

**ORIGINAL**

STATE OF SOUTH CAROLINA

VOLUME I OF II

In The Court of Appeals

---

APPEAL FROM GREENVILLE COUNTY

Letitia H. Verdin, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

PATRICK DEAN LOWRANCE,

APPELLANT

APPELLATE CASE NO. 2013-000320

---

RECORD ON APPEAL

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**RECEIVED**  
APR 01 2016  
SC Court of Appeals

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WITNESSES

B V Cruell

Greenville Police Department

10/29/2011

ARREST WARRANT NUMBER  
M802908

ACTION OF GRAND JURY  
**TRUE BILL**

*Jonathan P. Jones*  
FOREMAN GRAND JURY

*Person of Grand Jury*

VERDICT

**GUILTY**

*Chris M. Little*  
Foreperson of Petit Jury

Date: 1-10-13

DOCKET NO. 2012-GS-23-  
LCM

001423

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

March

TERM 2012

THE STATE

vs.

PATRICK DEAN LOWRANCE

Indictment for

0065

FAILURE TO STOP FOR A BLUE LIGHT

VIOLATION § 56-05-0750

RECEIVED

MAR 01 2012

Clerk of Court  
Greenville County

ENTERED  
ACCT

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
FAILURE TO STOP FOR A BLUE LIGHT


At a Court of General Sessions, convened on  
County present upon their oath:

MAR 20 2012

the Grand Jurors of Greenville

That PATRICK DEAN LOWRANCE did in Greenville County, on or about the 28th day of October 2011, willfully, knowingly, and unlawfully commit the offense of failure to stop for a law enforcement vehicle in that the said defendant while driving on a road, street or highway of the State did intentionally fail to stop when signaled to do so by a law enforcement vehicle using blue lights and/or siren. This is in violation of §56-05-0750 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
SOLICITOR

WITNESSES

D P Garrison

TC

Greenville Police Department

10/29/2011

ARREST WARRANT NUMBER

M802899

ACTION OF GRAND JURY

TRUE BILL

*Jonathan P. [Signature]*  
FOREMAN GRAND JURY

Person of Grand Jury

VERDICT

GUILTY

*Orville [Signature]*

Foreperson of Petit Jury

Date: 1-10-13

DOCKET NO. 2012-GS-23-01424  
LCM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

March

TERM 2012

THE STATE

vs.

PATRICK DEAN LOWRANCE

Indictment for

3410

ATTEMPTED MURDER

VIOLATION § 16-03-0029

ENTERED  
ACCT. LBH

RECEIVED

MAR 01 2012

Clerk of Court  
Greenville County

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
ATTEMPTED MURDER

At a Court of General Sessions, convened on  
County present upon their oath:

MAR 20 2012

the Grand Jurors of Greenville

That PATRICK DEAN LOWRANCE did in Greenville County, on or about the 28th day of October 2011, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Officer Taci Cobb by means of shooting her with a handgun. This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
SOLICITOR

WITNESSES

D P Garrison

*TC*

Greenville Police Department

10/29/2011

ARREST WARRANT NUMBER

M802900

ACTION OF GRAND JURY

**TRUE BILL**

*Jonathan P. [Signature]*  
FOREMAN GRAND JURY

person of Grand Jury

VERDICT

*GUILTY*

*[Signature]*

Foreperson of Petit Jury

Date: *1-10-13*

DOCKET NO. 2012-GS-23-

LCM

001425

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

March

TERM 2012

THE STATE

vs.

PATRICK DEAN LOWRANCE

Indictment for

3410

ATTEMPTED MURDER

VIOLATION § 16-03-0029

ENTERED ACCT *LBH*

RECEIVED

MAR 01 2012

Clerk of Court  
Greenville County

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
ATTEMPTED MURDER

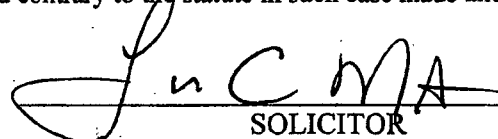
At a Court of General Sessions, convened on  
County present upon their oath:

MAR 20 2012

the Grand Jurors of Greenville

That PATRICK DEAN LOWRANCE did in Greenville County, on or about the 28th day of October 2011, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Officer Charles Lane by means of shooting him with a handgun. This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
SOLICITOR

WITNESSES

D P Garrison

*TC*

Greenville Police Department

10/29/2011

ARREST WARRANT NUMBER

M802901

ACTION OF GRAND JURY

**TRUE BILL**

*Joseph P. ...*  
FOREMAN GRAND JURY

Person of Grand Jury

VERDICT

**GUILTY**

*Orin R. III*

Foreperson of Petit Jury

Date: 1-10-13

DOCKET NO. 2012-GS-23-

LCM

001426

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

March

TERM 2012

THE STATE

vs.

PATRICK DEAN LOWRANCE

Indictment for

0549

POSSESSION OF A WEAPON DURING THE  
COMMISSION OF A CRIME

VIOLATION § 16-23-0490

RECEIVED

MAR 01 2012

Clerk of Court  
Greenville County

ENTERED  
ACCT

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
POSSESSION OF A WEAPON DURING THE COMMISSION OF A  
CRIME

MAR 20 2012

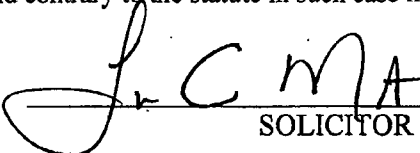
At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That PATRICK DEAN LOWRANCE did in Greenville County, on or about the 28th day of October, 2011, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: Attempted Murder (X2). This is in violation of §16-23-0490 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
SOLICITOR

OCTOBER 8, 2012

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**JACKSON V. DENNO HEARING WITNESS**

**TIM CONROY**

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**BRITTANY CRUELL**

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**BRITTANY CRUELL (RECALLED)**

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**WITNESSES FOR STATE**

**BRITTANY CRUELL**

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1 that you identified from the lineup or the mug shot or whatever it is in court today, and she says yes,  
2 and---

3 Mr. Marchant: Yes sir.

4 The Court: ---can you point him out?

5 Mr. Marchant: I don't know what she going to say right now.

6 The Court: Okay. Where is she in the---

7 Mr. Marchant: She would be the first witness.

8 The Court: Then we probably need to do-- Just to be safe, then, we probably need to do a  
9 Neil versus Biggers hearing.

10 Mr. Marchant: Very good, Your Honor. We'll do that right now.

11 The Court: All right.

12 **BRITTANY CRUELL**, duly sworn, testified as follows:

13 The Court: Could you, please, ma'am, after you state your name, could you spell it, please?

14 A Brittany Cruell, B-r-i-t-t-a-n-y C-r-u-e-l-l.

15 The Court: Very good. Solicitor.

16 Mr. Marchant: May it please the court.

17 **DIRECT EXAMINATION BY MR. MARCHANT:**

18 Q Officer Cruell, where are you employed?

19 A Greenville City Police Department.

20 Q Briefly, what was the nature of your involvement in this case?

21 A It began as a investigation, as a suspicious vehicle. It led to a short chase of that  
22 vehicle in which the defendant was driving. And resulted in the shooting of the other officers  
23 who found the vehicle later.

24 Q Your involvement started where?

25 A At the Comfort Inn at 2756 Laurens Road.

1 Q At the Comfort Inn, at some point in time did you go inside and speak with the clerk  
2 or manager?

3 A Yes, I did.

4 Q At some later point in time while you were visiting with the clerk or trying to  
5 ascertain who the owner of the vehicle was, did you have an opportunity to view what  
6 subsequently you found out to be the defendant?

7 A Yes.

8 Q Where were you in the Comfort Inn when you were able to view the defendant?

9 A In the lobby.

10 Q How is the lobby laid out? Is it wide open or---

11 A Wide open.

12 Q If I walk in through the front door, where is the counter?

13 A To your right.

14 Q How much room to the left and ahead of you is there before you run into either a  
15 banquet hall or restrooms?

16 A It's about as big as this courtroom, and there's a door. If you're standing where I am,  
17 to the back of the courtroom, there's a walkway that leads to the rooms in the back.

18 Q Do you recall where you were standing, sitting at the time that you were able to  
19 observe the defendant?

20 A I was on the same side as the check-in counter on the, it would be the right side from  
21 when you come in the front door.

22 Q How close is that counter from the front door?

23 A Just a few feet.

24 Q Is that front door an automatic sliding door, or is it ---

25 A Yes.

- 1 Q So, how close would you estimate the defendant was to you when he walked by you?
- 2 A A few feet.
- 3 Q Where you-- At the time when he walked by, were you standing at the counter facing  
4 the manager or were you turned around?
- 5 A I don't recall.
- 6 Q How was it that you were able to see the defendant in the lounge at the motel?
- 7 A He was walking by, out through the front door.
- 8 Q And how long would you say you were able to get a glimpse of him?
- 9 A Five minutes.
- 10 Q Five minutes? What time of the day was this?
- 11 A It was morning.
- 12 Q Was this inside or outside of the front door when you got a glimpse of the defendant?
- 13 A Inside.
- 14 Q And the lighting inside, is it fluorescent lighting, or are there lamps that illuminate the  
15 inside?
- 16 A It's just like the light in here.
- 17 Q Did you have any conversation with him?
- 18 A No.
- 19 Q Was there anyone else that you were talking to when the defendant walked by?
- 20 A Officer Lane.
- 21 Q Where was Officer Lane standing? If you're standing at the counter, where was he  
22 standing?
- 23 A I believe he was to my left.
- 24 Q Who brought it to your attention that the defendant was walking by?

1 A One of the employees inside said that the vehicle was leaving, that I was  
2 investigating.

3 Q We're not quite that far. How is it that you were brought to the attention of the  
4 defendant?

5 A I just noticed him.

6 Q Did he say anything to you?

7 A No.

8 Q Did you say anything to him?

9 A No.

10 Q So, all he did was cruise by you?

11 A Yes.

12 Q How much attention did you pay to him when he walked by?

13 A Just briefly. I believe he was the only one in there except for us and the employees at  
14 the hotel.

15 Q So, the entire time you're in the Comfort Inn check-in-lounge area, he's the only  
16 person you saw come through that area that was not an employee, or not Officer Lane?

17 A Yes.

18 Q And were you able to tell whether or not he was male or female?

19 A Male.

20 Q What his race was?

21 A Black male.

22 Q And approximate age?

23 A I wasn't sure. He looked older, maybe about thirty, but I wasn't sure.

24 Q How long, again, do you think you were able to observe him when he walked by?

25 A Maybe about a minute.

- 1 Q After this occurred as you started in behind him on 85, did you call out a description  
2 to your other officers, or did you call dispatch?
- 3 A I don't recall.
- 4 Q At some point in time did you speak with Officer Cobb about who you thought you  
5 were looking for?
- 6 A I don't recall.
- 7 Q Do you recall what you believe he was wearing at that time?
- 8 A I believe it was a gray shirt.
- 9 Q And following your pursuit up 85, did you ever see the defendant, or whoever was in  
10 the vehicle at any point in time?
- 11 A No.
- 12 Q After this defendant was apprehended, did you subsequently view a photograph of  
13 him?
- 14 A I did.
- 15 Q Was it that day or was it the following day?
- 16 A It was the following day.
- 17 Q Did you only view the picture of him because you knew at that point in time because  
18 you knew at that point in time who the suspect was?
- 19 A Yes.
- 20 Q The person that we have in custody, Mr. Lowrance, is that the same person you saw  
21 the day before?
- 22 A Yes.
- 23 Q That person, do you recognize them in the courtroom here today?
- 24 A Yes.
- 25 Q Would you point him out for the court and describe what they're wearing?

1 A Blue collar shirt, and a yellow tie.

2 Q To make sure I'm clear, you were inside the motel with Officer Lane and other  
3 employees of the motel. No other patrons came or went during the period of time with which  
4 you were in the motel?

5 A No.

6 Q You had the opportunity to be just a few feet away from the defendant. And after this  
7 whole incident was wrapped up and an arrest was made, you viewed a photograph of the  
8 defendant and that's the same person you saw that day at the motel.

9 A Yes.

10 Q And that person you saw at the motel is in fact the person sitting next to his lawyer,  
11 Mr. Johnson?

12 A Yes.

13 Q Thank you. Please answer any questions Mr. Johnson may have for you.

14 The Court: All right, Mr. Johnson.

15 Mr. Johnson: Thank you.

16 **CROSS EXAMINATION MR. JOHNSON:**

17 Q Officer Cruell, did you do reports in this incident?

18 A Yes.

19 Q How many reports did you do, one or two, do you remember?

20 A How many reports?

21 Q Yes.

22 A An original and a supplemental, I believe.

23 Q Do you have those with you?

24 A Yes.

- 1 Q Let me make sure that these are those. Do you ratify that those are your two reports,  
2 the original and supplemental?
- 3 A Yes.
- 4 Q Okay. Well, I'm gonna let you refer to those as I ask you some questions. Now,  
5 Officer Cruell, now, you did not identify my client as the one you saw in that hotel until after  
6 you got his name. Is that right?
- 7 A Yes.
- 8 Q So, you didn't go of your own accord and start looking through some mug shot  
9 identifications or anything of that nature that you go to help identify him. Is that right?
- 10 A That's right.
- 11 Q So, you actually got a name and then you went and got that page of pictures?
- 12 A Yes.
- 13 Q And then that's when you confirmed that that was the person you saw at the motel?
- 14 A Yes.
- 15 Q Now, on the first page of that form, if I may. I'm gonna point out to that paragraph  
16 there, that's the third paragraph. You give a description of the person who you saw at the  
17 motel. Is that right?
- 18 A Yes.
- 19 Q Can you read that description for us, please?
- 20 A A male walked by with longer hair. He looked to be about thirty-five or forty years,  
21 but could have been younger of age, wearing a gray shirt.
- 22 Q Now, in that description you said somebody who was about thirty-five or forty years  
23 old, and with longer hair. Now, when you went and verified that my client was the person  
24 you saw, did he have long hair?
- 25 A No.

1 Q He didn't have long hair. Was he thirty-five or forty years old?

2 A No.

3 Mr. Johnson: Your Honor, I have nothing further.

4 The Court: Any re-direct, Solicitor?

5 Mr. Marchant: No, Your Honor.

6 The Court: You may step down, ma'am. Any arguments, Mr. Johnson?

7 Mr. Johnson: Yes, Your Honor. I believe especially with due process and the Fifth  
8 Amendment, undue suggestiveness is the key here. And for her to make a identification after  
9 somebody gave her a name, I think is the definition of undue suggestiveness. As I asked her on the  
10 stand, she didn't go through mug shots, so she wasn't herself given any sort of lineup, not that  
11 they're required to do so. But I think undue suggestiveness is-- You know, you can't have that  
12 there for her to be able to make that sort of identification.

13 Another thing we know, another reason why I think there is undue suggestiveness there or  
14 improper identification is the fact that the description she gives of the man, thirty-five to forty, with  
15 long hair, I mean, I can understand maybe thirty-five to forty, but long hair is long hair. And long  
16 hair is not something that my client has now, or has never had with regards to this.

17 So, I do think the identification is improper and I think there was the-- The fact that she was  
18 given the name of the person who was, they had captured created a substantial likelihood that he  
19 would be singled out for identification.

20 The Court: Well, y'all didn't really-- It's not my job to ask questions. But y'all didn't really  
21 ask her questions about how this identification took place. Nobody asked her where she was, was  
22 she at the police department, who was the person who showed it to her, did it look like this was a  
23 photograph from, you know, previous incarceration, what they said, you know, is this the guy you  
24 saw at the motel, suggesting that's the answer. Nobody asked her any of those questions.



1 Q You don't remember who called you? Do you know the circumstances about when  
2 you were called? Were you at the police station, were you at home?

3 A I came in for my next shift and someone in the roll call for four shift told me.

4 Q What sort of database were you looking in?

5 A It's a internal database where we look at the recent photographs from, I believe it's  
6 the detention center.

7 Q So, these are photographs where people are arrested and taken to the detention center?

8 A Yes.

9 Q And it keeps a record of any arrest or just one arrest? How does that work?

10 A I'm not sure.

11 Q You're not sure. Is there more than one picture of my client in there? Or would there  
12 be more than one picture of a defendant where he was arrested multiple times?

13 A Possibly.

14 Q Now, when they told you to, that my client was arrested, they asked you to see if it  
15 was him?

16 A I was.

17 Q I mean, did you do that of your own accord, or did somebody ask you to do that?

18 A I did it of my own accord.

19 Q You did it of your own accord. Did you then-- After you made the decision that it  
20 was my client, did you tell anybody this, or what?

21 A I went to sign a warrant, to sign two warrants.

22 Q So, you signed a warrant based on saying in your opinion that he was the same  
23 person?

24 A Yes.

25 Q Now, did you have a superior in this incident, a superior officer?

1 A Yes, I have a superior.

2 Q Did you have someone who advised you with regard to signing the warrants---

3 A No.

4 Q --- with information that you---

5 A No.

6 Q So, you were the lead as far as that was concerned

7 A Yes.

8 Q Now, based on identification, did you print anything out in order to document the  
9 identification that this was the picture that you saw?

10 A No.

11 Q So, to this day, you don't know which-- If you went in the database you're not sure  
12 which picture it would be?

13 A Yes.

14 Q And you wouldn't be sure because there was just one picture?

15 A I don't recall if there was more than one picture.

16 Q Okay. So, you're not sure if there was just one picture. You don't know if you saw a  
17 picture or more than one picture?

18 A Yes.

19 Q You looked up this information in the database for your own, in your own database,  
20 on your own?

21 A Yes.

22 Mr. Johnson: Your Honor, I have nothing further.

23 The Court: Officer, let me see if I understand the situation.

24

25

1

2 **QUESTIONS BY THE COURT:**

3 Q            You reported for duty the next day after you had seen an unknown black male at the  
4            Comfort Inn and chased the car down the interstate for some period of time before y'all lost  
5            him. Correct?

6 A            Yes sir.

7 Q            And then you report to duty the next day and you hear that a person was arrested  
8            regarding the incident involving Officer Traci Cobb and other officers?

9 A            Yes sir.

10 Q           Based upon that, did anybody tell you to go look at the website or look up the  
11            photographs, or you decided for your own investigation, I'm gonna find out if it's the same  
12            person or not?

13 A            Yes sir.

14 Q            Which one?

15 A            I decided I was gonna find out if it was the same person or no

16 Q            And so, you went to the detention center website then. Correct?

17 A            Yes sir.

18 Q            And you looked up that information and you saw displayed a photograph at that  
19            point in time?

20 A            Yes sir.

21 Q            Did anybody tell you that, isn't that the same fellow you saw at the hotel or anything  
22            like that?

23 A            No.

24 Q            All right. So, you were there alone, by yourself?

25 A            Yes.

1 Q And when you saw the photograph did you have some kind of instantaneous  
2 recognition or whatever?

3 A I immediately recognized him.

4 Q You immediately recognized him as the person you saw at the Comfort Inn?

5 A Yes sir..

6 The Court: Very good. Further questions, Solicitor?

7 Mr. Marchant: No, Your Honor.

8 The Court: Further questions, Mr. Johnson?

9 Mr. Johnson: No sir, Your Honor.

10 The Court: Thank you, ma'am. You may step down. Further arguments, Mr. Johnson?

11 Mr. Johnson: It sounds like from her testimony she was the lead as far as the city was  
12 concerned, so I guess along the lines of somebody getting someone to do a lineup for  
13 identification, some obvious, some obvious levels of supervision were skipped, considering she  
14 was, you know, the level of supervision, she was the person.

15 The Court: All right.

16 Mr. Johnson: Anyhow, I add that to my previous argument that, meaning the description was  
17 off and they told-- She was called and she was told. She doesn't remember who told her, but this  
18 was the person. And I do think that it was probably suggestive and whoever told her that she  
19 probably she should verify that this person was the same person.

20 The Court: Thank you, sir.

21 Mr. Johnson: Yes sir, Your Honor.

22 The Court: Regarding this particular matter of identification, the standard for determining  
23 admissibility of identification is whether the identification procedure was so impermissively  
24 suggestive as to give rise to a very substantial likelihood of irreparable misidentification. The  
25 criminal defendant may be deprived of due process of law by the identification procedure that is

1 unnecessarily suggestive and conducive to irreparable mistake and identification. The standards to  
2 determine whether identification is reliable, the factors as set forth in Neil versus Biggers is the  
3 opportunity of the witness to view the person at the time of the crime, the witness' degree of  
4 attention, the accuracy of the witness' description, the level of certainty demonstrated by the witness  
5 at the time of the viewing, here viewing a photograph or a confrontation, and the amount of time  
6 between the crime and the identification or confrontation.

7 I do find in this, taking all of those factors and the facts as described, that I will allow the in-  
8 court identification of the defendant by the witness. Again, it will be ultimately a matter for the jury  
9 to decide and the court will give proper instructions to the jury at the time of the closing of the case  
10 regarding their duties and responsibilities regarding an identification of the defendant.

11 Anything else, Mr. Johnson?

12 Mr. Johnson: Not from the defense, Your Honor.

13 The Court: Very good. I understand, Solicitor, you may have some-- You have a few  
14 witnesses that you believe you could get into today?

15 Mr. Marchant: Yes, Your Honor.

16 The Court: What we'll do, is we'll take a very short break. Y'all get organized. We'll come  
17 back and we'll have the jury come in, we'll do the opening statements and we'll see what testimony  
18 we can get done today.

19 Mr. Marchant: How long are you going to go today, Your Honor?

20 The Court: Probably, I'll go-- I'm not going much past five, certainly not any longer than  
21 five-thirty. This jury has been....

22 Mr. Marchant: Yes sir.

23 The Court: We've tested their patience today in the amounts of time we've had them sitting  
24 around basically doing nothing. I don't want to keep them too long. We'll have them come back

1 tomorrow morning. I'll have them come back sometime around nine-fifteen or nine-thirty in the  
2 morning. All right?

3 Mr. Johnson: Thank you, Your Honor.

4 The Court: We'll take a very short break and we'll come back and get started. Thank you  
5 very much.

6 ( court was in recess)

7 **COURT IN SESSION**

8 The Court: Solicitor, are you ready for the jury?

9 Mr. Marchant: Yes, Your Honor.

10 The Court: Mr. Johnson?

11 Mr. Johnson: Yes sir, Your Honor.

12 The Court: Ask the jury to come in, please.

13 ( the jury entered the courtroom)

14 All right, ladies and gentlemen. Mr. Davis, the jury has selected you to be the foreperson for  
15 this particular jury. Is that correct?

16 Juror: Yes sir.

17 The Court: And the two alternates, y'all are seated right here. Correct?

18 (non-verbal response)

19 Very good. Y'all will always occupy those particular seats when you come back. The rest of  
20 you just fill in wherever it is that you have when you come in from the jury room. The very first  
21 thing that's gonna happen is the clerk's gonna administer your oath to you. So, if you would all  
22 please stand at this time.

23 ( the clerk of court administered oath to jury)

24 The Court: All right, ladies and gentlemen. What we're going to do now, let me just tell you  
25 very briefly how the process of the trial will go. Right now, we're gonna have, when I get done with

1 these brief statements, we'll have the opening statements of the attorneys. Now, these opening  
2 statements are not evidence in the case. The evidence will come to you from persons that come  
3 before you under oath to testify, as well as any kind of documentary evidence or maybe some other  
4 type of written or physical evidence that may come into play in this particular matter and be properly  
5 admitted as evidence in the case.

6 The opening statements, though, of the attorneys are important. They are each side's initial  
7 statement to you, initial presentation to you, what they hope to show you during the course of the  
8 trial, remembering, of course, that it's not evidence. When we get done with that we will have the  
9 actual presentation of witnesses and evidence in this case.

10 When we conclude the evidentiary portion of the trial, I anticipate probably sometime  
11 tomorrow, we will then go into the closing arguments of the attorneys. Again, those closing  
12 arguments are not evidence, cannot be considered by you as evidence. But they're important.  
13 They're each side's summation to you of what they believe the evidence has shown to you during  
14 the course of the trial, remembering, of course, that you are the judges of the facts of this particular  
15 matter.

16 And then I will give you the law that you will apply to the law that I give you, and you'll take  
17 the facts that you believe to be true and put those together and come up with your unanimous verdict  
18 in this particular matter.

19 Your job, or basic job and duty in this case is to be the judges of the facts of this case. The  
20 court will not suggest to you in any way what I think the facts of this case are because that's not my  
21 job, not my responsibility. It's your job and your responsibility to listen to the facts and evidence in  
22 this case, find that evidence which convinces you of its truth, and then you take that evidence you  
23 find to be true and you weigh it against the State's burden to prove the defendant guilty of the crimes  
24 charges beyond a reasonable doubt.

1           Each charge is a separate matter, so you'll make a separate decision on each charge. The  
2 State has to prove the elements of the crime to you beyond a reasonable by the facts and evidence. I  
3 told you at the very beginning the defendant plead not guilty to the charges levied or brought against  
4 him by the state of South Carolina. That puts the burden of proof on the state of South Carolina to  
5 prove the defendant guilty beyond a reasonable doubt. That burden of proof stays with the state of  
6 South Carolina throughout the trial until you reach a unanimous decision as to whether or not the  
7 State has proved to you beyond a reasonable doubt the guilt of the defendant of the crimes charged.

8           The defendant has nothing to show to you. The defendant has nothing to prove to you. In a  
9 criminal trial the defendant need not even show up for trial because they don't have any duties or  
10 responsibilities. The State has to prove their case to you beyond a reasonable doubt. The defendant  
11 is presumed innocent of the charges levied or brought against them by the state of South Carolina.  
12 And that presumption of innocence stays with the defendant if and until the State can prove to you  
13 the guilt of the defendant beyond a reasonable doubt.

14           As the judges of the facts, it will be your duty and your job responsibility to judge the  
15 credibility and the believability of the witnesses that come before you and testify in this case. You  
16 may be thinking how do I judge somebody's credibility and believability. If you think about it, it's  
17 something you do every single day of your life. When somebody tells you something, you  
18 automatically judge them whether or not you believe them. And how do you do that? You use your  
19 good, common sense. You use your good judgment that you use in conducting your own affairs and  
20 that's what we're asking you to do here today and during the course of the trial. Use your good,  
21 common sense. Listen to the facts and evidence. Find that evidence that convinces you of its truth.  
22 And then that evidence you find to be true, you weigh it against the state's burden to prove the  
23 defendant guilty beyond a reasonable doubt on each of the charges the State has brought against the  
24 defendant.

1           During the course of the trial the attorneys may raise certain motions or objections. If I rule  
2 on them in your presence, and I don't send you back to the jury room so I can discuss it more fully  
3 with the lawyers about their particular issue, remember you're the judges of the facts. However my  
4 ruling is I am merely telling the lawyers how the case will be conducted, how the trial will be  
5 conducted. I'm not telling you what's believable or credible or you should believe that witness over  
6 another. That's your job and your responsibility. It's my job to govern what is properly admissible  
7 as evidence, what is proper to come into evidence. Then it's your job to judge that evidence.

8           With that, I will let the attorneys give you their opening statements in this matter.  
9 Solicitor.

10           Mr. Marchant: If it please the court. Counselor. Imagine the day of October 28, a day not  
11 like today, a little overcast, a little nip in the air. Officer Lane and Officer Cobb and Officer Cruell  
12 with the city police department are out on routine patrol. At some point in time that morning, Officer  
13 Cruell was checking on a suspicious vehicle at the Comfort Inn on Laurens Road. She runs the tag  
14 on the vehicle. That tag does not come back to that vehicle. She goes inside the Comfort Inn to  
15 investigate. She subsequently is alerted from the clerk that that vehicle is leaving.

16           So, in an effort to determine whether that tag belongs to that vehicle she gets in her patrol car  
17 and gets on I-85 heading towards Atlanta. She gets off on the Laurens Road exit, heads up 85,  
18 catches up with the vehicle, she hits her blue lights. The vehicle doesn't stop. What does it do? It  
19 speeds up, shifts lane, attempts to evade her.

20           Eventually that vehicle whips off on Mauldin Road, runs a red light. She gets up to the red  
21 light and checks to determine whether or not the coast is clear for her to go through and proceed  
22 through that red light. At that time she loses the vehicle. She terminates the pursuit because at that  
23 point in time all she knows is that there is an improper tag.

24           Officer Cobb and Officer Lane hear the call. They're patrolling in another area of town.  
25 They're over hear the Hitachi plant off 85 and Mauldin Road. Officer Cobb, with the city police

1 He's still not guilty right now. He's innocent. He's innocent until proven guilty. And the only  
2 people who can say he's guilty is you, not the Solicitor, not what he just said to you. That's your  
3 decision.

4 Now, as far as the evidence is concerned, you're gonna get it, and like I told you, that's the  
5 meat and potatoes. One of the things that I want you to keep in mind is when the police are looking  
6 for a suspect, they are looking for a certain someone. They're looking for, if they don't know who it  
7 is initially, a description. I submit to you there was a description in this case. I want you to find out  
8 what that description was. I can't tell you. I can't testify. Somebody will.

9 What was that description? Was there anything unique about that description? And does my  
10 client fit that description? Did my client shoot a gun? Is there any sort of residue test or anything  
11 to prove that he shot a gun?

12 Ladies and gentlemen, this trial, I guess, could be considered to be long, but the evidence will  
13 keep us all interested, and just pay attention, pay attention to the description. Does my client fit it?  
14 Does he fit the description of the person committing these crimes?

15 I get to talk to you again at the end. At that point I get to argue. That's when the evidence is  
16 given to you. And I'll have a whole lot more to say. But for now, I just want some things to you,  
17 and that's just to be patient with us. This could be a rather long trial, maybe Wednesday, Tuesday,  
18 depends on how things go. But I just ask you to keep your attention and I'll talk to you again at the  
19 end. Thank you.

20 The Court: Call your first witness, Solicitor.

21 Mr. Marchant: If it please the Court. The State calls Officer Brittany Cruell.

22 **BRITTANY CRUELL**, duly sworn, testified as follows:

23 Clerk of Court: Please state your name for the record.

24 A Brittany Cruell.

25 **DIRECT EXAMINATION BY MR. MARCHANT:**

- 1 Q Officer Cruell, where are you employed?
- 2 A Greenville City Police Department.
- 3 Q How long have you been employed with the city police department?
- 4 A Five years.
- 5 Q And in what capacity are you employed with the department?
- 6 A Patrol.
- 7 Q What does that mean?
- 8 A We answer calls for service, traffic stops, warrant service.
- 9 Q Have you been in that capacity for the last five years?
- 10 A For a brief period I worked with the crime response team, but I've primarily  
11 been in uniformed patrol.
- 12 Q Prior to joining the police department did you work for another agency?
- 13 A No.
- 14 Q What sort of training and accreditation and certification do you have to go through in  
15 order to be employed with city police department?
- 16 A South Carolina Criminal Justice Academy.
- 17 Q What does that consist of?
- 18 A At the time I went it was nine weeks of training, firearms, criminal law, driving.
- 19 Q Did you complete that?
- 20 A Yes.
- 21 Q Do you have continuing education or classes that you must take each year to keep up  
22 with those certifications?
- 23 A Yes.
- 24 Q And you're current on all those certifications?
- 25 A Yes sir.

1 Q Back on October 28, 2011, were you in the patrol capacity with the city?

2 A Yes.

3 Q Were you working that day?

4 A Yes.

5 Q At some point in time that morning did you end up at the Comfort Inn?

6 A Yes.

7 Q Why were you at the Comfort Inn?

8 A I typically patrol this hotel on Laurens Road because we've had a lot of stolen  
9 vehicles there in the past and drug activity. I was checking the license plates on pretty much  
10 every vehicle in the parking lot there when I came across a Chevy Tahoe that had a wrong  
11 tag on it. The tag came back to Honda, I believe.

12 When I looked at the vehicle identification number in the windshield it was covered  
13 up by a, I believe it was a air freshener. It was completely covered. So, that made suspicious  
14 that the tag was wrong and the VIN was covered. I called Officer Lane to meet with me to  
15 speak with the clerk at the Comfort Inn to see if maybe they knew who the vehicle was  
16 registered to or who was driving the vehicle.

17 Q Do you recall what the tag number was on the vehicle?

18 A I believe it was EWN733.

19 Q I'm sorry, I didn't hear you earlier. Was it a Yukon or a Tahoe?

20 A I believe it was a Chevy Tahoe.

21 Q Following your getting in touch with Officer Lane, what did you do once Officer  
22 Lane arrived?

23 A We spoke to the clerk there and she said that she did not know who was driving that  
24 vehicle. Her and another lady who worked there were in the lobby area with us at that time.  
25 While we were standing there talking with her, a black male walked by us a few feet away.

1 He looked to older. I thought maybe he was about thirty-five to forty years of age, had a  
2 green shirt on. He walked by us briefly. And as we were still talking to the employees there,  
3 one of the ladies said the vehicle you're asking about, he's in the parking lot.

4 Q Let's talk about the set-up of that lobby area, if you would. How do you enter the  
5 lobby? Is a double door, is it a sliding door, is the door glass, solid?

6 A It's a double glass, sliding door.

7 Q So, it's one of those automatic deals that senses your presence and opens up?

8 A Uh-huh.

9 Q And once you walked into, through this sliding door, where is the manager's or  
10 reception desk located as soon as you step through?

11 A Just a few feet to your right.

12 Q And what else is located in that lobby area?

13 A To the left there's a, like, a dining room area, a ballroom. And straight ahead to the  
14 right there's, like, a breakfast, continental breakfast area. And straight back is a doorway that  
15 leads to rooms on the first floor and the elevator.

16 Q Roughly, how large would you say that room is?

17 A Just the main room is about as big as this courtroom.

18 Q Now, while you and Officer Lane are inside speaking with hotel staff, did anybody  
19 come or go that was not either law enforcement or an employee of the hotel?

20 A The male that I mentioned that walked by.

21 Q Anyone else?

22 A No.

23 Q And how long would you said that you were inside the lobby?

24 A I can't say, maybe five minutes.

- 1 Q Well, when the individual, the sole individual walked by you, how close to you were  
2 they, were you?
- 3 A A few feet.
- 4 Q Were you able to tell whether or not it was male or female?
- 5 A It was a male.
- 6 Q What was the determining direction?
- 7 A It was a black male.
- 8 Q Do you remember approximately how tall they were?
- 9 A Not sure, maybe about five-eight or six feet. I'm not that good of a judge of height.
- 10 Q Were you able to determine what they were wearing?
- 11 A I remember a gray shirt.
- 12 Q Were you able to get a look at the face?
- 13 A Yes.
- 14 Q Do you remember whether or not they were wearing sunglasses or glasses or had  
15 anything concealing the face?
- 16 A No.
- 17 Q Do you remember what sort of clothing they were wearing?
- 18 A Just a gray shirt. I don't remember anything else.
- 19 Q Once hotel management alerted you to the vehicle that was leaving, what did you do?
- 20 A I immediately went out to my patrol vehicle in an attempt to stop the vehicle for the  
21 violation and investigate further if the vehicle was in fact stolen.
- 22 Q At that point in time did you begin pursuit of the vehicle?
- 23 A I turned right out of the parking lot following the vehicle. The vehicle turned right  
24 onto 85 south, heading toward Atlanta. I also turned right heading southbound on 85. There

1           were a few cars in between myself and the suspect vehicle so I had to catch up to it, and  
2           initiated my blue lights.

3                     At which time I did, I followed them for a little ways. They put on their left turn  
4           signal, went all the way over to the far lane near the wall, speeding up some. I followed  
5           them. Right before you get to the Mauldin Road exit, the vehicle abruptly went across all  
6           lanes towards the exit. I believe around this time I initiated my siren as well. I informed  
7           dispatch that the vehicle wasn't stopping, but that I didn't know if it stolen, it was a wrong  
8           tag.

9                     The vehicle on the exit began to increase speed suddenly. There was a red light at the  
10          end of the exit at Mauldin Road. The suspect vehicle made a left, disregarding that red light  
11          and continued to increase speed. I lost sight of the vehicle when I reached Mauldin Road and  
12          Parkins Mill Road and I terminated the pursuit.

13    Q            How fast do you recall going up 85?

14    A            How fast I was going?

15    Q            How fast you were going.

16    A            Sixty-five, increasing up to about eighty miles an hour.

17    Q            Am I clear that you activated your blue lights initially and not your siren?

18    A            That's correct.

19    Q            At what point in time did you activate your siren?

20    A            When I realized the vehicle wasn't stopping.

21    Q            Is your car equipped with audio camera, video camera?

22    A            Yes.

23    Q            Does it have audio?

24    A            The audio wasn't working at the time.

1 Q Did you record this incident and have an opportunity to review it prior to coming to  
2 trial today?

3 A Yes, I did.

4 Q I'll show what I've had marked previously as State's Exhibit Number One. Is that a  
5 fair and accurate depiction of what occurred that day?

6 A Yes.

7 Mr. Marchant: I offer State's Number One in evidence and publish it to the jury,

8 Your Honor.

9 The Court: Any objection to that?

10 Mr. Johnson: No objection.

11 The Court: In evidence without objection. You may publish.

12 ( State's Exhibit Number One was admitted into evidence without  
13 objection.)

14 (Court Reporter's note: The following testimony is elicited during the publication of State's  
15 Exhibit Number One)

16 Q Please describe to the jury where your vehicle is right now and where you're  
17 traveling.

18 A I'm traveling southbound on 85. This would be me in the center lane behind the  
19 truck.

20 Q Were you able to determine where that suspect vehicle is at the time?

21 A That's gonna be it, I believe, this one, right here to the right. I'm behind it now.

22 Q Again, is your siren on at this point in time?

23 A No.

24 Q Why did you terminate pursuit right here?

1 A I didn't know if in fact the vehicle was stolen. And due to our departmental policy I  
2 would only be pursuing for a wrong tag on the vehicle. And his speeds were increasing. It  
3 was becoming dangerous to continue the pursuit.

4 (End of publishing to jury State's Exhibit Number One)

5 Q What do you do from here?

6 A At this point I discontinued the pursuit. As I headed down Mauldin Road there was a  
7 trucker stopped at the Hitachi plant. He needed help. I stopped and talked to him for a few  
8 minutes. And then dispatch was sending me to another car in the area of Fairforest Way.

9 As I was heading in that direction, another call came out that someone had seen the  
10 suspect vehicle near 500 Windwood Road, which is Berkeley Point Apartments. And I  
11 headed in that direction.

12 When I was on Windwood Road a security officer at Christ School stopped me and  
13 said that they'd heard it go out over their scanner and they'd seen that vehicle go into the  
14 apartment complex there.

15 Q So, at some point in time did you end up talking to Officer Cobb about that vehicle?

16 A Yeah. Other officers responded to the area. Officer Cobb and Officer Lane were also  
17 in route. Officer Cobb went up to Berkeley Point apartments and she did find the suspect  
18 vehicle at that time. And she asked me to go to another channel. And I went over to another  
19 channel and I radioed, and she was asking me to confirm the tag on the vehicle, at which time  
20 I did. And she said she was gonna be out with that vehicle. At that time Officer Lane arrived  
21 on the scene with her.

22 Q I'll jump ahead just a little bit. Were you subsequently able to determine the make  
23 and model of the vehicle and whether or not it was stolen?

24 A Yes, I did.

1 Q I'll ask you to look at page one of one of the report that you wrote on 10/29 and ask  
2 you to confirm the make and model of the vehicle, if you would.

3 A It's a 2005 GMC Yukon, with a value of \$20,000.

4 Q This is the vehicle that you confirmed that was stolen?

5 A Yes.

6 Q Now, after you talked with Officer Cobb on the scene at the apartment complex, did  
7 you eventually go over to the apartments?

8 A I did. A few seconds later after she said that she was out with that vehicle Officer  
9 Lane came across the radio and said shots fired. We all went over to the area. When I  
10 arrived, the two of them were on each side of the 1300 building and they advised me that the  
11 suspect had fired upon both of them.

12 Q At that point in time, didn't have any idea who was shooting at you guys?

13 A I gave the description from the Comfort Inn of the male that I saw walk by us in the  
14 lobby. At that time I didn't know his name or anything else.

15 Q Subsequently you were given his name the following day?

16 A He wasn't apprehended that night. A search ensued and the city discontinued inside  
17 the city limits that day. We went back to the law enforcement center and completed our  
18 reports. The next day on shift we were informed that he'd been apprehended. I was given  
19 the name of the defendant and I looked up a recent photograph and I did immediately identify  
20 as the male who I saw walk by us in the Comfort Inn the day before, and subsequently signed  
21 warrants.

22 Q What were the two warrants that you signed?

23 A The failure to stop for a blue light and the possession of a stolen vehicle.

24 Q Did any supervisor or anyone ask you to take a look at that photograph or did you do  
25 that of your own accord? How did that happen?

1 A No. When I was given the name, I looked that in the database, and I did that on my  
2 own accord.

3 Q And you subsequently signed two warrants against him for failure to stop and  
4 possession of a stolen vehicle---

5 A That's right.

6 Q ---greater than \$10,000?

7 A That's right.

8 Q And the value of that vehicle was listed in the Blue Book as what?

9 A \$20,000.

10 Q You say you pulled up a picture of him from the name you were given. The name  
11 that you were given was what?

12 A Patrick Dean Lowrance.

13 Q The person that you immediately recognized in the photograph, are they here in the  
14 courtroom today?

15 A Yes.

16 Q Please point them out to the court.

17 A (indicating defendant)

18 Q And describe what they are wearing?

19 A A collared shirt, yellow tie.

20 Q It's your testimony that the defendant is the same person that you saw at the Comfort  
21 Inn that day?

22 A That's right.

23 Q And the Comfort Inn, what's the address of that?

24 A 2756 Laurens Road.

25 Q Is that here within the county?

1 A Yes.

2 Q Please answer any questions Mr. Johnson may have.

3 The Court: Cross examination.

4 Mr. Johnson: Thank you, Your Honor.

5 **CROSS EXAMINATION BY MR. JOHNSON:**

6 Q Ms. Cruell, the Solicitor previously approached you with one of your reports. Isn't  
7 that true?

8 A Yes.

9 Q Do you have a copy of your reports with you?

10 A No.

11 Q Well, why do y'all do reports? What's the purpose of that?

12 A To document what happened and to refer to at a later time.

13 Q Yes. Is that-- You do that because, I guess, it's common sense that you write things  
14 down so you can remember it later. Isn't that true?

15 A Yes.

16 Q So, what you wrote down at the time would be more accurate than maybe what you  
17 remember?

18 A Yes.

19 Q Okay. Now you don't have those today. Right?

20 A No.

21 Q Now, you were called for this trial and you knew about it, but you didn't bring your  
22 reports with you?

23 A No.

1 Q Now, you previously testified that the person you saw in the lobby of the hotel was  
2 the same person whose name you were given at a later point, which happened to be my  
3 client, Mr. Lowrance. Is that right?

4 A That's right.

5 Q Now, when you did a report on this thing, in that report you listed your description of  
6 the person you saw in that hotel, didn't you?

7 A Yes.

8 Q Now, is this that report where you listed that?

9 A Yes.

10 Q Which paragraph is it listed in?

11 A The third one on the first page.

12 Q Can you please portray to the jury what description that you gave to describe that  
13 person that you saw?

14 A While in the lobby a male walked by who I caught a brief look of, with longer hair,  
15 looked to be about thirty-five to forty years, but could have been younger, of age, wearing a  
16 gray shirt.

17 Q And that's the total of the description. Right?

18 A Yes.

19 Q Now, you say long hair. Is that right?

20 A Yes.

21 Q Long hair. Was it pulled back into a pony tail or how was that long hair?

22 A I don't recall.

23 Q You don't remember?

24 A (no verbal response)

25 Q You also say thirty-five, forty years old. Is that right?

- 1 A Yes.
- 2 Q Now, would you say that when you-- Well, let me go back. So, the next day you  
3 looked into the computer and you tried to identify the person, the name you were given was  
4 Patrick Lowrance, the person that you saw. Is that right?
- 5 A Yes.
- 6 Q Now, how'd you get that information? Who called you?
- 7 A I don't recall.
- 8 Q You don't remember who called you?
- 9 A No.
- 10 Q And gave you that information?
- 11 A No.
- 12 Q Why would they call you and give you that information?
- 13 A I believe it was, the incident was known from the day before, and on my next shift I  
14 was told the name of the suspect that was apprehended.
- 15 Q They knew you were involved in the incident?
- 16 A Sir?
- 17 Q They knew you were involved in the incident?
- 18 A Yes.
- 19 Q So they called you?
- 20 A Yes.
- 21 Q And when they called you, probably you wanted to go, okay, I got a name, look him  
22 up. Is that right?
- 23 A Yes.
- 24 Q So they suggested to you to look at this picture and see if it was him. Isn't that true?
- 25 A Yes.

1 Q And then you obliged. You said, okay, that's him. Right?

2 A Yes.

3 Q Now, you signed a warrant for failure to stop for a blue light and possession of a  
4 stolen vehicle. Isn't that true?

5 A Yes.

6 Q Now, did you serve those warrants personally?

7 A No.

8 Q So, you didn't actually go to where my client was located and present him with those  
9 warrants?

10 A No.

11 Q At that point in time you didn't get a chance to take a look at him and see what he  
12 really looked like, did you?

13 A No.

14 Q So, you didn't even know what he looked like or what condition he was in at the point  
15 in time when he were served with the warrants, did you?

16 A No.

17 Mr. Johnson: Your Honor, I have nothing further for this witness.

18 The Court: Re-direct?

19 Mr. Marchant: Briefly, Your Honor.

20 **RE-DIRECT EXAMINATION BY MR. MARCHANT:**

21 Q I just want to be clear, Officer Cruell. The person that you saw on the photograph or  
22 whatever it is that you're looking at, that's the person that's here in the courtroom today?

23 A That's right.

24 Q There's not a sergeant or a lieutenant or somebody that said, Officer Cruell, this is the  
25 guy that you saw at the motel.

1 A No.

2 Q You looked at the picture and determined that was the person?

3 A Yes.

4 Q Not the other way around?

5 A Yes.

6 Mr. Marchant: No further questions.

7 The Court: Anything on those questions, Mr. Johnson?

8 Mr. Johnson: Briefly, Your Honor.

9

10 **RE-DIRECT EXAMINATION BY MR. JOHNSON:**

11 Q You were called, though. Right? Somebody did call you and tell you that they had a  
12 suspect?

13 A Yes.

14 Q And they told you that person's name?

15 A Yes.

16 Q And you looked that person's name up in the computer database?

17 A Yes.

18 Q And that person was in your opinion my client?

19 A Yes.

20 Q But that person did not fit the description that you gave?

21 A Not the hair.

22 Q Thank you.

23 The Court: Do you wish for the witness to be excused?

24 Mr. Marchant: Yes, Your Honor.

25 The Court: All right. You may step down and you are excused to go back to your

1 regular activities, ma'am.

2 Could y'all come over and talk to me for just a second, Solicitor and Mr. Johnson?

3 ( Whereupon a bench conference occurred)

4 Ladies and gentlemen, we're going to stop for the evening. The next witness I  
5 anticipate will be probably a good bit longer than this particular witness. And I know you  
6 knew you were gonna be on jury duty, but I don't know that you knew you were actually  
7 gonna serve on a jury. So, with that, we'll let you go home for the evening. I want you back  
8 in your jury room by, let's say, 9:25, so we hope to get started tomorrow morning at 9:30,  
9 right at 9:30. So, y'all be back in your jury room by 9:25.

10 Now, when you go home for the evening, you see your husband, wife, boyfriend,  
11 girlfriend, person down the street, they happen to know you got summonsed for jury duty,  
12 that's fine. You may not discuss this case with them. I will ask you not to discuss this cases  
13 among yourselves in the jury room until I send it to you at the very end for your  
14 deliberations and your unanimous decision. The reason for that is if you start discussing the  
15 case after you've heard one witness or two witnesses, you may form an opinion and the very  
16 next witness might change your opinion. And since you've expressed it, it might be hard to  
17 go back on that. So, we're not gonna talk about this case till the very end. You're gonna  
18 have all the time that you deem necessary to talk about it before you reach your unanimous  
19 decision at the end. You can talk about anything else but that.

20 Now, again, you go home, obviously people at home don't have an opinion about the  
21 case. So, don't talk about it. Unintentionally, they'll give you their opinion and we don't  
22 need that.

23 Remember what I told you when I was talking about the cell towers. You're not

1 Investigators. You're not to go looking up anything. You're not gonna go see if I can find the  
2 Comfort Inn or whatever it is. You're going to decide this case solely and completely on the facts  
3 and evidence you hear in the courtroom and no other source.

4 So, with that, I'll see you back tomorrow morning 9:25. Thank you very much. Everybody  
5 else remain seated while the jury retires, please.

6 ( Whereupon the jury exited the courtroom)

7 Solicitor, is there anything we need to take care of before we recess for the evening?

8 Mr. Marchant: Nothing from the State, Your Honor.

9 The Court: All right. Mr. Johnson?

10 Mr. Johnson: Nothing from the defense, Your Honor.

11 The Court: All right, gentlemen. Y'all will please be back by at least 9:15 to make sure if  
12 you've got any issues we can cover those before we get started at 9:30. So, let's make sure we have  
13 the defendant here in plenty of time before that. Have the defendant here by 9:00 in case Mr.  
14 Johnson needs to speak to him ahead of time about this particular matter. And then we'll get started  
15 at 9:30 on this unless y'all need to speak to me ahead of time. All right?

16 Mr. Johnson: Thank you.

17 Mr. Marchant: Thank you, Your Honor.

18 (Whereupon court was in recess for the evening)

19

20

21

22

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24

25

1 A I was coming around and standing about here and looking up at the building number.  
2 And I'll say that right here is the threshold, right there. And I was coming around the corner  
3 and had my mike up, that I was looking up and telling headquarters that that building was  
4 1300. And I started to come through the threshold.

5 Q Did you actually make your way across the threshold of that building before anything  
6 else occurred?

7 A I'm really not sure.

8 Q After calling out Building 1300 to dispatch, what is the next thing you remember?

9 A Well, I still had my hand on my mike when I was looking up. I came-- I focused  
10 down into the right area, with the stairway going down. I was trying to-- It was very dark in  
11 there, so it was really hard to see. So, I was looking in and before I got my hand off my mike  
12 I saw a muzzle flash and I heard gunshots.

13 Q Do you recall how many shots?

14 A At least two.

15 Q Definitely more than one?

16 A Yes.

17 Q From what direction did the muzzle flash come?

18 A It was coming at me.

19 Q Do you recall where in the breezeway or the stairwell that it was coming from?

20 A I think it's the other picture.

21 Q Okay. I'm showing you what's been marked as State's 6 here.

22 A It was-- All I could see right here is someone on the left here, and that's where the  
23 muzzle flash was coming from.

24 Q Were you able to determine the height of the person that was shooting at you?

25 A I could not. He was standing on the stairwell. He wasn't all the way up the stairs.

- 1 Q And you say it was he. How do you know, or why do you say it was a he?
- 2 A From the muzzle flash I could see the face, but I really couldn't tell what he looked  
3 like. I knew it was a male and I knew it was a black male.
- 4 Q So, to give the jury a little more perspective of the stairwell, how many apartments  
5 are on this floor that you entered?
- 6 A There are four; one here and one behind the stairs, one here and one here.
- 7 Q And then the stairwell that leads down, how many apartments are there on what I'm  
8 going to refer to as the first floor?
- 9 A I'm not sure.
- 10 Q Is there anything above what this ground floor---
- 11 A There are apartments above the ground.
- 12 Q So, you say the person came partially up the stairs and from the muzzle flash you  
13 could determine it was a black man?
- 14 A Correct.
- 15 Q Do you have any idea who the person is who was firing at you that day?
- 16 A I do not.
- 17 Q So, after the first or second shot, what did you then do, and where did you go?
- 18 A It was all kind of a blur. Before I knew it my gun was in my hand and I was firing  
19 back. From here I ran to take cover behind the stairwell here.
- 20 Q I'm going show you State's 7. Do you recall how many times you discharged your  
21 weapon before making your way to cover behind the stairwell?
- 22 A It was at least-- I knew I fired-- When I said that, I realized that my gun was in my  
23 hand and I'd already fired a shot. And I know I fired at least one more on my way to take  
24 cover behind the stairwell.
- 25 Q At this point in time do you know where Officer Lane is?

1 A I really don't. I really don't. I figured that he was still in his vehicle.

2 Q Did you attempt to radio out to him or dispatch to inform your colleagues that shots  
3 had been fired?

4 A I couldn't. For some reason I really couldn't hear anything, I couldn't talk. It was...  
5 I'm not sure how to explain it. I just...

6 Q What did you---

7 A I knew I was keying up. When I was behind there I was trying to key up. And when  
8 we key up the radio it beeps to let you know that you're on the net, that you have the net.  
9 And I kept keying up and I felt like I couldn't hear the beeping or there's a rrrr sound and if  
10 you're watching, if someone's on the radio, they have the net. And I couldn't hear anything.  
11 I knew my radio was on because I was talking, you know. I couldn't hear the radio. I  
12 couldn't even hear myself. All I could hear was gunshots and I was trying to take cover.

13 Q Prior to getting back here behind the stairwell for cover, when you called out  
14 Building 1300 to dispatch, did they respond to you before those first shots came at you?

15 A No.

16 Q Don't know or don't remember?

17 A I don't know. I---

18 Mr. Johnson: Your Honor, she answered the question.

19 The Court: I appreciate that. I'll allow the question and the answer.

20 Q Officer Cobb, do you recall whether or not they responded to you or do you not  
21 remember whether or not they responded?

22 A I don't remember.

23 Q So, you made your way back to the stairwell here. And at this point in time, what are  
24 you thinking, what are you feeling?

1 A I'm behind the stairwell. I don't know how many people are down there. I don't  
2 know how many weapons they have, how much ammo they have. I don't know how much I  
3 have. So, I don't know how much they basically it. It was fear, basically.

4 Q From behind the stairwell, did you then at some later point in time see the person that  
5 you initially saw from the muzzle flash?

6 A (inaudible)

7 The Court: I'm sorry, ma'am. I didn't hear you. You need to speak up.

8 A Can you repeat that?

9 Q You're at the stairwell for cover. At some point in time after that did you reengage  
10 with the person who had fired at you?

11 A I did. I was here and I came around over here and I was looking down through the  
12 bars, and you could see down through the stairs below.

13 Q Going back to State's 6.

14 A I could see the stairs below here, and when I walked up, I got fired upon again, and I  
15 returned fire.

16 Q Do you recall how many times you were shot at?

17 A I do not.

18 Q Do you recall how many times you shot?

19 A I do not.

20 Q Following that exchange-- I'm going show you State's 10 here. If you could show  
21 the jury on the left side there, how far did you come back towards the front of the building  
22 before the second exchange of gunfire occurred?

23 A About here, I was standing about here.

24 Q When you say you were standing there, are you standing up against the rail or are you  
25 standing up against the wall where the doors to the apartments are?

1 A About in the middle because I was trying to come around and look.

2 Q I'm showing you State's Number 9. Were you able to determine how far up the  
3 stairwell the individual came before firing at you the second time?

4 A It would be-- I was right there; it would be right about here, firing at me.

5 Q At that point in time were you able to see his face or his clothing description, what  
6 sort of shoes or jeans he was wearing?

7 A No.

8 Q The only description that you were able to say is from the initial muzzle flash of a  
9 black male?

10 A Correct.

11 Q And finally, State's Number 8 is just a reverse shot of Number 9. After the second  
12 exchange of gunfire what did you do?

13 A I retreated back to the, behind the stairwell and took cover.

14 Q I'm showing you State's 6.

15 A Yes. I retreated back here and I dropped my magazine. I don't know how many  
16 rounds I'd fired, but I knew that I had an unloaded weapon. I knew the firing had used a lot.  
17 I dropped my clip and put another clip in my weapon.

18 Q Officer Cobb, why would you exchange magazines if you had still had ammo?

19 A It's training. They taught us at the Academy in our training, as well as in the military,  
20 you never go into a gunfight unless you have a loaded weapon and you want to make sure it's  
21 fully loaded. And, like I said, I don't know how many shots I fired.

22 Q What sort of ammunition were you carrying that day?

23 A Nine millimeter.

24 Q Do you recall the head stamp or brand of shell?

25 A I don't. Same thing I'm carrying right now.

- 1 Q Department issue?
- 2 A Yes.
- 3 Q How many rounds do you carry in each magazine?
- 4 A Fifteen.
- 5 Q Can you load your sidearm and then load the magazine such that there would be  
6 sixteen rounds available for you to discharge?
- 7 A Correct.
- 8 Q So you exchanged clips out and then what did you do from there? What are you  
9 thinking at that point in time?
- 10 A I'm thinking that I probably don't have-- Like I said, I don't know how many people  
11 are down there. And I'm thinking, you know, possibly the worst. There are several people  
12 or he's got several rounds and I'd just dropped a clip. So, I'm down now and I possibly only  
13 have about thirty left.
- 14 I was behind the stairwell here and right here is a wall. And I turned a little bit over it  
15 to see if I could see anybody or if anyone was running or anything. After the second  
16 exchange when I was looking over it was quiet here.
- 17 Q Did you ever call out for the suspect or individual to surrender or give up, put down  
18 their weapon?
- 19 A After I heard Officer Lane coming through-- I heard him coming through and he ran--  
20 - I was peeking around and I could see him running across here and I heard more gunshots  
21 come out from down below. And at that time I knew that I had to let at least him know that I  
22 was still alive because he didn't know, he couldn't see me back there. So, I started calling  
23 out for the suspect to come out, you know, drop his weapon, come out with his hands up.
- 24 Q At some point in time were you then able to communicate with Officer Lane?

1 A I was. Soon after there were other officers on the scene. I could hear them  
2 downstairs coming around. I could hear them everywhere. And Officer Lane was standing  
3 over here and we could see each other. And he watched down here as I backed out of the  
4 breezeway.

5 Q On this third exchange of gunfire did you ever return fire after that exchange?

6 A I did not. I was going to say that if I had come out Officer Lane would have seen me  
7 and saw a movement and shot at me. So, I stayed behind until he knew that I was okay.

8 Q Do you know from being in the stairwell right there whether or not Officer Lane  
9 discharged his weapon?

10 A I don't know.

11 Q Now, you had the initial exchange where you entered the breezeway, where you  
12 discharged your weapon. And then there was a second exchange through the spindles of the  
13 stairwell.

14 A Correct.

15 Q Following that, you never discharged your weapon again. Is that correct?

16 A Correct.

17 Q So, once you made your way back out to the front of the building - I'm showing you  
18 State's 4 - please tell the jury what you did.

19 A I backed out and Officer Lane was still here and rechecked my position. I checked  
20 him and he checked me to make sure we knew where the other was.

21 Q Where did you go? Did you go back to your car, radio dispatch?

22 A At that time when there were other officers in the area and they were asking  
23 questions, like, you know, a description of them, what were they wearing, did they have  
24 anything. And I gave them as much as I could. And after I took this position here I walked  
25 over-- I believe Officer Lane-- Someone was over here, I'm not sure who it was. There

1 were officers covering this area. I walked to the opposite area, to the right, to where the  
2 woods there. And I took cover there on the right side of the building. We didn't know  
3 where the suspect was.

4 Q I'm showing you State's 2. Where did you post?

5 A Right here.

6 Q At any point in time did you see anyone come around the building, leave the building  
7 that was not uniformed patrol or with law enforcement?

8 A This is a resident opening their door trying to figure out what was going on.

9 Q Do you recall any resident opening their door that was a black male?

10 A No.

11 Q Thank you. Have a seat back on the stand.

12 (Whereupon witness returned to witness stand)

13 And as you took cover on the right side of the building did other officers respond?

14 A Yes.

15 Q Did you subsequently end up speaking with Detective Flavell of the city police  
16 department?

17 A Yes.

18 Q And did you de-brief him?

19 A I did.

20 Q Did you turn over your service weapon and magazine to him at that time?

21 A Not immediately after. He was-- The person that shot at me, we didn't know where  
22 he was. They started a dog tracking with Officer Flavell and they had to go out with the  
23 tracker to try to locate him. They didn't take my service weapon because of the fear that he  
24 would come out of anywhere, or that he was anywhere. He might have been in the building.

1           Until we deemed, until they deemed it, that it was, you know, as safe as possible, they took  
2           my service weapon and immediately gave me another weapon.,

3       Q           At this time, what are you thinking, how are you feeling?

4       A           Shock, basically. It was a numbing feeling. My adrenalin was still pumping. So, it  
5           wasn't until probably an hour later that I adrenalin dumped.

6       Q           How long did you stay out at Building 1300, Berkeley Point that morning?

7       A           It was several hours that we stayed there. We still had to maintain our position  
8           because we didn't know where he was.

9       Q           And in your responsibilities with the city, is there any investigatory follow-up that  
10          you were tapped to do, or was that passed on to another department within the city police?

11      A           Once any type of major crime, which this was, and especially since it involved me, I  
12          would not handle the case.

13      Q           And Detective Conroy was tapped to be the team leader on this case?

14      A           Correct.

15      Q           Did you end up going back to the law enforcement center and typing your report,  
16          speaking with superiors? Is this scenario any different, handled any different with you than,  
17          say, a normal traffic stop that you would have made?

18      A           it was handled differently because I was under investigation. Because when a police  
19          officer is involved in an investigation, the Greenville City Police Department as well as  
20          SLED are to make sure all the policies are followed correctly.

21      Q           What was the determination of that investigation?

22      A           I was cleared through our department through IA. I was also cleared through SLED.

23      Q           How long did that process take before you were cleared?

24      A           The department cleared me before SLED cleared me. Probably a month I got a  
25          letter from the department saying I was cleared of fault in the incident.

1 Q So, during that month, three weeks to a month period, were you back out on the road  
2 or were you on suspension? How does the department handle this type of scenario?

3 A For three days-- It was on Friday that this happened and we worked Friday, Saturday  
4 and Sunday. They gave me the weekend off with administrative pay. And then for a month I  
5 was on administrative duty. I still got to carry my firearm. I could not drive my patrol  
6 vehicle. And I had to-- They wouldn't let me work the front desk, either. They had me  
7 upstairs helping out the detective with what they do, basically.

