 A It's a shed.

15 Q And what's kept in that shed?

16 A A boat, well, two boats actually, and a lawn mower,
17 some yard equipment.

18 Q Okay. And do you have a view from this back porch to
19 Rashonda's house?

20 A Yes.

21 Q And do you know who Rashonda Simpson is married to?

22 A Yes. Jarrell Dansby.

23 Q And how long have you known Jarrell Dansby?

24 A For quite a while, a few years.

25 Q Ever since he's been married to your niece?

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1 A Yes, uh-huh. (Affirmative response.)

2 Q Tell the jury a little bit about yourself. Did you
3 ever finish school?

4 A Yeah.

5 Q How far did you go in school?

6 A I finished high school and then had a couple years of
7 college.

8 Q And obviously you are not an inmate, correct?

9 A Yes.

10 Q Tell the jury a little bit about your criminal history?

11 A I've been arrested several times for shoplifting, for
12 drug possession, for check forgery. Things of that nature.

13 Q I'm going to go through them one by one, okay?

14 A Okay.

15 Q On November 4, 1999, isn't it true that you were
16 convicted of eight counts of forgery and shoplifting?

17 A Yes.

18 Q And on April 22, 1999 -- and by the way, for the
19 forgery, eight counts and shoplifting you were placed on
20 probation?

21 A Yes.

22 Q Because that was your first -- never mind. You got
23 probation for those offenses, right?

24 A Yes.

25 Q And on April 22, 1999, you were convicted of

1 shoplifting?

2 A Yes.

3 Q And then on May 3, 2000, you were convicted of burglary
4 third degree, petit larceny, financial transaction card
5 theft, two times for two counts. Financial transaction card
6 fraud, two counts, and you were revoked on your previous
7 probationary sentence at that time?

8 A Yes.

9 Q And placed in prison for a period of time?

10 A Yes.

11 Q Then on June 5, 2003, you were convicted of possession
12 of crack cocaine, three counts; is that correct?

13 A Yes.

14 Q And along with a fraudulent check?

15 A Yes.

16 Q And you were sent to prison for four years?

17 A Yeah.

18 Q And then on August 29, 2006, you were convicted of
19 shoplifting again?

20 A Yes.

21 Q And now, tell the jury what you're in jail for?

22 A I'm incarcerated for arm robbery.

23 Q And how many counts?

24 A Two.

25 Q Tell the jury what penalty is for arm robbery in South

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1 Carolina?

2 A Ten to 30 years.

3 Q And so you are facing two separate 10 to 30 year
4 sentences?

5 A Yes.

6 Q A potential maximum sentence of 60 years; is that
7 correct?

8 A Yes.

9 Q Have you and the state of South Carolina entered into
10 any sort of plea negotiations in exchange for your testimony?

11 A No.

12 Q And are you represented by a lawyer?

13 A Yes.

14 Q And who is your lawyer?

15 A Russell Brown.

16 Q And do you see Mr. Brown in the courtroom?

17 A Yes.

18 Q Can you point him out for the jury?

19 A Over there. (Indicating.)

20 Q The gentlemen right there with -- who's raising his
21 hand?

22 A Yes, ma'am.

23 Q And obviously you're not testifying out of the goodness
24 of your heart, correct?

25 A No.

1 Q You're hoping for leniency --

2 A Yes.

3 Q -- from the judge that sentences you or leniency from
4 the prosecutor prosecuting you?

5 A Yes.

6 Q There have been no promises whatsoever as to what your
7 fate is?

8 A No.

9 Q And your criminal history reflects a lot of -- explain
10 to the jury what led you to become a criminal from finishing
11 high school and a couple years of college?

12 A Drug addition, drug habit.

13 Q And what addition do you have?

14 A Cocaine, and crack cocaine.

15 Q How long have you been an addict?

16 A Several years.

17 Q And have you ever worked?

18 A Yeah.

19 Q What kind of work have you done?

20 A Restaurant industry, mostly, cook, cooking. Some
21 carpet installation.

22 Q And back on June of 2007, where were you residing?

23 A At 140 Haygood Road.

24 Q And you indicated earlier, obviously, you know Jarrell
25 Dansby. Did you know any of his family members?

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1 A No, not really.