8 Q After you were cleared you were allowed to go back to your normal duties?

9 A Yes.

10 Q Approximately after a month you hit the road?

11 A Correct.

12 Q And have been in that capacity since that month investigation period ran?

13 A Correct.

14 Q Officer Cobb, please answer any questions Mr. Johnson may have.

15 The Court: Cross examination.

16 Mr. Johnson: Thank you, Your Honor.

17 **CROSS EXAMINATION BY MR. JOHNSON:**

18 Q Officer Cobb, I'd like to talk a little bit about the shooting itself. You recently just  
19 testified that when you got to the building and you were coming down the breezeway that  
20 you initially some muzzle flash. Is that correct?

21 A Yes.

22 Q And that was someone shooting at you?

23 A Yes.

24 Q And you stated that the breezeway itself was dimly lit. is that correct?

25 A Yes.

- 1 Q And you really couldn't see anything because it was very, very dark?
- 2 A Correct.
- 3 Q And for that reason the only thing you could tell from the muzzle flash that the person  
4 had a black face?
- 5 A Yes.
- 6 Q But you couldn't tell if there was anyone with him or how many people there were?
- 7 A Yes.
- 8 Q Were you ever given the initial of what the person who was driving the vehicle was a  
9 black individual. Did you ever hear that from dispatch?
- 10 A I heard it on the radio, yes.
- 11 Q Did you ever document what that description was separate in a report?
- 12 A No, I did not.
- 13 Q Now, can you tell the court, what a incident recall? What would that be? Do you  
14 know what that is?
- 15 A Can you rephrase the question?
- 16 Q The police produce a report that normally has a incident recall.
- 17 A I'm not sure what incident recall is.
- 18 Q Okay, all right. Now, Officer Cobb, what I'm pointing to there, is that the vantage  
19 point from which you shot the second round of shots?
- 20 A Yes.
- 21 Q So, you came around and you shot down, down that area?
- 22 A I did.
- 23 Q Now, you really couldn't see where the bullets were going necessarily, could you?
- 24 A I could see that they were going down into the stairwell.
- 25 Q But you couldn't see necessarily where they hit or where they ended up, could you?

1 A Officer Cruell called me concerning a silver-in-color GMC Yukon that she had been  
2 checking, said that the tag that was on it was coming back to a Honda. And that the VIN, the  
3 vehicle identification number, covered up by a tree-shaped air freshener.

4 Q Did you witness that yourself?

5 A Yes sir. She asked me to come out there and when I did I took a look around the  
6 vehicle to see if there might be anything in the vehicle that might identify who the owner is.  
7 I looked on the dash and saw what she was talking about. It was a black, tree-shaped air  
8 freshener, covering the VIN and the dash.

9 Q Did you notice anything else inside the passenger console that you took note of in  
10 your report?

11 A I did. There was also-- I forget if it was actually facing window, if it was on the  
12 dash. It was what looked like a radar detector just right there in the middle that I noticed.

13 Q Did you go inside the Comfort Inn with Officer Cruell?

14 A Yes sir, I did.

15 Q Were you here previously as she testified to the dimensions and the lay-out of the  
16 Comfort Inn?

17 A I was.

18 Q Do you have anything that is different from what she testified to?

19 A No.

20 Q When you were inside did you witness someone other than law enforcement or an  
21 employee exit the lobby area that day?

22 A I did not. When we were in the lobby area, I was looking actually out the window  
23 seeing just a portion of the vehicle that we were talking about. And at some point one of the,  
24 I think it was an employee, said that the person who drives that car just walked out. And  
25 Officer Cruell, I guess, had actually seen him. So, she went out to her car. Since she knew it

1 was a wrong tag on the vehicle she was gonna try to stop the car and I stood by the front  
2 seeing which direction it went, the vehicle went out because it's a long drive to Laurens  
3 Road. And I stood there and watched until I saw him turn right and told her.

4 Q Were you able to see who got in the car?

5 A I did not see anybody actually get into the car. When the car passed me I noticed it  
6 was a male driver.

7 Q So what did you do after informing Officer Cruell the direction of the travel of the  
8 vehicle?

9 A Could you repeat that?

10 Q What did you do after you informed Officer Cruell of the direction of travel of that  
11 Tahoe, Yukon?

12 A I got in my patrol vehicle, listening to the radio. I heard that they got on 85  
13 southbound, going towards Mauldin Road. And I also got on 85 south and I'm trying to  
14 catch up with her. On the way there she was calling out her traffic stop and she was saying  
15 the vehicle was not stopping. I don't remember her exact words, but it was the vehicle  
16 wasn't stopping.

17 Q Were you able to see once you hit 85, Officer Cruell or the Yukon?

18 A It wasn't until I was approaching Mauldin Road I remember seeing that vehicle come  
19 to the traffic light and then going over the bridge.

20 Q Did you ever see that Yukon running up 85?

21 A I don't remember seeing it, no sir.

22 Q At some point in time that chase was terminated?

23 A It was.

24 Q What did you do once you terminated the chase?

1 Q After conducting your duties at the scene, and while you were conducting your duties,  
2 did you have the opportunity to talk with forensic officer, Dar Shaw?

3 A I did.

4 Q And out at the scene, did he give you some information about a potential suspect or  
5 some belongings that he found at the scene?

6 A Yes, he did.

7 Q Did you make your way down to what I consider the first floor, which is the very  
8 bottom floor at the bottom of the stairwell, and observe the scene down there?

9 A I did.

10 Q And what if anything did you notice out of the apartment that's located at the bottom  
11 of the stairs to the left?

12 A I actually-- I didn't go down the steps. I went around the building and came in from  
13 the back. And when I came in, the forensics officers, there was actually-- Actually, when I  
14 entered it would have been on my right. If I had come down the steps it would have been on  
15 my left. There were several suitcase, duffel bag-type bags in breezeway up against the wall  
16 under that right side apartment door.

17 Q Did forensic officer Shaw provide you with some information that came out of that  
18 luggage?

19 A He did.

20 Q Detective, did you physically step into the concrete area down there and walk over to  
21 the bag, or did you remain outside?

22 A I was, physically stepped in and was standing there beside Sergeant Shaw.

23 Q Were you standing there as he went through---

24 A I was.

1 Q Detective Flavell, I'm going to ask you to look at State's 35, 37, 38, 39, 40, and 41;  
2 35 through 41, excluding number 36. And I'll ask you if you recognize what those  
3 photographs show.

4 A (pause to review exhibits) I do.

5 Q Do they fairly and accurately depict the condition with which you observed those  
6 items on October 28 of 2011?

7 A Yes, they do.

8 Mr. Marchant: The State would move 35, 37, 38, 39, 40 and 41 in evidence,

9 Your Honor.

10 The Court: Any objection?

11 Mr. Johnson: No objection.

12 Mr. Marchant: Publish to the jury, Your Honor.

13 The Court: In evidence without objection. You may publish.

14 (Whereupon State's Exhibit Number 35, 37, 38, 39, 40 and 41 were admitted into evidence  
15 without objection.)

16 Q Detective, I think you'll be all right sitting right there. If you find it to be more  
17 comfortable to step down here, please do so. Do you want to step down?

18 A I'm fine.

19 Q Looking at State's 35, what is the vantage point this picture is taken from?

20 A This is from the, actually would be from the rear of the breeze-, of the building,  
21 which is where I entered, on the woods line, coming into the breezeway here. This step  
22 actually goes up to what would be, I guess, really the first level, parking level of the parking  
23 lot.

24 Q What's shown directly in your line of sight, I see a door next to the stairwell. Do you  
25 know where that door goes?

- 1 A This was like a utility/storage-type closet.
- 2 Q And what is shown sitting next to that utility closet?
- 3 A This would be a duffle bag or a suitcase that was left there.
- 4 Q And State's 37 showing that same duffle bag?
- 5 A Yes. I don't actually see the bag. This is, like, the clothes. There were clothes kind  
6 of strewn out, like somebody had actually been going through it. It wasn't nice and neat.  
7 This is, like, a small bag that ha DVD's and videos in it. And these were some of the clothes.
- 8 Q I'm showing you 37, showing you the difference between 37 and 38. What's the  
9 difference between the two of those?
- 10 A This is just the close-up of that bag containing the DVD's and the wallet.
- 11 Q Were you standing with Sergeant Shaw when he was going through the bag?
- 12 A I was.
- 13 Q Did you see him pull this wallet out?
- 14 A I did.
- 15 Q And is what's depicted in State's 39, did that come out of that wallet?
- 16 A It did.
- 17 Q What about State's 40?
- 18 A Yes, it did.
- 19 Q And do you recall where State's 41, what did that come out of?
- 20 A Out of the wallet.
- 21 Q So, State's 41 shows, what is this exactly?
- 22 A It's a pawn ticket from, I believe it's... That's Easy Money Pawn Shop in  
23 Spartanburg.
- 24 Q Who is the person that was pawing?
- 25 A Patrick Dean Lowrance.

1 Q With respect to State's Number 40, what is this?

2 A It's a health card for Patrick Dean Lowrance.

3 Q And State's 39?

4 A It's a Social Security card for Patrick Dean Lowrance.

5 Q So, at the time you saw Sergeant Shaw remove this information from that wallet,  
6 what was the next step you took with that information? Did you then have a suspect or  
7 somebody you were focusing in on?

8 A Yes, we did.

9 Q Did you take the information, the Social Security card, and the health card and  
10 compare it to the list that you retrieved from the motel room?

11 A I did.

12 Q Was an individual identified by you as being registered at the motel?

13 A On the occupancy list from the motel located, I believe it was Room 247, the room  
14 was registered to Dean Lowrance on the registration that I had.

15 Q Did you subsequently return back to the motel room?

16 A I did.

17 Q Do you recall what time of the day you made your way back to the motel?

18 A I want to say it was around 4:00, 4:30, 4:20, around in there.

19 Q And you spoke with the manager again at that time?

20 A I did.

21 Q Was the occupant of Room 427 still in Room 427?

22 A No.

23 Q Did the manager allow you into Room 427?

24 A I obtained a consent to search form from the manager.

1 Q I'm showing you what's been marked as 65 and 66. Are you able to know at those  
2 items are? Before we get to part of you opening State's 65 and 66, it appears that there's  
3 some red evidence tape as well as a signature on the packages. What's the significance of  
4 that?

5 A Whenever we enter items into our property and evidence section, we seal it with  
6 evidence tape for the intake to enter that piece of evidence. I initial, put the case number and  
7 the initial and the date. The red tape has my initials, the date, 10/31/11, that I actually put the  
8 seal on it and entered it into evidence. And any time someone opens this evidence, because  
9 it's sealed, they will have to re-seal it, initial and date it.

10 Q Has that been in this case? Has the package been opened?

11 A State's Exhibit 65 has not been opened. It still has my original seal. Actually it has  
12 on the side. And State's Exhibit 66 has been opened and re-sealed.

13 Q Are you able to determine who opened 65? Do you recognize the initials on that  
14 package?

15 A There are no initials on 65. It's unsealed.

16 Q Sorry, 66.

17 A Actually, this was opened by our property and evidence section on September 20,  
18 2012 for discovery by Tabitha Fricks

19 Q Who is Tabitha?

20 A She is one of the personnel in property and evidence.

21 Q Has it been opened or altered by anybody else that you could tell?

22 A No.

23 Q So, referring to 66, the reason you put your name – excuse me – your initials and sign  
24 it is to insure the integrity of that piece of evidence?

25 A Yes.

1 Q And once you take that evidence and secure it, where does it physically go?

2 A It goes into the basement of our law enforcement center. It's what we call property  
3 and evidence section. Anything, any item seized, found, recovered, safekeeping, anything  
4 that I physically take from someone or somewhere I have to account for. So for that item I  
5 complete a property and evidence sheet which tracks the chain of custody on that item, and I  
6 place it into the property and evidence room, which is a sealed, locked room that only  
7 employees in that section are allowed to go in.

8 Q So, State's 66, has this been opened on any other occasion other than by Tabitha  
9 Fricks?

10 A No.

11 Q Detective Flavell, would you open it and determine if what's inside is what you put  
12 inside when you originally sealed it?

13 A (opening State's Exhibit 66) It appears to be.

14 Mr. Marchant: The State would move 66 in evidence.

15 Your Honor.

16 The Court: Any objection to State's 66?

17 Mr. Johnson: No objection.

18 The Court: In evidence without objection

19 (Whereupon State's Exhibit Number 66 was admitted into evidence without  
20 objection.)

21 Q Detective Flavell, there are various things in here outside of that paperwork. Would  
22 you describe to the jury what you found in Room 427 at the Comfort Inn on October 28,  
23 2011?

24 A This is in regards to this?

25 Q Yes sir.

1 A There was a Jan sport-type backpack in the room. When I actually, when I entered  
2 the room, there were still suitcases or clothing, personal items in that room. So, I asked the  
3 manager to verify that they had not re-rented that room. His checkout was eleven o'clock.  
4 He went back to the desk, verified the room had not been re-issued. Once he verified that,  
5 then I went in the room. And inside the Jan sport backpack I located the driver's license of  
6 Patrick Dean Lowrance and miscellaneous, different, like, key cards, Quality Inn. I'm not  
7 sure where this one goes, just a welcome guest, motel key card.

8 Q What does the key card sleeve there, where is it from, what room?

9 A Comfort Room for Room 427.

10 Q After visiting with the motel staff at the Comfort Inn, where did you go next?

11 A I think that's when I returned back to the scene. I can't remember if I had seized  
12 Officer Cobb's gun prior to me leaving or after I returned. Ultimately I returned to LEC  
13 briefly and then I met with the Greenville County Sheriff's Office at the Home Depot on 291.

14 Q Why is it that you met with the Sheriff's Office?

15 A We were going to 105 Mooremont Avenue located in Greenville County.

16 Q Give the jury an idea, a time frame of how long it's been from the time you initially  
17 responded to the Perago plant to the Comfort Inn, back to the scene, back to the Comfort Inn,  
18 to the LEC, and then back out to the Home Depot to meet with the Sheriff's Office.

19 A At the time that I arrived at the Home Depot, I'm gonna say probably eleven hours.

20 Q During the course of that eleven hours, you'd been conducting business and  
21 investigation, some of which is discussed today, but you certainly had done some other  
22 things?

23 A Yes.

24 Q What is the reason that you were going to meet with the Sheriff's Office at the Home  
25 Depot?

1 A We had information that Patrick Dean Lowrance was possibly at 105 Mooremont  
2 Avenue, which is located in the county, outside my jurisdiction, so that the Sheriff's Office,  
3 who had been involved in this investigation from the beginning assisting us. We were  
4 getting ready to go to 105 Mooremont, so I met with them prior to going to the house. We  
5 met at Home Depot, discussed what was going on, discussed our plan. And then we left the  
6 Home Depot and drove to Mooremont Avenue.

7 Q I'm showing you State's 67. Is 105 Mooremont Avenue accurately reflected on  
8 State's 67?

9 A Yes.

10 Q So, during the course of your investigation, you traveled to the apartment complex, to  
11 the Comfort Inn, to Mooremont Avenue?

12 A Correct.

13 Q And all these things are located within the county of Greenville?

14 A Yes.

15 Q When you physically arrive at Mooremont Avenue, why did you go there and what  
16 purpose did you have at 105 Mooremont?

17 A We went because we had information that Patrick Dean Lowrance was in the house.  
18 And I was there as an investigator for the city. The county was assisting us.

19 Q Did you speak at some point in time prior to apprehending the defendant with the  
20 homeowner of 105 Mooremont?

21 A No, not prior to.

22 Q Did you speak to him after?

23 A I did.

24 Q Did you obtain his consent to search the residence?

25 A Yes, I did.

1 Q Inside the residence were you present when evidence which is specific in this case  
2 was located?

3 A I was.

4 Q Detective Flavell, I'm going to show State's 44, 45, and 46. See if you recognize  
5 what those photographs depict?

6 A I do.

7 Q Were you present when-- Was it the city or the sheriff's office that actually turned  
8 the bed?

9 A I was present in the room.

10 Q You were present. Did you witness everything that occurred which is depicted in  
11 this room?

12 Mr. Marchant: I move State's 44, 45, and 46 into evidence.

13 The Court: Any objection?

14 Mr. Johnson: No objection as applies to the pictures, Your Honor.

15 Mr. Marchant: Publish to the jury, Your Honor.

16 The Court: All right. We'll allow State's 44, 45, and 46 into evidence without objection.

17 You may publish.

18 (Whereupon State's Exhibit Numbers 44, 45, and 46 were admitted into evidence without  
19 objection.)

20 Q Detective Flavell, I'm referring to State's 44, what does this picture show?

21 A After Mr. Lowrance was taken into custody, I spoke with the homeowner and he  
22 indicated-- After speaking with him, he indicated the back, right bedroom. When you enter  
23 Mooremont Avenue, the door, the front door goes into, like, a living room, and there's a side  
24 door that comes through a carport that goes into the kitchen, and then a hallway. Down that

1 hallway on the right, this is the back, right bedroom with entry doors about right here. This  
2 is the bed. There was a window. I believe there was a window there and here.

3 After I obtained consent to search for this residence we went in that back, right  
4 bedroom, flipped the mattress and located a firearm between the mattress and boxed springs.

5 Q What does State 45 show?

6 A That's a close-up picture of the firearm that we recovered.

7 Q State's 46?

8 A This was, like, a sweatshirt-type, overcoat that was, had suspected blood on it.

9 Q Did you take possession of these items?

10 A I did not. We called for our forensics division. After we located this, we stepped out  
11 and called forensics and our forensics division actually came and collected these items.

12 Q Upon locating the firearm, to the best of your knowledge, did anybody touch that  
13 weapon before forensics arrived and took possession of it?

14 A I don't believe they did.

15 Q Could you explain to the jury just briefly, what is the purpose for forensics to step  
16 into a scenario such as this as opposed to you taking possession of those items?

17 A There's actually several issues. It would be chain of custody. Just try to limit the  
18 number of people in the chain of custody on a piece of evidence. And we're, of course,  
19 going to, on an item like this, request forensic processing. Our forensics division are the  
20 ones that are gonna do that processing and they'll come collect it, take it back to their office,  
21 complete whatever processing is requested and then they package that item and they put it  
22 into our property and evidence room. So you actually have one chain of custody on that piece  
23 of evidence versus three or four.

24 Q Outside of the things that you took custody of at the Comfort Inn did you take  
25 possession of any other items in this case?

- 1 A I did.
- 2 Q But nothing at the home?
- 3 A No, nothing at the home.
- 4 Q One of the other items you took possession of would be Officer Cobb's service  
5 weapon?
- 6 A Correct.
- 7 Q When you arrived at the home at 105 Mooremont, what sort of efforts did it take to  
8 get the defendant to come out of the residence?
- 9 A The Greenville County Sheriff's Office had several deputies in this team of people  
10 that were going to 105 Mooremont. They basically, would basically just pull up in front of  
11 the house. They got on their PA, the PA speaker and started calling into the house asking  
12 him to come out. The homeowner and two other people actually came out of the house and  
13 then Mr. Lowrance walked out and surrendered.
- 14 Q The consent to search for the home, did you also get a statement from that  
15 homeowner as well?
- 16 A I did.
- 17 Q Can you explain to the jury how law enforcement takes statements and the process of  
18 transcribing everything down that is relayed to law enforcement.
- 19 A Basically, he was, we were questioning him because he, at the time was basically  
20 harboring somebody that we were looking for. So, we wanted to talk to him to find out  
21 exactly what he knew, how Patrick Lowrance got to 105 Mooremont, to see what he knew  
22 that transpired after the shooting earlier that day. So, we basically set down at the kitchen  
23 table and I obtained a written statement from what he told me. Basically, it's his words. I  
24 just asked him to tell me what he knew and he told me and I wrote it down.
- 25 Q What was that individual's name?

1 The Court: Any objection?

2 Mr. Johnson: No objection.

3 The Court: All right, sir. You are released from your subpoena and may go back to  
4 your regular duties, sir.

5 A Thank you, sir.

6 The Court: Thank you. Next witness, please.

7 Mr. Marchant: The State calls Jon Derby.

8 **JON DERBY**, duly sworn, testified as follows:

9 Clerk of Court: Please state your name for the record.

10 A Jon Derby.

11 The Court: Could you spell your name, please, sir?

12 A J-o-n D-e-r-b-y.

13 The Court: Thank you very much. You may proceed, Solicitor.

14 **DIRECT EXAMINATION BY MR. MARCHANT:**

15 Q Mr. Derby, where are you employed?

16 A Greenville County Forensics.

17 Q And what Officer Hamilton discussed earlier, you have essentially the same type  
18 work with the county?

19 A Correct.

20 Q How long have you been with them?

21 A A little over four years now.

22 Q Going back to October of last year, did you have the occasion to respond to 105  
23 Mooremont Avenue?

24 A Yes, I did

25 Q What was the purpose of you responding to Mooremont Avenue?

- 1 A This location was where the suspect was taken in custody. He was located in the  
2 back bedroom, as well as a weapon that was used in the incident.
- 3 Q I'm referring you to State's 44, 45, and 46, entered into evidence. Do you recognize  
4 those photos?
- 5 A Yes, I do.
- 6 Q Did you take these photos?
- 7 A Yes.
- 8 Q Now, there is a picture that depicts a firearm. Did you end up taking possession of  
9 that firearm?
- 10 A Yes, I did.
- 11 Q I'm going to show you what's been marked as State's 53. Would you open that up  
12 and see if you recognize it?
- 13 A (pause to open package)
- 14 Q Do you recognize that item?
- 15 A Yes.
- 16 Q Is that the same item you retrieved from 105 Mooremont Avenue---
- 17 A Yes sir.
- 18 Q ---on the twenty-eighth? And once you took possession of it, what steps did you take  
19 to collect any fingerprints or DNA or any other forensic evidence along with that gun?
- 20 A Once the item was photographed and collected, it was transported back to our office.  
21 Once there, it was processed for DNA at the handle, trigger, and magazine area.
- 22 Q When you say processed, what does that mean? How do you go about processing  
23 something?
- 24 A Taking DNA takes a sterile swab, distilled water in which you dip the swab. And the  
25 tip of the swab is applied to the area that you desire to collect DNA from. And in this case,

1 was the handle, trigger and magazine. Once the DNA was collected, the item was processed  
2 for fingerprints.

3 Q Did you, or do you know, or do you recall whether you obtained any prints that were  
4 suitable for comparison?

5 A No, negative for fingerprints.

6 Q I'm referring you to State's 57, 58 and 68. Do you recognize these items?

7 A (pause to examine items) Yes, I do.

8 Q You tried to collect DNA off of the gun?

9 A Yes sir.

10 Q What are these items?

11 A The actual swab is actually packaged in a manila envelope, as you can see. The swab  
12 comes in a smaller paper container that's smaller to write on. So, we have to package that up  
13 inside of envelopes. Either that or a cardboard box.

14 Q With regard to State's 57, 58 and 68, did you subsequently seal these items and place  
15 the property in evidence?

16 A Correct.

17 Q And did you sign and initial and date the items?

18 A Correct.

19 Q Did you have any further dealing with these items until examining them here today?

20 A No sir.

21 Q Do you know where they were stored until being brought to court today?

22 A They're taken to P&E and kept there.

23 The Court: I didn't hear your answer.

24 A They're turned into Property and Evidence. That was the last time that I had any  
25 action with those items.

- 1           The Court: Thank you.
- 2    Q           I'll show you State's 65 and ask you if you recognized what's packaged in there.
- 3    A           This is item JD 2 that I collected at the scene at Mooremont, the black, hooded
- 4           sweatshirt, sized xl, and examined for blood and projectile dust.
- 5    Q           Is that sweatshirt the same one that you photographed in State's 46?
- 6    A           Correct.
- 7    Q           Did you do any test on this items to examine for DNA?
- 8    A           No sir. It was photographed. It had a projectile hole in the left shoulder, as well as a
- 9           speck of blood. That was photographed.
- 10   Q           But you did not process this for DNA?
- 11   A           No sir.
- 12   Q           And once you collected this package, where did it go?
- 13   A           That, with the swabs, was turned into Property and Evidence.
- 14   Q           Have you had any further dealings with it before today?
- 15   A           No sir.
- 16           Mr. Marchant: Beg the court's indulgence.
- 17           The Court: Yes sir.
- 18           (pause)
- 19   Q           Once you finished up photographing and collecting these items at Mooremont, did
- 20           you have the occasion to respond to the hospital?
- 21   A           Yes, I did.
- 22   Q           What was the purpose of you responding to the hospital?
- 23   A           The individual who was taken into custody at Mooremont was transported there with
- 24           a gunshot wound.
- 25   Q           I'll show what's been marked as State's 47. Do you recognize that item?

1 A A latent fingerprint is just the term that we use for a fingerprint that is found at a  
2 crime scene. If you look on the surface of your hand, you actually have raised ridges, and  
3 these ridges act just like rubber stamps that you may have had as a kid, or may have now.  
4 And sweat, oil, and other, you know, dirt and grime, they act as the ink for that stamp. So,  
5 when you come in contact with other objects you're leaving behind a replication of that skin.

6 Once a crime scene technician comes along, they actually can develop it with powder,  
7 and that powder adheres to that sweat and dirt in order to lift the fingerprint. If it is a  
8 fingerprint that cannot be lifted, it can be captured with a camera or photo system.

9 Q How are fingerprints subsequently compared and identified?

10 A Once those fingerprints are lifted, we actually compare them to known prints. And  
11 what know prints are, are fingerprints from the individuals that we know who they are. We  
12 have them in front of us and we roll their fingers onto a card, along with all their identifying  
13 information, such as their name, race, gender, and other, Social Security numbers, other  
14 person identification; to identify that person with the fingerprints that we have on file.

15 Q Is it possible for two people to have the same fingerprints?

16 A Absolutely not. Twins actually share some of the same DNA, but twins have  
17 different fingerprints. Fingerprints are unique to every individual.

18 Q Did you have the occasion to examine any latent prints in this case?

19 A Yes, I did.

20 Q I'll show you what's been marked as State's 72, 73, 74, 75, and 76, as well as 77.  
21 Can you take a look at those and see if you recognize those?

22 A (pause to examine exhibits) Yes, I do.

23 Q Who provided those, or submitted those prints to be analyzed?

24 A Forensic Investigator Derby as well as Forensic Investigator Hamilton.

1 Q Once you received those prints, did you have a potential suspect or a person of  
2 interest to match them with?

3 A Yes. I was given information for a Patrick Lowrance to compare these prints.

4 Q And out of State's-- With respect to State's 72 through 77, what, if any, were found  
5 matches and where did the match come from on those fingerprints?

6 A On State's Exhibit 72, from Item JD 11, which was a plastic tray inside a cardboard  
7 box of ammunition, I identified that as being the number seven, which is the left index finger,  
8 of Patrick Lowrance.

9 On State's Exhibit 73, from the exterior of the hood, I identified the number nine,  
10 which is the left index finger (sic) of Patrick Lowrance.

11 On State's Exhibit 74, from the exterior of the hood, I identified the number three  
12 finger, which is the right, middle finger of Patrick Dean Lowrance.

13 On State's Exhibit 75, from the exterior facing side of the driver's side, rear door, I  
14 identified the number ten finger, which is the little, left finger, to Patrick Dean Lowrance.

15 On State's Exhibit 76, from the exterior, facing side of the passenger's side front door  
16 window, I identified the number seven, which is the left index finger, to Patrick Dean  
17 Lowrance.

18 And State's Exhibit 77, from the exterior of the hood, I identified the number two  
19 finger, which is the right index, the number seven finger, which is the left index, and the left  
20 palm, to Patrick Dean Lowrance, with all of those fingerprints coming from either the  
21 ammunition box or a 2005 GMC Yukon.

22 Q Mr. Gary, you've talked about a number of numbers, what fingers mean. Can you  
23 explain to the jury-- You talked about number one, number ten, number seven. Which way  
24 do you count fingers?

1 A It's actually international, everywhere uses the same formula. You start with the right  
2 thumb, and it's number one, two, three, four, five. And then with the left thumb, six, seven,  
3 eight, nine, ten.

4 Q You've indicated that on six of the State's exhibits you've made a comparison and  
5 match to the defendant. What steps did you do to insure that you've got the right person of  
6 Mr. Lowrance? How many points, or how did you go about determining these prints belong  
7 to this man?

8 A There's no point standard. That's kind of a misunderstanding. Once I finish my  
9 examination and I determine that this is in fact the individual I say it is, Patrick Dean  
10 Lowrance, those prints are then peer-reviewed by another qualified examiner and then the  
11 report is issued.

12 Q Maybe I wasn't very clear in my question. How were you able to determine that  
13 what's on these cards belong to this man?

14 A Because we compare the known standards to the questioned prints and make an  
15 identification and they are Patrick Dean Lowrance.

16 Q Did you have the occasion to compare any other prints in this case?

17 A Yes, I did.

18 Q Out of all the other prints that were submitted, are these the only ones that come back  
19 to the defendant?

20 A Yes, they are.

21 Mr. Marchant: The State would move into evidence 72, 73, 74, 75, 76, and 77 into  
22 evidence

23 The Court: Any objection?

24 Mr. Johnson: No objection.

25 The Court: In evidence without objection.

1 (Whereupon State's Exhibit Numbers 72, 73, 74, 75, 76, and 77 were admitted into evidence  
2 without objection.)

3 Q Now, Mr. Gary, in the course of your examination, did you find through your analysis  
4 and comparison that there were some prints that did not come back to the defendant, but  
5 came back to someone else?

6 A Yes, I did.

7 Q And how many of those prints came back to someone else?

8 A I'll refer to my notes. (pause to refer to notes) There were three fingerprints that  
9 came back to a different individual, or to different individuals.

10 Q Thank you. Please answer any questions Mr. Johnson may have.

11 The Court: Cross examination.

12 Mr. Johnson: Thank you, Your Honor.

13 **CROSS EXAMINATION BY MR. JOHNSON:**

14 Q Officer Gary, you went through that kinda fast, so I'd like to go over again briefly  
15 where you found the prints. Is that okay?

16 A That's fine.

17 Q Okay. If you don't mind-- I think I have your report, so I'm gonna try to go by them  
18 and if you can confirm for me and make sure I get it right. Okay?

19 A Okay.

20 Q So, with regards to my client, we're talking about the exterior, passenger's side door,  
21 as one. We're talking about the front, exterior, driver's side rear door. We're talking about  
22 the hood from the exterior. We're talking about the passenger's side exterior. And again,  
23 from the passenger's side exterior. And that's as far as the exterior of the car. Is that  
24 correct?

25 A Yes sir.

1 Q What types of human body fluids or tissues can a DNA sample or profile be  
2 developed from?

3 A DNA is found in the human body in the living organs, in the living cells except red  
4 blood cells and the knees.

5 Q Did you have the occasion to examine and perform an analysis on some evidence in  
6 this case?

7 A Yes.

8 Q Do you recall reviewing what's been marked as State's 57, 58, and 68.

9 A Yes.

10 Q Did you also subsequently review State's 53 for analysis?

11 A Yes.

12 Q Where did you pick up State's 53?

13 A From the Property and Evidence.

14 Q Did it remain with you the entire time?

15 A Yes, during the examination of the evidence.

16 Q How many people work in the DNA lab here in Greenville?

17 A Three people including me.

18 Q Does anyone else have access to your lab except the three of you?

19 A No.

20 Q So, with respect to State's 53, did you obtain a sample off of the-- Did you obtain a  
21 sample off the gun, itself, and the magazine?

22 A Yes.

23 Q And did you compare that against a known standard?

24 A Yes.

25 Q And is that known standard State's 64?

- 1 A Yes.
- 2 Q Based on your analysis and comparison of State's 53 to the known standard, 64, who  
3 is the known standard of?
- 4 A The standard is Patrick Lowrance.
- 5 Q What were your results from analyzing this firearm?
- 6 A Let me see my papers. (pause to review papers) The DNA, the mixture, but then the  
7 major contributor, the major contributor of the DNA matches the DNA of Patrick Lowrance.  
8 And I have statistical analysis done on that and it is one in twenty-three billion in the  
9 Caucasian population, and one in fifty-six million in the African-American population and  
10 one in sixty-one billion in the Hispanic population.
- 11 Q Doctor Kandala, you're talking about one in such and such billion.
- 12 A Yes.
- 13 Q What do you mean when you're using these statistical numbers about one in what?  
14 What does one in what means?
- 15 A That means if you take so many people you can see this for five-twenty in one person.
- 16 Q And with respect to the handgun in this case, you're saying that the defendant is a  
17 major contributor?
- 18 A Yes.
- 19 Q Are there other people that potentially handled?
- 20 A But they are within trace-- The DNA that I obtained from the other people is in very,  
21 very small amounts.
- 22 Q Does that mean more than one person has touched this gun?
- 23 A Yes.
- 24 Q And the possibility that someone else that touched the gun that is Caucasian is one in?  
25 A One in twenty-three billion.

- 1 Q Twenty-three billion?
- 2 A Yes.
- 3 Q And someone who happens to be African-American touched the gun?
- 4 A No. I take back. I'm not talking about other people. I'm talking about only the
- 5 major contributor who is the providing DNA. I could not get statistics for the minor string of
- 6 beads.
- 7 Q Let me make sure I'm clear.
- 8 A Yes.
- 9 Q The major contributor to the gun---
- 10 A Yes.
- 11 Q ---is Patrick Lowrance?
- 12 A Yes. I would say that yes, the profile I got from Patrick Lowrance.
- 13 Q The profile you got---
- 14 A Yes.
- 15 Q ---that is State's 64?
- 16 A Yes.
- 17 Q And what are the chances that someone else has the exact, same DNA profile as the
- 18 sample that you were given for Patrick Lowrance?
- 19 A That is if it is a Caucasian is one in twenty-three billion. If it is African-American, it
- 20 is one in fifty-six million. And if it is Hispanic it is one in sixty-one billion.
- 21 Q African-American is fifty-six million, with an m?
- 22 A Yes.
- 23 Q These other two were billions with a b?
- 24 A Yes.
- 25 Q Did you have the occasion to examine in State's 53, the magazine as well?

1 A Yes.

2 Q What were your findings on the magazine?

3 A That showed at least three people and the major contributor is an unknown male.

4 Q So, you can't say who the major contributor is on the magazine?

5 A Yes. I don't have a standard sample for that.

6 Q You have the defendant's sample?

7 A Yes. And he is not the contributor, as a major contributor for the magazine DNA.

8 Q Once you finished analyzing the gun, where did you take it?

9 A After the analysis is done we return it to Property and Evidence.

10 Mr. Marchant: Your Honor, at this time the State would offer 53, 57, 58, and 68 into  
11 evidence.

12 The Court: Tell me those numbers again, please.

13 Mr. Marchant: 53. Your Honor, court's indulgence?

14 The Court: Yes sir.

15 Mr. Marchant: State's 57, 58, and 68 into evidence.

16 The Court: Any objection?

17 Mr. Johnson: No objection.

18 The Court: In evidence without objection, 53, 57, 58 and 68.

19 (Whereupon State's Exhibits Numbers 53, 57, 58 and 68 were admitted into evidence  
20 without objection.)

21 Q Doctor Kandala, I'm showing you what's been marked as State's 62. Did you have  
22 the occasion to pick that up from the evidence locker in the evidence, Property and Evidence  
23 room, and do some analysis on that as well?

24 A Yes.

25 Q I'm also going to show what's been marked as State's 55 and 56.

1 A Yes.

2 Q Did you have the occasion to compare-- Let's start with State's 55. With respect to  
3 State's 55, where did you retrieve that piece of evidence to conduct your analysis?

4 A All, everything is taken from the Property and Evidence.

5 Q And is brought to where?

6 A To the DNA lab.

7 Q The DNA lab is where you do all this analysis?

8 A Yes.

9 Q And then once you're done with it, where does it go?

10 A It goes back to the Property and Evidence.

11 Q So, you did analysis on 55, 56, and 62?

12 A Yes.

13 Q Let's talk about State's 55.

14 Mr. Marchant: Your Honor, before I publish it to the jury, I would move 55 into  
15 evidence.

16 The Court: Any objection?

17 Mr. Johnson: No objection.

18 The Court: In evidence without objection.

19 (Whereupon State's Exhibit Number 55 was admitted into evidence without  
20 objection.)

21 Q Doctor Kandala, when you received this sweatshirt, which is State's 55, did you pull  
22 a sample of DNA off of it?

23 A Yes.

24 Q Where did you pull that sample from?

25 A I think about the area here.

- 1 Q How did you mark it, and did you initial it?
- 2 A Yes, I mark it as 4-1 and then my initial and then I made my serology sample off  
3 there.
- 4 Q So, on State's 55, you pulled a sample off there, and did you compare it to the known  
5 standard of Patrick Lowrance, which is State's 64?
- 6 A Yes.
- 7 Q What were your results?
- 8 A The comparison shows that it is a match with the provider, Patrick Lowrance. And  
9 the location we say that Patrick Lowrance is the contributor to this DNA, as to Item 4-1 to a  
10 reasonable degree of scientific certainty. It is a match.
- 11 Q So, as close as to a hundred percent as you can say, that's your standard of reasonable  
12 degree of scientific certainty?
- 13 A Yes.
- 14 Q The sample that you pulled on State's 55 is as close of a match as you're able to call  
15 it to the known standard in 64?
- 16 A Right. This particular way of expressing it is when we have a minimum number of  
17 one in three hundred billion, that is what the calibration, at least one in three hundred billion.  
18 Then only we say to a reasonable degree of scientific certainty.
- 19 Q Is another way of saying that is that the possibility of someone else having the same  
20 profile is one in three hundred billion?
- 21 A Yes.
- 22 Q I'll show you what's been marked as State's 56.  
23 Mr. Marchant: Move 56 into evidence, Your Honor.  
24 The Court: Any objection?  
25 Mr. Johnson: No objection.

1 The Court: In evidence without objection.

2 (Whereupon State's Exhibit Number 56 was admitted into evidence without  
3 objection.)

4 Q Did you have the occasion to analyze State's 56?

5 A Yes.

6 Q Did you make markings on---

7 A The shirt, yes.

8 Q Are these your markings up here?

9 A Yes.

10 Q And you pulled a sample from the front, left shoulder of this shirt?

11 A Right.

12 Q What were your results/

13 A I compared the sample to the one that I got from here also and the DNA, Patrick  
14 Lowrance is the contributor of this DNA from this Item 5-1 to a reasonable degree of  
15 scientific certainty.

16 Q Same analysis, same procedure, ---

17 A Yes.

18 Q ---same results as the sweatshirt?

19 A Yes.

20 Q And lastly, did you have the occasion to analyze what's been marked as State's 62,  
21 which is also identified as DS 35?

22 Mr. Marchant: The State would move 62 into evidence, Your Honor.

23 The Court: Any objection?

24 Mr. Johnson: No objection.

25 Mr. Marchant: As well as 64.

1 Mr. Johnson: No objection.

2 The Court: All right. State's 62 and 64 in evidence without objection.

3 (Whereupon State's Exhibits Numbers 62 and 64 were admitted into evidence without  
4 objection)

5 Q Did you have the occasion to analyze State's 62, which is DS 35?

6 A Yes.

7 Q What exactly is this?

8 A This is the swab that they have got from the blood.

9 Q This is blood?

10 A Yes.

11 Q What were your results on DS 35?

12 A This is also very similar to the one I got from the shirt and Patrick Lowrance is the  
13 contributor of this DNA to a reasonable degree of scientific certainty. And if you want the  
14 exact number on statistics, I can give you.

15 Q Please, Doctor Kandala.

16 A It is 8.7 times about eighteen. Anything that is times about nine is the figure, and this  
17 is times about eighteen. Times about twelve is a trillion.

18 Q So, this is more than one in one trillion. Is that what you're saying?

19 A Yes. It is a trillion trillion.

20 Q And did you analyze any other evidence in this case?

21 A No.

22 Q Please answer any questions Mr. Johnson may have.

23 The Court: Cross examination.

24 Mr. Johnson: Thank you, Your Honor.

25 **CROSS EXAMINATION BY MR. JOHNSON:**

1           The Court: Very good. If you would, stand up, Mr. Lowrance, please. Madam  
2 Clerk, place him under oath.

3

4

5

6

**PATRICK DEAN LOWRANCE**, duly testified as

7

follows:

8

**QUESTIONS BY THE COURT:**

9

Q           Mr. Lowrance, let me talk to you about certain of your constitutional rights. First, as  
10 far as strategy, before we go into that, you understand at this point in time your attorney on  
11 your behalf has not introduced evidence such that you would lose your right to the last  
12 argument to the jury. At the present time that is preserved.

13

What will happen in the closing argument, the State would have to give its full and  
14 complete argument, then your attorney would be allowed to make the last presentation to the  
15 jury.

16

If there is any presentation of evidence by the defendant you lose that and the State,  
17 having the burden of proof to prove you guilty beyond a reasonable doubt of the charges  
18 brought against you, would have the last argument.

19

Do you understand that?

20 A:

Can you say that one more time?

21 Q

Yes sir. Right now, there hasn't been any evidence that you have officially put in the  
22 case. All right? Your attorney's cross-examined the witnesses, but you have not introduced  
23 any evidence. You haven't introduced any documents. You haven't presented a witness.

24

So, since that has occurred so far, your attorney now possesses the right to have the  
25 last argument before the jury when the attorneys do their closing arguments. All right?

1 That's not normally the case, but since you have not introduced evidence you have that right.  
2 You now possess it.

3 If you go forward and produce any evidence in this case, if you decide to testify or  
4 you've brought forth any witness, or you produce a document, you would lose that right.  
5 What would happen then would be depending upon the Defense's position, the State may be  
6 required to open as to certain legal matters. Your attorney would make his full and complete  
7 argument. And then the State would have the last opportunity to close; that is, to speak to the  
8 jury before they go back to the jury room and deliberate. All right? So, that's the situation.

9 So, I want you to understand that in making your decision. All right, sir?

10 A Yes sir.

11 Q Now, do you understand what we've talked about here?

12 A Yes sir.

13 Q All right. Do you need a minute before we talk about whether or not you're gonna  
14 testify in this case? Do you need a minute or two to talk to your attorney about that  
15 particular issue? Do you want to talk to him about that, sir?

16 A Yes sir.

17 The Court: Very good. Mr. Johnson, if you would---

18 Mr. Johnson: We just need a minute.

19 The Court: You just need a minute right there?

20 Mr. Johnson: Yes sir.

21 The Court: Very good.

22 Mr. Johnson: Thank you, Your Honor.

23 The Court: Y'all take a minute to do that.

24 (pause for attorney/client conference)

25 Mr. Johnson: We're finished.

1 The Court: Very good.

2 Q All right, Mr. Lowrance. You've had an opportunity now to talk about that with your  
3 attorney. Correct?

4 A Yes sir.

5 Q So, understand you have that particular right, let me go over your constitutional rights  
6 as far as you testifying in this case.

7 If at any point in time during our discussion you don't understand anything we're  
8 talking about, you've got a question about it in any way, I want you to stop me. I want you  
9 to indicate that to me. You can raise your hand, you can tell your attorney, Mr. Johnson.  
10 But in some way tell me that you've got a question or you don't understand. Are we on the  
11 same page there?

12 A Yes sir.

13 Q We've reached the stage of the trial where you can present your defense. You have  
14 the right guaranteed to you by the Fifth Amendment of the Constitution of the United States  
15 of America that says no person shall be compelled in any criminal case to be a witness  
16 against themselves.

17 That means nobody can make you testify. Nobody can force you to come into court  
18 and testify in the case. You can testify if you want to, but it's your decision. You get to  
19 choose whether or not you want to testify in the case.

20 Do you understand that?

21 A Yes sir.

22 Q All right. Now, if you decide to testify you're gonna be subject to the same rules that  
23 govern all the other witnesses that have testified in this case. What would happen would be  
24 you will be called to the witness stand by your attorney. He'd ask you questions about the

1 case. The court would allow the State to cross examine you about all matters that are  
2 relevant to this particular case.

3 The Court: As I understand it, at the present time, Mr. Lowrance does not have a  
4 criminal record. Is that correct or is that not correct?

5 (no response)

6 The Court: Solicitor, are there any matters that you would be requesting to cross  
7 examine him on the issue of credibility or believability?

8 Mr. Marchant: No, Your Honor.

9 The Court: Very good.

10 Q So, there are no conditions regarding dishonesty or false statement or crimes  
11 punishable by imprisonment by more than one year. If you had those, then the State could  
12 ask you whether or not you've been convicted of them, but that's not gonna be an issue. All  
13 right?

14 So, you'll just be subject to the cross examination by the State as to all of the facts of  
15 this case or all of the matters the court finds to be relevant to the charges that have been  
16 brought against you.

17 Do you understand that?

18 A Yes sir.

19 Q All right. If you decide to testify, it's gotta be your decision, understanding the rights  
20 where you are in this case, the protections given to you by the Fifth Amendment of the  
21 Constitution of the United States of America.

22 Now, if you decided not to testify, I would have an instruction to the jury. It would  
23 say in essence that they cannot talk about that in the jury room. They can't consider it in the  
24 jury room. They can't mentally use it to make their determination. The fact that you didn't  
25 testify in this case is not a part of this case whatsoever. I'll make that clear to them---

1 A Yes sir.

2 Q ---through the instructions. It being your decision, now, to decide whether or not you  
3 want to testify. You can obviously ask your attorney any questions. Or if you've got a  
4 family member you wanted to ask a question of before you decide.

5 Do you want to do either of that?

6 A No sir.

7 Q All right, sir. Do you understand everything we've talked about?

8 A Yes sir.

9 Q All right, sir. Do you want to testify in this case?

10 A Yes sir.

11 Q Very good. Thank you very much. Y'all have a seat.

12 The Court: With that, Mr. Johnson, are you ready for the jury to come in?

13 Mr. Johnson: Yes sir.

14 The Court: Ask the jury to come in, please.

15 (Whereupon the jury entered the courtroom)

16 All right, Mr. Johnson, witnesses on behalf of the defense?

17 Mr. Johnson: The Defense calls Patrick Lowrance.

18 **PATRICK DEAN LOWRANCE**, duly testified as

19 follows:

20 Clerk of Court: Please state your full name for the record.

21 A Patrick Lowrance.

22 The Court: All right, Mr. Johnson, I'll be glad to hear from you, sir.

23 Mr. Johnson: Thank you, Your Honor.

24 **DIRECT EXAMINATION MR. JOHNSON:**

- 1 Q Now, Patrick, make sure you speak loudly enough in the microphone so everyone can  
2 hear you. Okay?
- 3 A Okay.
- 4 Q Now, what's your middle name?
- 5 A Dean.
- 6 Q Patrick Dean Lowrance. Where are you from?
- 7 A Woodruff, South Carolina. That's where I first stay at. Then I moved to Duncan.
- 8 Q All right. I want you to speak a little bit louder than that, just so you know.
- 9 A I lived-- When I was in elementary school I lived in Woodruff. Then my mom got a  
10 house in Duncan, so we moved to 237 Spring Street.
- 11 Q Do you have any brothers and sisters?
- 12 A I have one sister.
- 13 Q What's her name?
- 14 A Louisa.
- 15 Q What about your other family? Do you have any other family that's close to you, any  
16 aunts, uncles, cousins, grandparents?
- 17 A Yes. I have aunts, uncles, cousins. A lot of people seen them the other day when  
18 they came.
- 19 Q So, you went to elementary school in Woodruff. Where'd you do, do you remember?
- 20 A Woodruff Elementary.
- 21 Q And what about middle school?
- 22 A I went to Beech Springs Intermediate, and then I went to D. R. Hill Middle School  
23 before attending Burns High School.
- 24 Q Past high school, did you go to college?

1 A After I graduated Burns High School, I attended Universal Technical Institute in  
2 Houston, Texas. I became a auto collision technician there.

3 Q How long a program is that, two years, four years?

4 A Like, a year and a half.

5 Q So, what did you learn there that prepared you for a job?

6 A I rebuild and construct cars and made collision repairs.

7 Q What do you mean by rebuild and construct? I don't know anything about that stuff.

8 Can you tell us about that?

9 A I restore cars. I worked at Image's Collision three years doing insurance work.

10 Anything with a car pretty much I can do.

11 Q So, if I had a car that was raggedy and needed to be fixed up, could you make it new?

12 A Yes.

13 Q How long does it take you?

14 A Just depending on the condition of the car.

15 Q So, you said you worked where for three years?

16 A Image Collision.

17 Q Image Collision, and that's where you restore cars?

18 A I did insurance work at Image Collision and my work was sufficient enough it  
19 enabled me to go to a custom shop and do customs. That's where I began restoring cars and  
20 doing on frame-on, frame-off work.

21 Q What's frame-on, frame-off?

22 A Taking the car completely off the frame, building it from the ground up, restoring it.

23 Q What's the most exclusive car you ever worked on?

24 A I guess, like, a '67 Chevy GT, Mustang.

1 Q Now, we've talked about your work life a little bit and your school. I'd like to talk a  
2 little bit about, what is it you like to do. Do you have any type of hobbies? Do you like  
3 sports?

4 A I just enjoy spending time with my son and my wife and just playing with him a lot.

5 Q What's your son's name?

6 A Fabian.

7 Q How old is he?

8 A He's eight years old.

9 Q What's your wife's name?

10 A Sierra Lowrance.

11 Q Do you have any other family that you are close to and can speak of?

12 A Yes. We spend a lot of time with my mom, with her mom, my sisters. I have two  
13 nieces my sister and her husband has together. And we go up to Durham Christmas or either,  
14 they come down. We spend a lot of time together.

15 Q Do you have any other friends that mean a lot to you, or did you meet anyone there  
16 like most people do?

17 A Yes, I do have very close friends. They came on two days ago, on the eighth. My  
18 friend, Kim, my friend, April, they came to support me.

19 Q Were they in the same program as you?

20 A Yes sir. We graduated together from UTI in Houston.

21 Q Patrick, how old are you?

22 A I'm 26. I'll be 27 this December 11.

23 Q December 11?

24 A Of this year, I'll be 27. I'm 26 right now.

25 Q Now, I know you said you lived in Woodruff. Were you born in Spartanburg as well?

1 A I was born in Mary Black Hospital, 12/11/85.

2 Q You mentioned your mother and your sister. Is your father also close to you?

3 A My father lives with my aunt.

4 Q Now, Patrick, I'd like to now go into the days of October 27, 28, of 2011. Do you  
5 remember those days?

6 A The 27<sup>th</sup>, that's the date before the incident happened?

7 Q Yes sir.

8 A I was hanging out with my older cousin.

9 Q Who's your older cousin?

10 A Norman Pearson. I had been-- Really, just, he had kinda took me in because this  
11 November 3<sup>rd</sup>, will be my fifth anniversary of being married, and this, the beginning of this  
12 year was the first time me and my wife ever started to have problems, or whatever. And I  
13 was kinda just hanging out with him at the time because me and my wife were having  
14 problems at the time. And so, on the 27<sup>th</sup>, I was, it was just a normal just hanging out with  
15 Norman, just chilling out.

16 Q Now, you were obviously in the courtroom when Norman testified. Isn't that right?

17 A Yeah.

18 Q Now, he mentioned that he saw you from the car, in the Yukon in question here, and  
19 saw you with, otherwise with a gun. You heard him mention that. Is that true or is that not  
20 true?

21 A He did see me in the car. Whether I know or not he seen the gun, I don't know  
22 because I don't even know if the gun was in the car.

23 Q So, you don't remember the gun being in the car?

24 A No, I don't recall it.

25 Q Whose gun is it?

- 1 A He goes by the name of Meat. I don't know his government last name, but I believe  
2 his first name, his government name is Lametrius or Lometrius. It's, like, I just heard a  
3 female pronounce his name one time.
- 4 Q Now, that's kind of odd to be hanging out with somebody that you don't know  
5 actually their government name. Why is that? What's going on? How long have you known  
6 this man?
- 7 A Maybe going on three weeks. I don't hang out with people because I mean, I'm a  
8 married man. I just normally go to work, come home, go to work, come home, spend time  
9 with my family.
- 10 Q Now, the vehicle, the Yukon, when you were with Norman, were you driving this?  
11 You and Norman riding together? What was going on there?
- 12 A I would drive the car sometimes. Norman would drive the car sometimes. I thought  
13 that it belonged to – I can't even call him a friend, just an acquaintance – Lametrius, because,  
14 I mean, he had several cars. So, that's definitely the way he presents himself.
- 15 Q Now, what was-- Did y'all have any other friends that y'all like to hang out with it,  
16 or that you were hanging out with other than Lametrius?
- 17 A No. Most of the time I'm with my cousin. I was just with Norman. When I go to my  
18 mom's house. And whenever was being around the house I didn't want her to know that me  
19 and my wife was having problems. So, I'd leave and then go to my cousin's house and hang  
20 out with him.
- 21 Q I mean, what would y'all do together when y'all hung out??
- 22 A We was doing stuff that I didn't normally do, going to clubs, going to bars, just  
23 hanging out.
- 24 Q What did y'all do at the clubs and bars?

1 A Socialize, meet people, all of that. And I think the name of the club is Dollar Bill  
2 down White Horse Road, way down White Horse Road on the left. I'm not from Greenville,  
3 so I'm not that familiar with it. But I just think it's down White Horse Road. That's where I  
4 met Lametrius at.

5 Q Did y'all drink, do any drugs? What was going on?

6 A Yes.

7 Q Yes, as in?

8 A As in yes, we did drink and we did the drugs.

9 Q What type of drugs did you do?

10 A Just smoke marijuana.

11 Q Who would have the drugs?

12 A Most of the time Lametrius would have all the drugs.

13 Q Is that why you hung out with him?

14 A I think that's why everybody hung out with him.

15 Q Well, let's go back to that date. You stated that you didn't know Norman saw some  
16 gun in there. Obviously, he has testified that he saw the gun. Whose gun was it? Was it  
17 yours, or whose was it?

18 A It was Lametrius' gun. That's one of several I know of him having.

19 Q So, you knew it was in the car?

20 A When?

21 Q When you were driving you knew it was in the car?

22 A Whenever he would be in the car I knew that it was a gun present.

23 Q That was on the 27<sup>th</sup> when you were Norman. Norman stated that he gave you money  
24 for a hotel room. Is that true?

- 1 A Yes. Actually he owed me money, but he said he let me borrow it. It's all the same.
- 2 I mean, we-- Sometimes I give him money and sometimes he gives me money.
- 3 Q But, anyhow, you got to the hotel. How did you get in the hotel room?
- 4 A Quality Inn on-- I believe it was on-- I think it's the Motor Mile, something like that.
- 5 Q Now, I believe it's been testified to previously by officers that-- Well, she said that
- 6 she saw you at a Comfort Inn. Did you stay at the Comfort Inn?
- 7 A Yeah.
- 8 Q Were you there by yourself or was there anyone with you?
- 9 A There were several people in and out of the room. The night of-- The night that I
- 10 was with Norman, the day before the incident happened, we had a party at the hotel.
- 11 Q Now, can you tell me who was at the party with you?
- 12 A Lametrius was at the party. He had a good friend named Tee. I don't really know his
- 13 name other than Tee. And some people I just, it's kinda just like this, hey, how you doing,
- 14 places. Or you know, like, you know, what's up, man. I really didn't know anybody else
- 15 like that. There's men and there's females.
- 16 Q Now, you stayed at the-- Now, obviously, you don't know government names as far
- 17 as Lametrius and Tee. Can you describe and tell us what they looked like?
- 18 A Lametrius is, he's way taller than me; I guess six foot-two, something like that, long
- 19 hair.
- 20 Q Six foot-two?
- 21 A Something like that. I know he's over-- I mean, I'm, like, five eight, five nine. So,
- 22 he's gotta be like six foot something, or six two, something like that.
- 23 Q Go on. I apologize. I cut you off.
- 24 A He does have long hair. He has dreads similar to my cousin's, Norman Pearson. He
- 25 has-- He's kinda stocky.

1 Q What about-- You mentioned a man by his nickname, Tee. What about Tee, what  
2 did he look like?

3 A Tee is brown-skinned, just like caramel or honey brown, if you want to call it. He's  
4 also, stands maybe a little shorter than Lametrius.

5 Q Now, after the party was over-- What time did your party end?

6 A It really didn't. We was-- I mean, we were up all night. We stayed up the whole,  
7 entire night, hanging out and smoking and drinking.

8 Q At what point did y'all either leave or decide this party was over? What happened?

9 A Some people start leaving and I guess, falling asleep around, like four. Some people  
10 fell asleep, some people left. And then in the morning time the rest of the people got up and  
11 left. And there was still just me, Lametrius and Tee at the hotel.

12 Q At what point did y'all leave the hotel?

13 A I can't really recall the time. The only thing I know is, when we left, I got a bath  
14 because the was gonna take me to a friend's house.

15 Q Who was gonna take you?

16 A Lametrius.

17 Q Now, what vehicle were y'all gonna take to this friend's house?

18 A He was driving the Yukon.

19 Q You say this Yukon. You've heard testimony about it was stolen. Did you know it  
20 was stolen?

21 A No. I found out that the vehicle was stolen once I was in custody because prior to the  
22 incident ever happened, I mean, we was riding around on a regular basis, going to the mall,  
23 going, hanging with the mall. I thought everything was checked out fine with the car. I had  
24 never had-- I did not have an involvement with a stolen car. I have not had involvement  
25 with a stolen car in my life.

1 Q Now, you state that y'all went-- Well, they were gonna take you somewhere is what  
2 you stated. Where was it that you were gonna say that they were gonna take you?

3 A Yeah. I was on the way to go chill with a friend of mine.

4 Q So, y'all were in the Yukon. And who's driving and where are they going to, and  
5 what's going on?

6 A Tee and myself were in the back watching TV in the truck, and Lametrius was  
7 driving.

8 Q Oh, he was driving the car?

9 A Yes.

10 Q Now, Officer Cruell stated earlier that she saw either a suspect of a certain  
11 description. Actually, she said that she saw you walking through the lobby. Do you  
12 remember seeing police officers, or what was the deal there?

13 A No, I don't remember seeing a officer. I would have noticed. I would have seen the  
14 officer and recognized them.

15 Q Okay. Now, y'all are in the car and obviously y'all are driving. What happens next?

16 A Meat, Lametrius-- I call him Meat, that's what I know him by. He proceeds to get on  
17 the interstate. Everything seemed fine at the time. He heads up the interstate, heads up 85,  
18 and then the lights turned on.

19 Q What do you mean by lights?

20 A Police lights.

21 Q What happened next?

22 A When the police lights turned on, he punched it.

23 Q What do you mean by punched it?

24 A He proceeded to run away from the police, the police officer that was trying to pull us  
25 over.

1 Q What was going on in the car at the time that he did that? What was going on?

2 A At the time me and Tee began questioning him why was he not pulling over. We  
3 was---

4 Q What did you ask him that?

5 A Because I didn't think-- I was wondering why did he have to run from the police  
6 officer, you know. There was no question in my mind that he should be, that he should have  
7 to run from the police for any reason.

8 Q Now, you know he may have had a gun in the car. Was that a question to you?

9 A Yeah. And once we started arguing about that he did say that he had a gun in the car  
10 and he also had drugs on him.

11 Q So, where did y'all go? I mean, during the chase, where'd y'all go?

12 A We got off on the next exit and I read that it was Mauldin Road that he got off on, and  
13 he veered off and went to a place called Berkeley Point.

14 Q When you get to Berkeley Point, where'd you go?

15 A When he came into the apartment complex he immediately went to the left. I thought  
16 he knew somebody over there at first, or something, because he pulled in, backed the truck in  
17 and got out.

18 Q So, he gets out and what happens next?

19 A While he was getting out, I was getting out, too.

20 Q Okay. And did Tee stay in the car or did he get out?

21 A No, Tee got out. Tee got out also.

22 Q What did y'all do when y'all got out?

23 A At the point in time, all three of us was arguing, but Meat had the gun in his hand.

24 Q Why were y'all arguing?

1 A Because he had ran-- I was arguing with him because he had ran from the police, and  
2 Tee also was doing the same.

3 Q I know you told me you were arguing because he ran from the police. What were the  
4 type of things that you were saying? You can say what they said, but what type of things  
5 were you saying?

6 A I was telling him that he should not have did that, the only thing he had to do was pull  
7 over for the officer and let her run his license and we probably would have kept going. He  
8 probably would just get a speed ticket or something. And after that he was telling me, well, I  
9 got, I had the drugs on me and I have this gun and he was saying that he didn't have time to  
10 deal with that lady.

11 Q Okay, so, y'all were arguing. And then what happens next? Do y'all stand there or  
12 do y'all-- What did y'all do?

13 A I'm arguing with him, but at the same time I'm trying to be calm because he does  
14 have the gun in his hand and he is kind of intimidating.

15 Q What about him is intimidating?

16 A Like, just the way he acts around people. Like, at parties, like, there was a little  
17 incident with a guy and I guess he pretty much, like, just like punched him around,  
18 something like that, you know.

19 Q So, let's go back. You said y'all got out of the car. where did y'all do, where did  
20 y'all go? Where did you go?

21 A I had my duffel bag with me and I was telling him, well, you know, I was standing  
22 there looking at him. We got to arguing. I don't know what he had and I started walking  
23 towards the breezeway, just trying to get out of the open because we was in the open and he  
24 was out there with a gun in his hand. And Tee also was doing the same thing. I was actually  
25 following Tee because Tee led the way. So, I started walking behind Tee.

- 1 Q And so y'all proceeded towards the breezeway?
- 2 A Yeah.
- 3 Q Do you remember what building it was?
- 4 A I don't remember what building it was.
- 5 Q Anyway, y'all proceeded towards the breezeway. Where did y'all go?
- 6 A I was following Tee down the stairs.
- 7 Q What happened next?
- 8 A We was still arguing in the breezeway as far as how-- I was trying to tell him and I
- 9 was trying to call somebody to come get me. You know what I was saying. I was gonna
- 10 call somebody to come get me. And by this time I guess the police had figured out where the
- 11 vehicle had went to. And then I heard a radio--
- 12 Q Excuse me. Let me stop you. Radio, what radio?
- 13 A Like, a intercom, you know, like a walkie-talkie.
- 14 Q Like a walkie-talkie. Okay. So, you heard the radio and then what happened?
- 15 A Once I heard that I heard shots being fired.
- 16 Q Now, let's talk about where you were when you heard the radio. Were you on the
- 17 stairs? Were you down the stairs? Were you still in the breezeway?
- 18 A Yes. I-- Meat was-- Tee went down there first. I was behind Tee and Meat was
- 19 above me.
- 20 Q And that's when you heard the radio?
- 21 A Yes.
- 22 Q And then you said you heard shots fired. Who was shooting---
- 23 A Yes.
- 24 Q ---or what was going on?