2 Q What do you mean by that?

3 A I'd met a couple of them at family functions, but other
4 than that, no.

5 Q Had you ever met Tremaine Wray?

6 A No.

7 Q Now, did you witness some things on June 30, 2007?

8 A Yes.

9 Q Okay. And you -- the things that you witnessed and the
10 things you participated in, tell the jury when was the first
11 time that you came forward or notified anybody about what you
12 knew from that date?

13 A That would be in May of this year.

14 Q Okay. Who did you tell that you knew something about
15 what happened that day?

16 A My attorney.

17 Q Mr. Russell Brown?

18 A Yes.

19 Q And can you explain how you communicated with your
20 attorney about information you had concerning this case?

21 A He came to Alvin S. Glenn Detention Center.

22 Q And you were incarcerated there at the time?

23 A Yes.

24 Q Where are you incarcerated now?

25 A At Fairfield County Detention Center..

1 Q And what information did you relay to your lawyer?

2 A That I had information concerning the murder that
3 occurred on Hardscrabble Road, the location of the murder
4 weapon.

5 Q And did you go into a lot of detail in a letter to your
6 lawyer?

7 A Yeah.

8 Q And do you know what your lawyer did with that
9 information?

10 A Apparently, he contacted the solicitor's office.

11 Q And were you ever questioned by law enforcement?

12 A Yes.

13 Q Tell this jury what made you come forward?

14 MS. JOHNS: Your Honor, I object.

15 MR. SWERLING: Can we approach?

16 THE COURT: Sure.

17 (Off the record bench conference with counsel and the Court.)

18 THE COURT: Ladies and gentlemen, we need to take
19 up a matter of law. I'll excuse you to your jury room and
20 we'll be with you shortly.

21 (Jury out at 4:32 p.m.)

22 THE COURT: Okay.

23 MS. MCDUFFIE: Your Honor, in terms of Mr.

24 Swerling's request for a letter, Rule 5 applies to material
25 or things in possession of the state or an agent of the

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1 state. The state has never seen that letter nor do we have
2 possession of it. Further, Mr. Swerling -- Ms. Shipley and I
3 were speaking to Mr. Swerling --

4 THE COURT: Okay. Just so the record is clear
5 because the sidebar conference was not on the record, just
6 indicate what letter you're referring to?

7 MS. MCDUFFIE: The letter the defendant just
8 testified he sent to his lawyer notifying him about the
9 information that he had about this incident, Your Honor.

10 THE COURT: Okay.

11 MS. MCDUFFIE: Further, we made Mr. Swerling aware
12 of that a couple weeks ago after we learned that information
13 --

14 THE COURT: And you're indicating -- I'm sorry,
15 you're indicated the state has not --

16 MS. SHIPLEY: We've never seen this letter, never
17 had it in our possession.

18 THE COURT: Okay.

19 MR. SWERLING: I wasn't suggesting you did. I was
20 just suggesting that he's referred to it now in his testimony
21 and I think we should be entitled to get it. Frankly, I was
22 not going to do it, this letter, but now that he's mentioned
23 it. I think up until that point, it was a question of
24 whether or not we're entitled to it, but at this point he's
25 referred to it, he's sent the document to his lawyer. And

1 he's testifying so there's no privilege any more.

2 THE COURT: Okay. Mr. Brown, you want to shed any
3 light on it?

4 MR. BROWN: I don't think they need the letter.
5 That's a letter between attorney and client. I don't know --
6 Immediately when Mr. Watson informed me I informed the
7 solicitor. I don't see where it sheds any light as far as
8 the defendants here.

9 THE COURT: Okay, let me ask you this, are you
10 indicating there may be other things in the letter, too,
11 regarding the relationship?

12 MR. BROWN: Between --

13 THE COURT: No, between Mr. Watson and yourself?

14 MR. BROWN: I would have to look over that letter
15 again. He wrote two or three letters involving different
16 things.

17 THE COURT: Okay.

18 MR. BROWN: Now, there are some things about his
19 involvement in the crime that he's alleged to committed.

20 THE COURT: Right.

21 MS. SHIPLEY: Which we have not gone into at all.

22 MR. SWERLING: And I'm not interested in that.

23 THE COURT: Right.

24 MR. SWERLING: Just as it relates to this case, I'm
25 asking that he produce it. We could also ask, are you

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1 willing to waive the privilege?