1 A I don't actually know who shot first. I don't know who shot first. The only thing I  
2 remember is a loud popping noise of the gun, the noise of the gun.

3 Q What did you do?

4 A When the first shots went off I had turned around because we had been arguing. I  
5 didn't know if Meat tried to shoot me or what was going on. So, once I turned around, I seen  
6 him shooting in the officer's direction.

7 Q So, when you figured out he was doing that, what did you do?

8 A I was-- I didn't-- I did not have a gun, so I was trying to stay behind him when  
9 everything first started happening.

10 Q Okay. So, you stand behind him. Then what happened after that?

11 A I had been shot for the first time in my life and it took effect quickly because I was  
12 shot and when I was shot I was stunned, in a tremendous amount of pain. It hit real fast. I  
13 didn't know if Tee had shot me. I mean, I didn't know if Meat had shot me or who had shot  
14 me, whoever Meat was shooting hit me in the conflict.

15 Q What happened after that? Did the gun battle end? What did you do?

16 A No, once I was shot, I went down to the bottom, went down to the bottom of the steps  
17 and I dropped my bag, like that, and I was trying to gather myself. And it was a pause and a  
18 stop in the shots being fired and then they started again.

19 Q Where was Tee during this? What was Tee doing during all this?

20 A He was hiding behind the building.

21 Q What happened next?

22 A Once the shots kept going I started to run for my life. I was afraid of being shot  
23 again.

24 Q Where'd you run?

25 A I just took off into a wooded area.

1 Q Where was Meat and Tee?

2 A Before I started running I tried to figure out which direction Tee had went into, but I  
3 did not see which direction he had went into.

4 Q So, did y'all ever meet up again, or what happened?

5 A Honestly, Meat seen the direction I ran in, because after I guess I-- While I laying  
6 was in the woods, I was laying there bleeding and in a tremendous amount of pain. I heard  
7 somebody coming through the woods. I didn't know who it was. I tried to hide as best I  
8 could and I heard Lametrius call my name.

9 Q So, he called your name. What happened after that?

10 A He said, Pat, and I said-- I didn't saying nothing at first. And then he called me  
11 again, and I was, like, yeah, man. He was, like,-- He was actually-- He was, like, you  
12 good, you good? I was, like, no, man, I'm not good. I think you shot me, or I don't know  
13 who shot me. So, then after that we started arguing again. And I was just telling him, you  
14 know, this is crazy, man; the only thing you had to do was just pull over and none of this  
15 would have ever happened.

16 Q So, after y'all were arguing what happened next? Did y'all stay together, or what  
17 happened?

18 A After that he was trying to tell me that he had a way for us to leave, but I would not  
19 go with him because I was scared to go with him. I just wanted to go my own, separate way.

20 Q Did you eventually leave, or did y'all leave?

21 A Yeah, he eventually left and he-- Before he left-- Before he left me in the woods he  
22 left the gun with me and told me that I needed to keep the gun because he thinks the lady or  
23 whoever was shooting him seen him, seen his face.

24 Q Why would you-- I mean, why would you even agree to do that?

1 A It was a stupid decision. I thought he was my friend and I just took the gun. I didn't  
2 grab it with my hand or anything. He put the gun on me and I just took it on me.

3 Q Now, he-- When Meat said, I thought she saw me, what-- Did he tell you-- Was he  
4 more specific, or did he give you any details?

5 A He was-- He just-- He just stated that the lady that he had shot at, he thought that she  
6 had shot, had saw his face.

7 Q So, now Meat's gone and you have the gun?

8 A Yes.

9 Q What did you do after that?

10 A I began walking. And I was just beginning walking towards-- I was trying to go to  
11 my cousin's house.

12 Q Okay.

13 A I didn't know where else to go.

14 Q All right. We're talking about time periods here. I mean, I need some time periods. I  
15 mean, say, for instance, when you were found at, in your cousin's residence, the area and the  
16 incident. What was going on during that period of time?

17 A Well, before-- I was down in the woods. After-- After Meat had left me I passed out  
18 and-- Because I was just laying there and I passed out. And when I woke up I just began  
19 walking.

20 Q Now, did you-- I mean, before you passed out did you ever call for help or try to get  
21 away? Or what did you?

22 A Yes, I was. I was trying to call-- I was trying to-- I had called my cousin's mom's  
23 house and I was trying to get him or somebody to come get me because I was shot at the  
24 time.

25 Q Which cousin is this?

1 A Norman.

2 Q Norman. Were they the only people you called?

3 A I also called my wife, but she-- She go-- She attend school. She goes to USCS and I  
4 believe she's in class at the time.

5 Q So, at some point you passed out. About how long were you passed out? Do you  
6 remember any, seeing any, hearing any police or anything of that nature?

7 A No, I can't remember.

8 Q So, at some point you wake up, I suppose?

9 A Yes.

10 Q Then what'd you do?

11 A I just-- I just started walking towards my cousin house.

12 Q Now, there was testimony earlier from a Will Brockman. Do you know who Will is?

13 A Yes, I know-- I know-- I know him as just Will. I don't know-- I don't even know  
14 his last name. I never knew his last name until I got the motion for discovery.

15 Q Now, how did you find Will? Did you call Will? Or, how did you end up running  
16 into Will?

17 A I seen Will going by and I know his car, 'cause he's been over my cousin's house a  
18 couple times when I was over there, and I flagged him down.

19 Q When you say your cousin's house, you're talking about Norman?

20 A Yeah, Norman.

21 Q So, you say you flagged him down?

22 A Yes.

23 Q What happened when you flagged him down?

24 A He asked me, why you up here? He was, like, man, you all right? He was, like,-- He  
25 was, like, -- He say-- He was, like, man, they saying that you shot at the police, or shot at

1 some lady cop, or whatever. And I was, like, I didn't shoot at nobody. And after that we  
2 really didn't talk about it no more. I was, like, I don't want to talk about it no more. I just  
3 want to-- I'm trying to get to my cousin's house.

4 Q Now, did you get to your cousins' house?

5 A Yes, I did.

6 Q What happened when you got to your cousins' house?

7 A I proceeded to go in, and his sister, Via, told me that I needed to get out of the yard  
8 and I didn't to be there.

9 Q What'd you do after that?

10 A Will was getting ready to pull off and I ran back to the car and he let me back in the  
11 car.

12 Q Then where'd y'all go?

13 A Went to Will's house.

14 Q Did you get inside Will's house?

15 A Yes.

16 Q What'd you do when you got to Will's house?

17 A I was trying to call to see if I could get somebody to come get me to see if I could  
18 help, and that's when I contacted some of my family members.

19 Q What happened after that? Did your family members end up helping you, or what  
20 happened?

21 A Yes. Once I-- I got in contact with my wife and she was at my mom's house, I  
22 believe. And they was just telling me that everything would be all right if I would turn  
23 myself in. And they was just asking me to do that for my safety. And so, after that I told--  
24 I told Will would he go meet my family, my sister, so she could come, so they could come  
25 get me.

1 Q Now, were you afraid that you were in trouble?

2 A I was-- I was really scared for my life. I didn't-- This is the first-- This is the first  
3 time anything like this had happened to me.

4 Q So, what did you-- What happened after Will met your family?

5 A He brung them-- He brung them there.

6 Q So, what happened at the house when they got there?

7 A When they got there, they were there for about ten, fifteen minutes, maybe, just  
8 talking with me. And then the police came.

9 Q What happened when the police came?

10 A When the police came Will and - I think it was a cousin or his friend, I don't know  
11 his name - left out first. And then my wife was there, she came out and then they told me to  
12 come out. I came out.

13 Q At that point what's going through your mind?

14 A I was wanting to get to the hospital to see if I was okay.

15 Q Did you get to the hospital?

16 A Yes.

17 Q Do you remember seeing Detective Conroy at all?

18 A No. I did not recognize Detective Conroy until I had seen-- I did not recognize him  
19 yesterday. The first day this trial started is the first time seeing him. I don't remember him  
20 talking to me. I remember somebody talking in my ear, but I don't remember looking in his  
21 face.

22 Q Patrick, at this time, I have nothing further. Please answer any questions the Solicitor  
23 has for you.

24 A All right.

25 The Court: Cross examination.

1 Mr. Marchant: If it please the court.

2 **CROSS EXAMINATION BY MR. MARCHANT:**

3 Q All right, Mr. Lowrance. You talked about your wife and yourself having difficulties.

4 What were those difficulties?

5 A We were having personal problems, I guess.

6 Q Okay. Please elaborate for me. What kind of personal problems were you having?

7 A Relationship problems.

8 Q Well, what was long with the relationship? You can't pay the bills? Or, what's going  
9 on that caused you to move out of the house and move down with your cousin?

10 Mr. Johnson: Your Honor, I'm gonna object on relevance. I'm not sure what the  
11 relevance is.

12 The Court: I appreciate that. It was brought up in direct examination and I'm gonna  
13 allow it in cross. Thank you very much.

14 Mr. Johnson: Yes sir, Your Honor.

15 The Court: Go ahead, Solicitor.

16 Q Mr. Lowrance, what were the problems that you were having?

17 A I guess, like, infidelity. She thought I was cheating. I thought she was cheating.  
18 Those type problems. It wasn't any one, particular problem, or anything like that.

19 Q So, she thought you were having an affair?

20 A Yes.

21 Q You thought she was having an affair?

22 A Yes.

23 Q So, you moved down and lived with your cousin, Norman Pearson, for a little while?

24 A Yes, I would stay there from time to time.

1 Q And Mr. Pearson, as he described the relationship, is that accurate, that his sister  
2 married one of your cousins?

3 A Yes.

4 Q Now, you were also staying at the Comfort Inn on Laurens Road the day this  
5 happened. Right?

6 A The day what happened?

7 Q The day that you got shot you were staying at the Comfort Inn?

8 A Yes.

9 Q You rented a room there?

10 A Yes.

11 Q Under the name, Dean Lowrance?

12 A Yes.

13 Q Room 427?

14 A Yes.

15 Q And you had at least one bag that you left in the room once you claim you got in the  
16 car with this person named Lametrius and Tee?

17 A Because you heard Detective Flavell testify that he found your driver's license in a  
18 backpack in room 427, approximately 5:00 p.m. on the 28<sup>th</sup>?

19 A Yes.

20 Q So, you got-- You rented the room for one night?

21 A Yes.

22 Q You got in the car with some of your friends and you decide to go to another friend's  
23 house?

24 A Yes. I was just getting dropped off.

25 Q And you'd been drinking and smoking marijuana the night before?

- 1 A Yes.
- 2 Q Basically had a party in the room?
- 3 A Yes.
- 4 Q Tell me again who all was there.
- 5 A Myself, Lametrius, Tee, and there was several other people.
- 6 Q I'm sorry. Tell me that last part again.
- 7 A Several other people.
- 8 Q How many are we talking, two, four, six?
- 9 A I don't remember.
- 10 Q Where'd they come from?
- 11 A They-- Different places. I mean, I don't know exactly where they came from.
- 12 Q You rented the room. Right?
- 13 A Yes.
- 14 Q Did you invite them into the room?
- 15 A Yes, I let them in the room.
- 16 Q I mean, you say different places. What sort of different places? I mean, did y'all
- 17 club-hop that night or something?
- 18 A Yeah. We had-- We had been to a couple of clubs.
- 19 Q Okay. And so, where and how did you get to-- I believe you referred to as Dollar
- 20 Bill. How did you get to the Dollar Bill out on White Horse Road?
- 21 A We didn't go to Dollar Bill that night. That's where I met Lametrius at.
- 22 Q Where you met---
- 23 A Yeah.
- 24 Q Okay. So, where'd you go on the 27<sup>th</sup>, the day before you got shot?
- 25 A I-- Went to a couple places, a couple, like, bars.

1 Q What side of town were they on?

2 A Went to Godiva's.

3 Q Where's Godiva's?

4 A I don't really know. Only place I really know of in Greenville is really how to get to  
5 my uncle's house. I mean, get to my cousin's house.

6 Q I can appreciate you don't know where these places are. How many places did you go  
7 to the day before you got shot?

8 A Just really two, Godiva's, and we went to a couple of other peoples' houses.

9 Q Where do these other people fix into the mix? Was this Lametrius' house or Tee's  
10 house?

11 A I don't know whose house it was. I mean, it's....

12 Q How'd you get there?

13 A I was riding with Lametrius.

14 Q Was Tee with you as well?

15 A Yes.

16 Q Let's go back and talk about the description you gave of Lametrius. You said you'd  
17 known him for about three weeks.

18 A Yes.

19 Q And you met him at Club Dollar Bill.

20 A Yes.

21 Q Who were you at Club Dollar Bill with when you met him?

22 A I was with my cousin.

23 Q Norman?

24 A Yes.

25 Q Who introduce you to him?

1 A Nobody introduced us. We kinda just said a little something to each other, and then  
2 kinda just started talking to each other.

3 Q So, just from that you established a relationship with him---

4 A Yes.

5 Q ---such that you would get in the car and roll around town with him and start smoking  
6 weed and drinking and club-hopping. Is that the lifestyle that you were living at that time?

7 A At that time.

8 Q Only smoking marijuana, nothing else?

9 A No.

10 Q You ever been to Lametrius' house?

11 A No, I have not.

12 Q So, the only information that you can provide us here today is that Lametrius is, you  
13 say, a black male, about six foot, with long hair like Norman's?

14 A Yes, that's the best way I know to describe him to you because he has dreads.

15 Q You told your lawyer this information before you testified today?

16 A Yes.

17 Q And you understand that the defense attorney has investigators that work for him?

18 A I do. I do understand that.

19 Q Do you realize that they did a lot to try to find the gun---

20 Mr. Johnson: Judge, I want to object to this line of questioning.

21 A I didn't know that.

22 The Court: We're gonna move along, Solicitor.

23 Mr. Marchant: Yes sir.

24 Mr. Johnson: Thank you, Your Honor.

1 Q Let's talk about Tee. What's he look like? You said honey-brown, or something like  
2 that?

3 A Yeah. He's maybe a little shorter than Lametrius.

4 Q You never heard even his first name?

5 A No. The same as Will. I would have never knew Will's last name until this  
6 happened. I mean, Will doesn't even know my last name. He never knew my last name until  
7 till. That's just-- I call him Will and he calls me Pat.

8 Q You're saying that you don't know these people that you're hanging out with for  
9 some period of time; you don't know where they live?

10 A No sir.

11 Q You don't even know their real names?

12 A No sir.

13 Q You don't know anything about them but you're smoking weed with them. Correct?  
14 And club-hopping?

15 A Yes sir.

16 Q The family member that you mentioned that lives in Durham, who's that?

17 A My sister.

18 Q Your sister?

19 A Yes.

20 Q What's her name?

21 A Alicia.

22 Q Alicia?

23 A Yes.

24 Q What's her last name?

25 A Alicia Davis.

- 1 Q Is she here today?
- 2 A Yes, she is.
- 3 Q Would you point her out for the jury?
- 4 A (witness indicates spectator area of courtroom)
- 5 Q What's she wearing?
- 6 A Black.
- 7 Q Is she on the front row, second row, or third row over here?
- 8 A Front row.
- 9 Q And third person in, next to the gentleman in the suit, wearing black?
- 10 A Yes.
- 11 Q You ended up speaking with her over at Mr. Brockman's house, didn't you?
- 12 A Yes.
- 13 Q And you talked to her for a few minutes, kind of told her what was doing on, didn't
- 14 you?
- 15 A Yeah. I told her that the shooting had happened. I said the police had shot at me.
- 16 And I don't know who shot, who shot at who first. I told her that I had been shot and-- But--
- 17 And I also told her that Meat had shot at the police.
- 18 Q Just a minute ago when you testified on direct, you said you never saw these officers.
- 19 A At this time when I told her that it's because I had talked with Will and Will had
- 20 informed me of everything that was going on. He had said that it was a person that was
- 21 involved in the shooting had shot at the police. That's how I knew that at that time.
- 22 Q You also talked to your wife, Sierra, that day. Isn't that right?
- 23 Mr. Johnson: Judge, I'm gonna object to any---
- 24 The Court: I'm going to allow him to ask the question. I'm gonna see if anything
- 25 go further than that.

1 Mr. Johnson: Yes sir, Your Honor.

2 A Yeah. Just about-- That night-- Yeah, I was just trying to get her to come to where I  
3 was at.

4 Q And you told her---

5 Mr. Johnson: Your Honor.

6 A I told her the same thing I told the family.

7 The Court: I'm not going to allow anything that she states. Okay? He can say what  
8 he said. I'm going to allow that. Go ahead.

9 Q Mr. Lowrance, you told her that a female had shot you. Isn't that right?

10 A I told her the same thing that I had told my sister. At this time Will, Will had told me  
11 that a lady officer had been shot at. And I told her that Meat had shot at the police, and I  
12 wasn't sure if Meat or whoever it was that was shooting at Meat, wasn't sure it was the  
13 police had shot me.

14 Q The vehicle that you were riding in, where were you sitting?

15 A I was sitting in the back seat.

16 Q Were you sitting behind the driver or the passenger?

17 A I don't remember.

18 Q Well, now, the cops are following you up I-85 and you're telling this jury that you're  
19 trying to convince somebody named Lametrius to stop because he's done nothing wrong, and  
20 you don't remember where you're sitting?

21 A I was sitting in the back seat.

22 Q Where were you sitting?

23 Mr. Johnson: Your Honor, he's badgering the witness.

24 Mr. Marchant: I'm trying to get him to answer.

25 The Court: I appreciate that. I'm going to allow him to ask the question and the

- 1 defendant can answer it if he can; if he can't he can say he doesn't know.
- 2 A I was sitting in the back seat. I think I was sitting on the left side, the same side  
3 behind Lametrius.
- 4 Q Okay. And how is it that you ended up being on the left side of that vehicle, but you  
5 end up placing the box of shells on the right sides?
- 6 A I mean, I had been in and out of the car.
- 7 Q So, you had touched that shell box a number of times before, is what you're telling  
8 this jury?
- 9 A Yes, I have touched the..
- 10 Q And you've loaded this gun before.
- 11 A No, I have not loaded the gun.
- 12 Q You have not loaded the gun, but you touched the gun. Right? You testified about  
13 State's 53 that Mr.-- What's his name?
- 14 A Meat.
- 15 Mr. Johnson: Your Honor, he's answered the question.
- 16 Q Meat, that Meat gave you this gun and told you that you should keep it because the  
17 lady cop saw it. Right?
- 18 A That's the last thing I remember-- That's the last thing I remember him saying before  
19 I had passed out in the woods.
- 20 Q And you had your cell phone with you. Right?
- 21 A Yes, I did.
- 22 Q You didn't do anything wrong this day. You're an innocent victim of Officer Cobb  
23 shooting. Right?
- 24 A I don't know if she shot me or if Lametrius shot me.
- 25 Q Okay. But either way, you didn't do anything wrong?

- 1 A I don't believe so.
- 2 Q And, are you familiar with three numbers called 911?
- 3 A Yes, I am.
- 4 Q And you had your phone with you. Right?
- 5 A Yes.
- 6 Q And you laid in the woods for roughly five, six, seven hours before you went to  
7 Norm's house. Right?
- 8 A Yes. And at the time I was shot and that's the first time that has ever happened to me  
9 in my life, and I panicked.
- 10 Q Your phone was working. Correct? Your battery was charged, you could make  
11 calls?
- 12 A I believe so.
- 13 Q Well, you either did or you didn't. Did you call your family later that day on that  
14 same phone or did you use a different phone?
- 15 A No, I called, I called on that phone.
- 16 Q And you were turning your phone on and off that day, weren't you?
- 17 A No.
- 18 Q You weren't?
- 19 A I don't-- I don't recall turning it on and off.
- 20 Q And for somebody that didn't do anything wrong you show up at your cousin's house  
21 that you been staying with for a little while and they turned you away. They your family.  
22 Right?
- 23 A I thought so.
- 24 Q You've got no idea why they turned you away?
- 25 A No, I-- No, I did not. I was wondering why they did do that.

1 Q And this officer that testified yesterday, Officer Taci Cobb, you've never seen her  
2 before?

3 A No sir.

4 Q You heard her on her radio.

5 A I just heard a walkie-talkie. I don't-- I don't remember hearing a distinctive voice or  
6 necessarily her voice. My first time ever seeing her when she came in the courtroom, the  
7 same as, I believe, as Detective Conroy, Mr. Conroy.

8 Q And where exactly, tell us again, in the stairwell or the breezeway did you get shot?  
9 I'll be happy to pull those pictures up if that would help you show the jury.

10 A Okay.,

11 (Whereupon overhead projector was put in use)

12 Mr. Marchant: Beg the court's indulgence. It takes a moment for it warm up here.

13 The Court: Yes sir.

14 (interval allowing overhead projector to become operable)

15 Q Mr. Lowrance, it's been testified to that the ground floor of that apartment complex,  
16 if you will, the ground floor being right here at the entrance to the parking area. I'm going to  
17 give you this pointer and you tell the jury where you got shot, where you were standing when  
18 you got shot.

19 A Where is this?

20 Q This is the parking lot level. You're walking in from where the parking lot is.

21 A Well, this right here is, like, coming in from the parking lot?

22 Q Yes sir. Let me get you a large shot. Mr. Lowrance, what I'm showing is State's  
23 Number 5, is from the parking lot, and State's Number 6 of that stairwell-breezeway. Where  
24 were you when you got shot?

25 A I was downstairs.

1 Q Okay. And I'm gonna show you what's been marked as State's 35. Where were you  
2 when you got shot?

3 A Somewhere on-- Somewhere on-- Somewhere on the steps. I was right behind Tee.  
4 Tee was right around in here. Lametrius was right around in here. And I was really, almost  
5 directly right behind him because I was-- We was talking at the time.

6 Q Let me be sure I'm clear. The fellow who you keep talking about, Tee, was already  
7 down here on this landing area.

8 A Yes.

9 Q Where all those numbered placards are?

10 A Yes.

11 Q Okay. You're how many steps down before you reach the bottom, roughly?

12 A I really can't remember exactly where I was. I just know I was on the steps.

13 Q Okay. You're on the steps; fair enough. And this other fellow who you claim shot at  
14 the police, Demetrius-- Is it Demetrius with a D or with a L?

15 A I believe it's a L. I heard a female call him Lametrius.

16 Q Lametrius with a L. Okay. So, he's behind you. Is that right?

17 A No, he's in-- I was behind him.

18 Q Okay. So, it's Tee, Lametrius and then you.

19 A Tee, me, Lametrius. You understand what I'm saying?

20 Q I got you. So, you're saying you're standing between the two of them?

21 A Yes.

22 Q Okay. So, Lametrius is further up the stairs, closer to the top of the stairwell than you  
23 are?

24 A Yes. He's closer to the top than I am.

- 1 Q So, you're walking-- You're walking downstairs with all this luggage that you've got  
2 that you're over to chill at your homeboy's house. Right?
- 3 A (no response)
- 4 Q Right here.
- 5 A (no response)
- 6 Q This is all your stuff. Right? You dropped a birth certificate, Social Security card,---  
7 A Yeah, I just had the one duffel bag.
- 8 Q You had one duffel bag. But out of that duffel bag came your wallet that contained  
9 your Social Security card, your health card, and a pawn ticket for, that's marked as State's  
10 41, the pawn ticket as well. Right?
- 11 A (No response)
- 12 Q Let's see. You pawned a man's small diamond chip band on, looks like, July 14 of  
13 2011. Right?
- 14 A Yeah.
- 15 Q So, that's your stuff. That's your information. That's your---
- 16 A I'm not denying that.
- 17 Q Okay. So, were you carrying that bag with that stuff down the stairs when you got  
18 shot?
- 19 A Yes.
- 20 Q So, you got shot from behind. Is that what you're saying?
- 21 A No, I didn't-- I didn't-- I didn't get shot from behind.
- 22 Q But Lametrius has the gun. Right?
- 23 A Yes.
- 24 Q Lametrius has the gun. He is behind you as y'all are walking down the stairs.
- 25 A Yes.

1 Q You get shot on the stairs.

2 A Yes.

3 Q Lametrius has the gun.

4 A Yes.

5 Q How do you get shot in the front?

6 A Once I heard the first shot going off I didn't know who was shooting and where the  
7 shot was coming from. So, I could see what's in front of me, so I'm trying to turn around to  
8 adjust myself to see what's going on behind me. And that's when everything occurred.

9 Q Is it your testimony to the jury that you got shot on that first round of shots or that the  
10 second round that you heard?

11 A I can't-- I can't remember if it was... I mean, I've never been-- I haven't been in a  
12 shootout before.

13 Q Thank you, Mr. Lowrance. I don't have any further questions.

14 The Court: Any re-direct?

15 Mr. Johnson: Brief re-direct, Your Honor.

16 **RE-DIRECT EXAMINATION BY MR. JOHNSON:**

17 Q Patrick, ---

18 A Yes.

19 Q ---the Solicitor cross-examined you said you left your license at the room.

20 A Yes.

21 Q Now, if you were intending on driving somewhere or you were going to drive  
22 somewhere would you have taken your license?

23 A No. I keep-- I keep-- When I'm gone drive, I have my license in my pocket.

24 Q So, you would have taken your license with you---

25 A Yeah. Also---

1 Q ---if you were intending to drive?

2 A ---me driving, I would have taken my license with me.

3 Q Now, as far as Meat, or Lametrius and Tee, did you really want to know the details of  
4 their lives?

5 A No, because, for the simple fact, they were just acquaintances, just somebody to pass  
6 time with. I didn't want nobody really knowing me like that. Because, I mean, I--- Like I  
7 say, I'm married, so I didn't want nobody going back, you know, telling my wife things  
8 because I really wanted to work it out with her.

9 Mr. Johnson: I have nothing further, Your Honor.

10 The Court: Anything on those questions?

11 Mr. Marchant: No, Your Honor.

12 The Court: Very good. You may step down, sir. Thank you very much.

13 Further witnesses on behalf of the Defense?

14 Mr. Johnson: No sir, Your Honor.

15 The Court: All right, sir. Any reply testimony on behalf of the State?

16 Mr. Marchant: None, Your Honor.

17 The Court: Very good. All right, ladies and gentlemen. That concludes the  
18 evidentiary portion of this trial. Obviously, that does not end the matter. We still have  
19 before us the closing arguments of the attorneys and then the charge on the law where I  
20 explain to you the law that you will apply to the facts and evidence you find to be true in this  
21 particular case.

22 At this point in time I'm going to ask you to go back to your jury room for about ten  
23 minutes. There are some matters of law I need to talk to the lawyers about at this point in  
24 time. Then I'll call you back out and we'll go into the closing arguments and the charge on  
25 the law. Thank you very much. Everyone else remain seated.

1 Clerk of Court: In the case of 2012-GS-23-1422, the State of South Carolina versus Patrick  
2 Dean Lowrance, possession of a stolen vehicle. On the charges of possessing a stolen vehicle, we  
3 the jury, by unanimous consent, find the defendant, Patrick Dean Lowrance, guilty. This is signed  
4 by Mr. Davis, the Foreperson.

5 The Court: The other matters are the ones that the jury was unable to reach a unanimous  
6 conclusion on the other matters. Is that correct?

7 Jury Foreman: That's correct.

8 The Court: Very good. As to the jury itself, at this point in time, are there any matters from  
9 the State as to the jury itself?

10 Mr. Marchant: No, Your Honor.

11 The Court: From the Defense?

12 Mr. Johnson: No sir, Your Honor.

13 The Court: Regarding the verdict, let me just ask one more question. Regarding the verdict  
14 that has been rendered does the Defense wish the jury polled on that particular verdict?

15 Mr. Johnson: Sure, Your Honor, yes.

16 The Court: All right, sir. Very good. Madam Clerk, if you would poll the jury on that  
17 verdict, please, ma'am.

18 Clerk of Court: The verdict which was just published was the verdict you reached in your  
19 jury room. I ask you was it your verdict then and is it your verdict now. When I call your name,  
20 please answer yes or no. James McLemore?

21 James McLemore: Yes.

22 Clerk of Court: Michael Chapman?

23 Michael Chapman: Yes.

24 Clerk of Court: Angela Gosnell?

25 Angela Gosnell: Yes.

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF GREENVILLE	)	Case No(s) .: 2012GS2301423;
	)	2012GS2301425;
State of South Carolina,	)	2012GS2301426
	)	
Plaintiff,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	
Patrick Dean Lowrance,	)	
	)	
Defendant.	)	
	)	

January 7-10, 2013  
Greenville, South Carolina

B E F O R E:

**HONORABLE LETITIA H. VERDIN**, Judge.

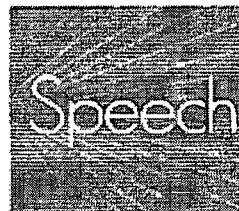
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produced via



CAT 7

P R O C E E D I N G S

1  
2 (WHEREUPON, the proceedings begin on the 7th day of  
3 January, 2013 at approximately 11:59 a.m.)

4 (WHEREUPON, State's Exhibits 1 through 77 were  
5 premarked for identification purposes.)

6 (WHEREUPON, State's Exhibit 78 through 101 are  
7 marked for identification purposes.)

8 THE COURT: Well, here's the news. Y'all may  
9 already know this, but it may be a little while  
10 before we have a -- before we have a panel that  
11 they can send up. We're the shortest of three  
12 cases going on today. Going on today or starting  
13 today. So we're third up. I think -- I know  
14 Miller just went to his courtroom. Judge Young is  
15 here. He just started with his. So we're probably  
16 realistically not looking at picking a jury for at  
17 least another hour. That's the latest I got, the  
18 latest I got just now from Judge Miller.

19 All right. Now that I've been the bearer of  
20 bad news.

21 MR. MARCHANT: I think there's several  
22 probably pretrial matters we could ---

23 THE COURT: I thought there might be.

24 MR. MARCHANT: --- handled.

25 THE COURT: Okay.

1           **MR. MARCHANT:**     I think Your Honor is aware  
2           that this is a retrial from October the 8th of  
3           2012. I have the prior transcript.

4           **THE COURT:**     Okay.

5           **MR. MARCHANT:**    Mr. Johnson and I agreeable  
6           to, uh, adopt Judge John's pretrial rulings ---

7           **THE COURT:**     All right.

8           **MR. MARCHANT:**     --- with respect to the Deno  
9           hearing, the Biggers hearing and there was a motion  
10          by me to allow the State to, uh, reference, not  
11          introduce but reference that the defendant had  
12          active warrants at the time. Judge John denied  
13          that motion with respect to my direct examination.  
14          He said of course if the door gets open, we'll  
15          revisit it at that point in time.

16          **THE COURT:**     I understand. Okay.

17          **MR. MARCHANT:**    So Mr. Johnson, have I stated  
18          that accurately? We're going to adopt the Deno,  
19          the Biggers and then Judge John's ruling with  
20          respect to active warrants?

21          **MR. JOHNSON:**    As I understand it, res  
22          judicata applies.

23          **THE COURT:**     I think I am bound by his prior  
24          rulings unless there's something materially  
25          different about this trial. All right.

1           **(WHEREUPON,** a bench conference is held off the  
2 record.)

3           **THE COURT:**     It's not what I said.  It's what  
4 I didn't say.  Ladies and Gentlemen, you are going  
5 to hear some testimony in this case, uh, about a  
6 stolen vehicle.  I will tell you that the defendant  
7 in this case has admitted that he possessed a stolen  
8 vehicle and has been convicted of that charge.  You  
9 need not determine his guilt or innocence on that  
10 charge.  You need not consider his guilt or  
11 innocence in any way on that charge.

12           All right.  Does that satisfy both sides?

13           **MR. MARCHANT:**     It does, Your Honor.

14           **THE COURT:**     Thank you.  Thank you so much.  
15 Yes, sir.

16           **MR. MARCHANT:**     May it please the Court?

17           **THE COURT:**     Yes.

18           **MR. MARCHANT:**     Mr. Johnson.

19           Mr. Foreperson, Ladies and Gentlemen of the  
20 jury, once again, my name is Lucas Marchant.  I'm  
21 the prosecutor.  Seated at my table is Mr. Graham  
22 who is my investigator and Detective Conroy, who is  
23 the lead investigator with the Greenville Police  
24 Department.  He was tasked with the duties of  
25 organizing all the events that occurred that day

1 from the City Police. And he's the main, lead  
2 investigator on the case. You will hear from  
3 several investigators with the City Police  
4 Department as well as several other officers with  
5 the City Police Department.

6 This is the gist of what happened on October  
7 the 28th of 2011, Officer Brittany Cruell who is  
8 seated here in the front row was patrolling the  
9 Comfort Inn on Laurens Road. Laurens Road and 85,  
10 there's a motel behind where the old BMW dealership  
11 used to be. She will tell you she was rolling  
12 through the parking lot and she started checking  
13 vehicle tags.

14 She comes across a 2005 GMC Yukon. She checks  
15 the Yukon. The tag that's on that Yukon comes back  
16 to a Honda Accord. It raises her suspicion. She  
17 radios dispatch and tries to get some information to  
18 determine whether or not the vehicle was stolen or  
19 if it's just an improper tag.

20 She calls her fellow officer, Officer Lane, who  
21 is seated here on the front seat as well. He comes  
22 to assist her. One of the things they do is they go  
23 inside the Comfort Inn and speak with management.  
24 While inside, the vehicle leaves.

25 Officer Cruell goes and gets in her vehicle as

1 does Officer Lane. Before Officer Lane gets in his  
2 vehicle, he stands out front and tells Officer  
3 Cruell which way the vehicle turned. The vehicle  
4 turns right on Laurens Road. Gets onto I-85 and  
5 heads towards Atlanta. Cruell begins to follow that  
6 vehicle. She catches up with it. She turns her  
7 blue lights on. The vehicle begins to evade her and  
8 increases speeds. It eventually whips off the  
9 highway at the Mauldin Road exit and runs the red  
10 light turning left onto Mauldin Road. At that point  
11 in time, Officer Cruell terminates the pursuit. All  
12 she knows is she has an improper tag.

13 Several minutes later, Officer Cobb, who is  
14 also seated on the front row here, was patrolling  
15 for that vehicle in that area because she knew that  
16 that vehicle had run from Officer Cruell. Officer  
17 Cobb locates that vehicle at Berkeley Pointe  
18 Apartments. She locates it near the 1300 building.  
19 She gets out, confirms that it is that vehicle and  
20 walks over to the 1300 building so she could tell  
21 dispatch, Dispatch, I'm at 1300. I need you to send  
22 some support over here. I don't know if I've got an  
23 improper tag or stolen vehicle.

24 You will see in a minute from the photographs  
25 that there is a breezeway that leads into building

1           1300. On the right side of that breezeway is the  
2 building. She walks up to the building number, puts  
3 her hand on her mic, steps in the threshold, starts  
4 to call out 1300 and she is fired upon. She didn't  
5 have her gun out. She didn't have her taser out.  
6 She had her hand on her mic calling dispatch.

7           What does she do? She charges at the threat  
8 and she returns fire. She gets pinned in the  
9 stairwell. There is a second exchange of gunfire.  
10 During that second exchange of gunfire, somebody is  
11 struck. That somebody is the defendant. He's  
12 struck in the left shoulder. He's still got the  
13 bullet in his shoulder.

14           Once Officer Lane showed up at Berkeley Pointe,  
15 he came over to that same vehicle before Cobb went  
16 to that building. He heard the first rounds of  
17 shots. Wasn't quite sure that's what he heard.  
18 Begins to walk over to 1300. Here's the second  
19 round. He tells dispatch we've got shots fired.

20           Okay. He goes to the breezeway himself to see  
21 what's going on. He steps in the breezeway and what  
22 happens? He's fired at as well. He backs out and  
23 tries to clear the building. Eventually, Officer  
24 Cobb clears out of that building. What you will see  
25 is we've got a few schematics of where there's

1 bullet fragments, shards, things of that nature to  
2 show you how many rounds were exchanged between  
3 Officer Cobb and the defendant. The defendant flees  
4 out into the woods.

5 What happens next is they try to pursue him.  
6 What does that consist of? Well, you will hear from  
7 those officers as well as what efforts were made to  
8 try to contain the defendant in the area. I'll tell  
9 you that they were not able to contain him. But  
10 they did continue to track him. And they found him  
11 over at Mooremont Avenue which is here in Greenville  
12 county as well at about 8:30 that evening. He was  
13 apprehended at that house. What was with him? The  
14 gun that fired at Officer Cobb and the gun that  
15 fired at Officer Lane. You will see the gun, be  
16 able to view it and there will be a ballistics  
17 expert to tell you that those shots came from this  
18 gun.

19 What else are you going to hear throughout the  
20 course of this trial? You can see, if you can,  
21 there are some things that are stacked around. I'm  
22 going to tell you it's going to be lengthy because  
23 of the number of exhibits we have. Primarily, the  
24 number of exhibits are going to consist of aerial  
25 photographs as well as photographs of all three

1 scenes. If you will, we have a scene at the Comfort  
2 Inn where this event started. We have a scene at  
3 Berkeley Pointe where the shots were fired. Then we  
4 have a scene at Mooremont Avenue where the defendant  
5 was apprehended. So I tell you that to tell you  
6 that it's going to take a little while to go through  
7 all these photographs in evidence. I would suggest  
8 that it's probably going to be Thursday morning  
9 before the State's done giving you everything. We  
10 have about 100 pieces of evidence that I need to  
11 show you so you can fully understand what occurred  
12 that day, comprehend it and digest so you have the  
13 best picture possible of the events.

14 Once we get done, Mr. Johnson and I are going  
15 to both have an another opportunity to stand up and  
16 speak with you. It's called closing arguments. As  
17 you already heard the judge say, nothing that I say  
18 is evidence. Nothing that the defense says is  
19 evidence. The evidence comes from these items that  
20 you are able to take back to your jury deliberation  
21 room as well as the testimony that comes from the  
22 stand.

23 Of course, I'm going to have my spin of  
24 things. Mr. Johnson is going to have his spin of  
25 things. But you need to let the evidence speak for

1           itself and determine if I have proven to you beyond  
2           a reasonable doubt. Your Honor will tell you,  
3           that's not every single possible doubt, but beyond a  
4           reasonable doubt of whether or not this man is  
5           guilty of running from law enforcement and shooting  
6           at them and being in possession of that firearm  
7           while he was shooting at those two officers. I  
8           submit to you right now that is the case.

9           And I'm going to ask you again, Thursday  
10          morning most likely, to come back with a verdict of  
11          guilty. That verdict is a verdict that speaks the  
12          truth. I want to thank you for your time and  
13          patience and, uh, look forward to visiting with you  
14          back again on probably Thursday morning. Thank you.

15          **THE COURT:**     Thank you.

16          Mr. Johnson.

17          **MR. JOHNSON:**    Your Honor, may it please the  
18          Court?

19          **THE COURT:**     Yes, sir.

20          **MR. JOHNSON:**    Solicitor.

21          Whether it's sports, chess, anything that  
22          involves strategy, the best strategies are those  
23          where you don't show you next move. You don't let  
24          them know your angles. I'm going to be brief here  
25          so as not to blow my cover so to say. There are

1 during the commission of a violent crime and failure  
2 to stop his car for those officers on October 28th,  
3 2011. Thank you.

4 **THE COURT:** Thank you, sir.

5 All right. Ready to proceed?

6 **MR. MARCHANT:** Yes, Your Honor. May it  
7 please the Court. The State would call Officer  
8 Brittany Cruell.

9 **THE CLERK:** Officer Cruell, if you would  
10 come forward. Please place your left hand on the  
11 Bible and raise your right.

12 **BRITTANY CRUELL**

13 having first been sworn, testifies as follows:

14 **THE CLERK:** Thank you. You may be seated.  
15 Would you please pull the mic in front of you and  
16 state your name for the record.

17 **THE WITNESS:** Brittany Cruell.

18 **DIRECT EXAMINATION**

19 **BY MR. MARCHANT:**

20 **Q** Officer Cruell, where are you employed?

21 **A** Greenville City Police Department.

22 **Q** And what are your duties with the City Police?

23 **A** Answer calls for service, investigate crimes,  
24 make traffic stops and serve warrants.

25 **Q** How long have you been employed with the City

1 Police?

2       **A**     Going on six years in April.

3       **Q**     Okay. You have any other law enforcement  
4 experience other than the City Police?

5       **A**     No. No, I don't.

6       **Q**     Prior to joining the Greenville Police  
7 Department, what were the requirements that you had to  
8 face before being able to go out on the road and be an  
9 officer?

10       **A**     Had to complete the South Carolina Criminal  
11 Justice Academy. It was a nine-week program at that  
12 time. That was firearms training, legals training and  
13 driving.

14       **Q**     Did you complete the course?

15       **A**     Yes, I did.

16       **Q**     Are you responsible for continuing education  
17 classes or courses during your employment with the City?

18       **A**     Yes, I am.

19       **Q**     Are you current? Are all those credentials up  
20 to date?

21       **A**     I am.

22       **Q**     Back on October 28th, 2011, were you working  
23 that day?

24       **A**     Yes, sir.

25       **Q**     In what capacity were you working?

1           **A**     I was on patrol.

2           **Q**     And what side of town were you working?

3           **A**     It's called Bravo beat. It's the Laurens/85  
4 area.

5           **Q**     Did you have an occasion to go to the Comfort  
6 Inn that morning?

7           **A**     Yes, I did.

8           **Q**     Why did you do that?

9           **A**     I typically patrol that hotel. It's at 2756  
10 Laurens Road. It's in my area. I still work in that  
11 area now. We've had a lot of criminal activity there,  
12 including stolen vehicles, prostitution and drug  
13 activity.

14          **Q**     You went to the motel that morning on the 28th?

15          **A**     I did. I was driving through the parking lot.  
16 I noticed that there was a vehicle backed in. It was a  
17 2005 silver GMC Yukon. When I got out of the vehicle, my  
18 patrol vehicle, I went over to the vehicle to check the  
19 tag to see if it was stolen. I went back to my vehicle  
20 to run it from DMV and it came back to a Honda. At that  
21 time, I went back to the vehicle to check the VIN to see  
22 if maybe it came back as stolen, but I couldn't check it  
23 because it was covered by an air freshener.

24          **Q**     I'm going to show you what's been marked as  
25 State's number 107. Do you recognize this aerial?

1           **A**     Yes, sir.

2           **Q**     Is it a true and accurate depiction of the  
3 area?

4           **A**     It is.

5           **MR. MARCHANT:**     The State would move 107 into  
6 evidence.

7           **THE COURT:**     Any objection?

8           **MR. JOHNSON:**     No objection, Your Honor.

9           **THE COURT:**     It will be so admitted.

10           **(WHEREUPON, State's Exhibit 107 is admitted into the**  
11 **record.)**

12           **MR. MARCHANT:**     Publish to the jury, Your  
13 Honor?

14           **THE COURT:**     Yes, sir. And I give you blanket  
15 permission, once it's entered, to publish it in any  
16 way you see fit.

17           **MR. MARCHANT:**     Thank you, Your Honor.

18 **BY MR. MARCHANT:**

19           **Q**     Officer Cruell, if you would, step down for me.  
20 You're going to need to continue to speak clearly and  
21 loudly. I'm giving you this, uh, blue highlighter. If  
22 you would, write on top of the building for the Comfort  
23 Inn, the name Comfort Inn.

24           **A**     (Writing.)

25           **Q**     I also want you to circle the parking area or

1 the spots that you recall seeing the vehicle that  
2 morning.

3 **A** I'm not exactly sure which space that it was  
4 backed into. But I'm pretty sure that it was in this  
5 area.

6 **Q** You're not certain which particular spot?

7 **A** No.

8 **Q** Okay. Please take the stand again.

9 **A** (Witness complies.)

10 **Q** You run the tag. It comes back to a Honda. Do  
11 you call any of the other officers?

12 **A** I did. Officer Lane was working the beat area  
13 that's, uh, next to mine. I called him by cell phone and  
14 asked him to meet with me to maybe see if we could find  
15 out if the vehicle was stolen to investigate it further.

16 **Q** Was there anybody in the vehicle?

17 **A** No.

18 **Q** The vehicle was parked?

19 **A** Yes.

20 **Q** Why is it necessary to call another officer in  
21 this particular situation?

22 **A** Typically, if the VIN hadn't been covered, then  
23 I wouldn't have been more suspicious that it was possibly  
24 stolen. But anytime there's a stolen vehicle, that's  
25 going to warrant us to have a backup officer even though

1 I didn't know if it was stolen at that time. I just  
2 wanted to be careful.

3 Q Do you recall what time that morning you  
4 arrived at the Comfort Inn?

5 A It was probably somewhere around nine o'clock,  
6 a little bit after.

7 Q After checking the tag on the vehicle, do you  
8 recall what time Officer Lane arrived?

9 A I do not. It was probably just a few minutes.  
10 He wasn't far away.

11 Q What did y'all do once he showed up?

12 A Once Officer Lane got there, we went inside the  
13 lobby area of the Comfort Inn. I spoke with the clerk  
14 there and asked her if she knew who was driving that  
15 vehicle. She didn't know who was driving it and she also  
16 said she didn't have a record of a person who had  
17 registered a tag at the hotel at that time.

18 MR. MARCHANT: Court's indulgence.

19 THE COURT: Yes, sir.

20 (WHEREUPON, there is a pause.)

21 THE COURT: If you will, bear with us just a  
22 moment. We took care of some matters regarding  
23 exhibits yesterday. (Pause.)

24 I apologize, Mr. Marchant.

25 MR. MARCHANT: No problem. Thank you, Your

1 Honor.

2 (WHEREUPON, there is a pause.)

3 BY MR. MARCHANT:

4 Q All right, Officer Cruell. I'm going to show  
5 you what's been marked as State's number 76, number 86,  
6 number 79, number 85, number 84, number 83, number 82,  
7 number 87 and number 88. I want you to take a look at  
8 those.

9 A (Reviewing.)

10 Q You've had an opportunity to look at those  
11 exhibits?

12 A Yes, I did.

13 Q Do they fairly and accurately depict the  
14 parking lot of the Comfort Inn as well as the lobby?

15 A Yes, they do.

16 Q Except for the Christmas tree that we'll see in  
17 a minute, do they accurately reflect the lobby and how  
18 it's laid out?

19 A Yeah.

20 MR. MARCHANT: The State would move 88, 87,  
21 82, 80, 83, 84, 85, 86, 78, and 79 into evidence.

22 THE COURT: Any objection, Mr. Johnson?

23 MR. JOHNSON: I don't believe so. I'd like  
24 to clarify when the pictures were taken.

25 THE COURT: All right.

1 **BY MR. MARCHANT:**

2 **Q** Officer Cruell, did we roughly three or four  
3 weeks ago go to the Comfort Inn?

4 **A** Yes.

5 **Q** Are these the photographs that we took that  
6 day?

7 **A** They are.

8 **Q** Okay. So that would have been in December of  
9 2012?

10 **A** Yes.

11 **THE COURT:** Any objection?

12 **MR. JOHNSON:** No objection.

13 **THE COURT:** All right then. They'll be so  
14 admitted.

15 **(WHEREUPON, State's Exhibits 78 thru 80 and 82**  
16 **through 88 are admitted into the record.)**

17 **BY MR. MARCHANT:**

18 **Q** Officer Cruell, if you would, on State's  
19 Exhibit number 80, please explain to the jury where this  
20 photograph was taken and approximately where you believe  
21 you believe you saw the vehicle back then?

22 **A** This is taken at 2756 Laurens Road, the Comfort  
23 Inn. As you go in to the right side of the building,  
24 this is the parking area. I believe that the suspect's  
25 vehicle, at that time, was parked in where you see the

1 patrol car, either that space or coming towards the  
2 camera.

3 Q Officer Cruell, I've given you a laser pointer,  
4 if you would, as we go through the remainder of these  
5 photographs, please indicate to the jury what you're  
6 referencing.

7 A Okay.

8 Q Show you what's marked as State's 81.

9 A There's an underhang here where you drive  
10 through. I think this was Officer Lane's vehicle that  
11 day. My vehicle is over this way. It was in one of  
12 these spaces where the suspect's vehicle was backed in  
13 that day.

14 Q State's 78.

15 A This is another view of those parking spaces.

16 Q You spoke of the overhang a minute ago. I'm  
17 going to show you State's 82.

18 A This is actually the way -- uh, later when the  
19 suspect vehicle drove through, it drove this way out to  
20 Laurens Road.

21 Q State's 83.

22 A This is another picture of the overhang to the  
23 right.

24 Q State's 84.

25 A The same.

1           **Q**     Please describe for the jury the entrance into  
2 the hotel.  What sort of doors does it have?

3           **A**     It has double glass sliding doors that open  
4 automatically when you walk through..

5           **Q**     Showing you -- I need you to take a look at  
6 State's 90.  Does that accurately reflect?

7           **A**     Yes.

8           **Q**     Officer Cruell, were you present when we took  
9 those photographs as well?

10          **A**     Yes, I was.

11          **MR. MARCHANT:**     I move 90 into evidence.

12          **THE COURT:**     Any objection?

13          **MR. JOHNSON:**     No objection.

14          **THE COURT:**     It will be so admitted.

15          **(WHEREUPON, State's Exhibit 90 is admitted into the**  
16 **record.)**

17          **BY MR. MARCHANT:**

18               **Q**     Please explain to the jury what you're seeing  
19 in this photograph.

20               **A**     This is the front door of the Comfort Inn, the  
21 check-in lobby area, the front counter.

22               **Q**     State's 88?

23               **A**     Right here to the right, you can see that there  
24 is a continental breakfast area.  This is the front desk  
25 to the right.

1           **Q**     Please use the pointer and indicate to the jury  
2 where you are referencing with the continental breakfast  
3 area.

4           **A**     This area. (Pointing.)

5           **Q**     And State's 87?

6           **A**     This is the back hallway that leads to the  
7 rooms on the first floor and the elevator on the first  
8 floor.

9           **Q**     I'm showing you State's 85.

10          **A**     This is the continental breakfast area. This  
11 is the front check-in counter. The front door is this  
12 way. The back hallway is back this way.

13          **Q**     State's 86.

14          **A**     Again, this is the breakfast area. The back  
15 hallway is this way. The front door is to the right.

16          **Q**     State's 79.

17          **A**     This is a closer picture of the window that's  
18 in the continental breakfast area.

19          **Q**     Did you and Officer Lane go inside the motel at  
20 the same time?

21          **A**     I believe so. I believe he was already on the  
22 scene and we both went inside and spoke to the clerk.

23          **Q**     And after speaking with the clerk, what did you  
24 do?

25          **A**     Uh, from what I can recall, we were standing

1 somewhere to the right of the road. There was only two  
2 employees. There was the clerk and there was the lady  
3 who was doing the continental breakfast that morning in  
4 the lobby besides myself and Officer Lane. And I noticed  
5 a black male walk by me. I believe I was standing at  
6 that time when he walked by me. I just barely noticed  
7 him. I know he had a grey shirt on at that time. I  
8 thought he looked to be older, maybe about 40. He could  
9 have been younger. I didn't pay a lot of attention to  
10 him.

11 Q Do you recall whether or not he was wearing  
12 glasses, had tattoos, talking on the cell phone?

13 A No.

14 Q Do you recall, uh, what you believe the hair of  
15 the individual looked like?

16 A At the time, I thought maybe it was longer. It  
17 might have been pulled back.

18 Q Did you speak to this individual that walked  
19 through?

20 A No.

21 Q Now, the lighting inside the Comfort Inn, what  
22 sort of lighting do they have?

23 A It's just like the lighting in here,  
24 florescent.

25 Q Now, do you recall where you were standing or

1 approximately where you were standing ---

2       **A**     Not exactly.

3       **Q**     --- when the individual passed?

4       **A**     Not exactly, no.

5       **Q**     Do you know which direction the individual came  
6 from?

7       **A**     From the direction of the back hallway that he  
8 showed you to the front exit.

9       **Q**     I'm showing you State's 88. If you would, use  
10 the, uh, -- actually, if we could turn the other light  
11 back on, I believe it's a better view. If you would, use  
12 your laser pointer on State's 88. Please show the jury  
13 where the individual came from and where they exited.

14       **A**     He came from this way, exiting in the front  
15 door.

16       **Q**     If you were standing in this area, did the  
17 individual walk in front of you or walk behind you?

18       **A**     I don't really remember. I know that I looked  
19 at him in the face. But as to how I was standing or  
20 which way I was looking, I'm not sure.

21       **Q**     You keep saying "he". How do you know that it  
22 was a he?

23       **A**     It was a black male. I could tell that it was  
24 a male.

25       **Q**     Once that individual walked by you, what did

1 you do?

2 **A** Uh, myself and Officer Lane continued to talk  
3 about the car. I know at one point, we called our  
4 dispatch to see if -- even though that tag came back to  
5 just a Honda, we called to see if one of their files  
6 showed that there was a 2005 Yukon that was stolen. And  
7 it wasn't. We were also talking on and off with the  
8 ladies there at the breakfast area.

9 **Q** At some point in time, did you leave the  
10 Comfort Inn?

11 **A** It was when the lady who was working, uh, in  
12 the breakfast area, she alerted us that that vehicle that  
13 we were asking about was leaving. At that time, I exited  
14 out the front doors that you saw and I went to my patrol  
15 vehicle, which was actually parked on the same side as  
16 the suspect vehicle. Officer Lane went out front to tell  
17 me which way he was going. He said the vehicle went  
18 right going toward, making a right on Laurens Road going  
19 toward 85 South towards Atlanta.

20 **Q** Is 85 South depicted on State's 107?

21 **A** I think this is the ramp right here.

22 **Q** Is that how you enter, get on or get off 85?

23 **A** That's the way to go south on 85.

24 **Q** Is that the route you took?

25 **A** Yes.

1           Q     And were you dressed as you are today?

2           A     Except for the tie.

3           Q     Were you in a marked unit?

4           A     Yes, I was.

5           Q     Blue lights and Greenville Police Department  
6 identification?

7           A     Yes.

8           Q     You got in your car and you started following  
9 this vehicle?

10          A     Uh, I saw the vehicle, I believe it was about  
11 three cars in front of me in the vehicle when I got on 85  
12 southbound. So I had to give my blue lights to get  
13 around those vehicles. When the vehicle, I guess, knew  
14 that I was behind him, he continued at his pace of about  
15 60 miles an hour, but then hit his left turn signal and  
16 went all the way over to the wall on 85 South.

17                 At that time, he started increasing speeds in  
18 that lane. He abruptly then went across all lanes of  
19 traffic over to the Mauldin Road exit to the right. I  
20 hit my siren at some point in there and advised dispatch  
21 that the vehicle wasn't stopping. Uh, he was gaining  
22 speeds on me. I couldn't really keep up with him. He  
23 got up to the exit and made a left on Mauldin Road.  
24 There was a red light there. There were other cars  
25 present that day and it was cloudy. He went on left on

1 the Mauldin Road. I pretty much lost sight of him.  
2 After I made that right on Mauldin Road up near Parkins  
3 Mill, I lost sight of him and I discontinued the pursuit  
4 for the safety of civilians due to the fact that I did  
5 not know, in fact, at that time, if the car was stolen.

6 Q Was your in-car camera operable that day?

7 A It was.

8 Q Was it running?

9 A It was running.

10 Q Have you had an opportunity to review what's  
11 marked as State's Exhibit number 1?

12 A Yes.

13 Q And does it fairly and accurately depict what  
14 occurred up 85 that day?

15 A It does.

16 MR. MARCHANT: Move number 1 into evidence.

17 THE COURT: Any objection?

18 MR. JOHNSON: No objection.

19 THE COURT: All right. Then it will be so  
20 admitted.

21 (WHEREUPON, State's Exhibit 1 is admitted into the  
22 record and played for the jury.)

23 BY MR. MARCHANT:

24 Q Officer Cruell, is there any audio associated  
25 with this video?

1           **A**     Not with this one. It was inoperable at the  
2 time in that vehicle.

3           **Q**     Officer Cruell, as the vehicle plays, if you  
4 would, please use the laser pointer and describe to the  
5 jury what you did and what you witnessed.

6           **A**     Okay. At this point, the suspect vehicle is  
7 still in the far right lane up here. I believe -- I  
8 can't --

9           **Q**     Hang on a second. (Pause.)

10          **A**     The suspect vehicle is up here. (Pointing.)

11                   Right now, I'm trying to get him between these  
12 cars so that I can blue light it.

13          **Q**     You have or have not activated your blue lights  
14 yet?

15          **A**     At this time, I don't believe I had. This is  
16 the suspect vehicle and I should be initiating my blue  
17 lights here in a second. As you can see, I initiated  
18 them. (Pause.)

19                   This is when he hit the left turn signal. He's  
20 going to get in the far left lane. (Pause.)

21                   The upcoming exit is the Mauldin Road exit.  
22 (Pause.)

23                   Here, at the last minute, he goes across the  
24 lanes of traffic to get on this exit. This is where I  
25 started losing speed to keep up with him.

1           **Q**     What's the intersection that we're getting  
2 ready to see?

3           **A**     This is 85 and Mauldin. The 85 exit to Mauldin  
4 Road. Here, the light's red. He goes through the light  
5 to the left. (Pause.)

6                     At this point on the camera, I don't even think  
7 you can see the vehicle anymore. The next intersection  
8 up is Parkins Mill Road. (Pause.)

9                     Uh, here, I discontinued the pursuit. There  
10 was a trucker actually you can see that needed help back  
11 in the traffic, I believe. And Officer Lane and I  
12 assisted him with that at that time.

13           **Q**     Do you recall what time in the morning that you  
14 started your pursuit of the vehicle on 85?

15           **A**     I tried to initiate the traffic stop at 9:31  
16 a.m.

17           **Q**     After terminating the pursuit at the Hitachi  
18 plant, what did you do next?

19           **A**     Uh, we helped the trucker back out in traffic.  
20 And I think dispatch was trying to send me a call on  
21 Fairforest Road, which is near there. But Officer  
22 Kellett told me he had already taken that call. So I  
23 continued to kind of check the area for that vehicle. I  
24 went down Mauldin Road to Cavalier Drive when another  
25 call came out. I think it was at 9:39 for a suspicious

1 person or vehicle in the area of Wenwood Road from Christ  
2 Church. So I headed to that area along with other  
3 officers.

4 Q I'm going to show you what's been marked as  
5 State's 108, 106 as well as State's 67. Do you recognize  
6 106 and does it fairly and accurately depict that area?

7 A Yeah.

8 Q Also showing you here State's 67. Do you  
9 recognize ---

10 A Yes.

11 Q --- 67 as well? Does it fairly and accurately  
12 show the area?

13 A Yes.

14 Q As well as State's 108?

15 A Yes.

16 MR. MARCHANT: The State would move 67, 106,  
17 108 into evidence.

18 THE COURT: Any objection?

19 MR. JOHNSON: No objection, Your Honor.

20 THE COURT: All right. They will be so  
21 admitted.

22 (WHEREUPON, State's Exhibits 67, 106 and 108 are  
23 admitted into the record.)

24 BY MR. MARCHANT:

25 Q All right. Officer Cruell, I'm showing you

1 what's been marked as State's 67. If you could, step  
2 down and, if you would, show the jury approximately where  
3 you traveled from Laurens Road to Mauldin Road and how  
4 you traveled to help the truck.

5 **A** Was this way getting onto 85 down -- I think  
6 this is Mauldin Road down here. Yeah. I got off here.  
7 Wait a second. This is Mauldin Road? Wait. That's  
8 Mauldin Road. Okay. This is the Hitachi plant right  
9 here. This is where we stopped to help the trucker.  
10 From there, I went down to -- I believe this is Cavalier  
11 Drive. It's unmarked. Somewhere in here is when I got  
12 the call of suspicious vehicle at Christ Church.

13 **Q** I'm going to show you what's in evidence as  
14 State's 108.

15 **A** Uh, I headed --

16 **Q** Officer Cruell, if you would, step over here so  
17 all the jurors can see.

18 **A** As I headed toward, uh, -- when we arrived --  
19 Christ Church has two entrances. One here and here.  
20 There was a security guard out on Wenwood Road somewhere  
21 in here to flag me down. He said that he was listening  
22 to their scanner and he heard the chase and they thought  
23 that they had seen that vehicle. It was over here in the  
24 apartment complex. It was about that time that I heard  
25 Officer Taci Cobb say that she was out with that vehicle

1 and she asked me to go to Channel 4 to repeat some  
2 information about it.

3 Q What is the name of the apartment complex where  
4 Officer Cobb eventually found the vehicle?

5 A Berkeley Pointe.

6 Q And do you recognize Berkeley Pointe on that  
7 Exhibit?

8 A Yeah. This is the one entrance. These are the  
9 apartments. This is another entrance. There are  
10 apartments in here as well.

11 Q I'm going to show you what's in evidence as  
12 State's 106. Did you subsequently go to that apartment  
13 complex?

14 A I did. Uh, not long after Officer Cobb had  
15 confirmed with me that it was the same vehicle that had  
16 ran from me, Officer Lane responded on the scene with  
17 her. And he said shots fired shortly after that.

18 Q Officer Cruell, do you recall what time the  
19 call came in from Christ Church?

20 A I believe it was 9:39.

21 Q And do you recall what time Officer Lane  
22 indicated shots fired?

23 A 9:48.

24 Q In between 9:39 and 9:48, did you leave Wenwood  
25 Road?

1           **A**     No.

2           **Q**     From Wenwood, did you go into the apartment  
3 complex?

4           **A**     I did.

5           **Q**     When you went into the apartment complex, do  
6 you recall where you parked?

7           **A**     I do remember. At first, I was a little  
8 disoriented because of my adrenaline. When you hear an  
9 officer say shots fired, it's really serious. I did --  
10 accidentally, I went into the other entrance, not this  
11 one that we see here. I was trying to figure out where  
12 the 1300 building was at. For some reason, I just  
13 couldn't remember. I finally was able to get in here. I  
14 pulled in with some other officers. We came this way.  
15 All I remember is parking in this general area here.

16          **Q**     Once you exited your vehicle, where did you go  
17 and what did you do?

18          **A**     I walked up this way. This is the 1300  
19 building. This is the 1400 building. I saw Officer Lane  
20 was behind the vehicle up here. This is the breezeway  
21 where they told me that he was shooting from. Officer  
22 Taci Cobb on the corner up here when I arrived.

23          **Q**     As you are approaching the 1300 and 1400  
24 building, did you have your firearm out or did you get a  
25 rifle, a shotgun out of your trunk or do you recall?

1           **A**     I believe at first, I had my firearm. I don't  
2 remember -- I think at some point, I did get my shotgun  
3 out.

4           **Q**     After --

5           **A**     Because he told me that -- I'm sorry. He told  
6 me that he thought the shooter had an automatic weapon.

7           **Q**     You say "he", who are you referring to?

8           **A**     The defendant.

9           **Q**     I'm sorry. He told you --

10          **A**     Oh, Officer Lane told me that the suspect had  
11 an automatic gun.

12          **Q**     Now, when you are meeting with Lane behind that  
13 vehicle, what is it that you're doing?

14          **A**     Uh, getting information from him, seeing if  
15 he's okay. A few minutes later, some SWAT team members  
16 came and relieved us of watching this building and they  
17 kept eyes on that building that that time.

18          **Q**     Do you recall at this point in time -- let me  
19 rephrase. In between the time that you parked your  
20 vehicle and the point in time the SWAT team members  
21 arrived, do you recall seeing anyone in that apartment  
22 complex that was not law enforcement?

23          **A**     No.

24          **Q**     Take the stand.

25          **A**     (Witness complies.)

1           **Q**     How long do you think or recall being out there  
2 on the scene that day?

3           **A**     We were there pretty much the whole day.  
4 Eventually, the other -- the actually SWAT van arrived  
5 and they evacuated that building to search for the  
6 suspect. We set up a parameter at that time. It was a  
7 large perimeter, but somehow, he got outside the  
8 perimeter. We were there for the rest of our shift. We  
9 worked 12 and a half hour shifts. We were there the  
10 whole day searching for him. It wasn't until the next  
11 day when I came in for roll call, which is our meeting  
12 before shift, and I was advised that Patrick Dean  
13 Lowrance had been arrested in the shooting.

14           **Q**     Let's talk about that briefly. What time did  
15 your shift start in the morning?

16           **A**     You have to be there at 6:40.

17           **Q**     And your shift starts roughly what time?

18           **A**     7 a.m.

19           **Q**     And prior to starting your shift every morning,  
20 is there some meeting you attend?

21           **A**     It's roll call.

22           **Q**     What's the purpose of roll call?

23           **A**     Information from the previous shift, things  
24 that have happened that we need to be aware of.

25           **Q**     So the day that this event occurred on October

1 28th, 2011, what time do you remember finishing your  
2 shift and going home?

3 **A** It was 7 p.m. or a little bit after.

4 **Q** You had worked your entire shift on this scene?

5 **A** Pretty much.

6 **Q** Did you go out and do any other patrol that  
7 day?

8 **A** No.

9 **Q** You worked the following day?

10 **A** Yes.

11 **Q** Did you have the same type of meeting that  
12 morning?

13 **A** Yes.

14 **Q** And the information you discovered that morning  
15 was what?

16 **A** The defendant's name or the suspect's name in  
17 the case, uh, that shot at Taci and Charles, that he was  
18 apprehended in Greenville county and his name was Patrick  
19 Dean Lowrance.

20 **Q** And with that information, what did you do?

21 **A** I went out to my car to my computer and checked  
22 the records database for photographs and I pulled up his  
23 picture. And I immediately recognized him as the same  
24 male that had walked by myself and Officer Lane the day  
25 before in Comfort Inn.

1 Q Did anyone tell you to do that?

2 A No.

3 Q You have a supervisor?

4 A Yes.

5 Q He didn't instruct you to go look into your  
6 database?

7 A No.

8 Q Again, what database are we talking about?

9 A It's a record index of people who'd been  
10 arrested.

11 MR. JOHNSON: Judge, objection.

12 THE COURT: Let's approach.

13 (WHEREUPON, a bench conference is held off the  
14 record.)

15 THE COURT: Ladies and Gentlemen of the jury,  
16 just so you won't be potentially misled by any of  
17 the testimony you've just heard. You've heard  
18 testimony that, uh, the defendant was apprehended  
19 the night before and that's the reason that his  
20 photograph would have been in such a database.

21 Does that comply with our discussions? All  
22 right. Thank you.

23 Yes, sir.

24 BY MR. MARCHANT:

25 Q Once you pulled up the photograph, what was

1 your reaction?

2       **A**     I immediately recognized him as the same male  
3 that was at the Comfort Inn.

4       **Q**     Do you recognize the person that was at the  
5 Comfort Inn that day?

6       **A**     Yes.

7       **Q**     Are they here in this courtroom?

8       **A**     Yes.

9       **Q**     Where are they seated?

10      **A**     To my right.

11      **Q**     What are they wearing?

12      **A**     White-collared shirt and a blue tie.

13           **MR. MARCHANT:**     Let the record reflect that  
14 she has identified Mr. Lowrance.

15           **THE COURT:**     It will be so reflected.

16 **BY MR. MARCHANT:**

17       **Q**     After conducting that business that morning,  
18 did you go out on routine patrol and resume normal  
19 duties?

20       **A**     I did.

21       **Q**     Did you also have an opportunity to confirm  
22 whether or not that vehicle was stolen?

23       **A**     I did, actually the day before I went in and  
24 the shift. When forensics finished processing the scene  
25 at Berkeley Pointe Apartments, that vehicle that

1 initially seen at the Comfort Inn was out there and they  
2 were able to move the air freshener from the VIN and when  
3 I ran it in my car, it came back stolen.

4 Q In -- take you back to the Comfort Inn, if you  
5 will, just for a moment. The only opportunity that you  
6 observed the defendant was in the lobby?

7 A Yes.

8 Q Did you see anyone get into the vehicle that  
9 you pursued up 85?

10 A I did not.

11 Q While you were pursuing the vehicle up 85, were  
12 you able to determine how many people were in the  
13 vehicle?

14 A I couldn't. The back window was tinted.

15 Q Did you ever see anybody in or out of that  
16 vehicle?

17 A No, I didn't.

18 MR. MARCHANT: Court's indulgence?

19 THE COURT: Yes.

20 MR. MARCHANT: Thank you, Officer Cruell.

21 Please answer any questions that Mr. Johnson may  
22 have.

23 THE COURT: All right. Ladies and Gentlemen,  
24 we've come to a good point for a lunch break. I'm  
25 going to ask you to be back in your jury rooms at,

1           uh, 2:15. Be back in your jury room by 2:15. We'll  
2           begin promptly right after that. Please don't  
3           discuss this case with anyone. You'll get used to  
4           hearing me say that.

5                     And Officer Cruell, please don't discuss your  
6           testimony with anyone over the break.

7                     Thank you so much and I hope you have a good  
8           lunch.

9           **(WHEREUPON, the jury exits at approximately**  
10   1:02 p.m.)

11                    **THE COURT:**     All right. We'll be in recess  
12           until 2:15.

13           **(WHEREUPON, a lunch recess is taken.)**

14           **(WHEREUPON, the Court resumes at approximately**  
15   2:22 p.m.)

16                    **MR. MARCHANT:**    The State's ready, Your Honor.

17                    **THE COURT:**     All right. Officer Cruell, if  
18           you want to retake the stand, you may. (Pause.)

19                    To our jurors who are observing with us on the  
20           back row, I appreciate your attention throughout the  
21           trial. I've watched you throughout the trial this  
22           morning. I appreciate your attention. I don't  
23           think Judge Miller will mind, at the end of the day  
24           today, you don't have to come back tomorrow for this  
25           trial. Now, that's not to say that you might not

1 get picked for another trial, I don't know. But you  
2 will need to call in after 6:00 for further  
3 instructions. All right.

4 (WHEREUPON, the jury enters at approximately  
5 2:24 p.m.)

6 (WHEREUPON, there is a pause.)

7 THE COURT: Ladies and Gentlemen, I'm going  
8 to ask you to step to your jury room for just a  
9 moment. If you will, be patient with me. I need to  
10 take care of one matter that's been brought to my  
11 attention.

12 (WHEREUPON, the jury exits at approximately  
13 2:26 p.m.)

14 THE COURT: Will the attorneys approach?

15 (WHEREUPON, a bench conference is held off the  
16 record.)

17 THE COURT: False alarm. It is, uh, -- the  
18 person who overheard it has clearly identified that  
19 it was a juror from courtroom number 8, not  
20 courtroom number 4. So we're fine. Okay. Good.

21 MR. JOHNSON: Judge, you want to clarify?

22 THE COURT: I'll probably say something to  
23 them. They had a juror come in. We just had her  
24 come in and look around the room.

25 MR. MARCHANT: I think it would be wise that

1           maybe at every single break we have, reiterate that  
2           point so we don't get caught in the same position.

3           **THE COURT:**       Absolutely. Absolutely. The  
4           person who reported it, they've now taken that  
5           person to Courtroom 8. The guy's going to feel like  
6           he's on trial.

7           **(WHEREUPON, the jury enters at approximately**  
8           2:32 p.m.)

9           **THE COURT:**       I'm going to explain to you what  
10          was going on just a minute ago. You're probably  
11          completely mystified. We had some concerns that  
12          this case might had been being discussed in one of  
13          the restrooms. It turns out there are multiple  
14          trials going on in this courthouse and it is not  
15          anyone on this jury that was discussing it. I never  
16          doubted you for a minute. But, uh, we needed to  
17          stop any discussions that jurors were having about  
18          it. And the person mistakenly thought it was  
19          courtroom number 4. They were incorrect. It was  
20          clearly another courtroom. And certainly as I said,  
21          there was no report about anyone in this courtroom.

22          All right. Where are we?

23          Mr. Johnson, you ready to proceed?

24          **MR. JOHNSON:**       Yes, ma'am, Your Honor.

25          **THE COURT:**       All right.

**CROSS-EXAMINATION**

1  
2 **BY MR. JOHNSON:**

3           **Q**     Officer Cruell, before I talk about your  
4 testimony, I just want to establish a couple of things.  
5 First of all, I notice you don't have it with you but you  
6 did do an incident report in this, didn't you?

7           **A**     Yes, I did.

8           **Q**     And the purpose of the incident report is  
9 basically like a memorandum or writing it down at the  
10 time of whatever happened so that you can remember it?

11          **A**     Yes.

12          **Q**     And this incident report is sent through like a  
13 channel of supervisors. Somebody approved his incident  
14 report, right?

15          **A**     Yes.

16          **Q**     And you just write it down because it's harder  
17 to remember something later because you remembered right  
18 at that time, so you try to write it down so you can  
19 remember?

20          **A**     That's right.

21          **Q**     All right. Now, you also testified at a prior  
22 hearing, is that true?

23          **A**     Yes, I did.

24          **Q**     And you answered questions from the Solicitor  
25 and myself, isn't that right?

1           **A**     That's right.

2           **Q**     Uh, now, the Comfort Inn, this was put on the  
3 overhead projector. I want to make it clear. I'm  
4 showing you what has been marked as State's Exhibit 88.  
5 This was previously admitted into evidence. Does this  
6 picture describe how -- the lighting that was in the  
7 lobby at the time you were there in 2011?

8           **A**     Yes.

9           **Q**     Okay. I just want to -- I'm going to publish  
10 this picture to the jury after we finish, but I just  
11 wanted you to see it because you couldn't tell on the  
12 projector. Now, I couldn't remember what you testified  
13 to. How close -- you stated that you saw someone walking  
14 to the lobby and one of the clerks pointed your attention  
15 to that person. That's not what happened?

16          **A**     No.

17          **Q**     Okay. So your testimony right now is nobody  
18 pointed your attention towards this person?

19          **A**     No, when he walked through the lobby, I just  
20 noticed him walking.

21          **Q**     You just noticed him?

22          **A**     Yes.

23          **Q**     Okay. All right. But anyhow, how close were  
24 you to this person when you saw him?

25          **A**     I believe it was just a few feet away.

1           **Q**     Just a few feet, so relatively close?

2           **A**     Yes.

3           **Q**     Okay. Now, I want to go to when you  
4 essentially identified my client as that person that you  
5 saw, is that true?

6           **A**     Yes, sir.

7           **Q**     You stated that someone called you, is that  
8 right?

9           **A**     No.

10          **Q**     No one called you on the next day and informed  
11 you a suspect had been arrested?

12          **A**     The next day I was in roll call and someone I  
13 worked with told me that someone had been arrested and  
14 told me the name.

15          **Q**     So someone just told you this?

16          **A**     Yes.

17          **Q**     You know who that person was?

18          **A**     I don't remember.

19          **Q**     Okay. But then at some point, you went and you  
20 looked in the database to see if that was the same  
21 person?

22          **A**     I did.

23          **Q**     And it was a picture taken of my client from  
24 the night before?

25          **A**     I'm not sure when the picture was taken.

1           Q     But it was a picture taken of my client very  
2 recently?

3           A     Yes.

4           Q     Uh, now, you described the person you saw in  
5 the lobby as being older, approximately 40 years old,  
6 being a black male with longer hair?

7           A     Yes.

8           Q     And when you say longer hair, we're talking  
9 about like hair pulled back or are we talking about a  
10 long type of hair? What are we talking about?

11          A     I don't remember. I didn't pay a lot of  
12 attention to exactly how his hair was at that time.

13          Q     We talking long hair like mine or long hair  
14 like he has here today?

15          A     No.

16          Q     We talking about -- what type of long hair are  
17 we talking about?

18          A     It looked like maybe he had it pulled back into  
19 a ponytail or something. I'm not sure.

20          Q     We're talking about long hair. And to you, it  
21 looked like he had it pulled back into a ponytail?

22          A     Possibly.

23          Q     Okay. Now, on that picture that you saw that  
24 was taken, what you, uh, identified as recently, did my  
25 client have that hair?

1           **A**    No.

2           **Q**    And you also confirmed my client is not 40  
3 years old?

4           **A**    That's right.

5           **Q**    Now, you stated that no one asked you to look  
6 at the photo and basically get your approval that it was  
7 the same person, is that right? Is that your testimony?

8           **A**    Repeat the question.

9           **Q**    Nobody asked you to confirm that my client was  
10 the same person you saw?

11          **A**    No.

12          **Q**    But as we stated earlier, you said you did a  
13 report, right?

14          **A**    Yes.

15          **Q**    And these reports, these reports are approved  
16 by a supervisor, correct?

17          **A**    Yes.

18          **Q**    And you know this. Is this the first report  
19 you've done?

20          **A**    No.

21          **Q**    So you knew when you did this report that this  
22 was going to go to a higher chair than you, is that  
23 right?

24          **A**    Yes.

25          **Q**    And are you generally required to do reports?

1           **Q**     Could it be that you provided some additional  
2 information or something different today than you did  
3 previously?

4           **A**     I don't believe so.

5           **Q**     You don't believe so? I have nothing further  
6 at this time.

7           **THE COURT:**     Mr. Marchant.

8           **MR. MARCHANT:**     No redirect, Your Honor.

9           **THE COURT:**     All right. Ma'am, you can step  
10 down.

11          **THE WITNESS:**     Thank you.

12          **THE COURT:**     Thank you.

13          **MR. MARCHANT:**     Pleases the Court, the State  
14 would call Arva Irby.

15          **THE COURT:**     All right.

16          **THE CLERK:**     If you would, come forward to be  
17 sworn in please. Please place your left hand on the  
18 Bible and raise your right.

19                                 **ARVA IRBY**  
20 having first been sworn, testifies as follows:

21          **THE CLERK:**     Thank you. You may be seated.  
22 Would you please state your name for the record.

23          **THE WITNESS:**     Arva Irby.

24          **THE CLERK:**     Thank you.

25                                 **DIRECT EXAMINATION**

1 **BY MR. MARCHANT:**

2 **Q** Good afternoon, Ms. Irby. I'm going to have a  
3 few questions for you here. Back on October 28th of  
4 2011, where were you employed?

5 **A** The Comfort Inn on Laurens Road.

6 **Q** And were you present with Officer Cruell and  
7 Officer Lane came in to investigate a vehicle in the  
8 parking lot?

9 **A** Yes.

10 **Q** And what generally were your duties with the  
11 Comfort Inn on that day?

12 **A** Breakfast -- breakfast attendant.

13 **Q** I'm just going to flip through a couple of  
14 pictures here so you can get a frame of reference. I'm  
15 going to show you State's 90. Do you recognize this  
16 picture?

17 **A** Yes.

18 **Q** I'm going to show you State's 88. Do you  
19 recognize that?

20 **A** Yes.

21 **Q** I'm going to show you State's 86. You  
22 recognize that?

23 **A** Yes.

24 **Q** As well as State's 79.

25 **A** Yes.

1           **Q**     What you will see right in front of you is a  
2 laser pointer. If you would, please tell the jury in  
3 State's 79 what are the items in that photograph and  
4 what's your responsibility with your employment that  
5 morning.

6           **A**     This is where I, uh, have all the hot items and  
7 danishes. My responsibilities was to keep this area  
8 clean as well as this area.

9           **Q**     Were you working in that area that morning when  
10 these officers came in?

11          **A**     Yes.

12          **Q**     And did you know why they were inside?

13          **A**     I overheard them talking.

14          **Q**     Some point in time, did you inform them of  
15 something?

16          **A**     I informed them that the vehicle was leaving.

17          **Q**     Did you see anyone get in the vehicle?

18          **A**     No.

19          **Q**     Did you see anyone in the vehicle?

20          **A**     I saw one person in the vehicle.

21          **Q**     Do you recall where that person was sitting in  
22 the vehicle?

23          **A**     In the front.

24          **Q**     And do you recall whether or not it was a male  
25 or female?

1           **A**     No.

2           **Q**     You recall what the race was?

3           **A**     No.

4           **Q**     Was there anything else that you recall about  
5 the person that was sitting in front of the vehicle?

6           **A**     Other than that they looked like they may have  
7 had a hoodie or something on.

8           **Q**     Where did you see the vehicle leaving from?

9           **A**     From this area here. It went -- it left from  
10 this area here.

11          **Q**     Let me be a little more clear. Were you  
12 looking out of this vehicle when the vehicle pulled up?

13          **A**     Yes.

14          **Q**     Thank you. Please answer any questions Mr.  
15 Johnson may have.

16                   **THE COURT:**     Mr. Johnson?

17                   **MR. JOHNSON:**     Excuse me. Mr. Crangle.

18                   **THE COURT:**     Oh, I'm so sorry.

19                   **MR. CRANGLE:**     That's quite alright.

20                                   **CROSS-EXAMINATION**

21 **BY MR. CRANGLE:**

22           **Q**     Thank you, Ms. Irby. Uh, you no longer work at  
23 this Comfort Inn in, right? You are at another one?

24           **A**     Yes.

25           **Q**     All right. And, uh, you said on the day in

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**TACI COBB**

having first been sworn, testifies as follows:

**THE CLERK:** Thank you. You may be seated.

Would you please state your name for the record?

**THE WITNESS:** Taci Cobb.

**THE CLERK:** Thank you.

**DIRECT EXAMINATION**

**BY MR. MARCHANT:**

**Q** Officer, where are you employed?

**A** Greenville City Police Department.

**Q** And how long have you been with the City Police Department?

**A** Four years next month.

**Q** Are you married?

**A** No.

**Q** Do you have any children?

**A** I do.

**Q** How many?

**A** I have four.

**Q** Prior to being employed with the Greenville Police Department, do you have any other law enforcement experience?

**A** I do not.

**Q** Prior to being employed with the Greenville Police Department, what was your occupation?

1           **A**     Uh, military.

2           **Q**     And how long were you with the military?

3           **A**     I been with the military for 13 years, Army  
4 Reserves.

5           **Q**     In October of 2011, what were your  
6 responsibilities with the City Police?

7           **A**     I worked in Uniform Patrol, which is, uh,  
8 patrolling the area, uh, making traffic stops, serving  
9 warrants.

10          **Q**     Are you still in that same capacity with the  
11 city today?

12          **A**     I am not. I work for the -- I laterally  
13 transferred in a Crime Response team.

14          **Q**     Were you present when Officer Cruell testified?

15          **A**     I was.

16          **Q**     The training and experience that she discussed  
17 with the Academy, you been through that same?

18          **A**     I have.

19          **Q**     Are your credentials up to date?

20          **A**     They are.

21          **Q**     On October 28th of 2011, were you working that  
22 day?

23          **A**     I was.

24          **Q**     Do you recall where you were around 9:30 a.m.?

25          **A**     I do.

1 Q Where were you?

2 A I was in the -- on the Augusta Street area.  
3 There were several traffic accidents in that area. I was  
4 helping assisting other officers.

5 Q At some point in time, did you hear Officer  
6 Cruell come over the radio?

7 A I did.

8 Q And in response to her radio traffic, what did  
9 you do?

10 A Officer Cruell at the time was my adjacent beat  
11 partner. She stated she was in Bravo B. I was in  
12 Charlie B. We were right next to each other. So I  
13 started to head in the direction that she stated that she  
14 was at.

15 Q And you are on Augusta Street. What direction  
16 did you head?

17 A Toward Mauldin Road.

18 Q And did you at some point in time meet up with  
19 Officer Cruell on Mauldin Road or Augusta Road?

20 A I did not.

21 Q Where did you go from Mauldin Road?

22 A I did not go to -- well, after she, uh, backed  
23 off of the traffic stop because he didn't stop, I turned  
24 around and I started heading down toward Cleveland  
25 Street, uh, South Pleasantburg and Cleveland Street. I

1 heard the call come out about, uh, Christ Church about  
2 the suspicious person that possibly matched the  
3 description of the person that I was told had chased.  
4 And I turned around and I headed back into that  
5 direction.

6       **Q**     Do you recall which road you traveled in order  
7 to get over to Berkeley Pointe?

8       **A**     I do. I was on 291, which is South  
9 Pleasantburg Drive. I took a left onto Mauldin Road.  
10 Then I took a left onto Wenwood Road.

11       **Q**     I'll have you step down please.

12       **A**     (Witness complies.)

13       **Q**     If you would, please show the jury where you  
14 turned off of Mauldin Road onto Wenwood Road.

15       **A**     This is Mauldin Road here. I turned left here.  
16 I headed down this way. There were several units in the  
17 area. I just stopped at the very first turn off there  
18 was. The complex, building, whatever it was, I turned  
19 off to the first one, which was Berkeley Pointe  
20 Apartments.

21       **Q**     I'm now showing you State's 106. Is this that  
22 apartment complex?

23       **A**     Yes.

24       **Q**     Please tell the jury where you went and why you  
25 went where you went in the apartment complex.

1           **A**     This was Wenwood Road. I made a left onto  
2 Berkeley Pointe Apartments and went around this  
3 roundabout and went to the back of this complex. This is  
4 the very first place I went around to when I noticed the  
5 vehicle backed into the parking spot.

6           **Q**     And can you point out to the jury where that  
7 vehicle was -- roughly where that vehicle was parked?

8           **A**     In one of these spaces right here.

9           **Q**     As you are pulling in to this apartment  
10 complex, did you notice anyone walking around walking on  
11 the sidewalks?

12          **A**     I did not.

13          **Q**     Have you previously worked on this side of town  
14 and handled this apartment complex before?

15          **A**     I been to this apartment complex several times  
16 before. This is not my area but it's my adjacent beat.  
17 I have assisted Officer Cruell in this area.

18          **Q**     Do you feel comfortable telling the jury what  
19 sort of racial composition there is in that apartment  
20 complex?

21          **A**     This, uh, is predominantly African-American in  
22 this apartment complex.

23          **Q**     Have a seat back on the...

24          **A**     (Witness complies.)

25          **Q**     Showing you what's been marked as State's 71,

1 101, State's 2, State's 3, State's 4, State's 5, State's  
2 6, State's 7, State's 8, State's 9 and State's 10. I'd  
3 like you to take a look at those and see if you can  
4 identify those photographs.

5 **A** (Reviewing.)

6 Yes, sir. I recognize these photographs.

7 **Q** And do these fairly and accurately depict what  
8 you initially encountered that day as well as the events  
9 that occurred in that stairwell?

10 **A** They do.

11 **MR. MARCHANT:** I move State's 71, 101, 2, 3,  
12 4, 5, 6, 7, 8, 9 and 10 into evidence.

13 **THE COURT:** Any objection?

14 **MR. JOHNSON:** No objection.

15 **THE COURT:** All right. They will be so  
16 entered.

17 **(WHEREUPON, State's Exhibit's 2 thru 10, 71 and 101**  
18 **are admitted into the record.)**

19 **BY MR. MARCHANT:**

20 **Q** Officer Cobb, I'm showing you State's number 2.  
21 Can you identify the patrol vehicle in this photograph?

22 **A** Yes, that was my patrol vehicle at the time of  
23 the incident.

24 **Q** And the other vehicle in the photograph, whose  
25 vehicle was that?

1           **A**     That was the vehicle that we believe the  
2 defendant was driving.

3           **Q**     And is this how you found that vehicle in that  
4 roundabout area?

5           **A**     It is.

6           **Q**     When you arrived at that vehicle, was there  
7 anyone with it?

8           **A**     No.

9           **Q**     Did you ever see anyone come or go from that  
10 vehicle?

11          **A**     No.

12          **Q**     Showing you State's number 3. Is that the same  
13 vehicle?

14          **A**     It is.

15          **Q**     As well as State's 71.

16          **A**     Yes.

17          **Q**     How is it that you identified this vehicle as  
18 being the same vehicle that Officer Cruell was chasing?

19          **A**     I checked the tag number on the vehicle. I ran  
20 it on our database. It came back to a Honda out of  
21 Easley. I called Officer Cruell on Channel 3, which is  
22 our normal operating channel. I told her to go to  
23 Channel 4. I asked her if this was the same vehicle.  
24 She did say it was the same vehicle. I told her where it  
25 was. I told her I was going back to Channel 3 to let

1 dispatch and everyone else know where I was and where the  
2 vehicle was.

3       **Q**     Now, you're talking Channel 3 and Channel 4.  
4 Please explain to the jury why you would be operating on  
5 one channel versus the other.

6       **A**     Uh, there are several channels. Channel 3 is  
7 primarily used for all communications when dispatch calls  
8 out a call to any of us or when we have to call dispatch.  
9 Channel 4 is not used for that. We use that mainly to  
10 get in touch with someone at Records to check for things  
11 like warrants. It's more of a quiet channel where  
12 there's not a lot of traffic. We don't have to take away  
13 from the traffic that's being put out on Channel 3. So  
14 it was quiet and we could talk on that one and then I can  
15 go back.

16       **Q**     You've identified that you were at Berkeley  
17 Pointe. Did you know which building you were near?

18       **A**     Not at the time.

19       **Q**     And leaving this vehicle, where did you go to  
20 determine what building you were at?

21       **A**     I went to the building to find out what  
22 building number it was.

23       **Q**     I'm showing you State's 4. Is that the  
24 building you went to?

25       **A**     It is.

1 Q And State's 5.

2 A Yes, it is.

3 Q And where is the building number located on  
4 State's Exhibit number 5?

5 A It's on the right side of the building.

6 Q And was that building number located anywhere  
7 else on the building to your recollection?

8 A Not that I know of.

9 Q How is it that you got from the vehicle down to  
10 building 1300?

11 A There is a sidewalk that goes all the way  
12 around the complex. I walked on the sidewalk to the  
13 building.

14 Q Did you approach building 1300 on the sidewalk  
15 that leads from the building out to the parking area?

16 A Correct.

17 Q How close -- and if you use the pointer for me,  
18 how close on State's number 5 did you get before the next  
19 thing happened?

20 A I was looking up here. I was probably around  
21 this area right where the threshold is.

22 Q When you approached this threshold, did you see  
23 anyone?

24 A I did not.

25 Q Did you hear anyone talking?

1           **A**     I did not.

2           **Q**     On your way in to the roundabout area and as  
3 you walked over to building 1300, did you see anyone out  
4 there?

5           **A**     Not that I remember.

6           **Q**     What channel were you on when you reached the  
7 threshold of the 1300 building?

8           **A**     I was on Channel 3.

9           **Q**     What was your intent when you reached that  
10 threshold?

11          **A**     I intended to inform dispatch that I was out on  
12 a call, what building I was at and that I possibly or  
13 that I had the vehicle that we were looking for.

14          **Q**     And did you -- were you able to get that  
15 information out to dispatch at that point in time?

16          **A**     I believe I did. I don't think that I  
17 completed my transmission.

18          **Q**     What happened that you think prevented you from  
19 completing that transmission?

20          **A**     Well, I still had my hand on my mic. I was  
21 looking up at the building number when I was calling out  
22 where I was. I saw a muzzle flash coming from the  
23 stairwell and I heard gunshots.

24          **Q**     You recall how many gunshots you heard?

25          **A**     I don't.

1           Q     Before what you just described happened, did  
2 you have your sidearm out?

3           A     I did not.

4           Q     Did you have your taser out?

5           A     I did not.

6           Q     Flashlight?

7           A     I did not.

8           Q     Anything in your hand?

9           A     Other than my mic, no.

10          Q     Why would you not have something out at this  
11 point in time?

12          A     From all that we knew, it was a minor traffic  
13 violation having the wrong tag on the vehicle. So we  
14 didn't know if the vehicle was stolen, why he ran or  
15 anything like that. From all that we knew, it was just  
16 simply wrong tag on the vehicle.

17          Q     After your gunshots and the muzzle flashes,  
18 those occurred, were you able to see where the shots were  
19 coming from?

20          A     I did.

21          Q     I'm going to show you State's 6. If you would,  
22 identify for the jury where those shots were coming from.

23          A     They were coming from down below. There's a  
24 stairwell that goes down. There's a stairwell that goes  
25 up. It was coming from the stairwell that goes down.

1           **Q**    I'm showing you State's 10.  Is that the  
2 stairwell?

3           **A**    Yes, it is.

4           **Q**    From the vantage point of this picture, do you  
5 know how many apartments there are on this floor?

6           **A**    On which floor?

7           **Q**    From where this photograph was taken.

8           **A**    Okay.

9           **Q**    Do you know how many apartments are on this  
10 floor?

11          **A**    I believe there are four apartments on this  
12 floor.

13          **Q**    Do you know how many are on the bottom floor?

14          **A**    At least two.

15          **Q**    I'm showing you State's 8 and State's 9.  Just  
16 to be clear, Officer Cobb, there are various placards in  
17 these pictures with numbers.  Were those present before  
18 the shooting occurred?

19          **A**    No, they were not.

20          **O**    All right.  So moving back to State's 6.  I  
21 believe you testified you saw some shots coming from the  
22 area of the stairwell leading down to the other  
23 apartments?

24          **A**    Correct.

25          **Q**    And you saw a muzzle flash and heard gunfire?

1           **A**     Correct.

2           **Q**     Were you able to tell who was shooting at you?

3           **A**     All that I could tell by the muzzle flash  
4 because it was so dim light was that it was a black male.

5           **Q**     Could you tell what sort of clothing the person  
6 had on?

7           **A**     I could not. The only thing that I -- that he  
8 was possibly wearing a black hat.

9           **Q**     I'm sorry. Could you say that again?

10          **A**     Possibly wearing a black hat.

11          **Q**     Could you see anybody other than this person?

12          **A**     I did not.

13          **Q**     Did you hear any conversation, talking or  
14 arguing?

15          **A**     I did not.

16          **Q**     You see the muzzle flash, you hear the  
17 gunshots, what do you do?

18          **A**     Before I knew -- before I knew it, my weapon  
19 was in my hand and I was returning fire. I was running  
20 for cover. I ran this way firing. I was behind the  
21 stairwell right here.

22          **Q**     Do you remember how many times you discharged  
23 your weapon before gaining cover behind the stairwell?

24          **A**     I do not. I know I at least shot twice.

25          **Q**     Showing you what's been marked as State's 7.

1 Excuse me. Yeah, State's 7. Please describe for the  
2 jury what this shows.

3 **A** This is the area that I sought cover behind.  
4 This is the stairwell going up. This right here where  
5 these are is the stairwell going down.

6 **Q** You discharge your weapon. You take cover  
7 behind the stairwell. What happens next?

8 **A** Uh, I think I hear a little movement down  
9 below. So I come around looking down here. When I come  
10 around, I get fired upon again and I return fire.

11 **Q** Do you recall how many times you were shot at?

12 **A** I do not.

13 **Q** Do you recall how many times you discharged  
14 your weapon at that point in time?

15 **A** I do not.

16 **Q** What happens after this second exchange of  
17 gunfire?

18 **A** I retreat back behind the stairwell here.

19 **Q** And what do you do?

20 **A** I drop the clip out of my -- I drop my magazine  
21 and I put another magazine into my weapon.

22 **Q** Why did you do that?

23 **A** It's from training, military, police, that you  
24 never enter a gunfight if you don't know that you're  
25 fully loaded. I had no idea how many times I shot.

1           **Q**    Did you ever come back around and look down the  
2 stairwell again?

3           **A**    Uh, not until after Officer Lane -- not until I  
4 was leaving the stairwell.

5           **Q**    From the top of this exhibit, which is State's  
6 number 7, what is behind this building?

7           **A**    Wood. Wooded area. Behind there is a wooded  
8 area.

9           **Q**    Is the wall portrayed in State's 7 so high that  
10 you could not see over it?

11          **A**    I could see over the wall.

12          **Q**    Did you ever look over the wall?

13          **A**    I did.

14          **Q**    And what did you see?

15          **A**    I saw part of the concrete floor underneath and  
16 I saw the woods.

17          **Q**    Did you ever see anyone?

18          **A**    I did not.

19          **Q**    Did you ever hear anyone talking down below?

20          **A**    I did not.

21          **Q**    After you put your second clip in, were you  
22 able to communicate with Officer Lane?

23          **A**    No, uh, while I was behind the stairwell, I  
24 heard Officer Lane come through. I saw him -- well, I  
25 didn't really see him. He ran past. Then I heard more

1 gunfire. After that, I started calling out for the  
2 suspect to come out. Not only did -- I wanted to let  
3 Officer Lane know where I was. He had no idea where I  
4 was in the stairwell. He wasn't there when all this  
5 began. I started calling out for the suspect to come out.  
6 so that he knew where I was and he knew that I was okay.

7 Q Did you ever get on the radio to call dispatch  
8 to inform them what was going on?

9 A I attempted to. I believe I had a hard time  
10 hearing. When you fire a weapon and you don't have any  
11 ear protection, you get a little ringing sensation. And  
12 there was a beep, when you key up on the mic, there's a  
13 beep to let you know that you're on the net, which means  
14 that you can talk on the radio without anyone talking  
15 over you or it won't go through. And for some reason, I  
16 couldn't hear the beep. So I couldn't tell whether or  
17 not I was getting out on the radio.

18 Q The third round of shots that you described, do  
19 you know whether or not they were coming at you?

20 A I don't believe they were coming at me. I  
21 really don't know.

22 Q And at some point in time, were you able to  
23 communicate with Officer Lane?

24 A I was.

25 Q You recall when that was?

1           **A**     It was after I had called the -- tried to call  
2 the defendant out. After that, we were able to  
3 communicate better and he was able to back me out of the  
4 stairwell so I could get out of the building.

5           **Q**     Following the last shots, which would be the  
6 third round of shots, were there any other shots fired by  
7 you?

8           **A**     No.

9           **Q**     I want to be sure and clear, Officer Cobb, how  
10 many times did you discharge your weapon?

11          **A**     (No response.)

12          **Q**     Let me rephrase. How many occasions did you  
13 discharge, being the first occasion out on the breezeway?

14          **A**     Not including the two times that I fired there?  
15 The initial -- when I went through the threshold was the  
16 first time that I fired. When I came around and I got  
17 fired upon again through the spindles was the second time  
18 I fired. After that, I did not fire in the area.

19          **Q**     How many times, such as you just described, did  
20 the other person fire?

21          **A**     Three times.

22          **Q**     Do you know how many times, meaning how many  
23 shots, you fired?

24          **A**     Not at the time.

25          **Q**     Do you know how many times the other person

1 shot?

2           **A**    Not at the time.

3           **Q**    Now, were you carrying department issued  
4 sidearm?

5           **A**    I was.

6           **Q**    Was it loaded with department issued  
7 ammunition?

8           **A**    It was.

9           **Q**    And what sort of sidearm were you carrying that  
10 day?

11          **A**    A 9mm handgun.

12          **Q**    Do you recall what sort of ammunition you were  
13 carrying that day?

14          **A**    It's the same as we're carrying now. I believe  
15 it's Speer.

16          **Q**    Once Officer Lane backs you out, referring to  
17 Exhibit 106, could you step down and please show the jury  
18 where you went.

19          **A**    When he backed me out this entranceway, we  
20 checked each other to see if either one of us was  
21 injured. Because of all the adrenaline, we didn't know  
22 if we were hit or not. After that, I left and I took  
23 this corner right here of the building until, uh, some  
24 members of SWAT and the K-9 unit came.

25          **Q**    You recall where you went after you initially

1 covered that -- is that the front right or the front left  
2 side?

3 **A** When you are looking at it, it's the right  
4 side.

5 **Q** Do you recall where you went after you covered  
6 the front right side of that building?

7 **A** There were actually several places that we went  
8 during this time because of more units coming in. At one  
9 point, we were behind these vehicles. At another point,  
10 we were over here. I also took position over here.  
11 There were several places.

12 **Q** Referencing back to the front right corner, did  
13 you ever see anybody come or go?

14 **A** I did not.

15 **Q** You recall seeing anyone come out of the  
16 apartment complex, specifically building 1300 at that  
17 time?

18 **A** There was one female that opened her door and I  
19 yelled at her for her to go back inside.

20 **Q** I'm showing you State's 101. You can see a  
21 placard in there labeled number 1. What is that?

22 **A** I believe that is my magazine.

23 **Q** Well, if I'm not mistaken, you testified that  
24 you dropped a clip in the stairwell earlier.

25 **A** I did.

1           **Q**    So how did the magazine get over here?

2           **A**    That was one of my blunders. We are trained  
3 that when we drop a magazine you leave it there. And for  
4 some reason, I picked it up and I put it in my pocket.  
5 When we started changing positions, when I went behind  
6 this vehicle, it was stabbing me in my side. So I took  
7 it out of my pocket and set it down. When I moved to  
8 another position, I left it there.

9           **Q**    Immediately surrounding the time that this  
10 incident occurred, did you see anybody other than the  
11 female resident of the building that you were at, 1300  
12 come or go around building 1300?

13          **A**    Other than law enforcement, no.

14          **Q**    And how long would you estimate you were out  
15 there on the scene that day?

16          **A**    I believe we were at least on the scene at 6:30  
17 or 7:00 that night.

18          **Q**    At some point in time, did you ever get in the  
19 car with Detective Flavell?

20          **A**    I did.

21          **Q**    Thank you, Officer Cobb. Please answer any  
22 questions Mr. Johnson may have.

23               **THE COURT:**    Yes, sir.

24               **MR. JOHNSON:**    One second please, Your Honor.

25               **THE COURT:**    Certainly.

1           And Ladies and Gentlemen, if you need a break  
2           at any time, you just signal to me or you signal to  
3           Ms. Katrina over here. We'll take a break  
4           immediately. I did not tell you that. And if while  
5           we are breaking between witnesses and whatnot, if  
6           you need to stand and stretch, you can do that too.

7           **MR. JOHNSON:**     All right. Your Honor, I  
8           apologize.

9           **THE COURT:**     No problem.

10                                   **CROSS-EXAMINATION**

11 **BY MR. JOHNSON:**

12           **Q**     Officer Cobb, let's talk about --

13                           Can I have some more light? Thank you.

14                           You talked about a lot of stuff as far as when  
15           you approached the scene and saw the car and things of  
16           that nature. I want to talk specifically about the  
17           shooting, okay?

18           **A**     Okay.

19           **Q**     Uh, now, you stated really when the first and  
20           second shots were fired, you couldn't see anything except  
21           for a muzzle flash, right?

22           **A**     Correct.

23           **Q**     So you could not see who was shooting at you?

24           **A**     I could see that it was a black male.

25           **Q**     You could see that was a black face?

1           **MR. JOHNSON:**     I have nothing further at this  
2           time, Your Honor.

3           **THE COURT:**     All right. Anything else for  
4           this witness?

5           **MR. MARCHANT:**    No, Your Honor.

6           **THE COURT:**     Ma'am, you can step down.

7           **THE WITNESS:**    Thank you.

8           **MR. MARCHANT:**    The State calls Officer  
9           Charles Lane.

10          **THE CLERK:**     Officer Lane, if you would, come  
11          forward to be sworn in please. Place your left hand  
12          on the Bible and raise your right. Thank you.

13                           **CHARLES LANE**  
14          having first been sworn, testifies as follows:

15          **THE CLERK:**     Thank you. You may be seated.  
16          Would you please state your name for the record.

17          **THE WITNESS:**    My name is Charles Lane.

18          **THE CLERK:**     Thank you.

19                           **DIRECT EXAMINATION**

20       **BY MR. MARCHANT:**

21           **Q**     Officer Lane, where are you employed?

22           **A**     Greenville City Police Department.

23           **Q**     And how long you been with the City?

24           **A**     Uh, going on six years.

25           **Q**     You been in here the entire time?

1           **A**     Yes, I have.

2           **Q**     You heard Officer Cruell testify about her  
3 experiences at the Academy?

4           **A**     I did.

5           **Q**     And you had to go through those same training  
6 classes?

7           **A**     Yes, sir.

8           **Q**     And your credentials are with the City Police  
9 and your education -- your annual education,  
10 certifications, are those up to date?

11          **A**     Yes, sir. They are.

12          **Q**     What are your responsibilities today with the  
13 City Police Department?

14          **A**     Today, I work on Uniform Patrol. My duties are  
15 the same as Officer Cruell described earlier. We answer  
16 calls for service, investigate crimes, uh, perform  
17 traffic stops.

18          **Q**     Back in October of 2011, were those duties any  
19 different?

20          **A**     No, sir. They weren't.

21          **Q**     You recall whether or not you were on shift on  
22 October 28th, 2011?

23          **A**     I was.

24          **Q**     Do you recall what you were doing when you  
25 first communicated with Officer Cruell?

1           **A**     I can't remember the exact area that I was at  
2 when she gave me a phone call. But I was working in the  
3 beat which was north of where she was working. Most of  
4 the folks are familiar, it's off of Woodruff type area  
5 near Verdae. She called me down at the Comfort Inn on  
6 Laurens Road.

7           **Q**     And we seen various photographs of the lobby as  
8 well as this aerial which is State's 107. Do you recall  
9 whereabouts the vehicle was when you got into the parking  
10 lot?

11          **A**     When I arrived, uh, I came into the parking lot  
12 from Laurens Road here. I pulled it. It was somewhere  
13 where this blue line was drawn between two and three  
14 parking spaces right here.

15          **Q**     If you would, with the orange marker, based off  
16 of your recollection, please circle or underline where  
17 you believe the car, vehicle to had been parked.

18          **A**     Generally?

19          **Q**     Generally, yes. So I'm clear, you don't recall  
20 the exact parking spot?

21          **A**     No, sir. I don't recall the exact parking  
22 spot.

23          **Q**     When you arrived, how did you find the vehicle?

24          **A**     It was backed into the spot. Excuse me. It  
25 was backed into the parking space. I had gotten out of

1 my vehicle and started kind of double checking around  
2 where Officer Cruell stated the tag was coming back to a  
3 Honda. I looked at the tag. I looked inside the vehicle  
4 to see if there might have been anything that might have,  
5 like an envelope or something of that nature that might  
6 have a name or an address stating who the vehicle  
7 belonged to. When I looked into the windshield area, I  
8 was looking for the VIN. I saw a -- it was a black in  
9 color tree air freshener blocking the VIN entirely. I  
10 also saw a radar detector sitting there on the dash.

11 Q Following your inspection of the vehicle, what  
12 did you do?

13 A For a moment, checked the DMV file to see if  
14 the vehicle the tag belonged to, that same owner, see if  
15 they might own a vehicle of similar description as the  
16 2005 GMC Yukon. I didn't find anything to that. We also  
17 checked with our dispatch to see if there's any vehicles  
18 stolen recently to match that description. After we went  
19 through that, we went over to -- went inside the hotel.

20 Q And the pictures that I showed Officer Cruell--

21 A I'm listening.

22 Q The pictures that I showed Officer Cruell of  
23 the inside area, lobby area of the Comfort Inn, is that  
24 how you recall the lobby being laid out?

25 A Yes, sir.

1           **Q**     And she testified she saw an individual walk  
2 through that was not an employee of that motel. Did you  
3 see that individual walk through?

4           **A**     I did not, sir.

5           **Q**     Inside the lobby area, what were you thinking?  
6 What were you focusing on? What are you trying to do?  
7 What's the point of you being inside the lobby?

8           **A**     At that point, we were trying to see if the  
9 person who the tag belonged to might have been staying at  
10 the hotel. I sat down for a moment. I don't recall  
11 exactly the reason why I sat. But while I was sitting,  
12 there was a refrigerator, small refrigerator sitting on a  
13 countertop. The table was fairly close to there. There  
14 was a window directly across from there. I was sitting  
15 in the seat and kind of keep the back corner side of the  
16 vehicle. I couldn't see the entire vehicle. I kept that  
17 in view. I wasn't looking at it the entire time, but I  
18 did keep it in my views between Officer Cruell and the  
19 staff.

20          **Q**     And at some point in time, Ms. Irby informed  
21 y'all the vehicle was leaving?

22          **A**     Yes, sir. I was, uh, seated. And she was  
23 standing somewhere near the window. And she told us the  
24 vehicle was leaving from the parking lot.

25          **Q**     You're sitting -- are you sure you're sitting

1 at the table or standing up? I'm sorry.

2 **A** I do remember sitting specifically at a table.

3 **Q** And you are able to see the back?

4 **A** A very small portion of the vehicle. I wasn't  
5 -- uh, like I said, I wasn't totally engaged in looking  
6 at the vehicle the whole time. I wasn't looking in the  
7 same direction as Officer Cruell the whole time. I was  
8 kind of glancing and talking to folks and keeping a view.

9 **Q** Did you ever see anyone getting into that  
10 vehicle?

11 **A** No, sir. I didn't.

12 **Q** Once Ms. Irby notified yourself and Cruell that  
13 the vehicle was leaving, what did you do?

14 **A** I got up. I head towards the doors. And you  
15 could see it right underneath there, the cover at the  
16 front or off to the side where I could see in order to  
17 tell Officer Cruell which direction the vehicle was going  
18 when she got in her patrol car.

19 **Q** I'm going to show you what's been marked and in  
20 evidence as State's number 82. Please explain to the  
21 jury what this vantage point is.

22 **A** This is when you come out of the double glass  
23 doors. Excuse me. That's when you come out from the  
24 double glass doors from the hotel. This isn't too far  
25 from that entrance. I'm standing somewhere in between

1 here when I was watching. You could see a car there on  
2 Laurens Road. I was looking in that direction as the  
3 vehicle passed. It passed here and went that way.

4 Q I'm understanding the Yukon came in front of  
5 you?

6 A Yes, sir.

7 Q Did it come -- did it drive through, I guess,  
8 the overhang or was it on the other side of the overhang?

9 A It's on the other side where you see that  
10 vehicle parked right there. It came around that way.

11 Q I'm showing you State's 83. With respects to  
12 State's 82, was that vehicle or was there a vehicle  
13 parked there when this incident occurred?

14 A I don't recall there being one.

15 Q State's 83 and State's 84. Where did it -- how  
16 did the vehicle exit and which way did it go?

17 A This is -- as you come out the -- sorry. As  
18 you come out from the entrance, stopped at the left where  
19 the vehicle was parked and came through the parking lot  
20 and down this drive. Is that what you're asking?

21 Q Yes. Now, did it turn left or right out on  
22 Laurens Road?

23 A It turned right on Laurens Road.

24 Q And did you inform Officer Cruell of this?

25 A Yes, I told her it turned right towards 85.

1           **Q**     Once that occurred, where did you go? What did  
2 you do?

3           **A**     I went -- from where I was at I went in my  
4 patrol vehicle, got in my patrol vehicle and tried to  
5 catch up, listened to the radio. I learned that she'd  
6 gone, gotten onto 85 southbound.

7           **Q**     Did you also get on 85 southbound?

8           **A**     Yes, I did.

9           **Q**     And how far did you travel before you exited  
10 off of 85?

11          **A**     Uh, well, you're asking the next exit I got  
12 onto?

13          **Q**     How long were you on 85 and where did you get  
14 off?

15          **A**     Approximately two miles. I got off -- actually  
16 onto 85 from Laurens Road, which is Exit 48. I got off  
17 on Mauldin Road, which is Exit 46. So about two miles.

18          **Q**     What's the purpose of you pursuing this vehicle  
19 as well?

20          **A**     I was trying to catch up with Officer Cruell --  
21 typically a vehicle does stop when you try to stop it --  
22 so she would have a backup officer there with her in  
23 order to cover her while she's making contact with the  
24 individual.

25          **Q**     Let me get the lights back on for you. Once

1 you got onto Mauldin Road, what did you do?

2       **A**     Once I made it to Mauldin Road, I learned  
3 Officer Cruell actually exited. That's why I went the  
4 same way. I made a lefthand turn which was going back  
5 towards where the apartments are on Wenwood Road. I  
6 passed right near where the old Hitachi plant is. There  
7 was a white semi that was trying to back out in the road  
8 and needed assistance. So I assisted the driver.  
9 Officer Cruell was trying to help him back out and get  
10 out of there.

11       **Q**     After you helped the tractor trailer get out of  
12 the road on Mauldin Road, how -- did you go about your  
13 normal duties on that day? Were you continuing to patrol  
14 for this vehicle?

15       **A**     Yes, sir. What I did was went through the  
16 parking lot at the old Hitachi plant and just started  
17 checking around there. At some time while helping the  
18 truck back out and go through the parking lot of the  
19 plant, I heard the call come out over near Christ Church  
20 about a suspicious person in the area.

21       **Q**     Officer Lane, if you would, step down and show  
22 the jury on State's 108 where the Hitachi plant is here  
23 and how you patrolled through that morning.

24       **A**     Okay. You can't see the entrance from over  
25 here. Somewhere in this vicinity is where the, uh, truck

1 was backed out. Then I went in the entrance, came  
2 through here, went around. I went through here as I  
3 heard the call. I went all the way out through a parking  
4 lot that cuts through back to Fairforest Way. I came  
5 down there. Came down Fairforest Way. I started going  
6 through all the apartments looking for this individual.  
7 I don't remember an exact direction of the person who  
8 called. I went through here. I just kept going up.  
9 Going through these parking lots. Came up here.  
10 Finally, I was going up here. This is where Officer Cobb  
11 actually found the vehicle. I saw her car this way and  
12 the vehicle backed in this way. As soon as I came up, I  
13 parked my vehicle opposite hers.

14 Q Let me show you State's 1, Officer Lane.

15 A Yes. There's either -- it's in one of these  
16 two or three spaces here where the vehicle was backed in.  
17 I had my vehicle nose end to that one. As soon as I  
18 pulled up, I did recognize the vehicle. It was the same  
19 silver GMC Yukon. It had that radar detector sitting  
20 there on the dash. When I went up, I also saw the -- I  
21 saw the tree shaped air freshener.

22 Q Did you radio to dispatch and try to confirm  
23 the same vehicle or did you converse with Officer Cobb  
24 out there about that?

25 A I was talking to Officer Cobb. She was calling

1 Officer Cruell on the alternate channel trying to verify  
2 that. I went and checked the tag. It was the same tag.  
3 I started looking through the tinted windows trying to  
4 see if I could see anything else, if there was somebody  
5 that might have hid in the back. I didn't know. As I  
6 was doing that, it was right about the back of the  
7 vehicle when I heard the gunfire go off. It sounded like  
8 it was coming somewhere in this direction. At the time,  
9 I didn't immediately recognize it. I start walking that  
10 way, then the second round of shots went off. I let  
11 dispatch know that shots were being fired.

12 Q When you said you let dispatch know, how is it  
13 that you did that?

14 A I used the radio.

15 Q Now, let's talk about when you arrived up at  
16 that vehicle, did you see anybody come in or out of that  
17 vehicle?

18 A No, I did not.

19 Q On your way in, driving up to that roundabout  
20 where the vehicle was located, did you notice anyone  
21 walking around or anyone running around?

22 A No, sir. I didn't see anybody.

23 Q Notice any residents at that point in time?

24 A No, sir. I didn't.

25 Q Okay. Officer Lane, after the first round of

1 shots, where did you go?

2       **A**     After the first round of shots, I started  
3 walking towards the building. After the second round of  
4 shots, I started going more hurriedly to the 1300  
5 building.

6       **Q**     I'm going to show you what's in evidence as  
7 State's 4.

8       **A**     Yes, sir.

9       **Q**     If you would, use the laser pointer and show  
10 the jury -- well, is it visible on here where you were  
11 when the second round of shots came?

12       **A**     Uh, I can't remember exactly where I was. I  
13 was somewhere between the vehicle which would have been  
14 somewhere over here. And the corner of the building is  
15 about right here. I may have been at this point or kind  
16 of close to this point where you can see in the picture  
17 when the second round of shots went out.

18       **Q**     At some point in time, did you make your way to  
19 the breezeway?

20       **A**     Yes, I did.

21       **Q**     And showing you State's 5. Where were you  
22 standing when the third exchange of gunfire occurred?

23       **A**     I had been calling for Officer Cobb. I didn't  
24 get a response. So where I was at, I crossed here. I  
25 started looking for her because I wasn't getting a

1 response. I was somewhere right around here in the hole,  
2 in the breezeway when the third round of shots went off.

3 Q Had you crossed the threshold?

4 A I believe I had. Again, I can't be for  
5 certain. I believe I had. After I was shot at, I went  
6 and slammed against this wall and retreated behind this  
7 wall to gain cover.

8 Q Did you exchange any fire?

9 A No, sir. I didn't. I didn't know where  
10 Officer Cobb was. I didn't know if she was down the  
11 stairway. I didn't know if she was behind the staircase.  
12 I didn't know her location. Everything became very dim  
13 and dark to me. So I didn't fire back out of fear of  
14 striking her.

15 Q The person that was shooting at you, were you  
16 ever able to see who it was?

17 A Uh, nothing distinct other than -- I saw the  
18 silhouette of a person. I saw a muzzle flash. I could  
19 see the teeth of the person.

20 Q Do you know how many shots were coming at you?

21 A No, I don't.

22 Q Could you tell if it was more than one?

23 A Yes.

24 Q What kind of firearm do you carry?

25 A I carry a 9-millimeter.

1           **Q**    Is that the same as Officer Cobb?  
2           **A**    Yes, it is.  
3           **Q**    Department issued?  
4           **A**    Yes, sir.  
5           **Q**    With department ammunition?  
6           **A**    Yes.  
7           **Q**    What sort of ammunition do y'all carry?  
8           **A**    Speer.  
9           **Q**    And the caliber is?  
10          **A**    9-millimeter.  
11          **Q**    Can you tell whether or not it was a male or  
12 female down the stairwell?  
13          **A**    No, sir.  
14          **Q**    Black or white?  
15          **A**    No.  
16          **Q**    Hispanic?  
17          **A**    No.  
18          **Q**    You could just tell -- you said a silhouette?  
19          **A**    Yeah. The silhouette of a person.  
20          **Q**    A person?  
21          **A**    Yes.  
22          **Q**    Could you tell if there was more than one  
23 person down there?  
24          **A**    No, I couldn't. I could just see the  
25 silhouette of one person.

1           **Q**     Could you hear Officer Cobb at that point in  
2 time?

3           **A**     Not at that point, no.

4           **Q**     Could you hear any other talking at that point  
5 in time?

6           **A**     I didn't. After the second round of gunfire,  
7 the only thing I remember hearing was the drop of a clip.  
8 I didn't hear anybody talking, yelling, moving. Anything  
9 of that nature.

10          **Q**     The shots that -- the third round of shots when  
11 you stepped in the threshold, could you tell if those  
12 were coming at you or going in another direction?

13          **A**     I believe that they had -- they were coming  
14 after me. When I retreated behind this wall, I patted  
15 myself down, checked my head, checked my body to see if  
16 there's any blood coming from me.

17          **Q**     Were you struck?

18          **A**     No, I wasn't.

19          **Q**     Was Officer Cobb struck?

20          **A**     No, sir.

21          **Q**     Did you discharge your weapon?

22          **A**     I did not.

23          **Q**     You backed out to take cover. What'd you do  
24 next?

25          **A**     After taking cover behind here, I was there --

1 I really don't know the length of time, how long I was  
2 there. At one point, what I did was I came from here and  
3 took the far corner of the building.

4 Q I'm showing you State's 101.

5 A Where I come was here. I took cover right  
6 here. After a short time, I took this corner right here  
7 so I could see what's down this way and across this way  
8 so I could see anybody if they came out of the breezeway  
9 or if they tried to come out the back side of the  
10 building to go in this direction.

11 Q From that vantage point, did you see anybody  
12 come around?

13 A No, sir. I did not.

14 Q At that point in time, do you recall whether or  
15 not you had backed Officer Cobb out?

16 A Shortly after me being here, other officers  
17 started arriving. They started taking different  
18 positions. I came here. I helped. I covered the  
19 hallway so Officer Cobb could come out.

20 Q Do you recall what time you informed dispatch  
21 of shots fired?

22 A I have no clue.

23 Q Do you recall how long after you arrived on the  
24 scene?

25 A No.

1           **Q**     I guess what I'm asking is once you pulled up  
2 and parked your vehicle, approximately how long do you  
3 think it was before the first round of shots you heard?

4           **A**     Two to three minutes at the most.

5           **MR. MARCHANT:**     Court's indulgence.

6           **THE COURT:**     Yes, sir.

7           **(WHEREUPON, there is a pause.)**

8 **BY MR. MARCHANT:**

9           **Q**     Where you able to tell what sort of firearm is  
10 being used to shoot at you?

11          **A**     Not exactly. I just knew that I could hear  
12 several shots going off at once. I assumed that it was a  
13 fully automatic weapon. That's what I assumed. I didn't  
14 know for certain.

15          **Q**     Thank you, Officer Lane. Please answer any  
16 questions Mr. Johnson may have.

17          **THE COURT:**     Yes, sir.

18          **MR. JOHNSON:**     Thank you, Your Honor.

19                                   **CROSS-EXAMINATION**

20 **BY MR. JOHNSON:**

21          **Q**     Officer Lane, you testified that you were at  
22 the hotel with Officer Cruell, is that correct?

23          **A**     Yes, I was.

24          **Q**     At some point in time, -- well, obviously,  
25 y'all were investigating this car at this point, right?

1 12 jurors. I thank you so much for your service.

2 And Ms. Coleman, you will still stay as our  
3 alternate. All right.

4 And let me just, uh, clarify that you can not  
5 discuss this case with anyone even each other. I  
6 know that that seems a little counterintuitive at  
7 this point. You ought to be able to. But let me  
8 explain to you we want you to have the full picture  
9 before you start hearing anyone else's opinion or  
10 anything like that. Then, when the case is over,  
11 you will be free to discuss it in the jury room as  
12 much as you would like with one another. But for  
13 right now, do not discuss the case with anyone. All  
14 right.

15 Yes, sir.

16 **MR. MARCHANT:** Thank you, Your Honor. Please  
17 the Court. The State calls Officer Corey Kellett.

18 **THE CLERK:** Officer Kellett, if you would,  
19 come forward to be sworn in please. Please place  
20 your left hand on the Bible and raise your right.

21 **COREY KELLETT**

22 having first been sworn, testifies as follows:

23 **THE CLERK:** Thank you. You may be seated.  
24 Would you please state your name for the record.

25 **THE WITNESS:** Corey, C-O-R-E-Y, Kellett,

1 K-E-L-L-E-T-T.

2 THE CLERK: Thank you.

3 DIRECT EXAMINATION

4 BY MR. MARCHANT:

5 Q Officer Kellett, where are you employed?

6 A The Greenville City Police Department.

7 Q And how long have you been with the City  
8 Police?

9 A Since August 23rd, 2002.

10 Q Were you employed with law enforcement in some  
11 other capacity at another agency prior to the City  
12 Police?

13 A No, sir.

14 Q You go to the Academy?

15 A Yes, sir.

16 Q You take all the courses?

17 A Absolutely.

18 Q Are your credentials up to date?

19 A Yes, sir.

20 Q What are your duties and responsibility today  
21 with the City Police Department?

22 A Patrol, basically patrol, answering calls,  
23 assisting any way I can.

24 Q Back in October 28th, 2011, were the duties  
25 that you just described the same back then?

1           **A**     Yes.

2           **Q**     Going back to October 28th, 2011, did you hear,  
3     uh, the call across the radio about Officer Cruell  
4     chasing a vehicle up 85?

5           **A**     Yes.

6           **Q**     Do you recall where you were? On what side of  
7     town that is that you were working at the time?

8           **A**     At that time, I worked the Haywood Road area,  
9     Laurens Road, that area, was close to the Comfort Inn as  
10    all of it was going on actually.

11          **Q**     Do you recall whether or not you were  
12    responding to a call when you heard?

13          **A**     I was not at that time. I was available for  
14    calls and went to assist Officer Cruell.

15          **Q**     Do you recall exactly how you got from the area  
16    you were, Haywood Road, over to eventually Berkeley  
17    Pointe Apartment Complex?

18          **A**     Yes. I took, uh, Laurens Road to Duvall Drive.  
19    From there, to Ridge Road to Fairforest to Wenwood.