2 MS. MCDUFFIE: Your Honor --

3 THE COURT: Well, he would need to have his lawyer
4 advise him on that issue.

5 MR. SWERLING: That's all right.

6 MS. MCDUFFIE: Your Honor, Mr. Brown, as an officer
7 of this court, would have a duty if a crime had been
8 committed such as perjury, to bring it to the court's
9 attention. I believe that was the --

10 MR. SWERLING: Well, let's put it this way. I'm
11 not so sure that that would be the case, but I would ask Your
12 Honor to review it In Camera to see if there's any
13 evidentiary value to the letter, if there's anything that was
14 exculpatory or inconsistent to what he testifies to and so
15 that would be a compromise, and I'd ask the Court to do that?

16 MS. SHIPLEY: Do you have the letter here?

17 MR. BROWN: I may. I may.

18 THE COURT: Okay. The other -- go ahead.

19 MS. JOHNS: And Your Honor, while we're on that
20 topic, I think that if the Court is so inclined to let us see
21 the letter, the Court can obviously redact portions of the
22 letter not having to do with the case at hand, and I think we
23 should we should be entitled under the Sixth Amendment right
24 to confrontation --

25 THE COURT: Okay.

1 MR. SWERLING: What I'd be particularly interested
2 in, Your Honor, is prior inconsistent statements that could
3 be used to impeach him.

4 THE COURT: Sure.

5 MR. SWERLING: I don't think it's out of the
6 precedent that the Judge take that In Camera and review it
7 and make that interpretation and seal it.

8 THE COURT: Okay.

9 MS. SHIPLEY: Your Honor, I think then it would be
10 appropriate for you to hear the testimony and then review the
11 letter and if there's anything inconsistent then you can make
12 your decision.

13 THE COURT: All right. Okay.

14 MS. SHIPLEY: We, at least, could proceed with the
15 direct.

16 THE COURT: Sure.

17 MS. SHIPLEY: Okay.

18 THE COURT: Mr. Watson, we need to make sure that
19 you do not make any mention of either one of these gentlemen,
20 Mr. Tremaine Wray or Mr. Taurus Watts being incarcerated.
21 The jury does not have that information and we are very --
22 you know, comfortable with making sure they do not see them
23 with any restraints on them, to give them a fair trial.

24 MR. WATSON: Okay.

25 THE COURT: So any questions that mention

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1 information about where you saw them, you are never to
2 mention that it could have been at any period of
3 incarceration, whether it's a holding cell or it's in a van,
4 whether it's anything to do with any period of confinement.

5 MR. WATSON: I understand.

6 THE COURT: Okay.

7 MS. SHIPLEY: Could we refer to the courthouse?

8 THE COURT: Sure.

9 MS. SHIPLEY: If I could explain to the Court. He
10 had them in the holding cell on March 16, 2009, at Alvin S.
11 Glenn. He was supposed to come for a hearing that day, a
12 Schmerber Hearing and never got transported. Could we just
13 refer to it as encountered him at the courthouse?

14 MS. JOHNS: That wouldn't be actually correct.

15 MS. SHIPLEY: Well, how do you explain, how do you
16 explain where he saw them?

17 THE COURT: You can say that you saw them -- is the
18 place necessary?

19 MS. MCDUFFIE: Your Honor, he's been incarcerated
20 since February, so we can't really --

21 THE COURT: Oh, because you're talking about a
22 particular date?

23 MS. MCDUFFIE: Yes, ma'am.

24 THE COURT: Okay. I got you.

25 MS. SHIPLEY: Yeah, because he's been locked up

1 since February of '09. That came out in Ms. Johns --

2 MS. JOHNS: If I may suggest this to the Court, can
3 you say that I ran into one or the other during a court
4 proceedings? Could have been at the jail, could have been
5 here. Mr. Watts was ready to go to trial in March, and
6 that's when the encounter happened, back in March.

7 THE COURT: Okay.

8 MS. SHIPLEY: And then he sees them again when he's
9 being prepared to to the Sheriff's Department from the jail,
10 he encounters them coming back and it's either -- about their
11 case getting continued on May 18.

12 MR. SWERLING: Well, first of all, as far as I
13 understand the encounter conversation was between him and Mr.
14 Watts.

15 THE COURT: Watts. It is.

16 MR. SWERLING: So I -- certainly Mr. Wray doesn't
17 need to be mentioned.

18 THE COURT: He certainly doesn't need to be
19 mentioned, but I didn't know what information she was
20 soliciting from him when we got that far, when that came up.
21 Obviously, that wouldn't be relevant at all. I just wanted to
22 caution that --

23 MS. SHIPLEY: All right. I think we can just say,
24 did you run into them, have a conversation with them. We're
25 not going to say where.

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1 MR. WATSON: Okay.

2 MR. SWERLING: What I'm saying is since we're still
3 -- Wray was not in the conversation. He did not say
4 anything. I don't think he needs to be mentioned.

5 THE COURT: Yes. You don't need to use the word,
6 them.

7 MS. SHIPLEY: But he was there.

8 MR. SWIRLING: But he didn't say anything.

9 MS. SHIPLEY: It's relevant because when he first
10 reported the case, he isn't familiar with Tremaine Wray's
11 name. He thought it was Dansby. But then he sees Tremaine
12 and he's like, yeah, that's him. That's who I saw at the
13 trailer.

14 THE COURT: Okay.

15 MS. SHIPLEY: So it's relevant that he sees him and
16 then puts it together.

17 MR. SWERLING: Well, he doesn't have to say in the
18 relationship of the conversation. He can say I saw Mr. Wray
19 -- I won't challenge it.

20 THE COURT: Okay.

21 MR. SWERLING: If he saw him on another occasion
22 and realized that was Tremaine Wray not Jarrell Dansby.

23 THE COURT: Okay. But Ms. Johns is suggesting
24 about Mr. Watts at a court proceeding?

25 MS. SHIPLEY: That's why I'm -- we can say court

1 proceeding.

2 THE COURT: Do you understand that, sir?

3 MR. WATSON: Yes, ma'am.

4 THE COURT: As to Mr. Watts, you indicating that it
5 happened at a court proceeding, that's where you ran into
6 him.

7 MR. WATSON: Okay.

8 THE COURT: As to Mr. Wray, you're never mentioning
9 where.

10 MR. WATSON: Okay.

11 THE COURT: Okay. We're all ready to proceed?

12 MS. SHIPLEY: Yes, ma'am.

13 THE COURT: Bring the jurors.

14 (Jury in at 4:32 p.m.)

15 THE BAILIFF: Jury is all present, Your Honor.

16 THE COURT: Okay. State you can proceed.

17 MS. SHIPLEY: Thank Your Honor.

18 BRIAN WATSON - CONTINUED DIRECT EXAMINATION

19 BY MS. SHIPLEY:

20 Q Mr. Watson, I was asking you why you decided to come
21 forward in May of 2009, about the information you had
22 concerning this case, this murder. Tell the jury why you
23 decided to come forward so long -- later?

24 A Well, I had actually -- I mean, the information -- I
25 mean, I actually had forgotten about it, really. It was two

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1 years earlier. Then in March I ran into Mr. Watts and we had
2 a discussion about what was going on. He was about to go to
3 trial for this crime. And just relayed some information to
4 me that the solicitor's office really didn't have any
5 evidence on him, that he was going to get away with this.
6 That all the solicitor's office had was one witness who saw
7 him with the gun.

8 Q One witness that saw him what?

9 A With the gun.

10 Q Did he talk about any forensic evidence with you?

11 A Yeah. He said they didn't have any gunshot residue.

12 Q And were you -- first of all, when the incident
13 happened on June 30, 2007, you were not incarcerated,
14 correct?

15 A No.

16 Q And were you familiar with what had happened at the H&J
17 on Hardscrabble?

18 A Yeah.

19 Q Had you been to that club before?

20 A Yes. Several times.

21 Q And are you familiar with who owns and operates that
22 night club?

23 A Yeah.

24 Q And who is that?

25 A Rick.

1 Q Rick. Did you ever talk to Rick, Ricky Jacobs about
2 what you knew about this case?

3 A No.

4 Q Excuse me?

5 A No.

6 Q Okay. So when you see him and he tells you this, that
7 was in March of 2009?

8 A Yes.

9 Q Why'd you wait two months to come forward in May of
10 2009?

11 A Honestly, I really don't know. It just came to me one
12 day, you know, that I was myself in trouble and wanted some
13 leniency and then on the other hand, it's a murder. Somebody
14 got killed. And I don't know, you shouldn't be able to get
15 away with that.