20          **Q**     I'm going to have you step down very briefly  
21    what's in evidence at State's 108. I need you to speak  
22    loudly so the Court Reporter can take it down. Please  
23    show the jury on State's 108 how you came into the area  
24    and subsequently made your way over to the apartment  
25    complex.

1           **A**     Yes. Duvall Drive is labeled actually up here.  
2 It continues up top where you run into Ridge Road. From  
3 Duvall, turn a left onto Ridge. Went to a light at Ridge  
4 and Fairforest Way. Came down Fairforest and made a  
5 right onto Wenwood Road and proceeded down that  
6 direction.

7           **Q**     Do you recall where you were when you heard the  
8 description of the individual she was looking for?

9           **A**     I don't recall exactly where I was when she  
10 gave out the description.

11          **Q**     Well, on Wenwood Road, did you encounter  
12 someone who was not law enforcement at this time that you  
13 responded?

14          **A**     Yes.

15          **Q**     And can you tell the jury you came off of  
16 Fairforest onto Wenwood?

17          **A**     Yes.

18          **Q**     So you are traveling, as this map indicates,  
19 west?

20          **A**     Yes.

21          **Q**     Did you encounter someone on Wenwood Road?

22          **A**     Yes.

23          **Q**     Can you indicate to the jury whereabouts you  
24 came in contact with that person?

25          **A**     It would have been actually right about where

1 the second entrance to 500 Wenwood Road is. Right here  
2 where it actually says Wenwood Road, it would have been  
3 in that area.

4 Q If you would, circle that area please, sir.

5 A (Drawing.)

6 Q The individual that you came into contact with,  
7 do you remember what they look like? Were they male or  
8 female?

9 A It was a black male wearing an all gray jogging  
10 suit.

11 Q When you say jogging suit, can you be a little  
12 more specific in your description?

13 A Sweatshirt material. There was a full zip up  
14 as well as grey sweat pants.

15 Q Can you recall whether or not the individual  
16 was listening to music or...

17 A Yes, he did. I actually had to physically go  
18 up to get his attention. He could not hear me asking him  
19 to stop to talk to me. He had on earphones that were  
20 hooked up to some kind of mp3 player.

21 Q How is it that you were trying to get his  
22 attention? Were you in your vehicle? Had you gotten out  
23 of your vehicle?

24 A I had stopped my vehicle and had gotten out and  
25 was yelling at him towards his direction trying to get

1 his attention. Yelling hey, hey man, hold up a second.  
2 At that point, had to approach him. Had to actually run  
3 after him to catch up to him.

4 Q And which direction was he coming on Wenwood?  
5 Was he going towards Fairforest or away from Fairforest?

6 A He was going away from Fairforest.

7 Q Did you subsequently make contact with him? I  
8 believe you mentioned the second entrance to Berkeley  
9 Pointe?

10 A Yes.

11 Q And had a conversation with him?

12 A Yes.

13 Q And you turned him loose, hold him for a while,  
14 talk to him a while, what?

15 A Based on the description that I had been given,  
16 he did not fit that description. He told me that he was  
17 exercising. He was drenched in sweat, appeared to have  
18 been running. Breathing heavy. Obviously was running  
19 when I got out with him. At that point, I checked his  
20 information.

21 Q Are you -- when you say exercising, running  
22 away from you, was he exercising or was he fleeing?

23 A He appeared to be exercising. It was not a  
24 fast-paced sprint. It was more of a job. Just like  
25 people on a treadmill. Just a nice steady pace.

1           **Q**     Do you recall what time you got out with him?

2           **A**     I believe it was right around 9:40 in the  
3 morning.

4           **Q**     You can have a seat.

5           **A**     (Witness complies.)

6           **Q**     After you contact with him, where did you go?

7           **A**     At that point, my contact with him had actually  
8 been called in by Christ Church. I proceeded back the  
9 opposite direction down towards Fairforest to make  
10 contact with them to let them know that that was not who  
11 we were looking for in case they see him still in the  
12 area. I actually proceeded away from Berkeley Pointe  
13 towards Fairforest.

14          **Q**     Did you speak with somebody at Christ Church  
15 first?

16          **A**     Yes.

17          **Q**     Did you personally speak with someone?

18          **A**     Yes.

19          **Q**     Not over the telephone, not over the radio.

20          **A**     No, in person.

21          **Q**     After the contact with Christ Church, where did  
22 you then go?

23          **A**     At that point, at Christ Church, Officer Cruell  
24 actually pulled up along side me. I recall being,  
25 hearing over the radio that Officer Cobb was out with the

1 vehicle at Berkeley Pointe. I turned my vehicle around  
2 and proceeded back.

3 Q Let me show you what's been marked as State's  
4 106. I'm going to ask you to step down and describe to  
5 the jury how you came into the Berkeley Pointe Apartment  
6 Complex.

7 A From this area, this would be the entrance  
8 point. I was coming -- Fairforest would be running down  
9 this area. I was coming left and turned into Berkeley  
10 Pointe by making a right-hand turn.

11 Q And what do you recall occurring or hearing on  
12 the radio as you were coming into Berkeley Pointe?

13 A As I was getting very close to the entrance, I  
14 heard Officer Lane on the radio advising that shots had  
15 been fired at himself.

16 Q And coming into that apartment complex, where  
17 did you go and where did you park?

18 A I came into the complex. I made the left hand  
19 turn. As I made this right hand turn, this white line  
20 that you can see is a speed bump. I straddled the speed  
21 bump with my patrol car blocking this entire parking lot  
22 so that no cars could exit and no cars could enter.

23 Q Okay. Officer Kellett, if you would, on that  
24 map plan with that pen, draw a rectangle indicating where  
25 you parked your vehicle.

1           **A**     (Drawing.)

2           **Q**     All right. As you are pulling in and you are  
3 getting out of your vehicle, did you notice or recognize  
4 any residents in the complex?

5           **A**     No. At that point, it was early morning. I  
6 didn't notice anybody.

7           **Q**     Parked your car. Did you get anything out of  
8 the truck or did you just charge forward?

9           **A**     I did not. At that point, I parked my car, uh,  
10 went in front of my vehicle towards the direction of the  
11 1300 building.

12          **Q**     Was your sidearm drawn?

13          **A**     Yes.

14          **Q**     And where did -- where exactly did you go or  
15 what area did you go to around the 1300 building?

16          **A**     At that time, I went to this very front corner  
17 right here to take post that way I could see the entrance  
18 as well as back down towards the woodline in between the  
19 -- I believe this is the 1200 building and the 1300  
20 building.

21          **Q**     As you are going from your car to that corner,  
22 did you see anybody that was not law enforcement?

23          **A**     No, sir.

24          **Q**     Did you see a male, female, white, black,  
25 Hispanic?

1           **A**     Nobody.

2           **Q**     Do you recall how long you held that corner?

3           **A**     Uh, at that time, I held it until obviously  
4 other officers from our agency as well as other agencies  
5 arrived on the scene. As a specific time, I do not know.

6           **Q**     Okay. You do a report in this case?

7           **A**     Yes.

8           **Q**     Take the stand.

9           **A**     (Witness complies.)

10          **Q**     Do you recall how long you were out at the  
11 complex that afternoon?

12          **A**     Several hours. Not an exact time.

13          **Q**     Did you have any responsibilities while inside  
14 the complex once SWAT and other command staff arrived?

15          **A**     As far as holding positions, I actually moved  
16 from that corner across the parking lot towards the other  
17 building. As SWAT arrived, once the building was cleared  
18 out completely, we were advised by SWAT that no one was  
19 there. The only other responsibility I had was assisting  
20 the crime scene tape as well as following the vehicle  
21 once it was towed from there to Greenville county.

22          **Q**     The vehicle you were referring to is ---

23          **A**     The SUV?

24          **Q**     --- the SUV. And you left with that vehicle  
25 and followed it to where?

1           **A**     Greenville Tech to the forensics office.

2           **Q**     The forensics division is located at Greenville  
3 Tech?

4           **A**     Yes.

5           **Q**     After you left Greenville Tech, where did you  
6 go?

7           **A**     At that point, I then went back towards the  
8 area of, I believe it was Rockingham and Parkins Mill.

9           **Q**     And what was the purpose or significance of you  
10 going to the Rockingham/Parkins Mill area?

11          **A**     At that time, I was told that, uh, the track  
12 from the dog had headed in that direction and the --

13                   **MR. JOHNSON:**     Your Honor, this is hearsay.

14                   **THE COURT:**     You want to respond?

15 **BY MR. MARCHANT:**

16           **Q**     Officer, why did you go --

17                   **THE COURT:**     Sustained.

18 **BY MR. MARCHANT:**

19           **Q**     Why were you directed to go? Don't say what  
20 anybody else might have told you about the investigation.

21

22           **A**     I was directed to go to that area.

23           **Q**     Subsequently, did you respond to Sara Collins?

24           **A**     Yes.

25           **Q**     And what was the purpose at Sara Collins?

1           **A**     To assess (inaudible)

2           **Q**     Do you recall what time you were cleared from  
3 Sara Collins?

4           **A**     Not a specific time. It was once the school  
5 was completely cleared out.

6                   **MR. JOHNSON:**     Your Honor, may we approach?

7                   **THE COURT:**     Yes.

8                   **(WHEREUPON, a bench conference is held off the**  
9 **record.)**

10 **BY MR. MARCHANT:**

11           **Q**     Officer Kellett, with respect to Sara Collins,  
12 the school released at their normal time that afternoon?

13           **A**     Yes.

14           **Q**     Thank you. Please answer any questions Mr.  
15 Johnson may have.

16                   **THE COURT:**     All right. Yes, sir.

17                   **MR. JOHNSON:**     Thank you, Your Honor.

18                                   **CROSS-EXAMINATION**

19 **BY MR. JOHNSON:**

20           **Q**     Officer Kellett, you were aware there was a  
21 previous hearing, are you?

22           **A**     Yes.

23           **Q**     You didn't testify at that hearing, did you?

24           **A**     No.

25           **Q**     Uh, I'd like you -- can you see this from where

1           **THE COURT:**     Sir, you can step down. Any  
2 objection to his being excused?

3           **MR. JOHNSON:**    No objection, Your Honor.

4           **THE COURT:**     Thank you, sir, for being here.

5           Ladies and Gentlemen, just to let you know,  
6 we're going to try, uh, if possible to go maybe to  
7 about 5:15, 5:20 or something like that. We've got,  
8 my understanding is, two other fairly short  
9 witnesses that we're going to try to get in this  
10 afternoon.

11          **MR. MARCHANT:**    Please the Court. The State  
12 calls Officer Gaines Fiedler.

13          **THE CLERK:**     Officer Fiedler, please come  
14 forward to be sworn in. Place your left hand on the  
15 Bible and raise your right.

16                               **GAINES FIEDLER**  
17 having first been sworn, testifies as follows:

18          **THE CLERK:**     Thank you. You may be seated.  
19 Would you please state your name for the record.

20          **THE WITNESS:**    Gaines Fiedler.

21          **THE CLERK:**     Thank you.

22                               **DIRECT EXAMINATION**

23 **BY MR. MARCHANT:**

24           **Q**     Officer Fiedler, where are you employed?

25           **A**     Greenville Police Department.

1           Q     And what's your capacity with the Police  
2 Department?

3           A     Right now, I work for selective enforcement in  
4 our Collision Reconstruction Unit.

5           Q     How does that differ from these other officers  
6 who testified of routine patrol and responding to calls?

7           A     Basically, we are a traffic unit. When there's  
8 a vehicle collision involved, serious bodily injury or  
9 death, we're notified and respond to reconstruct the  
10 collision to find out what happened.

11          Q     Back in October of 2011, were you working in  
12 the capacity as you mentioned now or more of routine  
13 patrol as what these other officers testified to?

14          A     I was working in routine patrol.

15          Q     Do you recall back on October 28th of '11 what  
16 area of town beat you were working?

17          A     Yes, sir. I worked the Charlie beat with  
18 Officer Cobb. That's the Augusta Street area.

19          Q     Do you recall on that day Officer Cruell  
20 calling out a Failure to Stop up 85?

21          A     Yes, sir.

22          Q     What did you do in response to that call?

23          A     I was on Augusta Street near the Starbucks. I  
24 responded with my lights and siren on towards Officer  
25 Cruell and attempted to assist her in the vehicle

1 pursuit.

2 Q And at some point in time, did you make contact  
3 with her?

4 A No, sir.

5 Q And why not?

6 A Because she terminated the pursuit and I turned  
7 my blue lights and siren off.

8 Q Where did you go after you turned off your blue  
9 lights and siren?

10 A I continued to head towards an area of Mauldin  
11 and I-85.

12 Q Did you subsequently cross 85 and head towards  
13 the area we've been discussing here today?

14 A Yes, sir.

15 Q And do you recall on that day how you made your  
16 way over to the Berkeley Pointe Apartment complex?

17 A Yes, sir.

18 Q I'm referencing State's 108. Please describe  
19 to the jury which roads you took to make your way over to  
20 the Berkeley Pointe Apartment complex.

21 A I came across I-85 on Mauldin Road. When I got  
22 to the intersection of Mauldin Road and Wenwood Road, I  
23 turned left at the red light and then subsequently turned  
24 left into the apartment complex.

25 Q You made a left on Wenwood?

1           **A**    Yes, sir.

2           **Q**    You recall where your vehicle was, how far  
3 along you had made it when you heard shots fired come  
4 across the radio?

5           **A**    I was waiting to turn left on the Wenwood Road  
6 at the red light.

7           **Q**    And then from the intersection of Wenwood and  
8 Mauldin, did you go directly to a first entrance or the  
9 second entrance of Berkeley Pointe?

10          **A**    I turned on my blue lights and siren to clear  
11 traffic to turn left. I went straight to the first  
12 entrance and turned left into the first entrance. I  
13 turned left again going up towards the 1300 building.

14          **Q**    Officer Fiedler, I'm going to have you step  
15 down and indicate on State's 106, describe for the jury  
16 how you made your way in there and where you parked your  
17 car.

18          **A**    The red light is actually right in this right  
19 here. When I was sitting here, I heard Officer Lane on  
20 the radio yelling shots fired, that he was being shot at.  
21 I turned on my equipment. I turned left. I came down  
22 Wenwood. I actually came in this entrance. I came all  
23 the way up to the left towards the 1300 building. It was  
24 up and to the left. I came to right here is where I  
25 parked my patrol vehicle.

1           Q     Please draw a rectangle where you parked your  
2 patrol vehicle.

3           A     (Drawing.)

4           Q     Once you parked your patrol vehicle, what did  
5 you do?

6           A     Uh, I went to my trunk to pull out my patrol  
7 rifle.

8           Q     After getting your rifle out of the trunk,  
9 where did you go?

10          A     I could see Officer Kellett was standing up  
11 against the building. I could see Officer Cruell and  
12 Officer Lane behind the vehicle in the parking lot. I  
13 went to the, if you are facing the 1200 building, it  
14 would be the front right corner, so that I could see down  
15 to where they told me the shots were coming from or where  
16 I felt the shots were coming from.

17          Q     All right. Officer, if you would, step down  
18 and indicate -- put your initials where you initially  
19 posted up on the 1200 building.

20          A     It's right here on the front right corner.

21          Q     From the time you got out of your car to the  
22 time you made your way to that post, did you see anybody  
23 in that apartment complex that was not law enforcement?

24          A     No, sir.

25          Q     Did you see any residents out there?

1           **A**    No, sir.

2           **Q**    Did you see any male, any female?

3           **A**    No, sir. I didn't see anyone.

4           **Q**    From the post up on the corner of the 1200  
5 building, how long do you recall holding that post and  
6 where did you go once you moved from that area?

7           **A**    I stayed right here on this corner for maybe a  
8 minute. Then I realized I couldn't see the back of the  
9 building. What I could see on this side of the building,  
10 there was no one who could. So I began to inch up the  
11 side of the building. There's actually an air  
12 conditioner right here covered by some bushes. I moved  
13 down to here and squatted down behind the bushes against  
14 the air conditioner trying to get as much cover as I  
15 could where I could see the back of the building.

16          **Q**    On your way down there, did you see anyone  
17 running away from the scene?

18          **A**    No, sir.

19          **Q**    Did you remain there the entire time?

20          **A**    No, sir.

21          **Q**    Where did you go after you moved from the air  
22 conditioner unit?

23          **A**    Where these buildings are made, they kind of  
24 jet out a little bit. I couldn't see if there was anyone  
25 here. Just the way the angle is. So I actually came

1 back around and came all the way through this 1200  
2 building down to the bottom floor. Once I came down the  
3 bottom floor, I came more to the back of the building.  
4 This one.

5 Q Were you by yourself this entire time or was  
6 there any other officers with you?

7 A Uh, Officer Calhoun was with me.

8 Q Making your way through the 1200 building and  
9 down to the back corner, did you see anybody come or go  
10 that was not law enforcement?

11 A No, sir.

12 Q Did you notice or recognize anything down in  
13 between the 1200 and 1300 building?

14 A Yes, sir. When I came around to the air  
15 conditioner, I noticed there was a black baseball cap  
16 that was in the -- it was in this area right here in  
17 between the two buildings. It was lying on the ground.

18 (WHEREUPON, State's Exhibits 109 and 110 are marked  
19 for identification purposes.)

20 BY MR. MARCHANT:

21 Q Officer Fiedler, I'm showing you what's been  
22 marked as State's 109 and 110. I'd like you to take a  
23 look at those and see if you recognize that.

24 A Yes, sir.

25 Q Do they fairly and accurately depict what you

1 saw out there that day?

2 **A** Yes, sir.

3 **MR. MARCHANT:** Move State's 109 and 110 into  
4 evidence.

5 **THE COURT:** Any objection?

6 **MR. JOHNSON:** No objection, Your Honor.

7 **THE COURT:** They will be so entered.

8 **(WHEREUPON, State's Exhibits 109 and 110 are**  
9 **admitted into the record.)**

10 **BY MR. MARCHANT:**

11 **Q** All right. Officer Fiedler, this is, uh,  
12 Exhibit 110. Please describe for the jury where this  
13 photograph is taken from and the items that are portrayed  
14 in it.

15 **A** Uh, basically, it was taken from -- in this  
16 area here. That's the 1300 building that you are looking  
17 at. This would be pretty much the angle where I was  
18 right here on this back corner. You can see the little  
19 black thing right along the wood line on the left side of  
20 the picture. That's the baseball cap that was lying on  
21 the ground.

22 **Q** And in State's 109?

23 **A** This is taken from the view of the back of the  
24 1300 building which is right here looking down towards  
25 where I was at. You could actually see the air

1 conditioner where I was first to the left of the power  
2 boxes. Then, when you go along the wood line, you can  
3 again see the little black spot, which is the baseball  
4 cap lying on the grass.

5 Q Officer Fiedler, if you would, there's a laser  
6 pointer right there.

7 A Oh, okay.

8 Q If you would, use that and please reexplain to  
9 the jury with the laser pointer as you are walking  
10 through it.

11 A Basically, the person who took this photograph,  
12 their back is standing to the 1300 building. Right there  
13 is the air conditioner where I took cover first  
14 initially. I noticed the baseball cap, which is right  
15 there, is lying along the woodline.

16 Q You recall how long you held your position on  
17 the back of the 1200 building until you were cleared?

18 A Yeah. I stayed there. Our SWAT team,  
19 Greenville county SWAT team.

20 Q How long did you stay on the back corner?

21 A A couple of hours.

22 Q You were in the back corner the entire time or  
23 did you have other --

24 A I was from the back corner to the middle. When  
25 the dogs came by, I moved.

1           Q     All right.  Once the scene ended up being  
2 cleared, did you go and resume normal duties or directed  
3 to go somewhere else?

4           A     I was directed to move over to the area of Sara  
5 Collins Elementary to assist with their dismissal.

6           Q     Okay.  Thank you.  Please answer any questions  
7 Mr. Johnson may have.

8                   **MR. JOHNSON:**     Please the Court.

9                   **THE COURT:**     Yes, sir.

10                  **MR. JOHNSON:**     Thank you.

11                                   **CROSS-EXAMINATION**

12           **BY MR. JOHNSON:**

13           Q     Officer Fiedler, I didn't get to see where you  
14 drew the box.

15           A     You want me to show you?

16           Q     Yes, please.

17           A     Right there.

18           Q     Okay.  Now, what's that?

19           A     That's the 1200 building.

20           Q     What building is that?

21           A     It has to be the 1100 building.

22           Q     Where is the 1300?

23           A     Right here.

24           Q     And that's where the incident --

25           A     That's where the shooting happened.

1 Hammett to the stand.

2 **THE CLERK:** Officer, please come forward to  
3 be sworn in. Place your left hand on the Bible and  
4 raise your right.

5 **MICHAEL HAMMETT**

6 having first been sworn, testifies as follows:

7 **THE CLERK:** Thank you. You may be seated.  
8 Would you please state your name for the record.

9 **THE WITNESS:** Michael James Hammett.

10 **THE CLERK:** Thank you.

11 **DIRECT EXAMINATION**

12 **BY MR. MARCHANT:**

13 **Q** Officer Hammett, where are you employed?

14 **A** With Greenville City Police Department.

15 **Q** And presently today, what are your  
16 responsibilities with the City Police?

17 **A** I'm a detective with the Vice and Narcotics  
18 Bureau.

19 **Q** What exactly does that mean?

20 **A** Drug investigations, purchasing narcotics from  
21 suspected drug dealers and things of that nature.

22 **Q** There's been some prior testimony about routine  
23 patrol and responding to calls and complaints and other  
24 things of that nature. Is that something that you do on  
25 a daily basis today?

1           **A**     Yes, it is.

2           **Q**     Back in October of 2011, were you working in  
3 the capacity that you are talking about now?

4           **A**     No, I was not.

5           **Q**     What capacity were you working with City Police  
6 then?

7           **A**     I was a K-9 handler at the time.

8           **Q**     What does that mean?

9           **A**     I was assigned to patrol a narcotics detection  
10 dog in the city. I respond to high priority calls or if  
11 an officer calls for a dog for a certain situation.

12          **Q**     The dog that you're running, is that dog  
13 trained and certified?

14          **A**     Yes, sir. He is.

15          **Q**     And please explain to the jury the nature and  
16 course of the training for the dog and the certifications  
17 that it has to go through before it can become employed,  
18 if you will, with your office.

19          **A**     Me and my dog went to a five-week course in  
20 Wilmington, North Carolina. We trained for narcotics,  
21 uh, trained on articles that someone may discard from a  
22 scene, trained on area searches for people and trained on  
23 tracking for suspects of a crime.

24          **Q**     I'm not sure if you mentioned it. How many  
25 hours?

1           **A**     200.

2           **Q**     You and your dog were present doing this at the  
3 same time?

4           **A**     Yes, sir.

5           **Q**     Following that, is there a test or  
6 certification that pass/fail?

7           **A**     We certify with the city every year through the  
8 North American Police Work Dog Association. That's a  
9 pass or fail two-day test that we take for narcotics,  
10 article, building search, area search and tracking.

11          **Q**     Did you pass all your classes?

12          **A**     I passed every time.

13          **Q**     Did you ever fail to pass any part of your  
14 classes?

15          **A**     No, I did not.

16          **Q**     What about your dog?

17          **A**     My dog never failed.

18          **Q**     And what is your dog's name?

19          **A**     Chinko.

20          **Q**     And when did all of these things occur  
21 initially? I guess what I'm asking you is what year and  
22 how long did you run that dog.

23          **A**     I ran the dog for three years. I got him from  
24 a handler that was promoted. I got him in December of  
25 2009.

1 Q And what's your dog's name?

2 A Chinko.

3 Q And is Chinko still active with the police  
4 department?

5 A No, he's since retired.

6 Q Why would you retire a dog?

7 A He was having medical issues with his back.

8 Q Throughout the -- how many years did you run  
9 Chinko?

10 A Three.

11 Q Throughout the three years, do you have a  
12 number, a specific number of times that you used him to  
13 either identify narcotics or track people?

14 A I don't have a specific time.

15 Q Can you ballpark for the jury?

16 A Doing different searches with him and different  
17 call outs, probably at least 1000 times.

18 Q So we are clear, the dog is certified for  
19 narcotics, as well as tracking?

20 A Yes, sir.

21 Q Are the behaviors that the dog would indicate  
22 on a piece of dope different than that of a trail?

23 A They have certain behaviors that they will  
24 indicate and some that are different. For narcotics,  
25 they'll tail will wag. They are using their nose and

1 sniffing real hard like they would on a track. But for  
2 narcotics, more than likely they are going to come to a  
3 final response when they locate the source of the odor.  
4 And my dog was an aggressive alert dog. So he would  
5 scratch at the source of the odor.

6 Q How is the dope or the narcotics indication  
7 different from a human track?

8 A On a human track, my dog is going to put his  
9 head down. Once he commits that track, his paws are  
10 going to dig down and he's going to start gnawing. His  
11 tail is going to be wagging. As he gets closer, you can  
12 start to see the hackles or the hair on his back will  
13 start standing up. And a lot of times, especially if the  
14 suspect is hidden, the dogs will get there a lot further  
15 than we do because we use a 30 foot leash in front of us.  
16 If the dog does encounter the suspect, he will bite him.

17 Q On October 28th of '11, did you have the  
18 occasion to respond to Berkeley Pointe?

19 A Yes, sir. I did.

20 Q And why did you do that?

21 A There was a radio call of shots fired at  
22 officers.

23 Q Were you in your vehicle?

24 A Yes, sir. I was.

25 Q Was anybody else in your vehicle with you?

1           **A**     My dog.

2           **Q**     All right.  If you would, step down.  I'm going  
3 to have you identify on State's 106.  And if you would,  
4 mark where you parked your vehicle at Berkeley Pointe  
5 that day.

6           **A**     I parked my vehicle --

7           **Q**     If you would, speak up please so the Court  
8 Reporter can hear you.

9           **A**     I parked my vehicle right in this area right  
10 here.

11          **Q**     Stand to the side.  We're going to talk about  
12 State's 106 for a minute.  Once you parked your vehicle,  
13 what did you do?

14          **A**     I went to the back of my truck and got my  
15 harness out.  Put my harness around the dog.  I brought  
16 him out of the vehicle and came around from this building  
17 up towards here.

18          **Q**     Who did you speak to once you got up to the  
19 parking lot area?

20          **A**     Officer Cobb.

21          **Q**     And with the information that she told you,  
22 what did you then do?

23          **A**     I waited cause we needed to start a track.  And  
24 I went around to -- there was a vehicle backed in here.  
25 I went around that vehicle to clear back behind this

1 building to where a hat was.

2 (WHEREUPON, State's Exhibit 111 is marked for  
3 identification purposes.)

4 **BY MR. MARCHANT:**

5 Q I'm going to show you what's already in  
6 evidence as State's number 109. Do you recognize where  
7 the vantage point to this photograph was taken?

8 A That's the area behind the apartment.

9 Q Let me show you State's 110 and see if, uh, you  
10 recognize that.

11 A I do.

12 Q Okay. I'm now going to show you what's been  
13 marked as State's 111 and see if you recognize this item.

14 A Yes, I do.

15 Q Does this fairly and accurately depict how you  
16 found that item that night?

17 A Yes, it does.

18 **MR. MARCHANT:** I move 110 -- excuse me -- 111  
19 into evidence, Your Honor.

20 **THE COURT:** Any objection?

21 **MR. JOHNSON:** No objection.

22 **THE COURT:** It will be so admitted.

23 (WHEREUPON, State's Exhibit 11 is admitted into the  
24 record.)

25 **BY MR. MARCHANT:**

1           Q     So here's State's 111.  What did you do when  
2 you came to this item?

3           A     This is, uh, what I was told that the suspect  
4 had on.  I brought my dog where the hat was and laid him  
5 down.

6           Q     When you say laid him down, what do you mean?

7           A     I had him lay down on the ground.

8           Q     Why is that?

9           A     That's how I start a track.  As soon as I did  
10 that, I gave him his command to track.

11          Q     And now I'm going to have you -- Officer  
12 Hammett, if you would, indicate on State's 108 where you  
13 started your track.

14          A     That was right here.

15          Q     If you would draw -- if you would, put your  
16 initials where you located that item.

17          A     (Drawing.)

18          Q     All right.  Officer Hammett, what I want you to  
19 do for the benefit of the jury is draw me a line of where  
20 you started that track from that ball cap and where it  
21 lead to.

22          A     Roughly down this way into the woods and around  
23 up towards the top here.  Started going this way.  At  
24 which point, I stopped.

25          Q     You stopped the dog or did the dog stop you?

1           **A**     I stopped the dog.

2           **Q**     Why did you stop the dog?

3           **A**     Because of the nature of the call and a large  
4 wooded area behind us, for the safety of the officers, I  
5 felt like I needed to clear that whole wooded area to  
6 make sure there was nobody in there.

7           **Q**     Now the route that you drawn on that map,  
8 that's the route the dog took?

9           **A**     Yes, sir.

10          **Q**     And that's the route the dog led you, is that  
11 correct?

12          **A**     Yes, sir.

13          **Q**     At any point in time, did you Chinko indicate  
14 to you that he picked up on another track or trace?

15          **A**     No, sir. He did not.

16          **Q**     How would Chinko indicate to you if he had  
17 picked up on something else?

18          **A**     He would have lifted his head up and started  
19 looking around. And I would know he was off the track we  
20 were on.

21          **Q**     Am I understanding from this part of the track  
22 that you covered, he never indicated?

23          **A**     His head stayed down the whole time.

24          **Q**     And you stopped him. What did you do once you  
25 stopped him?

1           **A**     I relayed to the people that were with me on  
2 the track that before we went any further, we were going  
3 to need to go back and clear through all these woods. So  
4 keeping Chinko on that line, we started to clear back and  
5 forth and up and down all through all the woods back  
6 there to make sure that nobody was laying down, there  
7 weren't any other suspects or stuff like that.

8           **Q**     Officer Hammett, if your dog stayed down on the  
9 initial track and never wavered, why was it necessary to  
10 go back and clear the woods?

11          **A**     That was a judgement call I made because of the  
12 nature of it and in case there was anything about other  
13 suspects hiding in there. I didn't want to take that  
14 risk for the officers out on the perimeter. They had  
15 already been shot at. I wanted to make 100 percent sure  
16 before we kept going that there was nobody laying down in  
17 these woods.

18          **Q**     Did you find anybody else in the woods down  
19 there?

20          **A**     No, sir.

21          **Q**     Did your dog ever indicate on any other track?

22          **A**     No, sir. He did not.

23          **Q**     Approximately how long would you say you were  
24 back in the woods clearing behind building 1300?

25          **A**     A good 20, 25 minutes.

1           **Q**     What did you do after you cleared that area  
2 behind the apartments?

3           **A**     I came back out to where I stopped my track,  
4 laid my dog back down and then gave him his command to  
5 track again.

6           **Q**     Did Chinko indicate to you that he had regained  
7 that scent and started tracking again?

8           **A**     Yes, sir. He did.

9           **Q**     Approximately how far did he go?

10          **A**     We probably went to right here in the woods.  
11 From doing all that, I could tell he was tired out. His  
12 tongue was sticking out. He was panting real heavy. At  
13 that time, I stopped him.

14          **Q**     Okay. What sort of dog was Chinko, what is his  
15 breed?

16          **A**     He's a German Shepard.

17          **Q**     So after you stopped that track, where did you  
18 then go?

19          **A**     I turned it over to somebody else. I brought  
20 Chinko back to my patrol vehicle and gave him water.

21          **Q**     How long did Chinko stay in your patrol vehicle  
22 before the next time you brought him back out?

23          **A**     About 20 minutes..

24          **Q**     Once you brought Chinko back out, where did you  
25 go?

1           **A**     I went across the street, across Wenwood Road  
2 to where these woods are over here.

3           **Q**     What was the purpose of you doing that?

4           **A**     I wanted to run Chinko across the woodline to  
5 see if I would pick up any other track into the wooded  
6 area over there.

7           **Q**     Where exactly did you start -- you recall  
8 exactly where you started Chinko on the other side of  
9 Wenwood Road?

10          **A**     I came right in this area over here. I just  
11 brought him out of my car and came across the street.

12          **Q**     On the road?

13          **A**     No, sir.

14          **Q**     Let me rephrase. Where did you start the  
15 track? Was it on the road, was it on the side of the  
16 road, was it in the woods?

17          **A**     Right there next to where the woods are.

18          **Q**     Can you recall how far from the road, the  
19 actual pavement you were when you started your track?

20          **A**     10, 15 feet.

21          **Q**     So you took Chinko from the east? Tell you  
22 what, if you would, indicate on State's 108 with your  
23 initials where you started the track on this side of  
24 Wenwood Road. And which way did you track and how far  
25 did you go?

1           **A**     I gave him his command to track. We came all  
2 the way down past where I was here.

3           **Q**     And at that point in time, for that period of  
4 track, did he ever indicate that he picked upon  
5 something?

6           **A**     He never picked up after that.

7           **Q**     Did you use the dog any further that day on  
8 this scene?

9           **A**     No, sir. I did not.

10          **Q**     Now, this line that you've drawn indicate the  
11 track on the south side of Wenwood Road. I'm going to  
12 ask you if someone was walking down the roadway, on the  
13 actual road, would your dog have picked up on that scent?

14          **A**     No.

15          **Q**     Why not?

16          **A**     I'm not saying I ever pushed down that way but  
17 I was walking down the wooded area here to track for  
18 someone darting into the woods.

19          **Q**     Again, did Chinko ever indicate?

20          **A**     He never did.

21          **Q**     Did Chinko ever indicate on any track other  
22 than the ball cap?

23          **A**     No, sir. He did not.

24          **Q**     Thank you. Please take the stand.

25               **MR. JOHNSON:**     Your Honor, permission to

1 cross-examine?

2 **MR. MARCHANT:** Court's indulgence just for a  
3 moment.

4 **MR. JOHNSON:** Oh, you're not done?

5 **MR. MARCHANT:** Just a moment, Mr. Johnson.

6 (Pause.)

7 All right. Thank you, Mr. Johnson.

8 Please answer any questions Mr. Johnson may  
9 have.

10 **THE COURT:** Yes, sir.

11 **MR. JOHNSON:** Thank you, Your Honor.

12 **CROSS-EXAMINATION**

13 **BY MR. JOHNSON:**

14 **Q** Officer Hammett, did you do a report in this  
15 incident?

16 **A** Yes, I did.

17 **Q** Do you have that with you?

18 **A** I don't have it with me.

19 **Q** You don't have it with you?

20 **A** No, sir.

21 **Q** Is this the entirety of it? I just want to  
22 make sure.

23 **A** Yes, sir.

24 **Q** That's it?

25 **A** Yes, sir. It is.

1           **MR. MARCHANT:**       Please the Court. The State  
2           calls James Mangle.

3           **THE CLERK:**        Sir, if you would, come forward  
4           to be sworn in. Place your left hand on the Bible  
5           and raise your right.

6                               **JAMES MANGLE**  
7           having first been sworn, testifies as follows:

8           **THE CLERK:**        Thank you. You may be seated.  
9           Would you please state your name for the record.

10          **THE WITNESS:**     My name is James Antonio  
11          Mangle.

12          **THE CLERK:**        Thank you.

13          **THE COURT:**        If you need some water, there's  
14          some water right there.

15          **THE WITNESS:**     Yes, ma'am.

16                               **DIRECT EXAMINATION**

17 **BY MR. MARCHANT:**

18          **Q**        Good morning, Mr. Mangle.

19          **A**        Good morning.

20          **Q**        You don't have to give me the address, but what  
21          side of town do you live on now?

22          **A**        Uh, I stay in Simpsonville right now.

23          **Q**        Back in October of 2011, where were you living?

24          **A**        1422 Berkeley Pointe.

25          **Q**        And who were you living with at Berkeley

1 Pointe?

2       **A**     Uh, the mother of my child.

3       **Q**     And if you would for me real quick, step down.  
4 State's Exhibit 106, please show me which apartment  
5 building is the 1400.

6       **A**     Right here.

7       **Q**     And what was the apartment number again?

8       **A**     1422. So it would be in the front right side.

9       **Q**     And is it on what I would consider the ground  
10 floor, which is the floor you enter from the parking lot?

11      **A**     No, it's the top floor.

12      **Q**     And how many floors are in this particular  
13 building?

14      **A**     Two floors.

15      **Q**     So it would be in this front right building?

16      **A**     Yes, sir.

17      **Q**     Is there a porch or patio on that building?

18      **A**     Yes, sir.

19      **Q**     If you would for me, sir, if you would, put  
20 your initials on that building where your apartment is.

21 And where exactly is the porch or patio that you are  
22 referring to?

23      **A**     Right here.

24      **Q**     All right. Have a seat. Were you familiar  
25 with the neighbors that lived around you?

1           **A**     Yes, sir.  Pretty much.

2           **Q**     Who lived upstairs next door to you on the  
3 front of that building?

4           **A**     A friend of mine's Jarvis Tucker.

5           **Q**     And how long had he been staying in that  
6 complex?

7           **A**     Uh, --

8           **Q**     Let me back up, Mr. Mangle, excuse me.  How  
9 long had you been staying there when this incident  
10 occurred back on October the 28th of 2011?

11          **A**     Three years.

12          **Q**     And how long had Mr. Tucker been staying there?

13          **A**     About a year and a half.

14          **Q**     You say he was -- did you say friend?  Did I  
15 hear what you said correctly?

16          **A**     Well, to be honest, somebody that I was getting  
17 to know pretty good that I could trust with my son.  So  
18 pretty much I would call that person a friend.

19          **Q**     So he watched your son from time to time?

20          **A**     Uh, if I wanted to or I needed him to, he  
21 would.

22          **Q**     And how old is your son?

23          **A**     Three now.

24          **Q**     You have any other children?

25          **A**     No, sir.

1 Q So you lived next door to him for roughly a  
2 year and a half ---

3 A Yes, sir.

4 Q --- when this incident occurred?

5 A Yes, sir.

6 Q After this incident occurred, how long did you  
7 stay in the apartments before moving out?

8 A Uh, until March.

9 Q Mr. Mangle, how tall are you?

10 A 6'3.

11 Q How much do you weigh?

12 A At this moment, I weigh 230.

13 Q Back in October of 2011, did you --

14 A I was a big guy.

15 Q Did you weigh more back in 2011?

16 A Yes, sir. Yes, sir.

17 Q How much more?

18 A Maybe 30 pounds more.

19 Q What did Mr. Tucker look like? How tall was  
20 he?

21 A Mr. Tucker is 6'4. He's taller than me. He  
22 look like he might be a little heavier than me but he  
23 just weigh bigger clothes.

24 Q What's his race?

25 A He's African-American.

1           **Q**    What sort of hair does he have?

2           **A**    He has dreads too.

3           **Q**    You say too. Why do you say too?

4           **A**    Because I have dreads.

5           **Q**    Very good. The morning this incident occurred,  
6 do you remember what you were doing?

7           **A**    I was supposed to be at work. I was actually  
8 on my way to work. I was waiting on the mother of my  
9 child to come so she could be there with my son. And a  
10 car had went by. I didn't pay no attention to it. And  
11 shortly after the car went by, another car went by. I  
12 paid attention to that because I heard the brakes. I  
13 don't know what time it was. So I was sitting there. I  
14 was watching Sports Center. And I get up. I see an  
15 officer. The only reason why I paid attention to the  
16 officer is because I thought it was the officer that was  
17 dealing with the case of my car being stolen.

18          **Q**    Was your car stolen from this apartment  
19 complex?

20          **A**    Yes, sir.

21          **Q**    Do you recall what the officer looked like that  
22 day that you are referring to?

23          **A**    Yes, sir.

24          **Q**    Okay. Please describe him for the jury.

25          **A**    Uh, he's a white male, short hair, real clean

1 cut.

2 Q How is it that you saw that officer?

3 A Because he was walking across the parking lot  
4 from my building.

5 Q I guess what I'm asking you, Mr. Mangle, is how  
6 is it that you're inside your apartment and you see him?

7 A Cause I'm 6'3. My couch is sitting up pretty  
8 high. I could see over my balcony.

9 Q And so you're sitting on your couch. You're  
10 looking out -- is it a window or a sliding glass door?

11 A It's a wide sliding glass door.

12 Q Did you have any curtains or drapes on that?

13 A You have patio blinds that you could turn and  
14 pull.

15 Q Were they --

16 A They were open.

17 Q You say open, were they swiveled open or were  
18 they drawn all the way back?

19 A They were swiveled and pulled all the way to  
20 the right.

21 Q Once you saw this white, clean cut officer,  
22 what did you do?

23 A I immediately came outside of the patio and I  
24 looked at him. It was like weird. I knew something  
25 crazy was going on. He was like on the side of the

1 building. About time I turned around to go back in, I  
2 heard what are you doing. And before I could turn back  
3 around, I heard shots were fired. And this whole time, I  
4 couldn't see in the breezeway across from me. I never  
5 knew it was a second officer was there. I never knew.  
6 It seemed like it took forever. I was hearing shots  
7 fired. But it had to be very fast. Because I come -- I  
8 came back in the house. I grabbed my son. I went  
9 downstairs. I went towards the second Berkeley Pointe  
10 apartments. I went to my friend house. I left my son  
11 there.

12 Q Mr. Mangle, I'm going to stop you real quick.  
13 You said the second Berkeley Pointe apartments, what do  
14 you mean?

15 A The complex that we are in is a complex with  
16 itself. Then it has a second entrance completely totally  
17 different from -- they are not jointed together. You  
18 have to leave out the entrance to go to the other side  
19 into another entrance to get there.

20 Q How long after these shots fired was it that  
21 you took your son over there?

22 A It was -- after the shots were fired, I didn't  
23 see any other cops. That's how quick it was. Shots  
24 fired. And I didn't see any other cops. When I came  
25 downstairs, I actually seen an SUV and it was a police

1 car by the SUV. It tripped me out because I didn't know  
2 it was any other cops until I got -- until I left my son  
3 with my friend and I was coming back over to my apartment  
4 complex. That's when it was like -- it was chaos  
5 outside.

6 Q Okay. Mr. Mangle, I'm going to have you step  
7 down. If you would, on State's 106, please indicate for  
8 the jury the path that you took when you went and took  
9 your son to the second set of apartments. And please  
10 state with your apartment. Did you come out the front or  
11 the back of that apartment?

12 A I come out of the front.

13 Q And what route did you take to get over to this  
14 second set of apartments?

15 A About -- down through here. This is the rent  
16 office. It's a trail right here you can take. I took  
17 the trail.

18 Q Okay. Mr. Mangle, I show you State's 108  
19 that's in evidence. I'm showing you Berkeley Pointe. If  
20 you would, indicate on this map the route you took to the  
21 second set of apartments.

22 A This is my apartment complex right here. I  
23 come down this way going towards the swimming pool. I  
24 come down. And it's a trail right here that takes you  
25 straight through here. Then you come out of here to the

1 other side.

2 Q Now, the trail, are you talking --

3 A It's actually a trail. It has a bridge that  
4 goes over the creek.

5 Q Is it something that the apartment complex put  
6 there?

7 A Yes, sir. Yeah, they own it.

8 Q How long would you estimate that you stayed  
9 over here dropping your son off?

10 A Well, I stayed over there long enough to gather  
11 my thoughts and long enough that they shut down all of  
12 this. So I stayed at least 15 or 20 minutes.

13 Q After you dropped your son off, where did you  
14 then go?

15 A Right back down this pathway. And when I got  
16 up here, I was immediately stopped and brought into the  
17 rental office.

18 Q What did you do inside the rental office?

19 A I talked to a detective. She wanted to know  
20 what I was doing, my name, full name, did I have my  
21 wallet on me and could I give a statement.

22 Q Did you, in fact, give her a statement?

23 A Yes, sir. I gave her a statement.

24 Q How long were you at the rental office that  
25 morning?

1           **A**     About another 20 minutes.

2           **Q**     How long was it before you were able to get  
3 back into your apartment?

4           **A**     Uh, I was asking could I go back. They made  
5 some calls. After the calls, I asked them again. They  
6 said things were clear. Then they let me go.

7           **Q**     Did you go get your son before you went back to  
8 your apartment?

9           **A**     No, sir.

10          **Q**     How long did you then stay in your apartment  
11 before you went and got your son?

12          **A**     Probably about two hours.

13          **Q**     I'm sorry?

14          **A**     Like two hours. Two or three hours.

15          **Q**     Please have a seat back on the stand.

16          **A**     Yes, sir.

17          **Q**     Let's go back to when you first saw the white  
18 male officer that was clean cut. Did you see anybody  
19 else out in the parking lot?

20          **A**     No, sir.

21          **Q**     Any other residents?

22          **A**     No, sir.

23          **Q**     I'm going to point to this gentleman over here  
24 that's sitting between the two men in the suits ---

25          **A**     Uh-huh.

1 Q --- in the middle. You ever seen him before?

2 A Never. And what's crazy --

3 Q Whoa.

4 A Okay.

5 MR. MARCHANT: Court's indulgence?

6 THE COURT: Yes, sir.

7 MR. MARCHANT: All right. Thank you, Mr.

8 Mangle. Please answer any questions Mr. Johnson may  
9 have.

10 THE COURT: Mr. Johnson.

11 MR. JOHNSON: Permission to approach briefly?

12 THE COURT: Yes.

13 (WHEREUPON, a bench conference is held off the  
14 record.)

15 CROSS-EXAMINATION

16 BY MR. JOHNSON:

17 Q Mr. Mangle, you have a criminal record, right?

18 A Yes, sir.

19 Q Uh, you testified earlier, the Solicitor  
20 approached you with it, you gave a statement?

21 A Yes, sir.

22 Q Do you remember when you gave that statement?  
23 Was it on the same date of the incident?

24 A Yes, sir.

25 Q When was the next time you spoke with someone

1 were with, it was your son?

2 A Yes, sir.

3 Q Okay. All right. You stated your son was  
4 three years old?

5 A Uh, at the time -- he's three now.

6 Q Three now.

7 A Yes, sir.

8 Q At the time, he was one or two?

9 A Uh, two.

10 Q And it was just you and him?

11 A Just me and him.

12 MR. JOHNSON: I have nothing further at this  
13 time.

14 THE COURT: Just one second.

15 MR. MARCHANT: May we approach?

16 THE COURT: Of course.

17 (WHEREUPON, a bench conference is held off the  
18 record.)

19 **REDIRECT EXAMINATION**

20 **BY MR. MARCHANT:**

21 Q What is your son's date of birth?

22 A 10/6 -- I mean 03/21/09. March 29th, I mean,  
23 March 21st, '09.

24 Q All right. And Mr. Johnson had asked you if  
25 you have a prior record. Were you convicted for

1 Shoplifting back in 2011?

2 **A** Uh, yes, sir.

3 **Q** Thank you. I have no further questions.

4 **MR. JOHNSON:** Judge, can we approach?

5 **THE COURT:** Yes, sir.

6 Just to tell you, Ladies and Gentlemen, most  
7 attorneys would ask if y'all would step out which  
8 takes so much more time. How they are doing it is  
9 very efficient.

10 **(WHEREUPON, a bench conference is held off the**  
11 **record.)**

12 **THE COURT:** All right. Any other questions  
13 for this witness?

14 **MR. MARCHANT:** None from the State, Your  
15 Honor. And we ask that he be relieved of his  
16 subpoena.

17 **THE COURT:** Any --

18 **MR. JOHNSON:** No objection.

19 **THE COURT:** Anything from the defense?

20 All right. Sir, thank you so much for being  
21 here.

22 **THE WITNESS:** Yes, ma'am.

23 **MR. MARCHANT:** Court's indulgence one moment,  
24 Your Honor.

25 **THE COURT:** Of course. Remember what I said

1           yesterday. Now, listen, I'm going to stand because  
2           y'all might not stand up and stretch if I don't.  
3           But if y'all at any time want to stand and stretch  
4           or 'do anything you need to do especially while we're  
5           on break like this from a witness, you do that. If  
6           you need a break, you let Ms. Katrina know.

7           They won't move. They just act like they're  
8           chained to their seats.

9           **MR. MARCHANT:**     Please the Court?

10          **THE COURT:**     Yes, sir.

11          **MR. MARCHANT:**    The State would call, uh,  
12          Detective -- excuse me -- Detective Collis Flavell.

13          **THE CLERK:**     Detective Flavell, please come  
14          forward to be sworn in.

15                               **COLLIS FLAVELL**

16          having first been sworn, testifies as follows:

17          **THE CLERK:**     Thank you. Please be seated.

18          Would please you state your name for the record?

19          **THE WITNESS:**    Collis Flavell, F-L-A-V-E-L-L.

20          **THE CLERK:**     Thanks.

21                               **DIRECT EXAMINATION**

22          **BY MR. MARCHANT:**

23           **Q**     Detective Flavell, where are you employed?

24           **A**     Greenville City Police Department.

25           **Q**     And how long have you been employed with the

1 City Police Department?

2 **A** A little over 20 years.

3 **Q** You have any other law enforcement experience  
4 prior to being employed with the City Police?

5 **A** No.

6 **Q** You been in here the whole time?

7 **A** I have.

8 **Q** You heard Officer Cruell testify about the  
9 Academy?

10 **A** Yes.

11 **Q** Did you go through the Academy 20 years ago?

12 **A** I did.

13 **Q** And throughout your experience and tenor with  
14 the Police Department, have you gone through all the  
15 certification classes you need to attend to to be in  
16 compliance?

17 **A** Yes, I have.

18 **Q** Now, please explain for the jury what's the  
19 difference between an officer and a detective.

20 **A** Uh, the obvious difference is our clothing. I  
21 don't wear a uniform. I wear plain clothes. I invest --  
22 we follow up and investigate on cases of -- major cases  
23 that basically the uniform officers just don't have time  
24 to follow upon. We've got the time and the resources to  
25 follow up on cases and investigate.

1           **Q**    Are you always dressed in a suit?

2           **A**    No.

3           **Q**    Plain clothes, what would you typically be  
4 wearing today if you weren't here testifying?

5           **A**    Khakis and a polo.

6           **Q**    On October the 28th of 2011, were you working  
7 that day?

8           **A**    I was.

9           **Q**    You recall where you were when radio traffic  
10 indicated shots fired from Officer Lane?

11          **A**    I was in my office.

12          **Q**    What did you do?

13          **A**    I was in my office working. I actually heard  
14 the initial traffic of the attempted vehicle stop, the  
15 pursuit. I was kind of listening to see what was going  
16 to happen. Officer Cruell terminated pursuit.  
17 Everything kind of went back to normal. Then I heard  
18 Officer Lane on the radio saying shots fired. I  
19 immediately got up, notified other unit -- guys in my  
20 unit. We left the LEC and headed towards Berkeley  
21 Pointe.

22          **Q**    You say guys in your unit. How many people are  
23 in your unit?

24          **A**    Five in my unit. We worked violent crimes.

25          **Q**    Detective Conroy who is seated here, is he in

1 the same unit as you are?

2       **A**     Yes, he is.

3       **Q**     Where is the Law Enforcement Center? Where is  
4 your office?

5       **A**     It's on 385, at the end of 385 right before you  
6 get to the BiLo Center on the right where the Greenville  
7 County Jail is located. Our office is right beside the  
8 jail.

9       **Q**     And did you take your car that day?

10      **A**     I did.

11      **Q**     Did anybody ride with you?

12      **A**     Detective Garrison.

13      **Q**     Detective Garrison, is he one of your  
14 colleagues along with Detective Conroy?

15      **A**     He is.

16      **Q**     Y'all rode together?

17      **A**     We did.

18      **Q**     And where -- when you left the Law Enforcement  
19 Center otherwise known as the LEC, is that correct?

20      **A**     Correct.

21      **Q**     Once you left the LEC, where did you go and how  
22 did you travel to get there?

23      **A**     I went down Laurens Road, all the way down  
24 Laurens Road to Fairforest. Took a right on Fairforest.  
25 Then took a right on Wenwood. And we came up to the

1 apartments.

2           **Q**     Do you recall where you parked when you got to  
3 the apartments?

4           **A**     I didn't actually park. Once we got in the  
5 area, we were trying to figure out -- we could hear the  
6 radio traffic. They were trying to get a perimeter set  
7 up. There was a lot going on. We stopped at the  
8 entrance of Berkeley Pointe. There were officers on that  
9 roadway, on Wenwood. We stopped there and tried to  
10 figure out where the perimeter was. And myself and  
11 Detective Garrison went through Hitachi. There were  
12 officers lining the woods at the Hitachi plant. We kept  
13 going around Dairy Road, which is actually the frontage  
14 road for 85 to the Perrigo Plant. We pulled in behind  
15 the Perrigo Plant, which actually backs up to Wenwood  
16 Road Apartments. There was a deputy already back there  
17 covering one corner of the Perrigo Plant parking lot.  
18 Myself and Detective Garrison parked and got out of our  
19 vehicles and kind of spread out along that wood line.

20           **Q**     All right. Detective Flavell, I'm going to ask  
21 you step down. On State's 108, if you could for the  
22 jury, put your initials where you parked at the Perrigo  
23 Plant off Dairy Drive that day.

24           **A**     (Drawing.)

25           **Q**     Please take the stand. Was there anyone else

1 with you out there at that location besides Detective  
2 Garrison?

3 **A** Yes.

4 **Q** Who else was with you at the back of the  
5 Perrigo Plant?

6 **A** With me specifically?

7 **Q** Yes, sir.

8 **A** No one.

9 **Q** Just at that initial time, it was just you and  
10 Detective Garrison?

11 **A** When we arrived, there was already a deputy. A  
12 Greenville county deputy was in one corner of the Perrigo  
13 Plant.

14 **Q** When you say deputy, is that somebody employed  
15 with your agency?

16 **A** The sheriff's office.

17 **Q** When you pulled up, did you see anybody in the  
18 area that was not law enforcement?

19 **A** No.

20 **Q** Why did you go to the Perrigo Plant instead of  
21 going to Berkeley Pointe?

22 **A** There were -- at that time, we were trying to  
23 contain the suspect. At that point, there was -- there  
24 were already plenty of officers at the Wenwood Road  
25 apartment complex where the incident occurred. And

1 basically what we did, what I did was drove the perimeter  
2 until I found a gap. And I filled in that gap.

3 Q The time you are driving this perimeter, did  
4 you ever encounter anybody walking on the road, male or  
5 female?

6 A No.

7 Q How long did you stay at the plant until you --  
8 well, what did you and Detective Garrison do back there?

9 A Stood perimeter.

10 Q You armed?

11 A Yes.

12 Q You are in street clothes. But you had your  
13 side arm?

14 A I actually pulled my shotgun and put on my  
15 outer vest that's clearly marked POLICE on front and  
16 back.

17 Q How long did you and Detective Garrison hold  
18 that position?

19 A Probably 45 minutes to an hour.

20 Q At some point in time, you left that location?

21 A I did.

22 Q Did you leave with Detective Garrison?

23 A I did.

24 Q Where did y'all go?

25 A I went to the Comfort Inn on Laurens Road.

1           **Q**     What was the purpose for you to go to the  
2 Comfort Inn at that point in time?

3           **A**     We know that the incident, the pursuit of the  
4 vehicle in question started at the Comfort Inn. So I  
5 went to the Comfort Inn to meet with the management. I  
6 obtained a tenant list or an occupant list of basically  
7 who was in the motel that night.

8           **Q**     You been in here long enough to see the  
9 photographs of the Comfort Inn lobby?

10          **A**     I did.

11          **Q**     Is that where you went to obtain the list?

12          **A**     Yes, I did.

13          **Q**     When you entered the Comfort Inn that morning,  
14 did you notice whether or not the lobby area was equipped  
15 with video surveillance?

16          **A**     It was.

17          **Q**     Did you inquire whether or not that video  
18 surveillance was operable at that time?

19          **A**     I did.

20          **Q**     And was it operable?

21          **A**     It was not.

22          **Q**     The person you were speaking with at the  
23 Comfort Inn that day, what was their position with that  
24 motel?

25          **A**     He was the manager.

1           **Q**     You obtained a list of occupants for the night  
2 of 27th, the morning of the 28th?

3           **A**     Yes, I did.

4           **Q**     Roughly how long do you estimate you stated at  
5 the Comfort Inn before leaving?

6           **A**     15, 20 minutes.

7           **Q**     Did you walk the perimeter of the building?  
8 Did you walk the hallway?

9           **A**     No.

10          **Q**     Your sole reason for being there and where you  
11 met with the manager is in the lobby area?

12          **A**     In the pictures, it showed the front desk.  
13 Right past the front desk is the office. The manager was  
14 actually in that office. I actually spoke with the desk  
15 clerk first. She got her manager. Then I went in his  
16 office to talk to him. Of course, explained what we were  
17 doing and why we were asking for this. I didn't want  
18 everybody out in the lobby to hear.

19          **Q**     So you were in the Comfort Inn for roughly 15  
20 minutes. You left.

21          **A**     Yes.

22          **Q**     And where did you go?

23          **A**     I went back to -- this time, I went to the  
24 actual incident scene at Berkeley Pointe.

25          **Q**     And we've been discussing building 1300. Did

1 you go directly to 1300? Did you go to the office?

2 **A** I did. I went to 1300.

3 **Q** And how long would you say you stayed there  
4 before you went somewhere else? Detective Flavell, I'm  
5 asking how long did you stay at the 1300, the roundabout  
6 area up there before you went somewhere.

7 **A** Probably 30 to 45 minutes.

8 **Q** At that point in time, did SWAT unit arrive?

9 **A** They had.

10 **Q** Did you get in the SWAT vehicle?

11 **A** No, I did not.

12 **Q** Following the 30 to 45 minutes you spent up  
13 there near 1300, where did you go after that?

14 **A** I actually, uh, -- we were waiting. There was  
15 still a lot going on. The K-9 teams were tracking.  
16 Forensics were there starting to process the scene.  
17 There was a lot of down time at that point. The 1300  
18 building already had cleared. SWAT team cleared that  
19 building. The residents were actually standing out in  
20 the parking lot. So there was a lot of down time as far  
21 as what my responsibilities were from that point on.  
22 Actually, Officer Cobb was standing in the parking lot.  
23 I actually put her in my vehicle and just drove her  
24 around the perimeter just to get her away from the scene.

25 **Q** How long would you estimate you drove Officer

1 Cobb around?

2       **A**     Roughly 20 minutes, 15, 20 minutes.

3       **Q**     After you circled the perimeter, did y'all go  
4 back to the Law Enforcement Center?

5       **A**     No, actually, we got a call from the command  
6 post that was requesting Officer Cobb. So I dropped her  
7 off down at the -- the rent office was set up as a  
8 command post. I dropped her off at the rent office.

9       **Q**     Okay. Please explain to the jury what do you  
10 mean when you say command post.

11       **A**     They had -- do to the magnitude of what was  
12 going on, they had set up a command post, basically a  
13 communication center in the office of Berkeley Pointe.  
14 Due to other agencies being involved communication-wise,  
15 uh, leaders or heads of those agencies were in the  
16 command center relaying information on their radios to  
17 their officers.

18       **Q**     Essentially, a central point of communication  
19 and then to funnel out information?

20       **A**     Correct.

21       **Q**     Did you spend some time with Sergeant Shaw and  
22 Lieutenant Lendway of Forensics?

23       **A**     I did. After I dropped Officer Cobb back off  
24 at the command center, I went back to the crime scene and  
25 stood by with Forensics as they started the processing,

1 photographing and videoing of the crime scene.

2           **Q**     And what's the purpose of calling Forensics out  
3 to a scene like this?

4           **A**     In Greenville county, we have a -- they are  
5 actually a separate agency. They are the Department of  
6 Public Safety. They are a support agency for all  
7 agencies in Greenville county. They have a Forensics  
8 division that basically responds to our crime scenes.  
9 Their crime scene technicians are trained more in depth  
10 that we are on protecting, collecting evidence,  
11 documenting evidence, packaging evidence. They also  
12 perform all of our forensics tests as far as fingerprint,  
13 DNA, uh, stuff of that nature, they do it. So they  
14 collect evidence. They take it back to their lab where  
15 they process that evidence in their crime lab. Then they  
16 package it and place it in our Property and Evidence  
17 section.

18           **Q**     Is that typical, in an incident such as this,  
19 to have Forensics there?

20           **A**     Yes.

21           **Q**     Now, this Forensics collect all evidence?

22           **A**     Pretty much. They do not collect drugs or  
23 money. We have to collect those items.

24           **Q**     On occasion, do you have to collect evidence  
25 yourself?

1           **A**     I do.

2           **Q**     And when evidence is collected, please explain  
3 to the jury what's done with it initially, where does it  
4 go, where is it housed, who keeps it.

5           **A**     Down in the basement of the LEC, we have what's  
6 called a Property and Evidence section. It's a secure  
7 area. They have four or five employees that work in that  
8 section. Actually, if you walk up to a window, much like  
9 a counter right here, any evidence, property, found  
10 property, safekeeping property, inmate property, anything  
11 that I physically take from somebody or somewhere that I  
12 have to account for. So I -- that item is then placed in  
13 our Property and Evidence section via Property and  
14 Evidence sheet which tracks, the date, time of  
15 collection, what was collected and who had touched it  
16 after I collected, where does that property go. Anyone  
17 who touches that property has to fill out or sign their  
18 name on the chain of custody sheet for that to be able to  
19 view or take that property somewhere. It's stored in  
20 that property section until it's disposed of.

21           **Q**     Did you, in fact, in this particular case, take  
22 position of some property?

23           **A**     I did.

24           **Q**     And where did you take possession of that  
25 property?

1           **A**     First, I took Officer Cobb's gun. That was  
2 actually occurred at Berkeley Pointe in the command  
3 center. I took possession of her firearm, a magazine and  
4 ammunition that was in her, uh, gun at the time. I  
5 collected it.

6           **Q**     Detective Flavell, why is it necessary for you  
7 to do that?

8           **A**     Just -- that gun was used, was fired. And  
9 until we get ballistics testing and something done on  
10 that particular firearms, we have to have the firearms  
11 actually complete the ballistics testing.

12          **Q**     So the process you described to the jury  
13 earlier about Property and Evidence, you took that  
14 firearm?

15          **A**     I did.

16          **Q**     And seized it. Did you put it into Property  
17 and Evidence?

18          **A**     I did.