16 Q And so you're doing this to help yourself out?

17 A Yes.

18 Q And you actually have a conscience, too?

19 A Yes.

20 MR. SWERLING: Objection. He may, but she doesn't
21 need to lead him.

22 THE COURT: Sustained.

23 BY MS. SHIPLEY:

24 Q Do you have a conscience?

25 A Yes.

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1 Q And so did your attorney make arrangements for you to
2 meet with law enforcement about this?

3 A Yes.

4 Q And do you remember being taken to the sheriff's
5 department for questioning?

6 A Yes.

7 Q What date was that; do you recall?

8 A (No response.)

9 Q If I showed you your statement would that help you
10 remember?

11 MS. JOHNS: Your Honor, I think he's trying to
12 answer. She's not giving him time.

13 THE COURT: Okay.

14 A May -- um -- May 16, or 18, maybe. I'm not -- I can't
15 remember, exactly.

16 MS. SHIPLEY: Now, Your Honor, can I show him the
17 statement. He says he can't remember.

18 THE COURT: Okay.

19 MS. SHIPLEY: Thank you.

20 BY MS. SHIPLEY:

21 Q First of all, look at this document, and tell me if you
22 recognize it?

23 A Yes.

24 Q What is it?

25 A It's my statement.

1 Q And can you see what date and time you gave that
2 statement?

3 A Yes.

4 Q What date and time?

5 A It was May 18 at 21:10 hours.

6 Q 21:10; is that military time?

7 A Yes.

8 Q And do you know military time?

9 A No, I don't.

10 Q But it was at night?

11 A The evening.

12 Q And do you recall that when you gave your statement,
13 the first thing the officers asked or told you, do you recall
14 whether they discussed your pending charges with you?

15 A Yeah, they did.

16 Q Did they make you any promises whatsoever about your
17 pending charges?

18 A none whatsoever.

19 Q And what information about this murder did you provide
20 to law enforcement at that time?

21 A Location of the murder weapon and how it came to be in
22 my possession?

23 Q Okay. Tell the jury what you remember about how you
24 came into possession of the murder weapon?

25 A All right. It was on Sunday, I guess, June 30th. I

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1 was at my house and I remember it was late afternoon or early
2 afternoon. I looked out the back door and there was a big
3 truck at my niece's house, a big SUV. A little while later,
4 Jarrell Dansby called me and asked me to come over there to
5 the house, to Shonda's house. He said he needed my help with
6 something. So I went over there and he showed me a book bag.

7 Q And describe this book bag?

8 A It was a black book bag, a Jansport.

9 Q A Jansport book bag?

10 A Jansport. It had a little brown tag on it.

11 Q And he had it in his possession?

12 A Yes.

13 Q And did you look inside the bag?

14 A Yes.

15 Q Tell the jury what you saw?

16 A A Mac 10 gun.

17 Q And some jurors may not be familiar with a Mac 10 gun.

18 I'm going to show you State's 140, and ask you if you
19 remember officers showing you a line up of weapons for you to
20 identify what you saw?

21 A Yes.

22 Q You recall seeing that?

23 A Yes.

24 Q Did you identify the type of gun you saw?

25 A Yes.

1 Q And did you circle it?

2 A Yes.

3 Q And did you sign your name by it?

4 A Yes.

5 MS. SHIPLEY: Your Honor, at this time the state
6 seeks to introduce 140 into evidence.

7 MR. SWERLING: No objection.

8 MS. JOHNS: No objection, Your Honor.

9 THE COURT: Okay. Admitted.

10 (State's Exhibit No. 140, gun line
11 up, was marked and admitted.)

12 BY MS. SHIPLEY:

13 Q And if you could, flip back to the weapon that you
14 identified.

15 A (Witness complies.)

16 Q And you know that to be a Mac 10?

17 A Yes.

18 MS. SHIPLEY: May I publish this to the jury, Your
19 Honor?

20 THE COURT: You may.

21 BY MS. SHIPLEY:

22 Q Now, on that Mac 10 that you identified, did you tell
23 the investigators any distinguishing information about the
24 gun, did it look any different from that picture?