19          **Q**     I'm going to show you several items, State's  
20 98, 35, 99, 100, 37, 38, 39, 40 and 41. If you would,  
21 take a look at those please, sir.

22          **A**     (Reviewing.)

23          **Q**     Do you recognize the items depicted in these  
24 photographs?

25          **A**     I do.

1           **Q**     And do they fairly and accurately show how you  
2 and Sergeant Shaw found those items on October 28th,  
3 2011?

4           **A**     Yes, I do.

5           **MR. MARCHANT:**     The State would move, uh, --  
6 the State would move 41, 40, 39, 38, 37, 100, 99, 35  
7 and 98 into evidence.

8           **THE COURT:**     Any objection?

9           **MR. JOHNSON:**     No objection, Your Honor.

10          **THE COURT:**     All right. They will be so  
11 admitted.

12          **(WHEREUPON, State's Exhibits 35, 37, 38, 39, 40, 41,**  
13 **98, 99 and 100 are admitted into the record.)**

14 **BY MR. MARCHANT:**

15          **Q**     All right. Detective Flavell, if you would,  
16 with the pointer right there, we're going to walk through  
17 some of these pictures. I want you to explain the  
18 vantage point from where the photographs were taken and  
19 what you saw. I'm showing what's been marked as State's  
20 98. On State's 98, please describe for the jury what's  
21 being depicted here.

22          **A**     That's the rear of the 1300 building on the  
23 woodline.

24          **Q**     Showing you State's 35.

25          **A**     If you -- that's the rear bottom. This was

1 actually a split level. The parking lot level is up  
2 those steps. The back level is split level on the  
3 woodline. That's standing in the breezeway at the back  
4 of the building looking into the breezeway.

5 Q Now all of these yellow placards that you see,  
6 did you put those down?

7 A I did not.

8 Q Okay. Do you recall who did?

9 A Sergeant Shaw of Forensics.

10 Q Would you please describe for the jury what is  
11 shown up their next to the door in the middle right of  
12 that photograph?

13 A That was a, uh, like a duffle bag that was  
14 sitting -- there was actually two apartments on the  
15 bottom level. That was a storage closet. Sitting in  
16 that corner was a duffle bag with clothing kind of like  
17 it had been pulled out the top of the bag.

18 Q Showing you State's 100.

19 A That's just a close up, a closer photo of that  
20 pile of clothes.

21 Q State's 99.

22 A Same photograph, just a different angle.

23 Q Now, referencing back to State's 100. Uh, did  
24 you go into this bag of clothing?

25 A I did not.

1 Q Who did?

2 A Sergeant Shaw.

3 Q Were you present when he did?

4 A I was.

5 Q I'm going to show you what's in evidence as  
6 State's 37.

7 A That's after Sergeant Shaw started kind of  
8 going through that pile. He's removed clothes off the  
9 top. That's just the photograph depicting, once he moved  
10 those clothes, what was there, what was present at the  
11 time.

12 Q Do you recall whether Sergeant Shaw found a  
13 wallet in --

14 A He did.

15 Q Showing you State's 38.

16 A That's the wallet right there.

17 Q Sergeant Shaw subsequently pulled out  
18 information from that wallet?

19 A He did.

20 Q And you were present when he did that?

21 A Uh-huh.

22 Q I'm showing you State's 39.

23 A That's the Social Security card that was in the  
24 wallet.

25 Q State's 40.

1           **A**     It's a South Carolina Health Department card  
2 that was also in the wallet.

3           **Q**     State's 41.

4           **A**     That's a pawn ticket from, I think it's Easy  
5 Money Pawn in Spartanburg, that was also folded up in the  
6 wallet.

7           **Q**     With the information we just saw between the  
8 Social Security card and the health card or birth  
9 certificate, did you have a name at that time?

10          **A**     I did.

11          **Q**     And what was the name?

12          **A**     Patrick Dean Lowrance.

13          **Q**     With that information, did you compare that  
14 name to the hotel list that you received from the Comfort  
15 Inn manager earlier that day?

16          **A**     I did.

17          **Q**     Did you find that name on the list?

18          **A**     I found Dean Lowrance. It was registered 4/27.

19          **Q**     At that point in time, what did you do?

20          **A**     I returned to the Comfort Inn.

21          **Q**     What was the nature or purpose for you to go  
22 back to the Comfort Inn?

23          **A**     Just to get further information about that room  
24 and to see if anyone was in that room.

25          **Q**     Do you recall what time it was when you went

1 back to the Comfort Inn?

2       **A**     It's roughly 4:30ish, 4:20, 4:30 that  
3 afternoon.

4       **Q**     And spoke with the manager?

5       **A**     I did.

6       **Q**     And did you subsequently enter room 427?

7       **A**     I did.

8       **Q**     Would you please describe for the jury how you  
9 get to Room 427 from that lobby area.

10       **A**     The hallway -- I think it was talked about  
11 earlier. The hallway that leads down the breakfast area  
12 was to the right. There was a hallway that goes down the  
13 -- basically down the motel. Just past that breakfast  
14 area, if you turn right, there's an elevator. Went up  
15 the second floor. I'm sorry. Fourth floor. Went right  
16 off the elevator and then right down the hallway and the  
17 room was on the left.

18       **Q**     Detective Flavell, I'm going to ask you to step  
19 down. On State's 107, if you would, circle the area of  
20 the Comfort Inn roughly where that room is located.  
21 Which side of the building that room was located?

22       **A**     I don't know exactly how far down the motel I  
23 walked. The room was on this side of the building.

24       **Q**     Is there a -- are there other rooms -- excuse  
25 me, are there other rooms on this side of the building?

1           **A**     Yes, sir. Basically, it's a -- basically a  
2 center hallway with rooms on both sides.

3           **Q**     Okay. Thank you. Please have a seat.

4           **A**     (Witness complies.)

5           **Q**     All right. Detective, uh, -- Detective  
6 Flavell, I'm going to show you what's been marked as  
7 State's 60 -- I'm going to show you what's been marked as  
8 State's 66. Do you recognize the packaging on this  
9 envelope?

10          **A**     I do.

11          **Q**     And how is it that you recognize it?

12          **A**     It's -- for one, it's my handwriting on the  
13 front. And then it's sealed with evidence tape with the  
14 case number, the date and my initials.

15          **Q**     Okay. Once you took that information, where  
16 did it go?

17          **A**     Once I sealed this?

18          **Q**     Once it was sealed, where has it been stored  
19 and kept until court?

20          **A**     Property and Evidence.

21          **Q**     If you'd open that item.

22          **A**     (Witness complies.)

23          **Q**     Look at the contents that are inside State's  
24 66.

25          **A**     (Reviewing.)

1           **MR. MARCHANT:**     Move State's 66 into evidence.

2           **THE COURT:**     Any objection?

3           **MR. JOHNSON:**    No objection, Your Honor.

4           **THE COURT:**     All right.

5           **(WHEREUPON,** State's Exhibit 66 is admitted into the  
6 record.)

7 **BY MR. MARCHANT:**

8           **Q**     All right. Detective Flavell, please tell the  
9 jury what you found and where you found that information  
10 that's in evidence from State's 66.

11          **A**     This was items that once I entered Room 427 at  
12 the Comfort Inn, there were a couple of bags, like a  
13 duffle bag with clothing and a Jansport backpack. Inside  
14 that Jansport backpack were items that I collected. It's  
15 a South Carolina Driver's License of Patrick Dean  
16 Lowrance. Several Quality Inn room key cards to the  
17 Quality Inn. Another room key swipe card for, I'm not  
18 sure. It's a welcome guest card. It's generic, so I  
19 don't know which motel it goes to. Uh, there's actually  
20 a key card holder for Room 427 at the Comfort Inn.  
21 There's other paperwork. Handwritten phone numbers.  
22 This is a receipt, uh, for a motel in Spartanburg to  
23 Patrick Dean Lowrance. And this is another receipt for  
24 Quality Inn in Spartanburg under the name Evelyn Alvarez.

25          **Q**     Detective Flavell, where did you find those

1 items in State's 66?

2 A These items were in that Jansport backpack.

3 Q I'm showing you what's been marked as State's  
4 103. Do you recognize this?

5 A I do.

6 MR. MARCHANT: I move State's 103 into  
7 evidence.

8 THE COURT: Any objection?

9 MR. JOHNSON: No objection.

10 THE COURT: All right. It will be so  
11 admitted.

12 (WHEREUPON, State's Exhibit 103 is admitted into the  
13 record.)

14 BY MR. MARCHANT:

15 Q Is this the backpack which, uh, State's 103 is  
16 showing that the items in State's 66 came out of?

17 A It is.

18 Q Detective Flavell, did you also find some other  
19 personal effects in the room?

20 A I did.

21 Q You recall where you found them and how they  
22 were -- how they were stored when you located them?

23 A There was a black duffle bag of clothing.

24 Q Show you what's marked as State's 104. Do you  
25 recognize this?

1           **A**     I do.

2           **Q**     It seems to be some red evidence tape on it.

3 Did you seal this?

4           **A**     I did.

5           **Q**     Has it been down to P&E since you sealed it?

6           **A**     Yes.

7           **MR. MARCHANT:**     Move State's 104 into

8 evidence.

9           **THE COURT:**     Any objection?

10          **MR. JOHNSON:**     Your Honor, may I approach on  
11 this?

12          **THE COURT:**     Yes.

13          **(WHEREUPON, a bench conference is held off the**  
14 **record.)**

15          **THE COURT:**     Ladies and Gentlemen, we've  
16 probably come to a good point for our morning break.  
17 Please don't discuss this case with anyone. I do  
18 not mind if you go out and smoke. Just remember  
19 that you do have to be with the bailiff at all times  
20 when you do that. Thank you.

21                 We'll probably break about 10, 15 minutes if we  
22 need to to get all the smokers back in.

23          **THE BAILIFF:**     Okay.

24          **(WHEREUPON, the jury exits at approximately**  
25 **10:31 a.m.)**

1           **THE COURT:**     We'll be in recess for 10  
2 minutes.

3           **(WHEREUPON, a short recess is taken.)**

4           **THE COURT:**     All right. We ready to bring the  
5 jury back in?

6           **MR. JOHNSON:**    I think I'm good with the bag,  
7 yes.

8           **THE COURT:**     Okay. All right.

9           **(WHEREUPON, the jury enters at approximately**  
10 10:53 a.m.)

11 **BY MR. MARCHANT:**

12           **Q**     Let's get back on track, Detective Flavell. We  
13 were talking about State's number 104. Where did you  
14 locate this item?

15           **A**     It was in the Room 427.

16           **Q**     Did you take possession of it?

17           **A**     I did.

18           **Q**     Where did you take it once you took possession  
19 of it?

20           **A**     Back to the LEC.

21           **Q**     Do you recall what items, if any, you took out  
22 of 104?

23           **A**     I do.

24           **Q**     Are they packaged and stored in a separate  
25 container that's not here at the moment?

1           **A**     Yes.

2           **MR. MARCHANT:**     104, we'd move that into  
3           evidence.

4           **MR. JOHNSON:**     No objection.

5           **THE COURT:**     Okay then. It will be so  
6           admitted.

7           **(WHEREUPON, State's Exhibit 104 is admitted into the**  
8           **record.)**

9           **BY MR. MARCHANT:**

10          **Q**     Detective Flavell, I'm not going to go through  
11          this at this time. But roughly, what's inside that  
12          duffle bag?

13          **A**     Clothing. Mostly clothing.

14          **Q**     At the motel roughly 4:30, go to the room,  
15          collect this evidence that we talked about and given to  
16          the jury, what'd you do after that?

17          **A**     I returned at that point to the Law Enforcement  
18          Center to the Detective division.

19          **Q**     What was the purpose of you going back to the  
20          Detective division?

21          **A**     To transport all this property back and to meet  
22          with Detective Garrison.

23          **Q**     Now, let's go back and talk about yourself and  
24          Detective Garrison at the Perrigo Plant. Did you stay  
25          with Detective Garrison the whole time in between the

1 Perrigo Plant and the time that you just described going  
2 back to the Law Enforcement Center?

3 A No, I did not.

4 Q And why would y'all separate?

5 A After I returned, he went to the motel with me  
6 originally to get the printout of the tenant list. Once  
7 we returned to the apartment complex, I then started kind  
8 of following it through the role of the crime scene and  
9 Detective Garrison went back to the Law Enforcement  
10 Center.

11 Q Do you know, uh, why Detective Garrison went  
12 back to the Law Enforcement Center?

13 A I do.

14 Q And what was the nature or direction provided  
15 to him to go back to the Law Enforcement Center?

16 A He was going back to start working with the  
17 cell phone companies, obtained search warrants and  
18 obtained orders to start pinging cell phones.

19 Q You say ping cell phones. Please describe to  
20 the jury what you mean by pinging.

21 A When we have a cell phone that we know that --  
22 if you are carrying a cell phone and we're looking for  
23 you, we contact the cell phone company. We request a  
24 ping, which requires a search warrant. Unless it's an  
25 exigent circumstance, like a missing person or a missing

1 child, they'll do it for us on basically our signature,  
2 but we have to follow up with a search warrant. That  
3 phone company then sets up a system through their network  
4 that pings, sends a signal to your phone that comes back  
5 to them and tells them basically longitude and latitude  
6 or gray coordinates of where that phone is located within  
7 -- between towers. And they set it up to where I get  
8 that ping on my email or my cell phone.

9 Q To be clear, Detective Garrison is the one who  
10 is conducting this part of the investigation?

11 A He did. Correct.

12 Q Were you in communication with Detective  
13 Garrison throughout the course of the day?

14 A I was.

15 Q You also in communication with Detective  
16 Conroy?

17 A Yes.

18 Q Now, following your returning back to the Law  
19 Enforcement Center and putting this stuff back in  
20 Property and Evidence, what was your next course of  
21 action?

22 A I met with Greenville County Sheriff's Office  
23 at Home Depot on 291.

24 Q Approximately -- let me show you what's been  
25 marked and put into evidence. (Pause.)

1           That's State's 67. I'd ask you to step down.

2           **A**     (Witness complies.)

3           **Q**     If you would for me, Detective Flavell, if you  
4 would initial where the Home Depot is on this map and  
5 place your initials on that.

6           **A**     (Drawing.)

7           **Q**     You indicate that you gathered -- you can take  
8 the stand.

9           **A**     (Witness complies.)

10          **Q**     You indicated that you gathered with the  
11 Sheriff's Office. Why were you now, uh, communicating or  
12 coordinating with the sheriff's office?

13          **A**     We had information on a possible location where  
14 Patrick Lowrance was. We were meeting because it was  
15 outside of our jurisdiction, outside the city limits. I  
16 don't have jurisdiction in the county. This location was  
17 actually in the county. So the sheriff's office was  
18 assisting us.

19          **Q**     What was the location that you had, uh, been  
20 provided that the defendant was at?

21          **A**     105 Mooremont Avenue.

22          **Q**     And with the sheriff's office, do you recall  
23 approximately -- you are at the motel, the Comfort Inn  
24 motel at 4:30. You'd gone back to the Law Enforcement  
25 Center, is that right?

1           **A**     Yes.

2           **Q**     From the Law Enforcement Center, you leave and  
3 go directly to the Home Depot?

4           **A**     Yes.

5           **Q**     You recall roughly how long you stayed at the  
6 Law Enforcement Center before going to the Home Depot?

7           **A**     I'm going to say roughly 6:30, 6:45, we started  
8 getting this information. I was probably at the Home  
9 Depot, I'm going to say, uh, 7:00.

10          **Q**     You recall roughly how long you stayed at the  
11 Home Depot before y'all made your way over to 105  
12 Mooremont?

13          **A**     Probably 30 to 45 minutes.

14          **Q**     Now, the locations that you discussed going to,  
15 the Comfort Inn, Berkeley Pointe Apartments and then  
16 Mooremont Avenue, are all those within Greenville county?

17          **A**     Yes.

18          **Q**     You go with the Sheriff's Office to 105  
19 Mooremont?

20          **A**     I did.

21          **Q**     And once you got to 105 Mooremont, please  
22 explain to the jury what occurred.

23          **A**     Basically, at that point, uh, -- we stayed at  
24 Home Depot for a while trying to figure out the game plan  
25 on how we are going to do this, what we're going to do.

1 Once the Sheriff's Office Vice and Narcotics team was  
2 assisting us, their commander or lieutenant made a  
3 decision that we're just going to go call them out of the  
4 house. We went to 105 Mooremont. Sheriff's Office  
5 personnel basically surrounded the house. They had  
6 uniform deputies and, of course, their K-9 deputies were  
7 there to assist. They started calling him out on the PA  
8 system.

9 Q Who was the first person that came out of the  
10 residence?

11 A It was a female and I believe it was the  
12 resident or the occupant of the house, William Brockman.

13 Q I'm sorry. Is Mr. Brockman male or female?

14 A Male. There was a female with him.

15 Q Mr. Brockman and the female came out of the  
16 residence?

17 A Yes.

18 Q Were you able to identify who the female was?

19 A Later, she was identified as Patrick Lowrance's  
20 wife.

21 Q Do you recall her name?

22 A I do not.

23 Q Did anyone else come out of the residence?

24 A Yes.

25 Q You got those two folks who had come out. Who

1 else came out of the residence?

2       **A**   Patrick Lowrance.

3       **Q**   And did you detain him at that point in time?

4       **A**   I did not.

5       **Q**   Why not?

6       **A**   Sheriff's Office personnel did that.

7       **Q**   Were you able to observe him?

8       **A**   Yes.

9       **Q**   Once the Sheriff detained him, where did he go?

10      **A**   Into a Greenville County EMS ambulance.

11      **Q**   Why did he get into an EMS ambulance?

12      **A**   He was suffering from a gunshot wound.

13      **Q**   Do you recall at what point in time  
14 specifically at that time in the evening when the  
15 defendant was called out of the house?

16      **A**   Time-wise?

17      **Q**   Time-wise. What time in the evening is it?

18      **A**   I'm going to say 8:00. Not specifically. I'm  
19 going to say around 8:30, 8:45 p.m.

20      **Q**   Now, I'm going to show you what's already been  
21 put into evidence as State's 46, 45, and 44. Did you  
22 subsequently go into the residence?

23      **A**   I did.

24      **Q**   With respect to State's 45, 44 and 46, starting  
25 with, uh, -- I'm going to show you State's 44, 45 and 46

1 and see if you recognize those.

2 **A** I do.

3 **Q** And they fairly and accurately depict what you  
4 found that evening around 8:30?

5 **A** Yes, I do.

6 **MR. MARCHANT:** The State would move 44, 45,  
7 and 46 into evidence.

8 **THE COURT:** Any objection?

9 **MR. JOHNSON:** No objection.

10 **THE COURT:** All right. They will be so  
11 admitted.

12 **(WHEREUPON, State's Exhibits 44 thru 46 are admitted**  
13 **into the record.)**

14 **BY MR. MARCHANT:**

15 **Q** All right. Detective Flavell, I'm showing you  
16 what's been marked as State's 44. What does this picture  
17 show?

18 **A** That's the back of -- what I would label as the  
19 back right bedroom at 105 Mooremont Avenue.

20 **Q** And what does this picture show?

21 **A** When we entered that room, we flipped the  
22 mattress. That was a Cobra 8 M-11 9-millimeter handgun  
23 that was under the bed. This right here was a black or  
24 dark colored like a hooded sweatshirt with suspected  
25 blood all over it and a pair of tennis shoes.

1           **Q**     Showing you State's 45.

2           **A**     That's a close up of the firearm.

3           **Q**     State's 46.

4           **A**     That's just a close up of the hooded  
5 sweatshirt.

6           **Q**     Detective Flavell, I'm showing you what's been  
7 marked as State's 53 and ask and see if you recognize  
8 this item.

9           **A**     I do.

10          **Q**     And how is it that you recognize it?

11          **A**     That's the Cobra 8 9-millimeter pistol that we  
12 collected from 105 Mooremont.

13          **Q**     Did you collect it or did Forensics?

14          **A**     No, we called Forensics. Forensics collected  
15 that item.

16          **Q**     Now, it's laying right there in between the  
17 mattresses when you got there. Why didn't you pick it up  
18 and collect it?

19          **A**     As I advised earlier, Forensics -- number one,  
20 Forensics was already very involved in this  
21 investigation. Evidence like this that could potentially  
22 obtain fingerprints, DNA, whatever forensic testing, it's  
23 just better to let them collect it, package it, handle it  
24 so it's not contaminated. Also, it cuts down on chain of  
25 custody of how many people actually touched that piece of

1 evidence.

2           **Q**     The condition that it's in today, it's in the  
3 same condition that it was then?

4           **A**     Yes, other than the lock and all that's been  
5 placed on it.

6           **MR. MARCHANT:**     Move 53 into evidence.

7           **THE COURT:**     Any objection?

8           **MR. JOHNSON:**     No objection.

9           **THE COURT:**     It will be so admitted.

10           **(WHEREUPON, State's Exhibit 53 is admitted into the**  
11 **record.)**

12 **BY MR. MARCHANT:**

13           **Q**     Detective Flavell, if you would be so kind to  
14 pull 53 out of the box. And please do not point it at  
15 anybody. Show the jury what we have.

16           **A**     Basically, a Cobra 8 make, M-11 9-millimeter  
17 pistol with a, uh, extended magazine. I'm not sure how  
18 many rounds. Probably 30. Probably a 30 round magazine.

19           **THE COURT:**     Let me just reiterate to the  
20 jury. This gun has a gun lock on it.

21           **THE WITNESS:**     Yes.

22           **THE COURT:**     And it also has the magazine  
23 removed from it. So there is no danger from this  
24 gun whatsoever. All right.

25           Yes, sir.

1 **BY MR. MARCHANT:**

2 Q Put it back please.

3 A (Witness complies.)

4 Q Now, when the defendant was carried out of the  
5 house and you found this weapon, was he still on the  
6 scene?. Do you recall?

7 A No. I believe he had already been transported  
8 to the hospital.

9 Q You know that you were investigating a  
10 shooting.

11 A Yes.

12 Q At roughly 8:30, you had the defendant in  
13 custody?

14 A Yes.

15 Q Did you conduct or ask to have conducted  
16 gunshot residue tests on the defendant's hands?

17 A I did not.

18 Q Why not?

19 A The amount of time that had passed, uh, SLED  
20 will not except any test of gunshot residue that is  
21 collected after six hours at the time of the actually  
22 shooting. Due to the nature of the test, it's basically  
23 useless to do a test that way.

24 Q You recall what time the shooting occurred that  
25 morning?

1           **A**     Roughly 9:30, 9:45.

2           **Q**     And it's what time at night now?

3           **A**     12 hours later.

4           **Q**     Does -- Ms. Fryar..

5           **THE BAILIFF:**     Sims.

6           **MR. MARCHANT:**     Sims. I did the same thing  
7           Judge Verdin did to you. Sorry.

8           **THE COURT:**     You don't have to bring it up.

9           **BY MR. MARCHANT:**

10          **Q**     Uh, Detective Flavell, you mentioned that SLED  
11          does the testing on the residue.

12          **A**     Yes.

13          **Q**     Does Greenville County also conduct that test?

14          **A**     We do not.

15          **Q**     After the house has been cleared, the  
16          defendant's gone from the scene, did you have an  
17          opportunity to talk with a William Brockman?

18          **A**     I did.

19          **Q**     And is he the homeowner or does he reside in  
20          that residence at 105 Mooremont?

21          **A**     Yes, he does.

22          **Q**     Okay. And did you have an opportunity to take  
23          a written statement from him?

24          **A**     I did.

25          **Q**     All right. I'm showing you what's been just

1 marked as State's 102. I'm going to ask you to take a  
2 look at that and see if you identify and recognize that  
3 statement.

4 **A** I do.

5 **Q** And when you take a statement from someone who  
6 is not a suspect in the case, how is it that you go about  
7 taking that statement and dictating to them?

8 **A** Basically, in this particular case, uh, Mr.  
9 Brockman identified himself as the resident of 105  
10 Mooremont Avenue. He actually stated that his -- it was  
11 his grandmother's house. She recently passed away and  
12 he'd been living there ever since.

13 **Q** Detective Flavell, let's not get into what Mr.  
14 Brockman said.

15 **A** Okay.

16 **Q** But how is it that you go about actually taking  
17 down a written statement from somebody. Just tell me  
18 typically what is the normal course of procedure.

19 **A** I sat down at his kitchen table and asked him  
20 to tell me what he knew about the Patrick Lowrance and  
21 what happened today. As he was telling me, I was writing  
22 it down.

23 **Q** Are you writing word-for-word what he's saying?

24 **A** Probably not word-for-word. I'm trying to keep  
25 up with what he's saying. But I'm getting what his story

1 is on paper.

2 Q And once, uh, you take down the statement, do  
3 you give him the opportunity to review it?

4 A I do. Either -- depending on the person, I  
5 either read the statement back to that person or have  
6 them read it. If they agree with what the statement  
7 says, I ask them to sign it.

8 Q Did you have that talk with Mr. Brockman this  
9 day?

10 A I did.

11 Q And did he have the opportunity to read?

12 A He did.

13 Q How many pages is that statement?

14 A It's two -- two pages and not even a paragraph.

15 Q Did he make any corrections to what you wrote  
16 down?

17 A He did not.

18 Q How is it indicated on each one of those pages  
19 that he acknowledged that that information in there is  
20 true and correct?

21 A With his signature.

22 Q All right. Detective Flavell, I'm going to  
23 jump back on you here for a minute and move back to, uh,  
24 State's 104, which is the black duffle bag.

25 (WHEREUPON, State's Exhibit 112 is marked for

1 identification purposes.)

2 **BY MR. MARCHANT:**

3 **Q** If you would, take a look at State's 112 and  
4 see if you recognize those items.

5 **A** I do.

6 **Q** How is it that you recognize 112?

7 **A** Same as before. It has my handwriting, the  
8 evidence tape on the back is sealed with the date and my  
9 initials.

10 **Q** All right. Detective Flavell, I would ask that  
11 you open State's 112 and see if you recognize the  
12 contents therein.

13 **A** (Witness complies.)

14 I do.

15 **MR. MARCHANT:** Move, uh, State's 112 into  
16 evidence.

17 **THE COURT:** Any objection?

18 **MR. JOHNSON:** Your Honor, I just want to see.  
19 (Pause.)

20 **MR. MARCHANT:** State's 112 into evidence,  
21 Your Honor.

22 **THE COURT:** Any objection?

23 **MR. JOHNSON:** No objection.

24 **THE COURT:** All right. It is so admitted.

25 **(WHEREUPON, State's Exhibit 112 is admitted into the**

1 record.)

2 **BY MR. MARCHANT:**

3       **Q**     Detective Flavell, you don't have to go through  
4 all of those CDs. But please describe for the jury the  
5 items that you pulled out of the black duffle bag from  
6 the Comfort Inn, which is State's 104.

7       **A**     Just items that I pulled out of that back that  
8 I packaged separately was miscellaneous DVDs, CDs, like  
9 homemade, store bought, uh, published. And a patient  
10 information sheet from Lewis Blackmon hospital --  
11 Greenville Hospital System for Patrick Dean Lowrance.

12               **MR. MARCHANT:**     Court's indulgence?

13               **THE COURT:**        Yes.

14               (WHEREUPON, there is a pause.)

15               **MR. MARCHANT:**     Thank you, Detective Flavell.  
16 Please answer any questions Mr. Johnson may have.

17               **THE COURT:**        Mr. Johnson.

18               **MR. JOHNSON:**     Thank you, Your Honor.

19                               **CROSS-EXAMINATION**

20 **BY MR. JOHNSON:**

21       **Q**     Detective Flavell, I kind of what to start -- I  
22 guess we'll back up a little bit. First of all, when you  
23 encountered my client at that home ---

24       **A**     Yes.

25       **Q**     --- when the home was surrounded, when my

1           **A**     No.

2           **Q**     Is that a possibility? I'm saying is that a  
3 possibility?

4           **A**     Possibility, yes.

5           **MR. JOHNSON:**     Okay. One second please, Your  
6 Honor.

7           **THE COURT:**     Yes.

8           **(WHEREUPON, there is a pause.)**

9 **BY MR. JOHNSON:**

10          **Q**     That stuff, the key card and the driver's  
11 license, all that stuff, that was found at the hotel?

12          **A**     Yes.

13          **Q**     As far as you know, that driver's license, is  
14 it valid? Would it have been valid at the time?

15          **A**     I didn't run it. I'm not sure if it's a valid  
16 license or not.

17          **Q**     Okay. Would it -- excuse me -- when does it  
18 expire?

19          **A**     December 11, 2018.

20          **MR. JOHNSON:**     Okay. I have nothing further  
21 for this witness at this time.

22          **THE COURT:**     Anything else from the State?

23          **MR. MARCHANT:**     Briefly, Your Honor.

24                                   **REDIRECT EXAMINATION**

25 **BY MR. MARCHANT:**

1           **Q**     Detective Flavell, with respect to those two  
2 pieces of paper, where are those receipts, where did they  
3 come from or at least on that information, where is the  
4 hotel located?

5           **A**     One of them is that on the receipt it says USA  
6 Economy Lodge, 7136 Asheville Highway, Spartanburg, South  
7 Carolina with Patrick D. Lowrance being the guest. For  
8 the Quality -- there's one for Quality Inn at 160 -- I'm  
9 not sure -- Simule, S-I-M-U-L-E, Road, Spartanburg, South  
10 Carolina with a guest being an Evelyn Alvarez.

11          **Q**     Detective Flavell, with respect to the Economy  
12 Lodge receipt, what is the date of the transaction on  
13 that receipt?

14          **A**     The, uh, arrival is Wednesday, September 28th,  
15 2011.

16          **Q**     9/28/2011. All right. With respect to the  
17 Quality Inn?

18          **A**     September 25th, 2011.

19          **Q**     The last question I have is Mr. Johnson was  
20 talking about his client being called out of the house  
21 and being cooperative. Did his client just come out  
22 voluntarily or did he have to be called out?

23          **A**     No, he was called out.

24          **Q**     Thank you. I have no further questions.

25                **THE COURT:**     Anything else?

1           **MR. JOHNSON:**     Briefly.

2           **THE COURT:**     Yes, sir.

3                           **RECROSS-EXAMINATION**

4 **BY MR. JOHNSON:**

5           **Q**     So basically you called out to him to let him  
6 know you were out there?

7           **A**     Yes.

8           **Q**     All right.  Nothing further.

9           **THE COURT:**     Anything else, Mr. Marchant?

10          **MR. MARCHANT:**    No, Your Honor.

11          **THE COURT:**     Sir, you can step down.

12          **MR. MARCHANT:**    The State calls Dar Shaw.

13          **THE CLERK:**     Sergeant Shaw, come forward to be  
14 sworn in please.

15                           **DARWIN SHAW**

16          having first been sworn, testifies as follows:

17          **THE CLERK:**     Thank you.  You may be seated.

18          Would you please state your name for the record.

19          **THE WITNESS:**    Darwin Shaw, S-H-A-W.

20          **THE CLERK:**     Thank you.

21                           **DIRECT EXAMINATION**

22 **BY MR. MARCHANT:**

23           **Q**     Good morning, Sergeant Shaw.  Where are you  
24 employed?

25           **A**     The Forensic Division in Greenville County.

1           **Q**     What exactly is the Forensic Division?

2           **A**     We assist agencies with crime scene processing,  
3 which includes fingerprints, photographs, collection of  
4 evidence and preparing reports for court purposes.

5           **Q**     Why is it that, uh, whatever law enforcement  
6 agency is working the case, why is it that they can't do  
7 that themselves?

8           **A**     It was, uh, several years ago. There was an  
9 agreement made between the Police Department and the  
10 county that an independent agency would be the ones to  
11 actually process the crime scenes for each agency. It's  
12 progressed on to the Department of Public Safety where  
13 our department, we process scenes for not only the city  
14 and the county, but all the municipalities, federal,  
15 state, uh, for any agency that request.

16          **Q**     How long have you been working with the  
17 Department of Public Safety here in Greenville county?

18          **A**     Uh, 14 years.

19          **Q**     Have you other law enforcement experience prior  
20 to that?

21          **A**     I do. 21 years with another police department,  
22 seven years as a road officer and 14 years as an  
23 investigator.

24          **Q**     On October the 28th of 2011, were you working  
25 in the capacity then as you described to the jury today?

1           **A**     Yes, I was.

2           **Q**     And did you have the occasion to respond to the  
3 Berkeley Pointe Apartments on Wenwood Road in Greenville  
4 county?

5           **A**     I did.

6           **Q**     And why did you do that?

7           **A**     I was requested by the, uh, by City Dispatch  
8 advising an officer-involved shooting in which a subject  
9 had been struck. And I responded at the request of the  
10 Police Department to assist in processing that scene.

11          **Q**     Do you recall what time you left? Where is  
12 your office?

13          **A**     We are actually located on the Greenville Tech  
14 campus.

15          **Q**     Is that on Pleasantburg and Cleveland Street,  
16 Faris?

17          **A**     That's correct. Yes.

18          **Q**     Now, you left the office approximately what  
19 time?

20          **A**     Received the call at about 11:50, which is 10  
21 minutes to 12:00. By the time I contacted Sergeant  
22 Lendway, he and I both responded. I think we left at  
23 about five minutes til. I believe we responded or got to  
24 the apartments at somewhere around five after 12:00 in  
25 the afternoon.

1           **Q**     And what sort of vehicle do you drive?

2           **A**     We have a -- it's an unmarked vehicle. It does  
3 have FORENSICS on the side but it's a Trailblazer.

4           **Q**     And what sort of items or equipment do you  
5 carry with you in order to perform your duties when you  
6 arrive at a crime scene?

7           **A**     Each technician has their own fingerprint kit.  
8 We have our own cameras. We have a major kit which  
9 includes paper bags, plastic bags, phenylalanine for  
10 testing for suspected blood. Anything that we need to  
11 work a scene that is readily available, uh, like a metal  
12 detector and so on, those we leave at the office. We  
13 have to pick those up. But we each have our own personal  
14 kit.

15          **Q**     All right. Did you have the need to carry any  
16 of that additional stuff with you on this day?

17          **A**     I did not have anything other than what I took.

18          **Q**     You and Sergeant Lendway drive together?

19          **A**     We did.

20          **Q**     And when you arrived, do you recall where you  
21 parked?

22          **A**     The area was taped off with security tape. An  
23 officer there lifted the tape up. We actually pulled  
24 inside of the taped area.

25          **Q**     All right. Sergeant Shaw, I'm going to ask you

1 to take a look at State's Exhibit 92, 91, 43, 42, 36, 34,  
2 33, 32, 31, 30, 29, 28, 27, 26, 25, 24, 23, 22, 21, 20,  
3 19, 18, 17, 16, 15, 14, 13, 12 and 11.

4 **A** (Reviewing.)

5 Yes, sir.

6 **Q** Those photographs fairly and accurately depict  
7 the conditions of the items contained therein?

8 **A** Yes, they are.

9 **MR. MARCHANT:** Your Honor, we move these  
10 exhibits into evidence.

11 **THE COURT:** Any objection?

12 **MR. JOHNSON:** No objection.

13 **THE COURT:** All right then. So admitted.

14 **(WHEREUPON, State's Exhibits 11 thru 34, 36, 42, 43,**  
15 **91 and 92 are admitted into the record.)**

16 **MR. MARCHANT:** Your Honor, if it pleases the  
17 Court, I realize it's going to take a minute, but I  
18 need for the record to identify the ones that are in  
19 evidence.

20 **THE COURT:** Okay.

21 **MR. MARCHANT:** State's 91, 92, 43, 42, 36,  
22 34, 33, 32, 31, 30, 29, 28, 27, 26, 25, 24, 23, 22,  
23 21, 20, 19, 18, 17, 16, 15, 14, 13, 12 and 11.

24 Thank you, Your Honor.

25 **THE COURT:** Thank you.

1 **BY MR. MARCHANT:**

2 **Q** First, you get to the scene. You are lead  
3 inside the evidence tape. Please explain to the jury  
4 what are some of the first things you did to begin  
5 processing the scene that you have.

6 **A** The first thing that we do is notify, we  
7 contact the detective or who is working the scene. We  
8 ask them to give us a rundown or scenario of what they  
9 had, information they found. With that then, walked  
10 through the scene with the officer making observations as  
11 to typical evidence or evidence that I believe will  
12 probably be located and collected related to the issue.

13 **Q** The detective that you spoke of, is that  
14 Detective Conroy and Detective Flavell?

15 **A** Yes, it was.

16 **Q** Now, we're going to -- I'm going to walk you  
17 through a series of photographs. If you would, identify  
18 for the jury what we're looking at and the significance  
19 of each photograph. (Pause.)

20 All right. Sergeant, I'm showing you some that  
21 are already in evidence. If you would, uh, describe for  
22 the jury what's depicted in State's 6 and essentially why  
23 you did what you did in this photograph.

24 **A** This is a photograph that was taken from the  
25 front of the parking lot at the front of the building.

1           **Q**     Sergeant, let me stop you real quick. If you  
2 would, use the laser pointer to describe to the jury the  
3 particular items there. Please continue.

4           **A**     Once the, uh, -- once I identified what  
5 potential evidence was there, placards were put down.  
6 They are numbered to -- these items were marked not in  
7 sequential order. We didn't know which order they were  
8 fired. This is a photograph showing from the front of  
9 the parking lot out towards the woods, which is in the  
10 back. You got a stairwell that's up to the second floor  
11 or the third floor. This is the main, uh, the main  
12 floor. There is a stairwell here that leads down onto  
13 the ground level.

14          **Q**     Sergeant, I'll show you State's 10. To be  
15 clear, do you take pictures of the scene before and after  
16 you put the placards down?

17          **A**     That's correct.

18          **Q**     I'm showing you State's 10.

19          **A**     This is a photograph showing the stairwell  
20 going downstairs -- from the top going down to the ground  
21 level.

22          **Q**     State's 8.

23          **A**     That is the same photograph but it's once the  
24 placards were put in place.

25          **Q**     State's 9.

1           **A**     We have a, uh, -- there's a piece of evidence  
2 labeled 18. There's also a hole that's in front of the  
3 step, which would be on the second step, which was made  
4 from a projectile which was later found under the  
5 stairwell behind where that impact area was at.

6           **Q**     State's 7.

7           **A**     This again is the -- it's at the back of the  
8 main level. There's the woods back in the back. These  
9 are placards that were put down next to shell casings  
10 that were recovered.

11          **Q**     Moving to State's 14.

12          **A**     This again is the beginning of the stairwell  
13 going down to the ground level. There are pieces of tape  
14 that are put on here showing an impact area where an  
15 impact or projectile came through this door frame,  
16 ricocheted off of the door and impacted into the right  
17 side of the door frame.

18          **Q**     State's 13.

19          **A**     That is just another photograph at a different  
20 angle showing that a rod had been put through the side of  
21 the frame showing the direction in which the projectile  
22 went, impacted the door and then again --

23          **Q**     State's 15.

24          **A**     I guess a closer photograph showing the impact  
25 area on the door where it ricocheted off and then

1 impacted in the door frame.

2 Q State's 17.

3 A Again, it's a closer photograph again showing  
4 the directionality from left to right from low to high.

5 Q State's 16.

6 A This is another impact area on the side wall  
7 showing the direction in which the projectile went. It  
8 went from low to high, left to right.

9 Q State's 20.

10 A This is the, uh, main level. These are the  
11 stairs going down to the ground level. These are showing  
12 areas on the spindles on the railing that had been struck  
13 by projectiles.

14 Q 21.

15 A It's another photograph basically showing the  
16 same thing, showing directionality where this projectile  
17 struck. It went from high to low from the main floor  
18 down to the ground level. This is also an impact area in  
19 the railing at the spindles.

20 Q State's 22.

21 A It's not marked. This is an exit hole. This  
22 is taken from the stairwell leading from the ground level  
23 up to the main level. There's an impact on the side wall  
24 here where a projectile struck and actually went into the  
25 wall. This is an exit where --

1           **Q**     State's 23.

2           **A**     Excuse me. This is a showing the wood is  
3 splintered. And it's going -- it's coming out. It was  
4 later determined that the entrance was on the top of the,  
5 uh, of this two by six.

6           **Q**     State's 27.

7           **A**     Again, we're looking at the same incident. We  
8 have an impact on the side wall which the, uh, -- this is  
9 a main floor up here that the photograph was taken from  
10 the stairwell itself. This again is showing the exit  
11 where a projectile came out that two by six.

12          **Q**     State's 28.

13          **A**     This is also a closer photograph showing this  
14 is on that side wall again taken from the stairwell going  
15 upstairs. Also, it's showing an area of a lead swipe  
16 which is the -- it's where the projectile impacts first.  
17 As you can see, it entered and went into the wood and was  
18 not retrieved.

19          **Q**     State's 29.

20          **A**     This is the photo, two photos. One is an  
21 impact on the spindles where the projectile struck from  
22 high to low. This is the stairwell going downstairs.  
23 This is the impact area where the projectile entered the  
24 wood. This little piece here is that splintered piece of  
25 wood that was projected out.

1           **Q**     State's 42.

2           **A**     Again, this is a photograph taken from the  
3 basement level up to the main level. This is going out  
4 into the front of the parking lot. Again, it's showing  
5 an impact to the face of the second step as well as the  
6 fourth step.

7           **Q**     State's 43.

8           **A**     This is a staircase going -- leading  
9 downstairs. It was taken from the top showing there was  
10 an impact area on the sidewall going from top down  
11 towards the bottom.

12          **Q**     State's 30.

13          **A**     The parking lot is out in the front. This is  
14 the hallway that goes down and the stairwell is off to  
15 your left. There was an impact area where a projectile  
16 went into this wall and was not recovered.

17          **Q**     State's 31 and State's 32.

18          **A**     Those are the same photographs, just a close up  
19 -- taken at a closer, uh, vantage point. Plus it showed  
20 the directionality in which that projectile entered the  
21 wall.

22          **Q**     State's 24.

23          **A**     In taking photographs, a lot of times, it's  
24 difficult to see the area that you're looking at. So we  
25 put tape, I put pieces of tape up to show the impact area

1 on the front or the face of the second step as well as  
2 the fourth step.

3 Q State's 25.

4 A This is a closeup of, I believe, one of the  
5 fourth step. This is one that impacted the face of the  
6 step but did not penetrate the metal. And the projectile  
7 probably recovered later.

8 Q State's 26.

9 A You can see there there is an entrance hole  
10 right here in the front of the step. That's on the  
11 second step.

12 Q State's 18.

13 A There were three impact areas on the top on the  
14 ceiling. This is the front of the apartment complex, the  
15 front of the building. There were three impacts where  
16 probably a projectile fragmented and was either struck by  
17 lead core or by a jacket.

18 Q State's 19.

19 A Again, these are photographs of the same areas.  
20 They were impacted. They did not penetrate. But it was  
21 insufficient. There was no evidence there, nothing  
22 collected or retrieved out of those marks.

23 Q I'm going to show you State's 35.

24 A These are the steps leading from the main floor  
25 down to the ground level floor. This is a photograph

1 taken from where the woods were at. They were taken in  
2 the direction of out towards the front of the apartment  
3 complex. Placards had already been put down next to the  
4 evidence.

5 Q And in State's 99, what is placard 35  
6 identifying?

7 A 35, there was a stack of clothes, there's a  
8 closet door right behind here. This is one of the  
9 apartments. In the corner was a stack of clothes that  
10 had -- it was like a bag that had contents. Also, there  
11 were jeans and tennis shoes in that stack.

12 Q I'm going to ask you to take a look at State's  
13 105 and see if you recognize the items collected.

14 A (Reviewing.)

15 I do.

16 MR. MARCHANT: Move State's 105 into  
17 evidence.

18 THE COURT: Any objection?

19 MR. JOHNSON: No objection.

20 THE COURT: All right then.

21 (WHEREUPON, State's Exhibit 105 is admitted into the  
22 record.)

23 BY MR. MARCHANT:

24 Q All right. Serg, I'm not going to have you  
25 pull all this stuff out. This -- State's 105 are the

1 items that you collected at the bottom of the stairwell  
2 that are identified as your placard 35, is that correct?

3       **A**     That's correct.

4       **Q**     I'm going to move to, uh, State's 33.

5       **A**     This is a photograph -- the closet -- this is  
6 inside of the closet, the floor inside the closet. These  
7 are actually the stairs that lead up from the ground  
8 level up to the main floor. Higher up on the wall was --  
9 a projectile had penetrated the hole in the wall and was  
10 recovered on the floor just inside the door.

11       **Q**     State's 34.

12       **A**     That was identified as item 41. That is the  
13 projectile that had penetrated the wall and was found on  
14 the floor inside of the closet.

15       **Q**     I'm now showing you State's 11.

16       **A**     This vehicle was parked in front of building  
17 1300. It's hard to see but --

18       **Q**     I'm showing you State's 12.

19       **A**     This is an impact area that was found. It was  
20 a ricochet that was on the hood of this vehicle.

21       **Q**     Serg, you're throwing a lot of big words out  
22 here like projectile and ricochet and trajectory and  
23 shells. Can you go into a little detail with the jury  
24 what the difference between a shell is and what a  
25 projectile is.

1           **A**     If you have an unfired cartridge, people would  
2 call it a bullet. It's unfired. It's a cartridge. Once  
3 the weapon has been fired, the projectile comes out,  
4 comes out of the end. What's left over is the cartridge  
5 casing. When you have a projectile, a lot of times, it  
6 would strike a hard object. If it was jacketed, which  
7 means it has a copper jacket around the outside of this  
8 projectile. As you would see, it was in one of the prior  
9 photos, the projectile that was on the floor in the  
10 closet, that had a copper jacket on it, which means that  
11 it penetrated through the wall. But it was not -- it has  
12 a copper jacket on the outside. On the inside, that  
13 jacket can tear off. The jacket can tear off and there's  
14 lead on the inside of that. If that jacket fragments,  
15 there could be pieces of copper jacket. Then if it also  
16 strikes like a nail or some type of hard object, even  
17 pieces of lead can shave off and can be recovered.

18           **Q**     State's, uh, 35, there are a number of placards  
19 there. You described some of them. Some of them are  
20 shown in the other pictures, but there's a whole lot of  
21 placards on the bottom level here. What are they  
22 depicting?

23           **A**     39, of course, was the clothing. You can see  
24 like on the stairs coming down to the ground level, there  
25 are numbers there. There were copper jacket. There were

1 fragments. There were lead fragments. There were shell  
2 casings. There was like a phone charger. There was an  
3 area of suspected blood on the floor. I believe that  
4 was, uh, on 35.

5 Q I'm showing you State's 36, Serg. Is that what  
6 you are referring to?

7 A Yes. Placard 35, there are drops of blood on  
8 the floor.

9 Q Serg, going back to, uh, State's 35.

10 A Again, this is just a closer -- it's a closer  
11 photograph. Again, if you don't use placards, if you try  
12 to take a photograph without placards in place, you could  
13 not see a lot of these smaller objects that are either on  
14 the steps or on the ground. It shows also the proximity  
15 of these items to each other rather than being scattered  
16 from one end of the hall to the other. It shows that  
17 these are mainly found in the same area.

18 Q Serg, going back and talking about 18 very  
19 briefly, you talked about, uh, lead swipe and direction  
20 of travel. How is it that you are able to determine that  
21 in this photograph that those items were traveling in  
22 that direction?

23 A Looking at the impact area, it tore out a --  
24 tore out some of the paint in the wood. Again, that  
25 showed the direction. Also out on the sidewalk in front

1 of which would be in the same direction these arrows are  
2 going out in the front of the apartment building. Excuse  
3 me. There were fragments of projectiles, which would be  
4 copper jacket fragments and lead fragments out about on  
5 the sidewalk in front of the complex.

6 Q I'm going to show you State's 5.

7 A We have number 13 and 14, which were marked  
8 with placards. Those are fragments from projectile.  
9 This is the, uh, the breezeway going into the apartments.  
10 They are the woods back in behind as well as the stairs  
11 going down, leading down to the ground level. The impact  
12 area would have been up here on the ceiling where these  
13 lights are at. That's why these items were found out on  
14 the sidewalk.

15 Q Now, the directionality of the lead swipe and  
16 the arrows that are indicated in the other photos, does  
17 the same principle apply to those photographs as to the  
18 impact area of what we just discussed?

19 A They are. You're looking at -- at lot of  
20 times, there will be a V-pattern. It goes from narrow --  
21 excuse me -- narrow to wide. You also look at the wood  
22 to see which way the wood is splintered out. That will  
23 also show directionality. As well as you find where the  
24 projectile has actually penetrated the wood. When you  
25 recover it, you can tell in which direction the

1 projectile was traveling.

2 Q All right. Serg, did you collect a specimen  
3 sample which is depicted in State's 36 and identified in  
4 your placard 35?

5 A Yes, I did.

6 Q I'm showing you what's been marked as State's  
7 62 and ask if you recognize State's 62.

8 A I do.

9 MR. MARCHANT: I move State's 62 into  
10 evidence.

11 THE COURT: Any objection?

12 MR. JOHNSON: No objection.

13 THE COURT: It is so admitted.

14 (WHEREUPON, State's Exhibit 62 is admitted into the  
15 record.)

16 BY MR. MARCHANT:

17 Q Sergeant Shaw, please explain to the jury what  
18 is in State's 62.

19 A This is a blood swab kit that we use. It's a  
20 capsule. Inside of this capsule is a Q-tip. What we do  
21 is we feed the end of the Q-tip out of the -- out of the  
22 end of the capsule. Use distilled water. And then we,  
23 which I did a list and I took a swab, took a sample of  
24 the blood on the floor. Retracted the Q-tip back into  
25 the capsule. Closed the lid on it. Let it dry. Then it

1 was collected as a piece of evidence.

2 Q While you are collecting this particular piece  
3 of evidence as well as the other items that are marked,  
4 what safeguards and procedures do you go through to  
5 ensure that there's no contamination of the evidence?

6 A First, I make sure that this package -- these  
7 are sealed packages. I make sure the package is sealed.  
8 I open it, uh, open the seal to make sure that it hasn't  
9 been tampered with. I also wear gloves, latex gloves  
10 when performing the test to make sure that I don't  
11 accidentally rub against the Q-tip or transfer any  
12 contaminants onto the Q-tip.

13 Q You wear gloves just when you are collecting  
14 blood or the entire time that you're processing --  
15 processing the scene?

16 A Most of the time, we wear it all the time. It  
17 depends on the type of scene that we're working. If  
18 there's a possibility of there being contamination, then  
19 we'll wear gloves. Yes.

20 Q Serg, I'm going to show you, go back to State's  
21 number 5. Now, when you and Sergeant Lendway were out  
22 there, I guess what I want to know is was there a flash  
23 used when the pictures were being taken?

24 A I'm sorry.

25 Q Was there a flash on the camera that was being

1 used when the picture was taken?

2       **A**     On the interior, we would use a flash. On the  
3 exterior, you may not. The problem is on manual mode,  
4 when you get out into the sunlight, your camera may be on  
5 a lower setting. The aperture will close a little  
6 slower which lets more light in which can wash out that  
7 type of an area, not only on the front, on the sidewalk,  
8 anything that's white. Your camera need to be adjusted.  
9 We try not to use automatic mode. We try to use manual.  
10 So it's possible that the, uh, the flash may not have  
11 been on for that, but the setting on the camera may not  
12 have been correct.

13       **Q**     What about State's 35?

14       **A**     With that there and because of being inside and  
15 having limited lighting, a flash would have been used.

16       **Q**     State's 24.

17       **A**     Again, yes, the flash would have been used.  
18 You can see the reflection off of the front of the  
19 stairs. That was the level in which the flash impacted  
20 the front of the steps.

21       **Q**     Sergeant, I'm going to show you what's in  
22 evidence as, uh, -- excuse me. I'm going to show you  
23 what's been marked as 91 and 92 that's in evidence. I'm  
24 going to publish these for the jury. If you would,  
25 describe for the jury what this is, where it came from

1 and where the photograph was taken. This is with respect  
2 to State's 92.

3       **A**     This is a, uh, -- it's a sweatshirt. Item 39,  
4 which had the stack of clothes in the hallway down on the  
5 ground level, all those clothing items were collected.  
6 Before I put all the evidence into Property and Evidence,  
7 I went and inventoried all of the clothing. This  
8 sweatshirt was actually the top piece of clothing on that  
9 stack of clothes that was in the hallway. When I looked  
10 inside, of course, I always check the pockets and so on  
11 to see if there's any -- anything in there. When I  
12 opened up the jacket, I found what looked like an area of  
13 suspected blood or saturated blood on the inside of the  
14 sweatshirt.

15       **Q**     State's 91?

16       **A**     That is just another photograph. It is showing  
17 -- this is the same area that you just looked at where it  
18 was saturated. There's also another small area on this  
19 side of the sweatshirt. But from what I could tell, it  
20 appears that this part of the sweatshirt had closed over  
21 top and laid actually on top of this blood. It was  
22 transferred onto the other side.

23       **Q**     All right. Thank you, Serg. We're going to  
24 move just a little bit towards the collection of some  
25 evidence that you did that day. I'm going to show you

1 State's 59, 60 and 61. Ask you to take a look at those  
2 and see if you recognize them.

3 **A** (Reviewing.)

4 Yes, I do.

5 **Q** Are those items you collected on the scene at  
6 Berkeley Pointe that day from the parking lot area down  
7 through the stairwell?

8 **A** Yes, they are.

9 **MR. MARCHANT:** Move State's 59, 60 and 61  
10 into evidence.

11 **THE COURT:** I'll tell you what. Before you  
12 go any further, let's take a quick break.

13 Uh, Ladies and Gentlemen, please don't discuss  
14 the case with anyone.

15 **(WHEREUPON, the jury exits at approximately**  
16 **12:06 p.m.)**

17 **THE COURT:** We'll be in recess for five  
18 minutes.

19 **(WHEREUPON, a short recess is taken.)**

20 **THE COURT:** Ready to bring the jury back in?

21 **MR. MARCHANT:** Yes, Your Honor.

22 **(WHEREUPON, the jury enters at approximately**

23 **THE COURT:** All right. Mr. Marchant, you  
24 ready to proceed?

25 **MR. MARCHANT:** Yes, Your Honor. Please the

1 Court?

2 THE COURT: Yes, sir.

3 MR. MARCHANT: We move State's 59, 60 and 61  
4 into evidence.

5 THE COURT: Any objection?

6 MR. JOHNSON: Those were the -- excuse me.

7 MR. MARCHANT: Yes.

8 MR. JOHNSON: No objection.

9 THE COURT: All right. They'll be so  
10 admitted.

11 (WHEREUPON, State's Exhibits 59, 60 and 61 are  
12 admitted into the record.)

13 BY MR. MARCHANT:

14 Q All right. Sergeant, I want to start with 59.  
15 Would you please explain to the jury that items that are  
16 contained in 59 and the item numbers, meaning the placard  
17 number that you associate with 59.

18 A Each piece of evidence that is collected is  
19 assigned a number. We use our initials, mine being DS.  
20 I would use DS-1 through whatever the last piece of  
21 evidence is. What we normally try to do is to match the  
22 placard with the number of the piece of evidence that is  
23 collected. DS-1 is depicted as a shell casing Speer 9-  
24 millimeter Luger. In this bag, there's 14 of those.  
25 There's DS-1, DS-2, DS-3, DS-4, DS-5, DS-6, DS-7, DS-8,

1 DS-9, DS-10, DS-11, DS-12, DS-22 and DS-29. Now, those  
2 numbers would correspond with the placards that were  
3 placed not only on the top level but also either on the  
4 steps or down on the ground level.

5 Q Uh, with respect to all of the items that you  
6 just described, what are those items?

7 A These are 9-millimeter shell casings. All of  
8 them had a head stamp of Speer 9-millimeter Luger, which  
9 was the same caliber as being carried by the officer.

10 Q And there are 14 of those?

11 A That's correct.

12 Q And inside this bag, are they all packaged --  
13 are these pieces of evidence packaged individually?

14 A Each piece is packaged. Each one is labeled  
15 DS-1 through, I think, DS-28 or 29. Also the times are  
16 on each piece as far as when they were collected.

17 Q Moving to, uh, State's 60, please identify the  
18 pieces of evidence that you collected and what's  
19 contained therein, commenting, Serg, if you will on the  
20 number that you assigned each piece of item, each piece  
21 of evidence.

22 A DS-21 is a shell casing. It had an head stamp  
23 of RWS 9-millimeter Luger. DS-25 was also a shell  
24 casing, Winchester 9-millimeter. DS-26 was a shell  
25 casing with a head stamp of RWS 9-millimeter. DS-27 was

1 also a shell casing, Winchester 9-millimeter. The DS-28  
2 was a Winchester 9-millimeter Luger. DS-31, again, a  
3 shell casing with a head stamp of Winchester 9-  
4 millimeter. DS-30 was a shell casing with a head stamp  
5 of Winchester 9-millimeter Luger. DS-32 was a shell  
6 casing with a head stamp of Winchester 9-millimeter. And  
7 DS-33 was also a shell casing with a head stamp of  
8 Winchester 9-millimeter Luger. There were nine of these  
9 shell casings collected that had a different head stamp  
10 as that was what the officer was carrying.

11 Q That's referencing State's 60. They are all  
12 packaged separately?

13 A Again, each one is packaged individually.  
14 Labeled with the item number as well as the item that was  
15 collected.

16 Q I'm showing what's been marked as State's 61.

17 A These are items that were collected. They were  
18 either bullet fragments. Most of them were labeled  
19 bullet fragments. These were collected from various  
20 areas either on the steps from the floor at the bottom of  
21 the stairs inside of the storage closet. Anything other  
22 than a projectile or a cartridge or casing, they are  
23 separated. They are labeled individually as a fragment  
24 because it's not an entire projectile. There are --  
25 there are 16 that are collected. And each one of them

1 would also be an individual coin envelope and labeled as  
2 the projectile or fragment and from which location it was  
3 collected.

4 Q Serg, all for the record, would you identify  
5 the items that are contained at State's 60.

6 A DS-13, a bullet fragment, which is a lead  
7 fragment from the walkway in front of building 1300. DS-  
8 14, a copper jacket from the walkway in front of building  
9 1300. DS-15 is a copper lead fragment from the walkway  
10 in front of building 1300. DS-16 is a copper fragment  
11 from the walkway in front of 1300. DS-17 is the lead  
12 fragment from the base of the doorway of apartment 1311.  
13 DS-18 is a projectile from the second step from the top.  
14 DS-19 is a lead and copper fragments from the seventh  
15 step from the top. There were 14 steps from the top to  
16 the bottom. DS-20 was lead and copper fragments from the  
17 ninth step from the top. DS-23 was a copper fragment  
18 from the 11th step from the top. DS-24 was a lead  
19 fragment from the 12th step from the top. DS-40 was a  
20 lead fragment from the floor at the bottom of the steps.  
21 DS-41, a projectile from the storage closet. DS-42 was a  
22 copper jacket that was embedded under the handrail that  
23 lead from the ground floor up to the main floor. DS-43  
24 is a copper and lead fragment from behind the railing.  
25 DS-44 is a lead fragment from inside the storage closet

1 which was under the steps. And DS-45 was a copper and  
2 lead fragment from in front of apartment 1314.

3 Q Now, Sergeant Shaw, does your division, the  
4 Forensics Division at Greenville Tech, uh, analyze shell  
5 casings and projectiles to determine what they were fired  
6 from?

7 A No, we do not.

8 Q I'm going to move to -- Serg, you prepared a  
9 schematic diagram in this case of the stairwell and the  
10 breezeway?

11 A Yes, I did.

12 Q And I'm showing you what's been marked as  
13 State's 63. Is that that schematic?

14 A It is. There are two of them that were drawn.

15 MR. MARCHANT: Move 63 into evidence.

16 MR. JOHNSON: No objection.

17 THE COURT: All right. It will be so  
18 admitted.

19 (WHEREUPON, State's Exhibit 63 is admitted into the  
20 record.)

21 BY MR. MARCHANT:

22 Q All right. Sergeant, if you would, step down  
23 for me. Please continue to speak loudly -- loudly so the  
24 reporter can hear you. I want to start with the  
25 schematic on the left side here. Would you please

1 indicate for the jury what you've done here and how you  
2 have determined the location of the particular items that  
3 are contained therein.

4       **A**     Okay. What I did was I did -- it's not a full  
5 diagram, but a partial diagram dealing with -- it starts  
6 here on the front. This is the front of the building of  
7 building 1300. This is the main floor. You can see the  
8 red asterisk where it says Speer 9-millimeter Luger. The  
9 items that are marked in red are where the 14 shell  
10 casings were recovered from that were fired from the  
11 officer's weapon. Again, I take the measurement from the  
12 width of the hallway. I just took an overall.

13               Now as far as the overall, this is an overhang  
14 of the main level. Before that is actually this part --  
15 this is actually on the ground level. What I did was I  
16 took the measurement from the end wall or the back wall  
17 out to the front of the building which was building 1300  
18 and just determined the overall length. I also wanted to  
19 find out the distance from the front of the building to  
20 where the steps are leading down to the ground level.

21       **Q**     Serg, how far is it from what I consider the  
22 threshold of the 1300 building to the steps?

23       **A**     It's, uh, 24.04 feet. It's right around 24  
24 feet.

25       **Q**     How far is it from the threshold of building

1 1300 back to the half wall that looks out behind building  
2 1300?

3 **A** It was 47.46 feet. It's a little over 47 feet.

4 **Q** I want to be clear. The items that are  
5 depicted in red, those are Speer 9-millimeter?

6 **A** That's correct.

7 **Q** So on the floor, the breezeway where the  
8 officer entered where the parking lot is down here on the  
9 bottom, on that main, what I consider the main floor, you  
10 only found shell casings for Speer 9-millimeter?

11 **A** That's correct.

12 **Q** Okay. All right. Serg, if you would, move to  
13 the right half of State's 63 and explain to the jury just  
14 as you did what the main floor, what the bottom floor is  
15 and the items contained therein.

16 **A** This is a diagram showing the ground level  
17 area. If you were to take this and reverse it and turn  
18 it upside down, it would set in directly under there  
19 meaning this would be the front leading out to the  
20 parking lot. And this is the back or going out into the  
21 woods. What I did because of their being multiple head  
22 stamps of the same caliber, they just had a different  
23 head stamp, I then also marked in green any shell casings  
24 that were found and their location on that bottom floor  
25 that were other than the Speer 9-millimeter which were

1 fired by the officer.

2 Q So did you, in fact, find any Speer either on  
3 the stairs or on that bottom floor?

4 A I did. There was one Speer on this 11th step  
5 and also one on the floor. It could be from balancing  
6 down the stairs. It could have been from getting kicked.

7 Q But where you found specifically, uh, 22 and  
8 29, that's where you located them when you first started?

9 A That's correct. When I arrived on the scene,  
10 that's where -- nothing was moved after the photographs  
11 were taken, the placards were put in place. None of the  
12 evidence was moved until measurements were taken.

13 Q And that goes for all of the items that are  
14 identified in green as well?

15 A That's correct.

16 Q Serg, what is the distance from the rear, from  
17 the bottom floor where you entered the woods down there  
18 to that closet door?

19 A What I did was I measured, I measured from the  
20 closet door at the base of the steps out to the edge of  
21 the concrete. It was 24.24 feet. The overhang, which  
22 would be this area actually extended out to beyond 1301.  
23 It was about 18 feet, between seven and eight feet from  
24 this wall out to beyond 1301. That is where this  
25 overhang actually came out to.

1           **Q**     Did you take a measurement or is a measurement  
2 depicted on this exhibit of how far it is from the front  
3 of the building to the back of the building?

4           **A**     I didn't get a -- I didn't take those exact  
5 measurements. Using the 47.46 and the 24 -- you can take  
6 off another approximately eight feet. You are still  
7 looking at about 60 feet from the front to the back.

8           **Q**     And how wide is the breezeway?

9           **A**     7.73 feet.

10          **Q**     Thank you. Please take the stand.

11          **A**     (Witness complies.)

12          **MR. MARCHANT:**     Court's indulgence?

13          **THE COURT:**     Yes, sir.

14          **MR. MARCHANT:**     Thank you, Sergeant. Please  
15 answer any questions Mr. Johnson may have.

16          **THE COURT:**     Mr. Johnson.

17          **MR. JOHNSON:**     Thank you, Your Honor.

18                                   **CROSS-EXAMINATION**

19 **BY MR. JOHNSON:**

20           **Q**     Sergeant Shaw, kind of reiterate. You work in  
21 Forensics Division ---

22           **A**     Yes, sir. That's correct.

23           **Q**     --- of the Sheriff's Office.

24           **A**     We're actually an independent agency. We're  
25 with the Department of Public Safety.



1           when you turn and speak to the attorney, it's --  
2           we're not picking you up to well. Okay. Thank you.

3 **BY MR. MARCHANT:**

4           Q     I'm sorry. Ms. Taylor, what were those dates  
5 again?

6           A     From February of 2011 to the end of November  
7 2011.

8           Q     In November of 2011, is that when you moved to  
9 Charleston?

10          A     Correct.

11          Q     And you indicated that you lived at 1411  
12 Berkeley Pointe?

13          A     Correct.

14          Q     I'd like you to step down just for a minute,  
15 ma'am. And you're going to need to keep your voice up.  
16 I'm going to ask you to mark on State's 106. The  
17 building you were living in and the side of the building  
18 you were living in in Berkeley Pointe Apartment.

19          A     (Drawing.)

20          Q     All right. Take a seat.

21          A     (Witness complies.)

22          Q     You recall whether or not you were living on  
23 the ground floor or the second floor?

24          A     The bottom floor.

25          Q     Living on the bottom floor?

1           **A**     Yeah. The ground floor.

2           **Q**     And who did you live on the bottom floor with?

3           **A**     Me, my daughter and my baby daddy.

4           **Q**     Now, we are here today concerning some things  
5 that happened on October the 28th of 2011. Do you  
6 remember law enforcement being over at the apartment  
7 complex that day?

8           **A**     Yes.

9           **Q**     Do you recall what you were doing that morning?

10          **A**     Yeah. I just had put my daughter on the bus.  
11 Then I went to go pick up my (inaudible).

12                   **THE COURT:**     Will you speak in the microphone  
13 for me? You've just got a -- you've just got a real  
14 sweet voice.

15 **BY MR. MARCHANT:**

16          **Q**     I'm causing you to speak that way. All right.  
17 You remember what you were doing that morning?

18          **A**     Yes. I just put my daughter on the school bus  
19 and went to speak to a friend who lived in another  
20 building.

21          **Q**     All right. I'm going to have you step down one  
22 more time, ma'am. If you would, please indicate to the  
23 jury, and if you can, if you would use this marker and  
24 draw how you came out of your building and went to your  
25 friend in the 1100 building.

1           **A**     (Drawing.)

2           **Q**     Now, did you actually go inside the 1100  
3 building?

4           **A**     No, cause she was standing outside.

5           **Q**     And where did you meet her outside the 1100  
6 building?

7           **A**     (Drawing.)

8           **Q**     On your way down to speak with her, did you see  
9 anybody else out in the area of the parking lot that  
10 morning?

11          **A**     No, not when I was speaking to her. No, not  
12 when I'd gone and speak to my friend.

13          **Q**     How long do you remember speaking with your  
14 friend that morning?

15          **A**     About two to three minutes at the most. It was  
16 brief.

17          **Q**     And then where did you go after you spoke with  
18 her for two to three minutes?

19          **A**     I went back home after that. I went back to  
20 the building where I saw -- where me and another person  
21 in the building was standing in the front speaking  
22 approximately right there.

23          **Q**     Do you recall the person that you were talking  
24 to outside the front of your building?

25          **A**     Yeah.

1 Q Who was that?

2 A Tuck -- Tucker. I don't -- Jarvis.

3 Q And do you know which building he lived in?

4 A He lived about -- directly above me.

5 Q Now, from the time -- did you take the same  
6 path that you've drawn back to your building?

7 A Yes.

8 Q At some point in time, did you see a vehicle  
9 drive through, uh, that was law enforcement?

10 A I didn't see the police right then. But when I  
11 was walking back to the apartment, that's when I saw him  
12 at the car.

13 Q You saw law enforcement at the car. You say  
14 the car, where are you talking about?

15 A The car that was parked right here by the  
16 building.

17 Q Okay. When they are up here looking at the  
18 car, had you send that car before on that day?

19 A Yeah. When I was going down to speak to my  
20 friend.

21 Q When you were leaving your building and walking  
22 to your friend's building, you saw ---

23 A The car.

24 Q --- that vehicle?

25 A The vehicle was coming.

1           **Q**    Ms. Taylor, if you would, put your initials on  
2 the map here of where you saw that vehicle. Let me --

3           **A**    The car was coming in as I was walking out. So  
4 we probably met approximately right here. That's  
5 probably where I saw him coming down.

6           **Q**    So this circle, is that indicating where the  
7 vehicle was when you saw it?

8           **A**    Yeah. I was looking, yeah.

9           **Q**    Was there anybody walking with you to your  
10 friend's house that day?

11          **A**    No.

12          **Q**    This picture was taken at some point in time,  
13 not on the day of question. Do you recall whether or not  
14 there were any vehicles parked here?

15          **A**    They were -- most people were leaving to go to  
16 work. So it wasn't a lot of cars in the parking lot that  
17 day.

18          **Q**    I guess, Ms. Taylor, what I'm asking, was there  
19 a car in between where you were standing and where that  
20 vehicle came through?

21          **A**    I don't remember.

22          **Q**    Well, when you saw the vehicle driving, uh,  
23 this direction towards the roundabout, was there anything  
24 blocking your view from the windshield of that vehicle?

25          **A**    No.

1           **Q**    Were you able to see into the interior of the  
2 vehicle?

3           **A**    From the front.

4           **Q**    You could see through the front?

5           **A**    Uh-huh.

6           **Q**    Were you really -- were you paying close  
7 attention to the vehicle?

8           **A**    No, I didn't.

9           **Q**    So you looked inside --

10          **A**    I just glanced at the -- just glanced and kept  
11 walking.

12          **Q**    Okay. Do you recall whether or not someone was  
13 in the driver's seat?

14          **A**    I can honestly say it was one person. I'm not  
15 sure other people was in the car.

16          **Q**    Do you remember if anybody was in the driver's  
17 seat?

18          **A**    Yes.

19          **Q**    Somebody was in the front seat?

20          **A**    Yes.

21          **Q**    Do you recall whether that person was male or  
22 female?

23          **A**    I know it was a male, yes.

24          **Q**    Okay. And you recall whether that person was  
25 black, white, Hispanic, Asian?

1           **A**     I could tell he was a black male, yes.

2           **Q**     From your vantage point on the sidewalk here  
3 into the vehicle, that vehicle, y'all were walking, y'all  
4 were traveling at different directions?

5           **A**     Correct.

6           **Q**     You looked through the front window and you saw  
7 one black male?

8           **A**     Correct.

9           **Q**     Did you see anyone else inside that vehicle?

10          **A**     No, not that I could remember.

11          **Q**     All right. Once you got back to your apartment  
12 and you already testified you noticed the officer, what  
13 did you do?

14          **A**     I stand in the front and me and Tuck spoke for  
15 a couple of minutes watching the police.

16          **Q**     And why is it that you were interested in what  
17 the police were doing?

18          **A**     Cause police don't be in the area.

19          **Q**     What did you observe the police do that day?

20          **A**     They were looking around the car taking  
21 pictures.

22          **Q**     Do you recall the officers, what their race  
23 were and what their sex was?

24          **A**     Yeah, they was a white -- excuse me. Both of  
25 those officers were white. One was a male and one was a

1 female.

2 Q After you saw them around the vehicle, did you  
3 see those officers go anywhere else?

4 A They started looking around the premises.  
5 That's when they went in the house.

6 Q You say went in the house. What do you mean  
7 went in the house?

8 A I stepped in the house to get something to  
9 drink. That's when I heard the shots.

10 Q You recall how many shots you heard?

11 A About 8 to 10.

12 Q Did you see who was shooting?

13 A Yeah. Well, I saw the lady officer shooting  
14 and the male officer was taking cover.

15 Q You recall where he was taking cover?

16 A Behind the -- well, in front of the building by  
17 like the banister part.

18 Q And the building that you are talking about, if  
19 you would step down very briefly again, please explain to  
20 the jury which building you are talking about.

21 A The 1300 building.

22 Q That's the building where the officers were?

23 A Yes. The male officer was like right here,  
24 like in front of the balcony. And she was like in the  
25 hallway.

1           **A**     Right.

2           **Q**     Thank you, ma'am.

3           **MR. MARCHANT:**     Your Honor, I've got to ask  
4     one followup.

5           **THE COURT:**     Absolutely.

6                                   **REDIRECT EXAMINATION**

7 **BY MR. MARCHANT:**

8           **Q**     Ms. Taylor, the vehicle that was parked that  
9     the police were looking at, was that Mr. Tucker's  
10    vehicle?

11          **A**     No.

12          **THE COURT:**     Anything else?

13          **MR. CRANGLE:**     No further questions.

14          **THE COURT:**     Ma'am, you can step down.

15          **MR. MARCHANT:**     Your Honor, we ask that the  
16    witness be excused from her subpoena.

17          **THE COURT:**     Any objection?

18          **MR. CRANGLE:**     No objection, Your Honor.

19          **THE COURT:**     Thank you, ma'am, for being here.

20          **MR. MARCHANT:**     Please the Court. The State  
21    would call Officer John Derby.

22          **THE COURT:**     All right.

23          **THE CLERK:**     Officer Derby, if you would, come  
24    forward to be sworn in.

25                                   **JOHN DERBY**

1           having first been sworn, testifies as follows:

2           **THE CLERK:**     Thank you.  You may be seated.

3           Would you please state your name for the record?

4           **THE WITNESS:**    John Derby.

5           **THE CLERK:**     Thank you.

6           **MR. MARCHANT:**    Beg the Court's indulgence for  
7           just a moment.

8           **THE COURT:**     Certainly.

9           (WHEREUPON, there is a pause.)

10          **MR. MARCHANT:**   Thank you, Your Honor.

11          **THE COURT:**     Thank you.

12                                   **DIRECT EXAMINATION**

13 **BY MR. MARCHANT:**

14          **Q**     Officer Derby, where are you employed?

15          **A**     Greenville County Forensics.

16          **Q**     And what is your capacity with the Forensics  
17          department?

18          **A**     I'm in the crime scene section.

19          **Q**     And what does that mean?

20          **A**     Our job is to document, collect and preserve  
21          physical evidence at crime scenes.

22          **Q**     How long have you been with the crime scene  
23          unit?

24          **A**     A little over four years now.

25          **Q**     I'm going to take you, uh, back to October the

1 28th of 2011. Were you working that day?

2 **A** Yes, I was.

3 **Q** And when y'all are working, what sort of shifts  
4 do you typically work?

5 **A** 7:00 to 7:00 day shift or night shift.

6 **Q** Okay. You recall whether or not this occurred  
7 during the day or evening?

8 **A** My part?

9 **Q** Yes, sir.

10 **A** Uh, at nighttime.

11 **Q** Did you work last night?

12 **A** Uh, no.

13 **Q** Do you have to work this evening?

14 **A** Yes.

15 **Q** What time do you go on shift this evening?

16 **A** I have to be there at 6:30.

17 **Q** Do you recall whether or not you responded to  
18 the crime scene that day or did you just process items at  
19 the Greenville Tech campus where your office is located?

20 **A** I responded to the secondary scene, not the  
21 original.

22 **Q** Now, when you say secondary, let's talk about  
23 it that way. You had the occasion to respond to 105  
24 Mooremont?

25 **A** That's correct.

1           **Q**     I'm showing you some items that are already in  
2 evidence as 44, 45, and 46. Did you take possession of  
3 those items?

4           **A**     Yes, I did.

5           **Q**     And specifically item 53, did you collect this  
6 item?

7           **A**     Yes, I did.

8           **Q**     Now, as this item was shown, uh, in State's 44  
9 underneath the mattress, is that where you collected it?

10          **A**     Uh, yes.

11          **Q**     Okay. Please tell the jury how you collected  
12 that item and what safeguards or procedures you used to  
13 ensure that the evidence was not contaminated.

14          **A**     Using sterile, used gloves. The items were  
15 collected and placed into either a bag or box at the  
16 scene. The item was then transported to our office.  
17 From there, it's processed for possible DNA.

18          **Q**     When you -- tell the jury what you did to make  
19 sure you didn't contaminate this item with any of your  
20 sweat, saliva, fingerprints, anything of that nature.

21          **A**     Using latex gloves.

22          **Q**     Over on Mooremont when you collected this gun,  
23 you were wearing gloves?

24          **A**     That's correct.

25          **Q**     The procedure that you used to collect this gun

1 to make sure that there's no contamination, is the same  
2 procedure you would use on other items of evidence that  
3 you collect?

4 **A** That's correct.

5 **Q** Now, once you collected this gun, did you  
6 subsequently swab the firearm for potential DNA?

7 **A** Yes, that's correct.

8 **Q** Show you what's been marked as State's 57, 58  
9 and 68.

10 **A** (Reviewing.)

11 **MR. MARCHANT:** Move 57, 58 and 68 into  
12 evidence.

13 **THE COURT:** Any objection?

14 **MR. JOHNSON:** No objection.

15 **THE COURT:** It will be so admitted.

16 **(WHEREUPON, State's Exhibits 57, 58 and 68 are**  
17 **admitted into the record.)**

18 **BY MR. MARCHANT:**

19 **Q** All right. Officer Derby, tell the jury what  
20 these are and how you use them to collect evidence.

21 **A** These are sterile cotton tip swabs we use.  
22 Once the tip is moistened, it's wiped over for possible  
23 touch DNA collection. Each one must taken from their own  
24 individual area. One of the handle, one of the trigger,  
25 and once on the magazine.

1           **Q**     And from here, how is it stored? How is the  
2 integrity of that piece of item maintained?

3           **A**     Once the item's been swabbed, it's placed back  
4 into it's own capsule, put in an envelope and transported  
5 to the Property and Evidence section.

6           **Q**     Now, were you wearing these latex gloves when  
7 you conducted this as well?

8           **A**     That's correct.

9           **Q**     Did you do any other evidence collection at the  
10 scene that day other than that firearm and the black  
11 sweatshirt that was depicted in the previous exhibit I  
12 showed you?

13          **A**     There's other items beside the sweatshirt. I  
14 can't recall immediately.

15          **Q**     I'm showing you what's been marked as State's  
16 55. You recognize that?

17          **A**     Uh, yes, I do.

18               **MR. MARCHANT:**     Move 55 into evidence.

19               **THE COURT:**     Any objection?

20               **MR. JOHNSON:**     No objection.

21               **THE COURT:**     It will be so admitted.

22               **(WHEREUPON, State's Exhibit 55 is admitted into the**  
23 **record.)**

24               **BY MR. MARCHANT:**

25               **Q**     Officer Derby, what, if anything, did you do

1 with any further testing on this item?

2       **A**    It was photographed by our office.

3       **Q**    Did you swab it?

4       **A**    No, sir.

5       **Q**    Let me get a set of gloves here. I'm going to  
6 ask you to move 55 from its bag and please show the jury  
7 what you found on that item, the black sweatshirt.

8       (Pause.)

9               Officer Derby, it might be more beneficial for  
10 the jury if you would step down here. Continue to speak  
11 loudly and please describe how you found the condition of  
12 that black sweatshirt.

13       **A**    Uh, after I got to office, I laid out. I was  
14 able to determine two possible projectile holes in the  
15 top of the shoulder.

16       **Q**    There's some what looks like to me is chalk or  
17 white outline of that lapel area of that. What does that  
18 indicate? Is that your markings?

19       **A**    No, sir.

20       **Q**    So you found this sweatshirt at 105 Mooremont  
21 in this condition except for the white markings?

22       **A**    That's correct.

23       **Q**    Okay. Put it back in the bag please, sir.

24       **A**    (Witness complies.)

25       **Q**    All right. Officer Derby, I'm going to show

1 you what's been marked as State's 56 and see if you  
2 recognize that item.

3       **A**     Yes, I do.

4       **Q**     Do you recall where you retrieved that item?

5       **A**     At the hospital.

6       **Q**     You said the hospital. Which hospital?

7       **A**     Uh, sorry. Greenville Memorial.

8       **Q**     All right. You recall approximately what time  
9 you were at the hospital that evening?

10       **A**     Uh, I have to look at my notes. (Pause.)

11       It was right after Mooremont.

12       **Q**     I'm sorry?

13       **A**     It was right after Mooremont.

14       **Q**     Yes, sir. You know what time you responded to  
15 Mooremont? Let's start there.

16       **A**     Uh, around 9:00, 10:00 o'clock.

17       **Q**     And this item, State's 56, when did you take  
18 possession of that article?

19       **A**     At 2:45.

20       **Q**     And did you also take possession of any other  
21 items at the hospital that day?

22       **A**     Uh, athletic shorts.

23       **Q**     And do you recall the description of those  
24 athletic shorts?

25       **A**     Black athletic shorts.

1           **MR. MARCHANT:**     Move State's 56 into evidence.

2           **THE COURT:**     Any objection?

3           **MR. JOHNSON:**    No objection.

4           **(WHEREUPON, State's Exhibit 56 is admitted into the**  
5 **record.)**

6 **BY MR. MARCHANT:**

7           **Q**     Mr. Derby, if you would, review State's 56 from  
8 it's packaging and please describe for the jury how you  
9 found, how you recovered that from the hospital.

10          **A**     This -- these items were underneath the victim  
11 -- I'm sorry -- the individual at the hospital. And it's  
12 typical to cutting of clothing like this. It's done by  
13 EMS. This also here shows suspected projectile holes,  
14 the top left side.

15          **Q**     Would you please put it back in the packaging.

16          **A**     (Witness complies.)

17          **Q**     Did you encounter the defendant at the  
18 hospital?

19          **A**     You mean speak to him?

20          **Q**     Not did you speak to him, did you see him?

21          **A**     Yes. Yes.

22          **Q**     You recall whether or not he had any wounds?

23          **A**     Uh, yes.

24          **Q**     You recall where that wound was?

25          **A**     In the upper left shoulder.

1           **Q**     And do you recall whether there was an entrance  
2 or an exit wound?

3           **A**     Uh, all I saw is one hole.

4           **Q**     Did you collect the projectile from him at that  
5 time?

6           **A**     Uh, no.

7           **Q**     Why not?

8           **A**     There was not one available.

9           **Q**     Go to Mooremont. Go to the hospital. At some  
10 point in time, do you go back to the forensics office to  
11 conduct further tests and examine other evidence in this  
12 case?

13          **A**     That's correct.

14          **Q**     At some point in time, did you inspect an SUV?

15          **A**     Yes, I did.

16          **Q**     Officer Derby, I'm showing you what's been  
17 marked as State's 50 and 51, 49, 48, 93, 94, 95, 96, and  
18 97. If you would, take a look at those and see if you  
19 recognize them.

20          **A**     (Reviewing.)

21                    Yes, I do.

22          **Q**     And does these fairly and accurately depict the  
23 vehicles you found that day and the items within?

24          **A**     Uh, yes.

25                    **MR. MARCHANT:**     Move State's 51, 52 -- excuse

1 me -- 51, 50, 49, 48, 93, 94, 95, 96 and 97 into  
2 evidence.

3 THE COURT: Any objection?

4 MR. JOHNSON: No objection.

5 THE COURT: It will be so entered.

6 (WHEREUPON, State's Exhibits 48 thru 51 and 93  
7 through 97 are admitted into the record.)

8 BY MR. MARCHANT:

9 Q Officer Derby, there's a laser pointer on  
10 there. Before we talk about these pictures, previous  
11 testimony that the vehicle was towed to y'all's bay. Who  
12 has access to y'all's bay?

13 A Just us.

14 Q When you say just us?

15 A Greenville County Forensics.

16 Q And how many people are in your unit?

17 A 10 officers, two sergeants and a lieutenant.

18 Q I'm showing you State's 71. Is this the  
19 vehicle that you photographed and processed back at the  
20 forensics bay?

21 A Yes, it is.

22 Q I would ask you to pay particular attention to  
23 the doors there. What is that on the front door and the  
24 back door, that red and white --

25 A That is crime scene tape that we seal over the

1 doors for transport to ensure that nobody goes inside the  
2 vehicle besides us.

3 Q Did you put that tape on there?

4 A No, I did not.

5 Q Back at the bay, was that tape in tact before  
6 you entered the vehicle?

7 A Yes, it was.

8 Q Did you take various photographs of the  
9 interior of the vehicle that day?

10 A At the office, yes, I did.

11 Q I'm showing you what's been marked as State's  
12 94. As we walk through these, please explain to the jury  
13 what it is that you are seeing and what you are  
14 photographing.

15 A This is at our office inside that vehicle on  
16 the driver's side behind the steering wheel.

17 Q State's 95.

18 A This is going to be the driver's seat on the  
19 same side.

20 Q State's 97.

21 A The front passenger side towards the  
22 floorboard.

23 Q State's 96.

24 A This is going to be the rear seats in between  
25 on the floorboard.

1           **Q**     State's 49.

2           **A**     This is going to be the rear floorboard behind  
3 the front passenger seat.

4           **Q**     State's 48.

5           **A**     This is another angle of the same area.

6           **Q**     There's an item underneath the front passenger  
7 seat. Did you pull that item out of the car?

8           **A**     After photographs, yes.

9           **Q**     Let me show you what's been marked as State's  
10 50. Is this that item?

11          **A**     That's correct.

12          **Q**     And State's 51?

13          **A**     This is the ammunition inside that box pulled  
14 out.

15          **Q**     And you recall what the head stamps are on that  
16 ammunition?

17          **A**     I have to look back at my notes.

18          **Q**     I'll tell you what, Officer, let's do it this  
19 way. I'll show you what's been marked as State's 52.  
20 You recognize that item?

21          **A**     Yes.

22               **MR. MARCHANT:**     Move State's 52 into evidence.

23               **THE COURT:**        Any objection?

24               **MR. JOHNSON:**     No objection.

25               **THE COURT:**        It's so admitted.

1           **(WHEREUPON,** State's Exhibit 52 is admitted into the  
2 record.)

3 **BY MR. MARCHANT:**

4           **Q**     Officer Derby, if you would, remove State's 52  
5 and explain to the jury what's contained therein.

6           **A**     You have gloves?

7           **Q**     Yes, I do.

8           **A**     This is going to be my actual packaging of the  
9 item. This is the item JD-11 that was recovered in the  
10 rear floorboard. And head stamps to three different  
11 kinds; one, being Winchester, which on the top is WIN 9-  
12 millimeter Luger; two, RWS 9-millimeter Luger; and one R-  
13 P 9-millimeter Luger.

14          **Q**     With respect to this box of shells and the  
15 plastic container inside, did you process that for  
16 fingerprints?

17          **A**     Yes, I did.

18          **Q**     Which parts of that did you process for  
19 fingerprints?

20          **A**     Both sides.

21          **Q**     Do you recall whether or not you believe you  
22 found something of sufficient quality to be compared?

23          **A**     Yes, sir.

24          **Q**     Does your department do that comparison?

25          **A**     Yes, we do.

1           **Q**     Okay. Your department at Greenville Tech does  
2 the fingerprint analysis?

3           **A**     Uh, no, sir. Our latent fingerprint division,  
4 which is located at the Law Enforcement Center downtown.

5           **Q**     Show you what's been marked as JD-1A, State's  
6 54. You recognize that?

7           **A**     Yes.

8           **MR. MARCHANT:**     Move State's 54 into evidence.

9           **THE COURT:**     Any objection?

10          **MR. JOHNSON:**     No objection.

11          **THE COURT:**     It's so admitted.

12                 (WHEREUPON, State's Exhibit 54 is admitted into the  
13 record.)

14 **BY MR. MARCHANT:**

15          **Q**     Officer Derby, if you would, open that and tell  
16 the jury where you retrieved those items.

17          **A**     JD-1A is going to come for JD-1, which is the  
18 weapon down at Mooremont. These are the five rounds.

19          **Q**     Just so we're clear, Officer Derby, this is  
20 State's Exhibit 53 is JD-1?

21          **A**     That's correct.

22          **Q**     Please hold up and show the jury where you  
23 pulled those 25 rounds out of.

24          **A**     The magazine.

25          **Q**     Did you attempt to fingerprint the rounds?

1           **A**     Yes, I did.

2           **Q**     And were you successful in lifting any prints  
3 for comparison on those rounds?

4           **A**     Yes, sir.

5           **Q**     Did you inventory these 25 rounds and determine  
6 what kind of rounds they were?

7           **A**     Different kinds actually, but all of them were  
8 9-millimeter.

9           **Q**     I need to know what sort of -- who is the  
10 manufacture on those 25 rounds?

11          **A**     Uh, one is going to be GFL 9-millimeter;  
12 Another one is going to be FC 9-millimeter; 15 of them is  
13 going to be WIN, W-I-N, 9-millimeter Luger; and eight of  
14 them is going to be RWS 9-millimeter Luger.

15          **Q**     Lastly, Officer Derby, I'm going to show you  
16 93. What does that picture depict?

17          **A**     This is the rear trunk cargo area of that SUV  
18 that will be processed at our office.

19          **Q**     Now, with respect to some of the items that we  
20 seen inside, for example, that yellow container, did you  
21 take possession of that?

22          **A**     No, I did not.

23          **Q**     Did it stay in the vehicle?

24          **A**     Yes, sir.

25          **Q**     And where would the vehicle had gone once it



1                   **MR. MARCHANT:**     Please the Court.   The State  
2                   calls Norman Pearson.

3                   **THE CLERK:**     Mr. Pearson, please come up to be  
4                   sworn in.   If you would, place your left hand on the  
5                   Bible and raise your right.

6                                   **NORMAN PEARSON**  
7                   having first been sworn, testifies as follows:

8                   **THE CLERK:**     Thank you.   Would you please  
9                   state your name for the record.

10                   **THE WITNESS:**    Norman Pearson.

11                   **THE CLERK:**     Thank you.

12                                   **DIRECT EXAMINATION**

13 **BY MR. MARCHANT:**

14                   **Q**     Good afternoon, Mr. Pearson.   Where do you  
15                   live?

16                   **A**     I stay in Belle Mead.   It's in Greenville  
17                   county.

18                   **Q**     What street do you live in Belle Mead?

19                   **A**     Pine Creek Drive.

20                   **Q**     Did you live there back on October the 28th of  
21                   2011?

22                   **A**     Yes.

23                   **Q**     Now, we're here on this case.   There are  
24                   several charges against Mr. Lowrance.   Do you know him?

25                   **A**     Yes.

1           **Q**    How is it that you know him?

2           **A**    Well, I been knowing him all my life. We  
3 consider ourselves cousins. You know, we grew up  
4 together.

5           **Q**    Is there actually -- is there any actual blood  
6 relation between you and him?

7           **A**    No, sir.

8           **Q**    Back in the summer of 2011, did he stay with  
9 you?

10          **A**    Yes, sir.

11          **Q**    Did he stay with you continuously or was it on  
12 and off?

13          **A**    It was on and off..

14          **Q**    Did you have the occasion to see him the day  
15 before this incident happened?

16          **A**    Yes, sir.

17          **Q**    Where did you see him?

18          **A**    We was at my house.

19          **Q**    What were you doing at your house?

20          **A**    Nothing. Sitting around.

21          **Q**    You recall what time of the evening it was when  
22 you last saw him?

23          **A**    Uh, it was in the evening. The exact time, I  
24 don't know.

25          **Q**    You say the evening. This is October 28th or

1 close to Halloween. Is the sun up or down?

2       **A**     The sun was down.

3       **Q**     You recall whether or not you had already eaten  
4 supper?

5       **A**     I don't know.

6       **Q**     The last time you saw him was in the evening?

7       **A**     Yes.

8       **Q**     Did you subsequently talk to him later that  
9 evening?

10      **A**     Yes, I did.

11      **Q**     Where did he tell you he was?

12      **A**     He was at the hotel room. He was sitting in a  
13 car at the hotel room.

14      **Q**     Did he tell you which hotel?

15      **A**     Comfort Inn.

16      **Q**     How is it that he called you or how is it that  
17 y'all spoke when he was at the Comfort Inn and you are at  
18 Pine Creek?

19      **A**     He called my cell phone.

20      **Q**     You recall what number he called you from?

21      **A**     It was his cell phone.

22      **Q**     You recall the exact number?

23      **A**     Well, my numbers is stored in by name so when  
24 someone call, the name will show up. The exact number, I  
25 don't know the exact number, but his name popped up.

1           Q     Did you give a statement to Detective Conroy on  
2 the day this incident happened?

3           A     Yes.

4           Q     Do you think if you looked at that statement it  
5 would refresh your memory as to what his phone number  
6 was?

7           A     Yeah. I know it start with a 5.

8           (WHEREUPON, State's Exhibit 113 is marked for  
9 identification purposes.)

10 **BY MR. MARCHANT:**

11          Q     Mr. Pearson, I'm showing you what's been marked  
12 as State's number 113 for identification only. Take a  
13 look at that and see if it refreshes your memory what his  
14 phone number was.

15          A     Yes, it do.

16          Q     Okay. What's his phone number?

17          A     529-4082.

18          Q     You remember the area code?

19          A     864.

20          Q     Mr. Pearson, what is your home telephone on  
21 Pine Creek?

22          A     (864)299-8942.

23          Q     Did you also have a cell phone at that time?

24          A     Yes, I did.

25          Q     What was the phone number of that cell phone?

1           **A**     (864)787-7970.

2           **Q**     Okay. So you spoke to him later that evening  
3 and he was at the Comfort Inn?

4           **A**     Yeah.

5           **Q**     And he called you from ---

6           **A**     His phone.

7           **Q**     --- his cell phone?

8           **A**     Right.

9           **Q**     Was it your cell phone or the house?

10          **A**     My cell phone.

11          **Q**     What did he tell you he was doing at the  
12 Comfort Inn?

13          **A**     Nothing. He just got to the room. He was  
14 sitting in the car. We was just talking.

15          **Q**     Mr. Pearson, you keep talking about he got to  
16 the room. Why is he at the Comfort Inn if he's staying  
17 with you?

18          **A**     I couldn't -- I can't tell you that. I don't  
19 know.

20          **Q**     You know where he got the money to pay for the  
21 room?

22          **A**     I had loaned him some money.

23          **Q**     Did you speak to him again that evening?

24          **A**     No, sir.

25          **Q**     Did you speak to him the next day?

1           **A**     Yes, sir.

2           **Q**     You recall approximately what time you spoke  
3 with him the next morning?

4           **A**     The exact time, I don't know. It was after  
5 9:00. It was after 9:00, after 9:30, I think.

6           **Q**     You recall what number he called you from?

7           **A**     Yes, his cell phone.

8           **Q**     Did he call your cell phone or the house?

9           **A**     He called my cell phone.

10          **Q**     You remember whether or not he ever called the  
11 house that morning?

12          **A**     I can't -- I can't really recall.

13          **Q**     When he called you that morning, how did your  
14 conversation go?

15          **A**     He asked what I was doing. I told him waking  
16 up. He had told me --

17               **MR. JOHNSON:**     Talking about hearsay now.

18               **MR. MARCHANT:**     Your Honor, exception to the  
19 hearsay rule. Statement against interest.

20               **THE COURT:**     Anything in response to that?

21               **MR. JOHNSON:**     Can I hear the statement  
22 please?

23               **THE COURT:**     All right. Let's approach.

24               **(WHEREUPON, a bench conference is held off the**  
25 **record.)**

1           **THE COURT:**     Overruled.

2 **BY MR. MARCHANT:**

3           **Q**     All right. Mr. Pearson, he calls you on your  
4 cell phone. How does your conversation go?

5           **A**     He was like, cuz, what's up, what you doing. I  
6 was like nothing, just waking up. I said what's going  
7 on. He was like he had to run from the police. The  
8 police got behind him and he had to run from the police  
9 and he needed a ride. I was like, where you at. He told  
10 me he was in the woods by Berkeley and he had been shot.

11          **Q**     Did he tell you where he had been shot?

12          **A**     He didn't say where. He just said he been  
13 shot.

14          **Q**     Did you speak to him ---

15          **A**     That was it.

16          **Q**     --- any further?

17          **A**     That was it.

18          **Q**     Did you speak to him again that day?

19          **A**     No. I tried to call back numbers of times, but  
20 couldn't get through.

21          **Q**     Who is Marlina?

22          **A**     That was my girlfriend at the time.

23          **Q**     You recall what her phone number is?

24          **A**     Yeah.

25          **Q**     What's that?

1           **A**     Uh, I ain't good with numbers. Like I said,  
2 things programmed in my phone. 395-6036.

3           **Q**     And who is Sonya?

4           **A**     That's my little sister.

5           **Q**     You recall what her phone number is?

6           **A**     Yeah, 451-8440.

7           **Q**     Mr. Pearson, I'm going to show you what's in  
8 evidence as State's Exhibit 53. Have you seen this  
9 before today?

10          **A**     Yes, sir.

11          **Q**     And where have you seen it?

12          **A**     Patrick.

13          **Q**     You say Patrick. When did you see him with it  
14 and where did you see him with it?

15          **A**     I had saw it in the car.

16          **Q**     Which car are you referring to?

17          **A**     The Tahoe.

18          **Q**     You recall when you saw this gun last prior to  
19 this incident happening?

20          **A**     The last time I saw him. The day before.

21          **Q**     So the day before the shooting happened, you  
22 saw him with the Yukon and the gun was in the Yukon?

23          **A**     Yes.

24          **Q**     You recall where the gun was in the Yukon?

25          **A**     It was just laying on the console.

- 1           **Q**     Was there anybody else in the vehicle with you?
- 2           **A**     Well, he had took me and my uncle to the store.
- 3           **Q**     What's your uncle's name?
- 4           **A**     My uncle Steve. Steve Kelley.
- 5           **Q**     How do you spell the last name?
- 6           **A**     K-E-L-L-E-Y.
- 7           **Q**     And how old is Mr. Kelley?
- 8           **A**     I don't know. My mom baby brother.
- 9           **Q**     How old are you, Mr. Pearson?
- 10          **A**     I'm 32.
- 11          **Q**     Mr. Kelley older than you?
- 12          **A**     Oh, yeah. Late 40s, probably early 50s or so.
- 13          **Q**     Do you know a fellow by the name of William
- 14 Brockman?
- 15          **A**     Yes.
- 16          **Q**     How do you know Mr. Brockman?
- 17          **A**     From the neighborhood.
- 18          **Q**     You know where Mr. Brockman lived back in
- 19 October of 2011?
- 20          **A**     Yes, sir.
- 21          **Q**     You know what street that was?
- 22          **A**     Yes, sir.
- 23          **Q**     What's that?
- 24          **A**     Mooremont.
- 25          **Q**     And how far is Mooremont from Pine Creek?

1           **A**     Uh, it's about three or four blocks over.

2           **Q**     Going back to the time that Mr. Lowrance  
3 started staying with you, this incident occurred on  
4 October 28th, almost Halloween. How long had he been  
5 staying with you?

6           **A**     At the beginning of the summer. He had started  
7 coming down and hanging around and staying overnight. I  
8 would say around the middle of June.

9           **Q**     Would y'all have an occasion to go out?

10          **A**     Yes.

11          **Q**     Where would you typically go?

12          **A**     Swag. It's a bar up the street from the house.

13          **Q**     You recall what street that's on?

14          **A**     It's White Horse Road.

15          **Q**     The vehicle that you described earlier, the  
16 Yukon, do you know who's vehicle that was?

17          **A**     No, I don't.

18          **Q**     Mr. Lowrance was in that vehicle the day before  
19 this happened?

20          **A**     Yes.

21          **Q**     That's where you saw the gun?

22          **A**     Yes, sir.

23          **Q**     How long had he had that vehicle at that point  
24 in time?

25          **A**     About three weeks I guess I would say.

1           **Q**    Mr. Pearson, did Mr. Lowrance say anything to  
2 you about anyone that was with him that day this event  
3 happened?

4           **A**    What day?

5           **Q**    When the shooting happened, did he tell you  
6 anything about anyone else being with him?

7           **A**    Oh, no, sir.

8           **Q**    Thank you, Mr. Pearson. Please answer any  
9 questions ---

10           **THE COURT:**    Yes, sir.

11           **MR. MARCHANT:**    --- Mr. Johnson may have.

12           **MR. JOHNSON:**    Thank you, Your Honor.

13                           **CROSS-EXAMINATION**

14           **BY MR. JOHNSON:**

15           **Q**    Mr. Pearson, to be clear, this vehicle, you  
16 rode in this vehicle?

17           **A**    Yes.

18           **Q**    Now, also to be clear, you told the Solicitor  
19 that you spoke with Patrick and he said he had been shot?

20           **A**    Yeah.

21           **Q**    But you didn't really get any other information  
22 from that other than that?

23           **A**    No, he said he been shot and like the phone  
24 went dead.

25           **Q**    The phone went --

1           **A**    I kept trying to call back but couldn't get  
2 through.

3           **Q**    So you couldn't get through so you weren't able  
4 to speak with him again?

5           **A**    Huh-uh.

6           **Q**    Okay. Mr. Pearson, now at your house, who  
7 lives at your house?

8           **A**    Me, my mom, my sister, my niece at the time --  
9 she's at college now -- my nephew.

10          **Q**    And how old are these -- how old are the  
11 youngest of these folks?

12          **A**    How old is the youngest?

13          **Q**    Yeah.

14          **A**    My nephew just turned three January 1st.

15          **Q**    Now, Mr. Pearson, would your family let you  
16 party at the house?

17          **A**    What you mean party at the house?

18          **Q**    Do drugs, drink alcohol or anything like that?

19          **A**    Uh, well, I am over 21 so if I want to drink at  
20 home, I drink at home.

21          **Q**    I'm not sure what you're saying.

22          **A**    What are you saying?

23          **Q**    I'm asking you did you party at home.

24          **A**    What do you mean party at home? Party like  
25 loud music, thump, thump?

1 Q I mean, alcohol, drugs?

2 A You talking about smoking weed and drinking  
3 beer?

4 Q Uh-huh.

5 A Is that what you want to ask me?

6 Q Uh-huh.

7 A Yeah, I do it.

8 Q Do you do it around your --

9 A No.

10 Q You don't do it around them, do you?

11 A No.

12 Q Okay. You would go someplace else to do that,  
13 wouldn't you?

14 A I go in the back yard or something.

15 Q Would you let Patrick do that?

16 A What you mean let him? He a grown man.

17 Q You let him smoke weed in front of your nephew?

18 A No.

19 Q All right. I have nothing further at this  
20 time.

21 **REDIRECT EXAMINATION**

22 **BY MR. MARCHANT:**

23 Q Mr. Pearson, you ever seen Mr. Lowrance smoke  
24 weed?

25 A Yeah.

1           **Q**    You smoke weed with him?

2           **A**    Yeah.

3           **Q**    You done anything else with him?

4           **A**    Huh-uh.

5           **Q**    Any other drugs?

6           **A**    Huh-uh.

7           **Q**    The night before this incident happened when  
8 y'all were at your house, were you smoking marijuana?

9           **A**    I'm pretty sure we did smoke.

10          **Q**    Thank you, Mr. Pearson. That's all the  
11 questions I have.

12                   **MR. MARCHANT:**    I ask that the witness be  
13 excused.

14                   **THE COURT:**    All right, sir. You can step  
15 down.

16                   **THE WITNESS:**    All right.

17                   **THE COURT:**    Is it alright for him to be  
18 excused?

19                   **MR. JOHNSON:**    Yes, ma'am, Your Honor.

20                   **THE COURT:**    Thank you for being here. All  
21 right.

22                   I'll tell you what, let's take a brief break  
23 before we continue going. We'll take a break for  
24 about 10 minutes.

25                   **(WHEREUPON,** the jury exits at approximately

1 3:44 p.m.)

2 **THE COURT:** All right. Let's be in recess  
3 for 10 minutes.

4 (WHEREUPON, a short recess is taken.)

5 **THE COURT:** We ready to bring the jury back  
6 in?

7 **MR. MARCHANT:** Yes, Your Honor. I'm sorry.

8 **MR. JOHNSON:** Your Honor, actually --

9 **THE COURT:** Oh, I'm sorry.

10 **MR. CRANGLE:** Just a quick issue that we may  
11 need to address. I can't recall if the witnesses  
12 have been sworn in or under oath. Maybe they have  
13 been and I've been missing it. But I haven't heard  
14 any testimony swearing the witnesses in. I could be  
15 mistaken.

16 **THE COURT:** Oh, you mean the witnesses who  
17 have testified in this trial?

18 **MR. CRANGLE:** Uh-huh.

19 **THE COURT:** They've all been sworn. Is that  
20 what you're asking is are they being sworn here?

21 **MR. CRANGLE:** Yeah.

22 **THE COURT:** Gone up and put their hand and --  
23 Joelle's quiet and sweet about it, but yeah, she's  
24 been swearing them all in.

25 **MR. CRANGLE:** All right. I just wanted to

1           make sure. Okay.

2                   **THE COURT:**     Thank you.

3           **(WHEREUPON,** the jury enters at approximately  
4 4:05 p.m.)

5                   **THE COURT:**     All right.

6                   **MR. MARCHANT:**    Please the Court. The State  
7 calls Officer Jonathan Hamilton.

8                   **THE CLERK:**     Officer Hamilton, if you would,  
9 come forward to be sworn in.

10                   **THE BAILIFF:**     Officer, place your left hand  
11 on the Bible. Raise your right hand and face the  
12 judge.

13                                   **JONATHAN HAMILTON**

14           having first been sworn, testifies as follows:

15                   **THE CLERK:**     Thank you. You may be seated.  
16 Would you please state your name for the record.

17                   **THE WITNESS:**    Officer Jonathan F. Hamilton.

18                                   **DIRECT EXAMINATION**

19 **BY MR. MARCHANT:**

20           **Q**     Officer Hamilton, where are you employed?

21           **A**     The Greenville County Department of Public  
22 Safety, Forensics Division.

23           **Q**     Now, we just heard from Officer Derby.

24           **A**     Uh-huh.

25           **Q**     Y'all have essentially the same

1 responsibilities and duties?

2       **A**     Yes. Yes, we do.

3       **Q**     And Sergeant Shaw?

4       **A**     He is our supervisor over us. Same job.

5       **Q**     With respect to the collection of evidence and

6 the preservation of items, same duties?

7       **A**     Yes, sir.

8       **Q**     Did you have the occasion to work on this  
9 particular incident that occurred at Berkeley Pointe?

10       **A**     Uh, yes, I did.

11       **Q**     Do you recall whether or not you responded to  
12 Berkeley Pointe that day?

13       **A**     No, I didn't.

14       **Q**     You remember whether or not you did any  
15 processing on what's in evidence as State's 71?

16       **A**     Yes.

17       **Q**     Please explain to the jury what it is that you  
18 did on this vehicle and what your results were?

19       **A**     Uh, I assisted Officer Derby with processing a  
20 search warrant issued for the vehicle shown. Officer  
21 Derby already collected digital photographs and whatnot  
22 of it. So I came in to relieve him and complete the  
23 actual processing of the vehicle. The first thing I did  
24 was I collected a tape lift. Basically, it's a water  
25 soluble tape. It collects -- put it just like duck tape.

1 We put it on the driver's side, at this point, driver's  
2 side front seat. We try to collect any kind of fibers,  
3 hairs, debris, that kind of thing that may be caught on  
4 the seat. Uh, after --

5 Q Officer --

6 A Sorry.

7 Q Officer Hamilton, did you also process the  
8 vehicle for any potential fingerprints?

9 A Yes, I did.

10 Q And where are those areas that you processed?

11 A Basically the entire exterior of the vehicle,  
12 the hood, the quarter panels front and back. The doors  
13 inside and outside of the doors, the rear hatch door.  
14 Anywhere there is a smooth surface that a latent print  
15 could be retrieved from.

16 Q You say smooth surface, why is it important  
17 that their be a smooth surface?

18 A You know, rough -- a really rough textured  
19 surface, it's hard for the latent print to be developed  
20 and collected on. I mean, not all surfaces, but most  
21 textured surfaces. So when I refer to smooth surface,  
22 surfaces that we know we can retrieve prints from.

23 Q Let me show you what's been marked as 72, 73,  
24 74, 74, 75, 76 and 77. Do you recognize those cards from  
25 the latent division?

1           **A**     Yes. I recognize them as latent cards that we  
2 use in the office.

3           **Q**     And what do you do with those cards with  
4 respect to fingerprint lifts?

5           **A**     Uh, when we pull the print, 9 times out 10,  
6 what we do is pull the print with the tape. A latent  
7 print is a print we can't see. We add powder and then we  
8 put tape on top of that print, pull it off and then put  
9 it on a white card. That way, the contrast, you have a  
10 white backing, tape and then the latent print sticks out  
11 to where you can see it. Then we put them on those  
12 cards. We fill them out and forward them to our latents  
13 division.

14          **Q**     How is it that latent receives those cards?

15          **A**     They come to our office. At that time, we have  
16 a locked box. They come in. They lock it. I drop them  
17 in. Nobody else has a key to it except for the latents  
18 division and they retrieve those prints, those latent  
19 cards.

20          **Q**     And those cards -- excuse me. Can the prints  
21 also be sent electronically?

22          **A**     Uh, yes, they can now. Yes, sir.

23          **Q**     Officer Derby has testified various things that  
24 he did on the vehicle as well. Did you do anything else  
25 in addition to that vehicle than what you described to

1 the jury today?

2       **A**     The only thing I did was I collected the  
3 license plate off the back, which I processed it as well.  
4 That's the entire thing I did. I processed the prints,  
5 the vehicle itself, retrieved the license plate and  
6 collect the tape lift that I spoke of.

7               **MR. MARCHANT:**     Thank you, Officer Hamilton.  
8               Please answer any questions Mr. Johnson may have.

9               **THE COURT:**     Mr. Johnson.

10                                   **CROSS-EXAMINATION**

11 **BY MR. JOHNSON:**

12       **Q**     Officer Hamilton, you pretty much processed the  
13 entire vehicle?

14       **A**     The places where you would touch the vehicle,  
15 yes, sir.

16       **Q**     So that includes front, uh, driver's side door,  
17 front passenger side door, back doors and all that?

18       **A**     The exterior and interior, yes, sir.

19       **Q**     Okay. I have nothing further.

20               **THE COURT:**     Anything else for this witness?

21               **MR. MARCHANT:**     No, Your Honor. I ask that  
22 the witness be relieved of his subpoena.

23               **THE COURT:**     All right. Any objection?

24               **MR. JOHNSON:**     No objection, Your Honor.

25               **THE COURT:**     Thank you, sir, for being here.

1           **THE WITNESS:**     Thank you.

2           **MR. MARCHANT:**    The State would call Chris  
3 Gary.

4           **THE CLERK:**     Mr. Gary, please come forward to  
5 be sworn in.

6           **THE BAILIFF:**     Sir --

7           **THE CLERK:**     Please place your left hand on  
8 the Bible and raise your right.

9                           **CHRIS GARY**

10          having first been sworn, testifies as follows:

11          **THE CLERK:**     Thank you. You may be seated.  
12          Would you please state your name for the record.

13          **THE WITNESS:**    Christopher Adam Gary.

14          **THE CLERK:**     Thank you.

15          **MR. MARCHANT:**    Your Honor, may Mr. Johnson  
16          and I approach briefly?

17          **THE COURT:**     Certainly.

18          (WHEREUPON, a bench conference is held off the  
19 record.)

20          **MR. MARCHANT:**    All right. May it please the  
21 Court?

22          **THE COURT:**     Yes, sir.

23                           **DIRECT EXAMINATION**

24 **BY MR. MARCHANT:**

25          **Q**     Sir, what was your name again?

1           **A**     Christopher Adam Gary.

2           **Q**     And Mr. Gary, where do you work?

3           **A**     I work for the Greenville County Department of  
4 Public Safety in the Forensics Division.

5           **Q**     What do you specifically do in the Forensics  
6 Division?

7           **A**     I observed a container of latent fingerprints.  
8 I also do tire track analysis as well as footwear  
9 analysis.

10          **Q**     How long have you been doing fingerprint  
11 analysis?

12          **A**     I been with Greenville County full-time for  
13 about three years now or little over three years. It  
14 will be four years in July. Before that, I actually had  
15 the ability to intern with them for three years and kind  
16 of learn the ins and outs, the foundation of the science  
17 of fingerprints while I was in college. Once I graduated  
18 from there, I was able to come on with Greenville County  
19 full-time and almost hit the ground running so to speak  
20 doing full-time duties.

21          **Q**     You testified in this courthouse before?

22          **A**     Yes, I have.

23          **Q**     You been qualified as an expert in fingerprint  
24 analysis before?

25          **A**     Yes, I have.

1           **MR. MARCHANT:**     The State would move to  
2           qualify him again as an expert, Your Honor.

3           **THE COURT:**     All right. Any objection?

4           **MR. JOHNSON:**     No objection.

5           **THE COURT:**     Ladies and Gentlemen, normally a  
6           witness can only testify to what he or she has  
7           actually seen or heard or observed themselves.  
8           There is an exception for a witness we call an  
9           expert witness. That witness, because of, uh,  
10          education or experience, if qualified by the court  
11          can give their opinion in certain areas. This  
12          witness is going to be qualified -- again, tell me.  
13          I'm so sorry.

14          **MR. MARCHANT:**     Fingerprint analysis.

15          **THE COURT:**     In fingerprint analysis. And  
16          will be qualified to give his opinion in that area.  
17          You may use his opinion in any way that you see fit.  
18          Yes, sir.

19          **MR. MARCHANT:**     Thank you, Your Honor.

20 **BY MR. MARCHANT:**

21           **Q**     Mr. Gary, I'm going to show you State's 72, 73,  
22     74, 75, 76 and 77. Do you recognize those?

23           **A**     Yes, I do.

24           **Q**     And did you do some analysis on those items?

25           **A**     Yes, I did.

1           **MR. MARCHANT:**     The State would move 72, 3, 4,  
2           5, 6 and 7 into evidence.

3           **THE COURT:**       Any objection?

4           **MR. JOHNSON:**     No objection.

5           **THE COURT:**       They will be so admitted.

6           **(WHEREUPON, State's Exhibits 72 thru 77 are admitted**  
7           **into the record.)**

8           **BY MR. MARCHANT:**

9           **Q**     Mr. Gary, if you would, starting with State's  
10          72, please describe to the jury what you analyzed and the  
11          result that you found.

12          **A**     State's Exhibit 72 was a fingerprint image from  
13          Item JD-11, which was a plastic tray inside of a  
14          cardboard box of ammo. I identified that as being made  
15          by the number 7, which is the left index finger of  
16          Patrick Lowrance.

17          **Q**     With respect to State's 73?

18          **A**     State's Exhibit 73 was from the exterior  
19          passenger side of the hood of a 2005 GMC Yukon. I  
20          identified as being made by the number 9, which is the  
21          left ring finger of Patrick Dean Lowrance.

22          **Q**     State's 74?

23          **A**     State's Exhibit 74 from the exterior center of  
24          the hood of a 2005 GMC Yukon was identified as being made  
25          by the number 3, which is the right middle finger of

1 Patrick Dean Lowrance.

2 Q State's 75.

3 A State's Exhibit 75, which is from the exterior  
4 facing side of the driver's side rear door is identified  
5 as being made or from a 2005 GMC Yukon is identified as  
6 being made by the number 10, which is the left little  
7 finger of Patrick Dean Lowrance.

8 Q State's 76.

9 A State's Exhibit 76 is from the exterior facing  
10 side of the passenger side front door window of a 2005  
11 GMC Yukon is identified as being made by the number 7,  
12 which is the left index finger of Patrick Dean Lowrance.

13 Q State's 77.

14 A State's Exhibit 77 from the exterior passenger  
15 side of the hood of a 2005 GMC Yukon is identified as  
16 being made by the number 7, which is the left index, the  
17 number 2, which is the right index, and the left palm of  
18 Patrick Dean Lowrance.

19 Q Mr. Gary, did you analyze any other prints in  
20 this case that came back to Patrick Dean Lowrance?

21 A No, sir. I did not.

22 Q Did you analyze other prints in this case?

23 A Yes, I did.

24 Q And the print that is identified as JD-11 in  
25 your report, who did that print come back to?

1           **A**     May I refer to my notes?

2           **Q**     Please.

3           **A**     (Reviewing.)

4                     There's a latent lift number 2 from item JD-11,  
5 which was the plastic tray inside card box of ammo was  
6 identified as a Tron Jermaine Hines.

7           **Q**     Officer Gary, I'm going to ask you to look at  
8 latent lift number 15 from Jonathan Hamilton.

9           **A**     Yes, sir.

10          **Q**     Who did that print come back to?

11          **A**     That print was number -- it was latent lift 15  
12 that Officer Hamilton submitted from the exterior facing  
13 side of the passenger side front door window of a 2005  
14 GMC Yukon was identified as being made by the number 1,  
15 which is the right thumb, the number 2, which is the  
16 right index, number 3, which is the right middle and  
17 number 4, which is the right ring fingers as well as the  
18 right palm of Evelyn Loaiza-Alvarez. And that spelling  
19 is L-O-A-I-Z-A-hyphen-A-L-V-A-R-E-Z.

20          **Q**     Lastly, you referred to Officer Hamilton's  
21 latent lift number 2. Where did that print come from and  
22 who did it belong to?

23          **A**     Latent lift number 2 from the exterior facing  
24 side of the passenger side front door of a 2005 GMC Yukon  
25 was identified as belonging to Joel Antwan Pringle cause

1 that was his left palm.

2 Q Officer Gary, with respect to the other  
3 fingerprints that you examined, did you find any other  
4 matches to those prints?

5 A There were -- no identifications were made.

6 Q Officer Gary, when you were analyzing these  
7 items, how is it that you are making the comparison from  
8 the lift that you have to a known print and how is it  
9 that you are confident that what you have from the lift  
10 from that vehicle matches who you've indicated it's come  
11 back to?

12 A Well, we have two parts of the puzzle so to  
13 speak. We have the latent fingerprints, which in this  
14 case Officer Hamilton and Officer Derby submitted. And  
15 those latent fingerprints, they come from the crime scene  
16 or other items that were processed as a result as they  
17 related to the crime scene. We also have a set of known  
18 prints. What known prints are, if you ever seen on TV or  
19 anything like that, is where fingerprints are placed in  
20 black ink and then placed onto a white backing  
21 fingerprint card. Now, they also have digital  
22 fingerprint recording as well. Once those fingerprints  
23 are placed onto a card, all the information of that  
24 person is also put on the card so that we don't mistake  
25 that person for any other individual. Their name, Social

1 Security, date of birth, race, sex, any other identifiers  
2 unique to that individual. So we know that those  
3 fingerprints belong to that person.

4           Once we do that -- sometimes we're often  
5 requested to compare an individual to some fingerprints  
6 that were found at a crime scene. What we do there, we  
7 first analyze that fingerprint that is from the crime  
8 scene. We'd look at it for its quality. How much  
9 detail is really there. Not all fingerprints are of  
10 great quality, you know, like we see on TV sometimes.  
11 Sometimes they are poor quality. Sometimes they have  
12 other factors that affect the quality such as how much an  
13 individual sweats or how much movement was placed when  
14 that fingerprint was put down. So we compare that  
15 fingerprint from the crime scene. Then, we compare it to  
16 the person that we were requested to analyze. And we  
17 look and we make sure that that fingerprint does or does  
18 not belong to the person on that known fingerprint card.

19           **Q**     You spoke that you had the race and the sex of  
20 the individuals. What is the race and sex of the three  
21 other people that you identified here today?

22           **A**     Evelyn Loaiza-Alvarez was listed as being a  
23 white female. Joel Antwan Pringle was listed as being a  
24 black male. And Tron Hines was listed as being a black  
25 male.

1           Q     Thank you, Officer Gary. Please answer any  
2 questions Mr. Johnson may have.

3           **THE COURT:**     Mr. Johnson?

4           **MR. JOHNSON:**     Thank you, Your Honor.

5                           **CROSS-EXAMINATION**

6           **BY MR. JOHNSON:**

7           Q     Officer Gary, uh, first thing -- if I  
8 understand correctly, what you do is, uh, I believe you  
9 say you get the crime scene -- prints processed from a  
10 crime scene that are given to you?

11          A     Yes, sir. That's correct.

12          Q     And there's also a sample that the suspects  
13 give to you.

14          A     Yes, that's correct.

15          Q     And if you make that comparison from the ones  
16 they took from any potential crime scenes to that of the  
17 suspect. You make a match or don't make a match?

18          A     Yes, sir. That's correct.

19          Q     Now, you also made several other matches in  
20 this situation. Is that true?

21          A     Yes, that is correct.

22          Q     Where did you get the standards from those  
23 prints?

24          A     We have a database that's maintained by SLED.  
25 We can use that to search from fingerprints that are

1           **MR. MARCHANT:**     No redirect, Your Honor.

2           **THE COURT:**     All right.  Sir, you can step  
3           down.

4           **MR. MARCHANT:**    Take a quick peek out in the  
5           hallway, Your Honor.

6           **THE COURT:**     All right.

7           (WHEREUPON, there is a pause.)

8           **MR. MARCHANT:**    The State would call James  
9           Armstrong.

10          **THE CLERK:**     Mr. Armstrong, if you would,  
11          please come forward to be sworn in.  Please place  
12          your left hand on the Bible and raise your right.

13                           **JAMES ARMSTRONG**

14          having first been sworn, testifies as follows:

15          **THE CLERK:**     Thank you.  You may be seated.  
16          Would you please state your name for the record?

17          **THE WITNESS:**    James William Armstrong.

18          **THE CLERK:**     Thank you.

19                           **DIRECT EXAMINATION**

20   **BY MR. MARCHANT:**

21           **Q**     Good afternoon, Mr. Armstrong.

22           **A**     Good afternoon.

23           **Q**     Where are you employed?

24           **A**     For the Greenville County Department of Public  
25          Safety, Forensics Division, Crime Laboratory.

1           **Q**     And we've had several forensics officers in and  
2 out yesterday and today. What exactly do you do in the  
3 Forensics Division?

4           **A**     I have a dual responsibility as a firearm  
5 examiner and a forensic drug chemist.

6           **Q**     What does a forensic drug chemist do?

7           **A**     I analyze suspected control substances, white  
8 powders, plant materials and such and report my findings  
9 of those.

10          **Q**     What does a firearms examiner do?

11          **A**     A firearm examiner examine any firearm related  
12 evidence such as fire cartridge casings, projectiles,  
13 firearms and report findings to see if the firearm had  
14 been used in a certain crime and identify the firearm by  
15 make, model, serial numbers and even restore serial  
16 numbers if need be and even do tool mark comparisons.

17          **Q**     How long you been doing that?

18          **A**     Uh, approximately 12 years.

19          **MR. MARCHANT:**     Move to have Mr. Armstrong  
20 qualified as an expert in firearms examination.

21          **MR. JOHNSON:**     No objection.

22          **THE COURT:**     All right then. Ladies and  
23 Gentlemen, you heard that this witness will be  
24 qualified as an expert witness in that area. I  
25 previously explained to you what an expert witness

1 is that he can give his opinion in that area and you  
2 can use that testimony in any way that you see fit.

3 Yes, sir.

4 **MR. MARCHANT:** Thank you, Your Honor.

5 **BY MR. MARCHANT:**

6 **Q** Mr. Armstrong, I'm going to show you what's  
7 been marked and is in evidence as State's number 59.  
8 Would you take a look at this piece of evidence and see  
9 if you recognize it?

10 **A** Yes, sir. I do.

11 **Q** Please tell the jury what is in State's 59.

12 **A** State's 59 was marked as items DS-1, DS-2, 3,  
13 4, 5, 6, 7, 8, 9, 10, 11, 12, 22 and 29. They are fired  
14 cartridges casings.

15 **Q** Did you have the occasion to examine these  
16 fired cartridge casings?

17 **A** Yes, sir. I did.

18 **Q** What sort of cartridge casings are those?

19 **A** They are all 9-millimeter Luger fired cartridge  
20 casings.

21 **Q** You recall what the head stamp is on them?