25 A Yes, it did. I did not have the collapsible shoulder

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1 stop or the hand strap.

2 Q So now -- shoulder stop or the hand strap?

3 A Yes.

4 Q And what color was it?

5 A Black.

6 Q Tell the jury what you decided to do with Mr. Dansby
7 regarding the gun?

8 A We decided to get rid of it, to throw it in the creek.

9 Q And did you do anything to that weapon before you left
10 to go get rid of it?

11 A Yes. Yes, we did.

12 Q Okay. Explain that to the jury; where did you go?

13 A Well, first of all, we were in the backyard, in Jarrell
14 and Rashonda's backyard.

15 Q And do you recall where the book bag came from in the
16 backyard?

17 A Well, Jarrell brought the book bag out of the house
18 with the gun in it.

19 Q Okay. So the gun was inside the house and Jarrell came
20 outside the house --

21 MR. SWERLING: Objection.

22 MS. SHIPLEY: Oh, I'm sorry, Your Honor, let me
23 rephrase the question.

24 THE COURT: Okay.

25 MS. SHIPLEY: We have to do everything step by step

1 so everybody understand everything.

2 BY MS. SHIPLEY:

3 Q When you -- first of all, who called you to come over?

4 A Jarrell.

5 Q Did you go over?

6 A Yes.

7 Q What happened when you got there?

8 A Well, he came out of the house with a book bag, and we
9 walked around to the back of the house. And he showed me the
10 book bag and told me to look inside it.

11 Q And at that time, what happened next?

12 A I looked in it and it was a Mac 10, and he said I need
13 to get rid of this. Initially, he wanted to bury it in the
14 backyard. I told him that wasn't a good idea, that we needed
15 to take it somewhere. He was concerned that I might actually
16 sell the gun. It was in perfect condition. There was
17 nothing wrong with it. So he decided to get a hammer and we
18 banged it up.

19 Q And where did you bang it up?

20 A In the backyard there.

21 Q And would you have gotten -- sold that weapon?

22 A Yeah. Yeah.

23 Q Why would you have sold it?

24 A You know, it was worth a lot of money.

25 Q And why did you need money?

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1 A Drugs.

2 Q And at that point did you damage the weapon?

3 A Yes.

4 Q Who hit it with the hammer?

5 A We both did.

6 Q Were there two hammers, one hammer?

7 A One hammer.

8 Q You took turns?

9 A Yes.

10 Q Where was Ms. Simpson during this time?

11 A She was in the house.

12 Q And were her children home?

13 A Um -- no, I think they were at her mother's.

14 Q Which is next door?

15 A Yeah.

16 Q Tell the jury what y'all did next with this gun?

17 A Okay. After that we put it back in the book bag, and
18 Jarrell went inside to get Rashonda to drive us to go get rid
19 of it. So we drove down Langford Road and there's a creek on
20 Langford Road and we were going to stop there, but I can't
21 remember exactly why we didn't, but I believe there was
22 traffic behind us and we couldn't pull over. So we proceeded
23 to another location, another creek that was by my mother's
24 church. I don't even remember the name of the road. But
25 that's where I got out of the truck. I told them to drive up

1 the street, and they drove up and I ran down and threw the
2 gun and the clip in the creek.

3 Q What car were you traveling in?

4 A His and Shondra's red truck. A red SUV.

5 Q And you don't recall the name of this street with the
6 creek?

7 A Um --

8 Q Could you give directions to how you got there?

9 A Yeah. We went up Langford Road, we took a right and
10 then a left, another quick right and then another right. And
11 that's the road that the creek's on.

12 Q And do you know what county that's in?

13 A Kershaw County.

14 Q Kershaw County. What town is nearby; what town is it
15 in?

16 A Pontiac.

17 Q And on that road are there two creeks?

18 A Yeah.

19 Q And do you recall which of the two --

20 A The first one.

21 Q The first one. I'm going to show you what's been
22 marked as State's 141, and it's kind of dark, so I'll ask you
23 if you recognize the street names, first of all?

24 A Yes.

25 Q You do.