22 **A** DS-1 through 12, 22 and 29 are marketed by  
23 Speer.

24 **Q** In this case, did you have the occasion to  
25 compare these shells to Officer Taci Cobb's gun?

1           **A**     Yes, sir. I did.

2           **Q**     And please tell the jury what your findings  
3 were and how you were able to determine whether or not  
4 they belong to that gun.

5           **A**     In order to do my examination, I've taken the  
6 questionable firearm, uh, the officer's firearm and went  
7 and test fired it and collected test fires by way of  
8 shooting into a ballistic retrieval device or actually a  
9 water tank. Upon test firing it and then marked the test  
10 fires and went back to my office and then did a  
11 microscopic examination to compare the unknowns, which  
12 are these items, to the knowns of the firearm. By doing  
13 a microscopic comparison, I was able to determine that  
14 items DS-1 through DS-12, DS-22 and 29 were fired in item  
15 TC-1 pistol.

16          **Q**     If you could, go into just a little bit more  
17 detail if you would for m, Mr. Armstrong. How is it that  
18 you can say with certainty that those items were fired  
19 from that gun? What is unique about those items?

20          **A**     On the items when they are fired, the firing  
21 pin strikes the primer. When the firing pin strikes that  
22 primer, it then sends a shock sensitive compound into the  
23 ampule that cause a spark. That spark goes into the  
24 powder charge of the case. It sparks a burn. Then  
25 pressure builds which expands the casing in all

1 directions as well as around the sides and out backwards.  
2 As it does that, any microscopic imperfection that is on  
3 that firearm is then transferred to that casing. Then  
4 when the projectile actually gets right at and exits the  
5 barrel, the casing is then ejected. It then also has  
6 ejector and chamber marks as well. When I actually test  
7 fire the firearm, I can then compare my test fires that I  
8 know that I created from shooting the firearm and then  
9 compare it to the unknowns.

10 Q In this case, those items, every single one of  
11 them came back to her gun?

12 A Yes, they did.

13 Q You're certain?

14 A Certain.

15 Q Mr. Armstrong, I'm going to ask you to look at  
16 State's 60 that's in evidence and see if you recognize  
17 that.

18 A Yes, sir.

19 Q And did you have the occasion to do some  
20 examination on those items?

21 A Yes, sir. I did.

22 Q What are those items?

23 A They are listed as items DS-21, 25, 26, 27, 28,  
24 30, 31, 32, 33. They are also fired cartridge casings.  
25 Caliber 9-millimeter.

1           Q     You recall what the head stamp is on those nine  
2 items that you just described to the jury?

3           A     Yes, sir. One moment. (Pause.)

4                     DS-21 -- DS-21, 26, they are head stamp of RWS  
5 over 9-millimeter Luger. DS-25, 27, 28, 30, 31, 32 and  
6 33 bear Winchester head stamp.

7           Q     RWS and WIN?

8           A     Yeah, Winchester, yes, sir.

9           Q     On those nine?

10          A     Yes, sir.

11          Q     Did you have the occasion to compare those  
12 items to State's 53?

13          A     Yes, sir. I did.

14          Q     What was the result of your analysis?

15          A     The items DS-21, 25, 26, 27, 28, 30, 31, 32, 33  
16 fired cartridge casings were fired in this firearm.

17          Q     So those nine came out of that gun?

18          A     Yes, sir.

19          Q     And the other 14 came out of the other gun?

20          A     That's correct.

21          Q     Did you have -- did you have the occasion to  
22 examine any other shell casings with respect to this  
23 case?

24          A     Not that I recall.

25          Q     I'm going to show you State's 61 that's in

1 evidence. (Pause.)

2 I'm going to ask you to take a look in there  
3 and see if you recognize those items.

4 **A** (Reviewing.)

5 **Q** I want to talk specifically about DS-14 and DS-  
6 41. Let's start with DS-14. You can open it.

7 **A** DS-14 is a copper fired bullet jacket fragment.

8 **Q** What analysis did you do with respect to 14 to  
9 determine, uh, which firearm that came from?

10 **A** Basically, it was the same with the fired  
11 cartridge casings. I did a side-by-side comparison on a  
12 comparison microscope. On item DS-14, it's a fired  
13 bullet jacket fragment. It was not fired from item TC-1  
14 pistol. Very similar but insufficient microscopic marks  
15 to admit identification to the item JD-1 pistol.

16 **Q** Now, moving to item DS-41. Mr. Armstrong, if  
17 you would bear with me just a moment. For the jury's  
18 clarification, item JD-1 that you referred to ---

19 **A** Yes.

20 **Q** --- which firearm is that?

21 **A** This is the 9-millimeter.

22 **Q** So back up just a second. DS-14, are you  
23 saying it did or did not come from this gun?

24 **A** It is possible. There are similar markings  
25 that indicate it may have come from this firearm.

1           Q     What about the other firearm, the officer's  
2 gun?

3           A     It was not from that firearm.

4           Q     You're certain?

5           A     Certain.

6           Q     DS-41, did you conduct the same analysis on  
7 that item as well?

8           A     Yes, sir. I did.

9           Q     What was your finding with respect to that  
10 item?

11          A     Item DS-41, fired bullet specimen was fired  
12 from the item JD-1 pistol.

13          Q     How sure are you?

14          A     I'm 100 percent positive.

15          Q     You're positive that that came from this?

16          A     It was fired from that firearm.

17          Q     You are positive that this one did not come  
18 from Officer Cobb's gun?

19          A     Correct.

20          Q     With respect to all of the other fragments that  
21 were recovered by Officer Shaw that day, did you conduct  
22 the same analysis on those items?

23          A     Yes, sir. I did.

24          Q     Were you able to determine with certainty  
25 whether or not they came from Officer Cobb's gun or item

1 JD-1, which is the M-11?

2 **A** Yes, sir. They were determined that the item  
3 DS-18, 19A, 23, 40, 42, 43 and 45 fired bullet specimens  
4 and fragments were not fired from the item JD-1 pistol,  
5 but very similar but insufficient microscopic marks to  
6 permit identification to the item TC-1 pistol.

7 **Q** So just like the last item we talked about, I'm  
8 sorry, the first item we talked about, insufficient on  
9 Officer Cobb's gun on DS-14 but similar characteristics  
10 to this gun? I'm backing up on you just a second. The  
11 individual one we discussed.

12 **A** 14 and 41.

13 **Q** 14 ---

14 **A** Right.

15 **Q** --- bared -- you are certain that 14 did not  
16 come from Officer Cobb's gun?

17 **A** That's correct.

18 **Q** But it bared similar characteristics to this  
19 gun?

20 **A** That's correct.

21 **Q** Now, these others that you talked about, they  
22 definitely -- those definitely did not come from this  
23 gun?

24 **A** That's correct.

25 **Q** You can not say with certainty that they came

1 from Officer Cobb's gun.

2       **A**     Right. They are special similarities.

3       **Q**     Now, the other items that you analyzed, were  
4 you able to tell either way?

5       **A**     There were several items that were not suitable  
6 for microscopic comparison purposes. There were some  
7 fragments and bullet cores which did not bare any lands  
8 and grooves or striations from the barrel for comparison  
9 purposes.

10       **Q**     Several items you just don't know one way or  
11 another because there's not enough of a sample?

12       **A**     Correct.

13       **Q**     Now, you spoke earlier about the second set of  
14 shells that we talked about. There were nine of them.  
15 They bared a head stamp of WIN and RWS. Do you recall  
16 the caliber of those?

17       **A**     9-millimeter Luger.

18       **Q**     Can you help explain to the jury how two  
19 different types of ammunition, whether or not they can go  
20 through the same gun?

21       **A**     There are hundreds of ammunition manufacturing  
22 facilities and plants and they all bare a different head  
23 stamp. They all make a same caliber cartridge that can  
24 go in a variety of different handguns or rifles.

25       **Q**     Thank you, Mr. Armstrong. Please answer any

1 questions the defendant may have.

2 **MR. JOHNSON:** Thank you, Your Honor.

3 **THE COURT:** Yes, sir.

4 **CROSS-EXAMINATION**

5 **BY MR. JOHNSON:**

6 **Q** Mr. Armstrong, a gun like this, how does the  
7 bullet get in there?

8 **A** They are loaded into a magazine. It's loaded  
9 by hand and inserted. There's a bolt that is pulled back  
10 to charge the firearm.

11 **Q** Now, I see you doing all these hand motions.  
12 Let's slow down a little bit. Let's start from the  
13 beginning.

14 **A** First, you have the magazine. Then you load it  
15 with cartridges. While you're holding the magazine, you  
16 place the cartridges into the mouth of the handgun. Then  
17 you load them. Once the magazine is loaded, you insert  
18 it into the firearm into the magazine well. Then to  
19 actually load the gun is a charge handle that you pull.  
20 You pull that back, then let it go. Now, the firearm is  
21 ready for firing.

22 **Q** So the bullets are in the magazine. You stick  
23 the magazine in the gun. You do that by hand.

24 **A** Yes, sir.

25 **Q** Is it difficult to do?

1           **A**     No, sir.

2           **Q**     But you stick it in there?

3           **A**     It has to be shoved in.

4           **Q**     You shove it in there and then the gun is  
5 loaded?

6           **A**     Yes, it's ready to go.

7           **Q**     Okay. Nothing further at this time.

8                   **THE COURT:**     Any other questions for this  
9 witness?

10                   **MR. MARCHANT:**     No, Your Honor. We ask that  
11 he be excused and relieved of his subpoena.

12                   **THE COURT:**     Any objection?

13                   **MR. JOHNSON:**     No objection.

14                   **THE COURT:**     Thank you, sir, for being here.

15                   **MR. MARCHANT:**     Please the Court.

16                   **THE COURT:**     Let me just ask you -- do y'all  
17 mind approaching?

18                   **(WHEREUPON, a bench conference is held off the**  
19 **record.)**

20                   **THE COURT:**     Thank you. Thank you for  
21 standing up. Here's the situation we're in. We're  
22 going to call one more witness. They don't  
23 anticipate this to be a long witness at all. After  
24 that, we may or may not have one other short witness  
25 but don't know at this point. But we think this is

1 going to be a real short witness. All right.

2 Everybody good?

3 **MR. MARCHANT:** Please the Court. The State  
4 calls William Brockman.

5 **THE CLERK:** Mr. Brockman, please come around  
6 to be sworn in. Would you please place your left  
7 hand on the Bible and raise your right?

8 **THE BAILIFF:** Face the judge.

9 **THE CLERK:** Face me please.

10 **WILLIAM BROCKMAN**

11 having first been sworn, testifies as follows:

12 **THE CLERK:** Thank you. You may be seated.  
13 Would you please state your name for the record?

14 **THE WITNESS:** William Brockman.

15 **THE CLERK:** Thank you.

16 **DIRECT EXAMINATION**

17 **BY MR. MARCHANT:**

18 **Q** Good afternoon, Mr. Brockman. It's obvious you  
19 are in the detention center. What are you in the  
20 detention center for?

21 **A** Failure to pay child support.

22 **Q** Child support, not criminal charges.

23 **A** No, sir.

24 **Q** Let me just get right to it. Do you know the  
25 defendant in this case?

1           **A**    Yes, sir.

2           **Q**    How do you know him?

3           **A**    Uh, I met him a couple of times.

4           **Q**    Who did you meet him through?

5           **A**    His cousin and a couple of friends.

6           **Q**    You met him through his cousin?

7           **A**    I met him through some friends of his cousins.

8           **Q**    Who was that?

9           **A**    His cousin is Norman Peterson.

10          **Q**    How do you know Mr. Pearson?

11          **A**    Oh, Norman Pearson. We had -- we from the same  
12 neighborhood.

13          **Q**    Back in October of 2011, where were you living?

14          **A**    105 Mooremont Avenue.

15          **Q**    This incident occurred on October 28th of 2011.  
16 How long had you known the defendant?

17          **A**    Probably about three or four weeks.

18          **Q**    And what did you know him by?

19          **A**    Patrick, Pat.

20          **Q**    You know his last name?

21          **A**    Uh, Pat -- well, I didn't know it then. I know  
22 it now. Patrick Lowrance.

23          **Q**    The person you are talking about is seated here  
24 in the courtroom?

25          **A**    Yes.

1           **Q**    Please identify how you are talking about as  
2 Pat.

3           **A**    Patrick Lowrance.

4           **Q**    What's he wearing?

5           **A**    Uh, blue shirt and tie.

6           **Q**    Does he have a jacket on?

7           **A**    No, sir.

8                   **MR. MARCHANT:**    Please let the record reflect  
9 he's identified the defendant.

10                   **THE COURT:**    It will so reflect.

11 **BY MR. MARCHANT:**

12           **Q**    How long would you say you knew him before this  
13 incident occurred?

14           **A**    Probably about three weeks.

15           **Q**    Had you seen him driving a vehicle over that  
16 course of three weeks?

17           **A**    I seen him drive a few vehicles.

18           **Q**    I'm going to show you what's been put into  
19 evidence as State's number 71. You seen him in that  
20 vehicle?

21           **A**    Yes, sir.

22           **Q**    You seen anybody else with him in that vehicle?

23           **A**    Yeah. I seen somebody else with him.

24           **Q**    Who is that?

25           **A**    I seen Norman Peterson with him. Pearson.

1 Yeah, Norman Pearson.

2 Q The day this incident occurred, did you come in  
3 contact with the defendant?

4 A I seen him after it happened.

5 Q You recall where you saw him?

6 A He was walking up the street in my  
7 neighborhood.

8 Q Did you pick him up?

9 A Yeah. I had stopped. He had flagged me down,  
10 kind of stepped out in front of the road. So I stopped.

11 Q What sort of vehicle were you driving?

12 A I was driving my vehicle, a Crown Victoria.

13 Q Did you let him in your car?

14 A He had got in my car.

15 Q You recall if he got in the car with any  
16 firearms?

17 A Uh, he didn't have nothing visible in his  
18 hands.

19 Q Did you subsequently see something in your  
20 vehicle?

21 A Later on, after I got through driving, I seen  
22 something.

23 Q I'm showing you what's in evidence as State's  
24 53. Do you recognize this as the gun that he had with  
25 him?

1           **A**     Yes, sir.

2           **Q**     Was there anybody else with him when you picked  
3 him up?

4           **A**     No, sir.

5           **Q**     Once you got in your vehicle, where did you go?

6           **A**     He asked me to take him to Norman's house,  
7 Norman Pearson's house.

8           **Q**     Did you take him there?

9           **A**     Yes, sir.

10          **Q**     Did he get out of the vehicle?

11          **A**     Yes, sir.

12          **Q**     Did he go in the house?

13          **A**     No, Norman's family was out there. They didn't  
14 want him over there.

15          **Q**     Where did he go then?

16          **A**     Came back to the car.

17          **Q**     You let him back in the car?

18          **A**     Yes, sir.

19          **Q**     Where did y'all go after y'all got back in the  
20 car?

21          **A**     He asked me could we go to my house.

22          **Q**     Did you go to your house?

23          **A**     Yes, sir.

24          **Q**     What was the address of your house at that  
25 time?

1           **A**     105 Mooremont Avenue.

2           **Q**     Once you got back to your house, what were  
3 y'all doing?

4           **A**     We was just sitting there talking.

5           **Q**     And did he tell you where he had been?

6           **A**     No. He just never really told me where he was  
7 at. We never really discussed too much about the matter  
8 as far as that, as far as where he was at.

9           **Q**     Could you tell whether or not he was injured?

10          **A**     He had an, uh, -- he had a hole in his  
11 shoulder.

12          **Q**     Did he tell you from what?

13          **A**     He just said he had got shot.

14          **Q**     Did he tell you where he was shot?

15          **A**     What you mean? As far as?

16          **Q**     Location.

17          **A**     In his body?

18          **Q**     I'm sorry. Where in Greenville or --

19          **A**     Oh, no. He never told me where he was shot at.

20          **Q**     Where was he shot in his body?

21          **A**     Uh, in his right shoulder. I believe it was  
22 his right shoulder.

23          **Q**     Could you tell whether or not he was shot  
24 anywhere else?

25          **A**     No, sir.

1           **Q**     Did he indicate to you whether or not he was  
2 shot anywhere else?

3           **A**     No, sir.

4           **Q**     What did he tell you about who shot him?

5           **A**     He just said he was shot. He was like the  
6 police had shot first.

7           **Q**     What did he tell you about whether or not he  
8 shot?

9           **A**     We didn't discuss too much about he was  
10 shooting. He just told me that he was shot and the  
11 police had shot at him first.

12          **Q**     Did he tell you the police, what the sex of the  
13 person was that shot at him?

14          **A**     She. She.

15          **Q**     Female?

16          **A**     Yes, female. Yes, sir.

17          **Q**     Now, how long did y'all stay at the residence  
18 before law enforcement arrived?

19          **A**     I'm not really sure. I had left and I came  
20 back. Probably -- I'm not really sure at all. I left  
21 and came back. Probably about an hour or an hour and a  
22 half.

23          **Q**     Where did you go when you left?

24          **A**     Uh, I went over to a friend's house.

25          **Q**     At some point in time, did you speak with

1 members of his family?

2           **A**     Yes. Well, I had let him use my cell phone.  
3 He had called somebody in his family. So when I left and  
4 went over to a friend's house, I had called that person  
5 back. I was kind of concerned. I knew they wanted him  
6 to get some help. I asked them to come and get them.

7           **Q**     Did you subsequently meet with some of his  
8 family members?

9           **A**     Yes, sir. Later on that night, I did.

10          **Q**     Did you bring them back to your house?

11          **A**     Yes, sir.

12          **Q**     Did some of those members come into your house?

13          **A**     A girl did.

14          **Q**     Do you recall her name?

15          **A**     No, sir.

16          **Q**     Do you know who she was in relation to the  
17 defendant?

18          **A**     I think she was his wife.

19          **Q**     After law enforcement showed up, did you come  
20 out of the house?

21          **A**     Yes, sir.

22          **Q**     Were you called out of the house or did you  
23 know that you needed to come out?

24          **A**     I heard a lot of engines running fast. So I  
25 ran out the house.

1           Q     And while you were inside the house with Mr. --  
2 with the defendant, were y'all in the den, the kitchen,  
3 bedroom area, what?

4           A     When we started out, we were in the kitchen. I  
5 left. He went back to my back room. He asked me to go  
6 back to the back room.

7           Q     I'm going to show you what's been put into  
8 evidence already as State's 44. It depicts a mattress  
9 that has that gun underneath it. Whose room is that?

10          A     That's my room.

11          Q     Is that where you sleep?

12          A     Yes, sir.

13          Q     What's been shown is a black sweatshirt that  
14 was located on the floor. Is that yours?

15          A     No, sir.

16          Q     Was the defendant wearing that when you picked  
17 him up?

18          A     Yes, sir.

19          Q     At some point in time, did the defendant come  
20 out of the house?

21          A     Yes, sir.

22          Q     At some later point in time, did you talk with  
23 Detective Flavell that is seated here on the second row?

24          A     Yes, sir.

25          Q     And did you give him consent to enter your

1 home?

2 A Yes, sir.

3 Q Did you also sit down with him at your house  
4 and give him a written statement?

5 A Yes, sir.

6 Q Did you have the opportunity to review that  
7 statement and sign that statement after you wrote it?

8 A Yes, sir.

9 Q And you indicated by signing the statement that  
10 it was true and correct?

11 A Yes, sir.

12 Q I'm going to ask you to take a look at what's  
13 been marked for identification only as State's 102. I'm  
14 going to ask you to read through this statement. I'm  
15 going to ask you to pay particular attention to this line  
16 right here. Read it to yourself.

17 A (Reading.)

18 Which one you want me to have, uh, --

19 Q Read it to yourself. Don't read it out loud.  
20 Pay particular attention to these two lines that you  
21 talked with Detective Flavell about.

22 A (Reading.)

23 Q Mr. Brockman, you had enough time to review  
24 that? Does that help you refresh your memory of what you  
25 told Detective Flavell that day?

1           **A**     I really don't recall that day. You know what  
2 I'm saying? But I see what's written on here.

3           **Q**     Those were your words. You gave them to  
4 Detective Flavell, right?

5           **A**     They on here. I guess so.

6           **Q**     So after reviewing what's been marked for  
7 identification only as State's number 102, what did you  
8 tell Detective Flavell about what the defendant told you  
9 in whether or not he shot the police?

10           **MR. JOHNSON:**     Now, Judge, I'm going to object  
11 on the basis of it seems like his memory was not  
12 refreshed. He didn't acquiesce to that.

13           **THE COURT:**     I'll allow him to answer the  
14 question. If he remembers and it is refreshed, then  
15 he could testify to it. If it's not, then he can  
16 say it's not.

17           **THE WITNESS:**     I really don't recall what I  
18 told him. I'm reading what I read on that paper.  
19 It says it's true and correct, you know.

20 **BY MR. MARCHANT:**

21           **Q**     Mr. Brockman, are you denying that what you  
22 told Detective Flavell that he didn't write down what you  
23 said?

24           **A**     He wrote down what I said. You know, I guess  
25 that's what I said right there. I know I had -- I know I

1 said that he was shot and she shot him first, just what  
2 he said, you know. But that was so long ago, I really  
3 don't recall what I said. I see what's on there.

4 Q You would agree with me that the reason  
5 Detective Flavell took this information down at the time  
6 because it was fresh in your mind, right?

7 A Yes, sir.

8 Q Again, you signed down here that this  
9 information is true and correct, right? Correct?

10 A Yes, sir. But I really thought I signed behind  
11 each and every line or something like that. I really  
12 don't recall this. It's been so long.

13 Q You are in the kitchen with Detective Flavell,  
14 right?

15 A Yes, sir.

16 Q He's writing -- this is his handwriting. He's  
17 writing it down and you're telling him, right? And he  
18 wrote three pages, right?

19 A Yes, sir.

20 Q I need you to answer verbally please, sir. At  
21 the end of each page, there's a place for you to sign  
22 whether or not what's in the information provided is true  
23 and accurate.

24 A Yes, sir.

25 Q You had the opportunity to review what he wrote

1 before you signed it, correct?

2 **A** Yes, sir.

3 **Q** You didn't make any changes to this statement  
4 on any one of those three pages?

5 **A** No, sir.

6 **Q** Are you denying that you made the statements?

7 **A** I'm not denying it. I just don't recall making  
8 the statement. But I'm not denying it.

9 **Q** Well, does reviewing this statement help you  
10 remember what you said?

11 **MR. JOHNSON:** Your Honor, he's asked this  
12 question three times.

13 **THE COURT:** I'm going to allow him to ask it.  
14 Go ahead.

15 **THE WITNESS:** I got some type of memory. But  
16 like I said, I know that he told me that she had  
17 shot him first and he was shot by the police. I'm  
18 not saying I'm denying anything. I just said I  
19 don't recall. But reading, you know, it says it's  
20 original.

21 **BY MR. MARCHANT:**

22 **Q** Are you denying that you made the statement to  
23 Detective Flavell?

24 **A** I'm not denying it.

25 **Q** Yes or no.

1           **A**     I'm not denying it.

2           **Q**     You're saying you don't remember it?

3           **A**     I just don't remember, you know. I had to read  
4 the whole thing just to, you know, recall the  
5 information. But I'm not denying it.

6           **Q**     Mr. Brockman, we seem to be going in circles  
7 just a little bit here. You've reviewed the statement?

8           **A**     Yes, sir.

9           **Q**     What did you tell Detective Flavell about  
10 whether or not the defendant told you that he shot at the  
11 police?

12          **A**     I'm saying you want me to read it back? I can  
13 read it off there but I don't recall what I said.

14          **Q**     I'll have to call Detective Flavell back. All  
15 right. Mr. Brockman, we also had a, uh, prior hearing in  
16 this matter before today. You testified at that hearing,  
17 isn't that correct?

18          **A**     Oh, a hearing.

19          **Q**     Yes, sir. We had a hearing in a courtroom  
20 similar to this and you testified up here on the stand,  
21 right? And there was a nice lady sitting right here  
22 taking everything down, isn't that correct?

23          **A**     Yes, sir.

24          **Q**     At that hearing, do you recall when I asked you  
25 this exact same question what you told the court reporter

1 and the judge about whether or not the defendant had told  
2 you if he had shot at the police?

3 **A** I know exactly what I said when you asked me  
4 that question.

5 **Q** Well, what was your response to that question?

6 **A** I had told you that he was shot by the police  
7 and she had shot him first. I know exactly what I said.  
8 That's exactly what I said. I was pulling it up every  
9 day on Fox Carolina 21 News and watching it myself. I  
10 know what I said.

11 **Q** Mr. Brockman, do you recall testifying and do  
12 you recall answering my question about whether or not you  
13 told Detective Flavell that the defendant did or did not  
14 shot at the officer?

15 **A** I don't recall telling him.

16 **Q** I'm going to show you your prior testimony.

17 **MR. JOHNSON:** Permission to approach?

18 **THE COURT:** Sure.

19 **(WHEREUPON, a bench conference is held off the**  
20 **record.)**

21 **BY MR. MARCHANT:**

22 **Q** I'm showing you a page out of the transcript  
23 from that day. I'm going to ask you to read line 20,  
24 which is the question I asked you, which is what did he  
25 tell you about being shot. I want you to read what line

1 21 says word for word.

2 A Out loud?

3 Q Yes, sir.

4 A He told me he shot at them. They shot at him  
5 first.

6 Q Thank you, Mr. Brockman.

7 MR. MARCHANT: Court's indulgence?

8 THE COURT: Yes, sir.

9 MR. MARCHANT: Please answer any questions  
10 Mr. Johnson may have.

11 THE COURT: Mr. Johnson.

12 MR. JOHNSON: Thank you, Your Honor.

13 **CROSS-EXAMINATION**

14 **BY MR. JOHNSON:**

15 Q Mr. Brockman, you just read something off the  
16 transcript of the last hearing, is that right?

17 A Yes, sir.

18 Q Were you given a copy of that?

19 A No, sir.

20 Q You ever seen it before?

21 A Yes, sir.

22 Q When did you see it?

23 A I seen it Sunday morning. Mr. Marchant came to  
24 see me. He came to see me at the detention center.

25 Q So Mr. Marchant came to visit you with the

1 anything in association with this?

2 **A** No, sir.

3 **Q** Are you expecting a charge to come?

4 **A** No, sir.

5 **MR. JOHNSON:** I have nothing further at this  
6 time.

7 **THE COURT:** Anything else from -- All right.  
8 Sir, you can step down.

9 One more very short witness, is that correct?

10 **MR. MARCHANT:** Yes, Your Honor.

11 **THE COURT:** All right.

12 **MR. MARCHANT:** The State would ask permission  
13 to recall Detective Collis Flavell to the stand.

14 **THE COURT:** All right. Detective Flavell, I  
15 will remind you that you are still under oath.

16 **COLLIS FLAVELL**

17 having previously been sworn, testifies as follows:

18 **DIRECT EXAMINATION**

19 **BY MR. MARCHANT:**

20 **Q** Detective Flavell, you been doing this 20  
21 years?

22 **A** Correct.

23 **Q** How many statements have you taken in that 20  
24 year time period?

25 **MR. JOHNSON:** Your Honor, permission to

1 approach briefly.

2 THE COURT: Sure.

3 (WHEREUPON, a bench conference is held off the  
4 record.)

5 BY MR. MARCHANT:

6 Q Had time to think about it. How many  
7 statements? Hundreds? Thousands?

8 A Probably close to a thousand.

9 Q And how important is it in your duties and  
10 responsibility to take down, transcribe, notate what a  
11 witness exactly says?

12 A Very important. That's where we gain, in  
13 investigation, most of our investigative leads and  
14 information that we obtain. That's how we obtain it is  
15 from talking to witnesses, gathering their information  
16 and going from there.

17 Q We've already been through this one time. You  
18 took the statement at Mr. Brockman's house?

19 A I did.

20 Q In his kitchen?

21 A Did you take down word for word what he said?

22 A Pretty much word for word.

23 Q At the end of that time, did you allow Mr.  
24 Brockman to review that statement?

25 A I did. I asked him to read it. If there were

1 any discrepancies or anything that he did not agree with,  
2 I pointed out that we would change it. He agreed with it  
3 and signed it.

4 Q Did he sign it?

5 A He did.

6 Q And there is a line under the signature page  
7 that indicates the number of pages that you took.

8 A That's correct.

9 Q What else is significant about typed  
10 information down there?

11 A It's basically a statement that I had read, I  
12 had read or had read to me the above statement of, and  
13 it's got a place for the page number. This one is one of  
14 three pages. And it is true and correct as best I  
15 recall. I received a copy of this statement.

16 Q Mr. Brockman read that?

17 A Yes.

18 Q Did he sign each page individually?

19 A Yes, he did.

20 Q Detective Flavell, I'm going to ask you to read  
21 what Mr. Brockman told you from here to here.

22 MR. JOHNSON: Your Honor, I'd just like to  
23 make a contemporaneous objection. It's hearsay  
24 within hearsay.

25 THE COURT: All right. And your objection is

1           noted for the record. We can put it more fully on  
2           the record as a later time. And your objection is  
3           overruled.

4           **THE WITNESS:**     It says Pat told me he was  
5           shot. He told me he had shot at the police and the  
6           lady shot at him first.

7           **MR. MARCHANT:**    Thank you, Detective Flavell.  
8           I have no further questions.

9           **THE COURT:**     Any questions for this witness?

10          **MR. JOHNSON:**    Briefly.

11                                   **CROSS-EXAMINATION**

12          **BY MR. JOHNSON:**

13           **Q**     Now, you have the statement in front of you ---

14           **A**     I do.

15           **Q**     --- obviously. Now, y'all talk a little bit  
16           about the peculiar pieces of the statement. It says City  
17           of Greenville, County of Greenville, State of South  
18           Carolina, correct?

19           **A**     Correct.

20           **Q**     And some other language that you and Lucas went  
21           over, you and Solicitor Marchant went over that said I  
22           have read the above statement and it's true and correct  
23           as the best I recall and I received a copy and things of  
24           that nature?

25           **A**     Yes.

1 Q All right. Was this statement witnessed?

2 A Yes.

3 Q Now, there's a spot down there that says  
4 witnesses. Who was it witnessed by?

5 A It was one of the deputies that was in the  
6 house.

7 Q So it was a deputy at his house and who else?

8 A I'm sorry.

9 Q Who else was a witness?

10 A Myself.

11 Q Wait a minute. You wrote the statement, right?

12 A Yes.

13 Q And then you witnessed it?

14 A Yes.

15 Q Now, uh, there's also something else at the  
16 bottom here. What's that? What's this before me this  
17 something day of 1990-something?

18 A That's a notary seal.

19 Q That's a notary seal?

20 A Uh-huh.

21 Q Is this notarized?

22 A No, it is not.

23 Q Now, there's three pages of this and all this  
24 has the same stuff that we just went over. It has the  
25 same notary seal and you witnessed every page and you

1 wrote every page?

2           **A**     That's correct.

3           **MR. JOHNSON:**     I have nothing further at this  
4           time.

5           **THE COURT:**     Anything else for this witness?

6                                   **REDIRECT EXAMINATION**

7           **BY MR. MARCHANT:**

8           **Q**     Detective Flavell, why was this statement  
9           unnotarized?

10          **A**     In my 20 and a half years at the Police  
11          Department, I've never had a statement notarized.

12          **Q**     Thank you.

13          **MR. JOHNSON:**     Briefly, Your Honor.

14                                   **RECROSS-EXAMINATION**

15          **BY MR. JOHNSON:**

16          **Q**     It's on there, right?

17          **A**     It is on there.

18          **Q**     Where does this form come from?

19          **A**     I'm sorry.

20          **Q**     Where did the form come from?

21          **A**     It's a Greenville Police Department form.

22          **Q**     It's your form.

23          **A**     Yes.

24          **Q**     So nobody ever intended for any of these to be  
25          notarized.

1           **A**     The intent was in my career, I've never had a  
2 statement notarized.

3           **Q**     All right. Nothing further.

4           **MR. MARCHANT:**     That's it, Your Honor.

5           **THE COURT:**     All right. Sir, you can step  
6 down.

7                     Well, Ladies and Gentlemen, we've come to the  
8 end of a long day. I appreciate your patience with  
9 us as we've tried to push through some of this  
10 testimony. We'll start tomorrow morning at 9 a.m.  
11 Please don't discuss this case with anyone. Again,  
12 please try to avoid any media or news reports if  
13 there are any about this case. Thank you so much.  
14 I hope you have a good evening.

15           **(WHEREUPON, the jury exits at approximately**  
16 **5:28 p.m.)**

17           **THE COURT:**     Mr. Marchant, what do you have  
18 left tomorrow?

19           **MR. MARCHANT:**     Bare with me just one second.  
20 (Pause.)

21                     Your Honor, I would think that I would have no  
22 more than about an hour and 15, possibly an hour and  
23 a half ballpark.

24           **THE COURT:**     All right. Mr. Lowrance,  
25 tomorrow, we're going to get to the part of this

1           **MR. MARCHANT:**     The State is ready, Your  
2 Honor.

3           **THE COURT:**     All right.

4           **MR. MARCHANT:**   The State's going to call Dr.  
5 Kandala.

6           **THE CLERK:**     Dr. Kandala, if you would, come  
7 forward and be sworn in please. Please place your  
8 left hand on the Bible and raise your right.

9                           **JAGANNADHA KANDALA**  
10 having first been sworn, testifies as follows:

11           **THE CLERK:**     Thank you. You may be seated.

12           **THE WITNESS:**    Good morning.

13           **THE CLERK:**     Would you please state your name  
14 for the record.

15           **THE WITNESS:**    My name Jagannadha Kandala.

16           **THE CLERK:**     Thank you.

17                           **DIRECT EXAMINATION**

18 **BY MR. MARCHANT:**

19           **Q**     Good morning, Dr. Kandala.

20           **A**     Good morning.

21           **Q**     Where are you employed?

22           **A**     I'm employed with the Department of Public  
23 Safety, Forensic Division.

24           **Q**     I'm sorry. What division?

25           **A**     Forensic Division.

1           **Q**    Forensic Division.  Where is your office  
2 located?

3           **A**    My office is located in the Greenville Tech.

4           **Q**    How long have you been working in the Forensic  
5 Division at Greenville Tech?

6           **A**    Four and half years.

7           **Q**    Four and a half years?

8           **A**    As a DNA technical leader.  Yes, here in South  
9 Carolina.

10          **Q**    Here in South Carolina.  What are your duties  
11 as the DNA technical leader at Greenville Tech?

12          **A**    I am foremost an analyst in the beginning.  And  
13 then also I take care of the technical problems and the  
14 validation of the lab and any of the improvements.

15          **Q**    Is it fair to say that you are in charge of the  
16 DNA lab?

17          **A**    Yes.

18          **Q**    And are you responsible for the accreditation  
19 of the DNA lab here in Greenville?

20          **A**    Yes.

21          **Q**    And you've been in charge of that lab for the  
22 last four and a half years?

23          **A**    Yes.

24          **Q**    How long has the lab been opened?

25          **A**    It has been op -- when I came, uh, there was

1 nothing there. When I started the lab by validating the  
2 procedures and also the instruments. And, uh, I have  
3 trained couple of people. Then we had validated in March  
4 of 2011. Since then, we are actively pursuing cases.

5 Q So you are responsible for the lab here in  
6 Greenville county, getting its accreditation?

7 A Yes.

8 Q And you've been accredited since March of 2011?

9 A Yes.

10 Q Prior to coming to Greenville, what is your  
11 education with respect to chemistry, biology, bio-  
12 chemistry and DNA?

13 A I have a Bachelors degree in Biology and  
14 Chemistry, a Masters degree in Chemistry, a Masters in  
15 Microbiology and a PhD in Biochemistry. I work in  
16 different institutions for about 25 years and published  
17 about 40 papers in journals. Then I work in St. Louis  
18 Police Department for seven years as a DNA analyst. Then  
19 three years, and then I came here.

20 Q So your education consists of a Bachelors  
21 degree in biology?

22 A And chemistry.

23 Q And chemistry. And a Masters degree in?

24 A Chemistry.

25 Q Chemistry. And a PhD in --

1           **A**     And a Masters in Microbiology.

2           **Q**     A Masters in Chemistry, a Masters in

3 Microbiology --

4           **A**     And a PhD in Biochemistry.

5           **Q**     A PhD in Biochemistry.

6           **A**     Yes.

7           **Q**     And you've been working with DNA for roughly

8 how many years?

9           **A**     Probably 40 years.

10          **Q**     For 40 years?

11          **A**     Yes.

12          **Q**     You been to this courthouse before?

13          **A**     Yes.

14          **Q**     You testified in prior hearings?

15          **A**     Yes.

16          **Q**     And were you qualified as an expert prior to

17 today ---

18          **A**     Yes.

19          **Q**     --- in DNA analysis?

20          **A**     Yes.

21                 **MR. MARCHANT:**     The State would move at this

22 time to have him qualified as an expert in DNA

23 analysis.

24                 **THE COURT:**     Any objection?

25                 **MR. JOHNSON:**     No objection.

1           **THE COURT:**     Ladies and Gentlemen, I spoke to  
2           you yesterday about an expert witness. This witness  
3           will be qualified in the area of DNA analysis, able  
4           to give his opinion testimony to you. You may use  
5           that testimony in any way you see fit.

6           Yes, sir.

7           **BY MR. MARCHANT:**

8           **Q**     Dr. Kandala, can you please explain to the jury  
9           in layman's terms what is DNA.

10          **A**     DNA is the blueprint found in all the cells in  
11          the living organisms. And it's not found in the human  
12          body only in the red blood cells and the fingernails.

13          **Q**     DNA is the blueprint. And it's found in the  
14          human body except for red blood cells and fingernails?

15          **A**     Yes.

16          **Q**     Does that include toenails?

17          **A**     All nails that are present.

18          **Q**     Okay. Now, why is it that it is not found in  
19          red blood cells but could be found in white blood cells?

20          **A**     The function of red blood cells is, uh,  
21          basically taking the oxygen that we breathe and help, uh,  
22          give us energy in the system.

23          **Q**     The DNA that you analyzed at your lab, roughly  
24          how many items have you analyzed since being here in  
25          Greenville?

1           **A**     In this particular case you want or in general?

2           **Q**     In general.

3           **A**     I must have done a few hundred samples.

4           **Q**     And how many other people work with you?

5           **A**     Uh, two more people.

6           **Q**     Are there any other people that have access to  
7 that laboratory?

8           **A**     No.

9           **Q**     What sort of procedures and safeguards do the  
10 three of you have in place to ensure that there's no  
11 contamination of samples within your lab?

12           **A**     The basic, uh, point of qualifications is to  
13 have a accreditation program. And that accreditation  
14 program takes care of all of the minute details of all  
15 the necessary precautions we have to take in order to do  
16 the DNA analysis in the lab.

17           **Q**     Are you saying that your accreditation is  
18 reliant on the safeguards and procedures that you have in  
19 place with your lab?

20           **A**     That is one of the parts for the, uh,  
21 accreditation.

22           **Q**     Well, with respect to that part of the  
23 accreditation, what is it that you and the other two  
24 employees do to ensure that you comply with the  
25 accreditation standards?

1           **A**     The lab is prepared. All the system -- like we  
2 all the time wear gloves. We don't touch any other  
3 stuff. In order to keep the -- any saliva when we are  
4 talking or anything, we have hoods in the lab. We work  
5 in the hoods. And we take the caution not to talk while  
6 working and get away from the work bench if we have to  
7 talk something.

8           **Q**     Some of the procedures you have in place are to  
9 work with only one sample at a time, is that correct?

10          **A**     Yes. No -- at any time, we don't work on two  
11 in the labs. We keep the known samples and the question  
12 samples separate. We do it at separate times. And in  
13 between the cases, we clean the benches with bleach so  
14 that no DNA is present on the benches.

15          **Q**     And in between working with Sample 1 and Sample  
16 2, do you use the same pair of gloves or do you switch  
17 gloves?

18          **A**     We switch gloves if they belong to different,  
19 uh, locations, uh, different situations.

20          **Q**     So in addition to only working with one sample  
21 at a time, wearing gloves while working with that one  
22 sample, you said you also wear a hood?

23          **A**     We keep our DNA under the hood when we do the  
24 -- what you call is chain reaction.

25          **Q**     So the hood is a piece of equipment that you

1 work under?

2 **A** Yes. It's a box with a UV lamp. When we work  
3 with DNA, we turn the UV lamp for about an hour so that  
4 all the DNA that is in that box is destroyed. Then we  
5 only see through a glass out of plastic material. Only  
6 our hands go in. We have gloves over our hands so that  
7 no saliva from the DNA or anything, any material can get  
8 onto the DNA.

9 **Q** So you've got some sort of piece of equipment  
10 or machine that you only stick your hands into to touch  
11 and handle the piece of evidence?

12 **A** Yes.

13 **Q** And if you need to speak with someone, you  
14 don't talk with them in the lab, you step out?

15 **A** Yes. We get away from the samples.

16 **Q** What sort of items come from humans that  
17 contain DNA that you would be able to test in your lab?

18 **A** All kinds of body fluids including the sweat.

19 **Q** Semen?

20 **A** Semen, blood, urine, uh, cells.

21 **Q** Saliva?

22 **A** Saliva.

23 **Q** And I'm holding this pen.

24 **A** Yes.

25 **Q** And I'm touching this pen.

1           **A**     Right.

2           **Q**     What sort of DNA would I deposit on this pen?

3           **A**     It is basically your skin cells when you are  
4 holding it tight in your hand.

5           **Q**     Skin cells?

6           **A**     Yes.

7           **Q**     Uh, would you also be able to pull saliva off  
8 of this pen?

9           **A**     No. If it is there -- unless somebody was  
10 putting it in their mouth prior to holding it.

11          **Q**     Now, I'm going to show you what's already in  
12 evidence as State's 57, 58 and 68. These are swabs that  
13 Officer Derby with the Forensics Division took of State's  
14 Exhibit 53, which is the M-11. Did you have an  
15 opportunity to review those three items?

16          **A**     Yes, I have worked with all the three.

17          **Q**     And with respect to those three items, did they  
18 contain enough information in order for you to make a  
19 comparison with the known sample that you were provided  
20 by Detective Conroy?

21          **A**     I have worked on all of these. Then I have to  
22 go back and then get swabs from the gun and the magazine  
23 myself.

24          **Q**     So with respect to what Officer Derby did, was  
25 there enough information for you to make a comparison to

1 the sample that Detective Conroy provided to you?

2 **A** What is that material? Can you -- can I look  
3 at my notes please?

4 **Q** Would it help you refresh your memory, Dr.  
5 Kandala, to review your notes?

6 **A** Yes.

7 **THE COURT:** All right then.

8 **THE WITNESS:** The swabs initially supplied to  
9 me from the gun handle and the trigger of the gun, I  
10 did not get any DNA.

11 **BY MR. MARCHANT:**

12 **Q** All right. Let's go over that real quick.

13 **A** Yes.

14 **Q** You did not receive any DNA off of which  
15 sample?

16 **A** Off the swab from gun handle.

17 **Q** And what item was that listed that Officer  
18 Derby --

19 **A** That is called the JD-A.

20 **Q** So you didn't get anything off of JD-A?

21 **A** Uh, I have to check that. I got some DNA, but  
22 the DNA was very, very low in quantity for me to proceed  
23 with the analysis on that.

24 **Q** So there was some DNA ---

25 **A** Yes.

1 Q --- on JD-A.

2 A Yes.

3 Q And that quantity from JD-A was not a  
4 sufficient amount of DNA for you to do any analysis?

5 A Yes.

6 Q And that was from the handle of the gun?

7 A Yes.

8 Q Now, the next item that Officer Derby gave to  
9 you is in evidence as State's 58. It's item JD-B, which  
10 is swab of the trigger. What are the results of that  
11 analysis?

12 A That also did not yield much DNA. So I  
13 couldn't do any analysis on that.

14 Q Then lastly, with respect to State 68, which is  
15 JD-C, which is a swab on the magazine, what was your  
16 analysis of that?

17 A That particular item did not yield any DNA  
18 under the conditions.

19 Q Let's back up and make sure we're clear. The  
20 magazine, no DNA?

21 A Yes.

22 Q The swab from the magazine, no DNA?

23 A Yes. The initial swabs that are supplied to  
24 me.

25 Q Swab of the trigger, there was not enough

1 information for you to compare?

2 **A** To extract.

3 **Q** To extract. So there's not enough for you to  
4 begin doing any analysis?

5 **A** Right.

6 **Q** And then lastly, on JD-A, State's 57, the swab  
7 on the handle --

8 **A** Yes.

9 **Q** What was your analysis?

10 **A** That swab that is supplied to me did not have  
11 enough DNA to work with.

12 **Q** So in a situation, Dr. Kandala, when forensics  
13 has collected a sample, a swab off a particular item that  
14 does not yield enough DNA for you to test, what do you  
15 do?

16 **A** Uh, probably -- what I do is normally look at  
17 the particular item and I go back to that item myself and  
18 then take swabs of it.

19 **Q** Okay.

20 **A** And do the DNA analysis.

21 **Q** So you would take a swab yourself?

22 **A** Yes.

23 **Q** So did you subsequently go to Property and  
24 Evidence and pick up State's 53, which is the M-11 in  
25 this case?

1           **A**     Yes.

2           **Q**     Did you swab the item yourself?

3           **A**     Yes.

4           **Q**     Were you able to obtain enough information to  
5 compare those samples to the known standard that  
6 Detective Conroy gave you, which is State's 64?

7           **A**     Yes.

8           **Q**     Please tell the jury how you went about  
9 collecting the sample and what your analysis revealed on  
10 the gun.

11          **A**     On the gun, I took swabs from the trigger and  
12 from the handle of the gun and also from the magazine.

13          **Q**     Let's start with the magazine. What was your  
14 -- let me back up, you have a known standard from the  
15 defendant, correct?

16          **A**     Yes.

17          **Q**     So you know what you're looking for to compare?

18          **A**     I'm looking for the DNA that's obtained.

19               **THE COURT:**     Excuse me, Doctor. Just one  
20 moment.

21                     You can approach.

22               **(WHEREUPON, a bench conference is held off the**  
23 **record.)**

24               **THE COURT:**     Thank you, sir.

25               **MR. MARCHANT:**     May I proceed?

1                   **THE COURT:**     You may proceed.

2   **BY MR. MARCHANT:**

3           **Q**     All right.  Dr. Kandala, I believe we were  
4 taking about the magazine.

5           **A**     Yes.

6           **Q**     Would you explain to the jury how you went  
7 about swabbing the magazine to get a sample.

8           **A**     Yeah, I hold this magazine with my glove hands  
9 and then swab it all around on the sides.

10          **Q**     And were you able to obtain a DNA sample off  
11 the magazine?

12          **A**     Yes.

13          **Q**     Now, you've got Mr. Lowrance's DNA?

14          **A**     Yes.

15          **Q**     Are you able to say whether or not Mr.  
16 Lowrance's DNA comes off of that magazine?

17          **A**     The DNA that I got is of two people.  It's  
18 inconclusive whether the DNA belongs to him.

19          **Q**     So you've got Mr. Lowrance's sample?

20          **A**     Yes.

21          **Q**     You pulled the sample from the magazine?

22          **A**     Yes.

23          **Q**     The result from the magazine is two people?

24          **A**     Yes.

25          **Q**     Once you extracted, you compared to the known

1 sample?

2 **A** Yes.

3 **Q** And you are saying that you can not say that it  
4 is and you can not say that it isn't Mr. Lowrance?

5 **A** Yes, it is inconclusive.

6 **Q** Now, were you able to determine who the other  
7 individual was that DNA showed up on the magazine?

8 **A** I could not recommend that because I didn't  
9 have a known sample other than the one that is supplied  
10 to me which is from Patrick Lowrance. I don't have any  
11 other sample to compare.

12 **Q** The only sample you have for comparison is the  
13 defendant's?

14 **A** Yes. The name Patrick Lowrance.

15 **Q** Now, were you able to determine with the other  
16 DNA that comes off of the magazine, either the sex or the  
17 race of the person that would have handled, potentially  
18 handled the magazine?

19 **A** It is a -- from the analysis, I can say it is a  
20 male.

21 **Q** Were you able to determine the race of that  
22 individual?

23 **A** No.

24 **Q** Why is that?

25 **A** It is -- because most of the DNA, the results

1 that we get are very common. 98.5 percent of the DNA in  
2 all human beings is almost same.

3 Q Okay. So 98 and a half percent of all --

4 A Almost 98 or 98 and a half.

5 Q So my DNA and your DNA are going to match about  
6 98 percent of the time?

7 A Right.

8 Q All over the world, people have done work on  
9 the DNA from the different people and they look at many  
10 of the DNA is from many people. Almost 98 percent of the  
11 DNA looks very similar. Only the difference, like two  
12 percent. But two percent is significant in this case  
13 because DNA is huge. It's a very, very big molecule. To  
14 separate person to person -- to differentiate person to  
15 person, that two percent is enough. But 98 percent.

16 Q So if I hear you, the standard for the DNA  
17 examination community for yourself and other  
18 professionals, the two percent that is different in  
19 between you and I and myself and the judge and you and  
20 the defendant, the two percent is significant enough  
21 information to determine that either I touched it or you  
22 touched it?

23 A Yes.

24 Q Thank you. Now, I'm going to move to the  
25 firearm itself. Please explain to the jury where you

1 took a sample off of this firearm.

2 **A** On the trigger. On the trigger and also on the  
3 sides, both sides and sides of this handle here.

4 **Q** So the trigger and the sides?

5 **A** Yes.

6 **Q** And did you do the same analysis on the  
7 trigger, the sides, with that sample, did you compare it  
8 to the known standard that Detective Conroy provided you?

9 **A** Yes.

10 **Q** What was your findings?

11 **A** We got enough DNA to compare in the analysis.  
12 And, uh, what I did was, uh, I calibrated what is the  
13 probability of that profile of the DNA that I got from  
14 this DNA and compared it to the DNA from the known  
15 sample. It is, uh, 2.3 times (inaudible), that means 10  
16 billion. One in 10 billion. 2.3 times in times  
17 (inaudible). That is 23 billion in Caucasian population.  
18 And it is --

19 **Q** Dr. Kandala, I think you're getting a little  
20 ahead of me, if you will.

21 **A** Yes.

22 **Q** You compared the known sample that ---

23 **A** Yes.

24 **Q** --- the defendant provided ---

25 **A** Yes.

1 Q --- Detective Conroy, okay?

2 A Yes.

3 Q You compared it to the magazine and you didn't  
4 get a result?

5 A Yes.

6 Q You can't say either way?

7 A I mean, I got it. The results shows that there  
8 is a known male and a second person.

9 Q You then swabbed the handle and the trigger?

10 A Yes.

11 Q And you compared it -- well, let's talk about  
12 the sample that you got. How many people did you extract  
13 from that sample?

14 A That shows three people.

15 Q Are you able to determine the sex of those  
16 three people?

17 A Not all the three people because in the -- in  
18 this DNA that I got in this mixture, one is a major  
19 contributor. That means that person's DNA is the most  
20 when compared to the other two which are just trace  
21 amounts of DNA. So I have the major contributor as a  
22 male.

23 Q So the sample you pulled from the trigger and  
24 the handle, you have classified as the major contributor?

25 A Yes.

1           **Q**     And there are two other people who are minor  
2 contributors?

3           **A**     Yeah. Very trace amounts.

4           **Q**     Very trace contributors?

5           **A**     Yes.

6           **Q**     And with respect to the major contributor ---

7           **A**     Yes.

8           **Q**     --- who did you determine is the major  
9 contributor?

10          **A**     The major contributor in this DNA is the DNA  
11 from Patrick Lowrance.

12          **Q**     Do you know who the two trace contributors  
13 belong to?

14          **A**     We can not make any determination on that  
15 because it's very, very small amount. Also, we don't  
16 have any other known samples that is supplied.

17          **Q**     Now, I cut you off a minute ago when you were  
18 talking billions and millions of numbers, things of that  
19 nature, what is the probability of selecting an  
20 individual at random that would be a Caucasian that would  
21 have this same DNA profile?

22          **A**     Yes, in this case, this major profile that we  
23 obtained is one in 23 billion in the Caucasian  
24 population.

25          **Q**     One in 23 billion?

1           **A**    Yes.

2           **Q**    What about with respect to the African-American  
3 population?

4           **A**    It is, uh, 56 million in the African-American  
5 population.

6           **Q**    One in 56 million?

7           **A**    Yes.

8           **Q**    And what about the Hispanic population?

9           **A**    It is, uh, 61 billion.

10          **Q**    One in 61 billion?

11          **A**    Yes.

12          **Q**    Dr. Kandala, through your course in studies and  
13 research, are you familiar with how many people populate  
14 the earth?

15          **A**    The present population is about seven billion.

16          **Q**    Seven million or billion with a B?

17          **A**    Billion. Seven billion.

18          **Q**    With a B?

19          **A**    Yes.

20          **Q**    Just to be clear, 23 -- one in 23 billion with  
21 a B in Caucasian?

22          **A**    Yes.

23          **Q**    One in 56 million with an M for African-  
24 American?

25          **A**    Yes.

1           **Q**     Now, did you have the opportunity as well to  
2 examine State's -- photograph as State's Exhibit 111  
3 which depicts item number 37 that was collected by  
4 Sergeant Shaw?

5           **A**     Yes, I did check this.

6           **Q**     What is that -- what does State's 111 show that  
7 you tested?

8           **A**     (No response.)

9           **Q**     What is the item?

10          **A**     It is a baseball cap.

11          **Q**     A baseball cap?

12          **A**     Yes.

13          **Q**     And what were your results from that  
14 examination?

15          **A**     In this case, I swabbed this cap. In general,  
16 what we look at in the cap is normally the -- the cap  
17 that is touching, also the back, also the visor where  
18 people touch the cap when putting on or taking off.

19          **Q**     Dr. Kandala, you swabbed the front where your  
20 forehead would be?

21          **A**     Yes.

22          **Q**     The back?

23          **A**     Yes.

24          **Q**     The one on the hairline as well as the bill  
25 area or the visor area?

1           **A**     Right.

2           **Q**     Were you able to obtain a sample large enough  
3 to do some analysis?

4           **A**     I did not get the DNA from any of the areas.  
5 And so no further analysis was done.

6           **Q**     So whatever sample you swabbed yourself was not  
7 large enough to conduct an analysis?

8           **A**     Right.

9           **Q**     I'm also going to show you what's in evidence  
10 as State's 55. Did you have the opportunity to conduct  
11 some analysis on this item?

12          **A**     Yes.

13          **Q**     And this white ring here, is that your  
14 information?

15          **A**     Yes. That is the area that I looked at and  
16 have put my initials on that part.

17          **Q**     So you took the sample yourself?

18          **A**     Yes.

19          **Q**     And what was the result of your sample in  
20 comparison to the known standard that Detective Conroy  
21 gave?

22          **A**     Let me check. (Pause.)

23                   The DNA that match to the sample that I swabbed  
24 from the area.

25          **Q**     A match to who?

1           **A**     To the DNA I got from Patrick Lowrance.

2           **Q**     How certain are you, Dr. Kandala?

3           **A**     It is beyond a reasonable degree of scientific  
4 certainty. We say this statement beyond a reasonable  
5 degree of scientific certainty when we have a probability  
6 that is one in 300 billion or more. In this case, we  
7 have almost a billion trillion kind of thing. That is why  
8 we use the wording beyond reasonable degree of scientific  
9 certainty.

10          **Q**     And the phrase that you're referencing, beyond  
11 a reasonable degree of scientific certainty, is that a  
12 phrase that is used throughout your profession with other  
13 labs?

14          **A**     Yes.

15          **Q**     That's the standard language that's used?

16          **A**     Yes.

17          **Q**     Dr. Kandala, I'm going to show you State's 56,  
18 which is item JD-3. Did you have the occasion to do the  
19 same analysis on this grey t-shirt that you did on the  
20 black hooded sweatshirt?

21          **A**     Yes.

22          **Q**     You did it yourself?

23          **A**     Yes.

24          **Q**     You swabbed it?

25          **A**     Yes.

1 Q And you compared it to the known standard?

2 A Yes.

3 Q And what were your findings?

4 A This is a match to a reasonable degree of  
5 scientific certainty.

6 Q Same analysis you did on the sweatshirt, you  
7 did on the t-shirt. The results were the same?

8 A The results were the same.

9 Q Dr. Kandala, I'm showing you State's 36, which  
10 is a photograph of a placard labeled 35, which Sergeant  
11 Shaw collected. Did you also do some analysis on this  
12 suspected blood in the stairwell?

13 A Yes, I did.

14 Q Did you take this sample?

15 A I got this already.

16 Q So the sample had already been pulled?

17 A Yes.

18 Q So you took DS-35?

19 A The swab that is prepared.

20 Q And did you compare it to the known standard  
21 that you had from the defendant?

22 A Yes. I did compare it. I did the same  
23 analysis. This sample I also give beyond this number to  
24 degree of scientific certainty in match to the DNA that I  
25 got from the sample of Patrick Lowrance.

1           **Q**     Now, did you do any other analysis on items of  
2 evidence that John Derby submitted to you or submitted  
3 into Property and Evidence?

4           **A**     No, I just had the samples that we have. I  
5 didn't touch any other samples. We did only the samples  
6 that we described right now.

7           **Q**     Dr. Kandala, do you have your report before  
8 you?

9           **A**     Yes.

10          **Q**     If you would, take a look at item number 2.

11          **A**     Yes.

12          **Q**     Did you analyze anything else?

13          **A**     The -- those are not done for DNA. They are  
14 only done for testing only if there's any body fluids or  
15 any.

16          **Q**     So you took some other samples?

17          **A**     Right.

18          **Q**     And did some testing to determine whether or  
19 not there was any body fluid?

20          **A**     Yes.

21          **Q**     And did you find any?

22          **A**     No.

23          **Q**     Where were those items -- where did they come  
24 from?

25          **A**     The swabs I got from the, uh, -- the -- excuse

1 me. The swabs from the -- no testing was done but we did  
2 try for the DNA. There was no DNA in those swabs, so no  
3 further analysis was done on that.

4 Q So you had how many samples from the vehicle?

5 A Uh, let me get my notes. On that particular --  
6 from the vehicle, we had four swabs. All the four swabs  
7 did not show any DNA in the analysis. So no further  
8 testing was done on them.

9 Q So I understand that you do an initial  
10 presumptive test to determine if there's any present  
11 before you then attempt to extract it.

12 A These, uh, swabs, uh, by visual examination did  
13 not show any kind of color to suspect any blood on it.  
14 So what is done is to look for any other kind of DNA that  
15 we can get so -- we went to the step of getting the DNA  
16 out of the swabs. There's no DNA in the swabs at all so  
17 no further analysis is done.

18 Q The swabs that Officer Derby collected ---

19 A Yes.

20 Q --- did not contain any DNA?

21 A No.

22 Q And where did Officer Derby take those swabs?

23 A Uh, they are from the vehicle and different,  
24 uh, -- the swabs that I got was fro the driver's door and  
25 the other one is from steering wheel and one from the

1 gear shift and one from the driver's side headrest.

2 Q The driver's door, the steering wheel, the  
3 gearshift and the headrest ---

4 A Yes.

5 Q --- those samples yielded no DNA?

6 A Yes.

7 Q Now, we previously talked about you going back  
8 and testing the gun in this case. Did you go back and  
9 test these areas as well?

10 A No.

11 Q Thank you, Dr. Kandala, please answer any  
12 questions the defense may have.

13 MR. JOHNSON: Thank you, Your Honor.

14 **CROSS-EXAMINATION**

15 **BY MR. JOHNSON:**

16 Q Now, Doctor, you testified at the previous  
17 hearing in this case, didn't you?

18 A Yes.

19 Q Okay. Now, in that -- well, I'd like to talk a  
20 little bit more about DNA testing and what it is that you  
21 are trying to find out with it, okay?

22 A Yes.

23 Q Now, if I understand your testimony correctly,  
24 essentially what you're trying to do is to test to find  
25 some sort of body fluid that would contain the DNA on any

1           **A**    No, sir. I never seen him in it.

2           **Q**    All right. And State's Exhibit 53, I'll show  
3 it to you. Do you recognize this Exhibit?

4           **A**    No, sir.

5           **Q**    You ever seen Patrick with this exhibit?

6           **A**    No, sir.

7           **MR. CRANGLE:**    All right. I have no further  
8 questions, Your Honor.

9           **THE COURT:**    All right. Thank you.

10          **MR. MARCHANT:**    No redirect, Your Honor. I  
11 ask that the witness be excused.

12          **THE COURT:**    All right. Any objection to  
13 that, Mr. Crangle?

14          **MR. CRANGLE:**    No objection, Your Honor.

15          **THE COURT:**    All right. Thank you, sir, for  
16 being here.

17          **MR. MARCHANT:**    The State would call Detective  
18 Tim Conroy.

19          **THE CLERK:**    Detective Conroy, if you would,  
20 come forward to be sworn in. Place your left hand  
21 on the Bible and raise your right. Thank you.

22                           **TIMOTHY CONROY**

23           having first been sworn, testifies as follows:

24           **THE CLERK:**    Thank you. You may be seated.  
25           Would you please state your name for the record.

1           **THE WITNESS:**     Timothy Michael Conroy.

2           **THE CLERK:**     Thank you.

3                           **DIRECT EXAMINATION**

4 **BY MR. MARCHANT:**

5           **Q**     Detective Conroy, where are you employed?

6           **A**     Greenville Police Department.

7           **Q**     How long have you been with City Police  
8 Department?

9           **A**     16 years.

10          **Q**     You have any other law enforcement experience  
11 prior to your employment with City Police Department?

12          **A**     No, I don't.

13          **Q**     Been through this before with the other  
14 officers, did you go to the Academy?

15          **A**     I did.

16          **Q**     Are your credentials up to date?

17          **A**     Yes, sir.

18          **Q**     How long have you been in the detective  
19 division?

20          **A**     Uh, a little over seven years.

21          **Q**     One of your colleagues testified yesterday,  
22 Detective Flavell?

23          **A**     Yes.

24          **Q**     As well as Detective Garrison who was mentioned  
25 as well?

1           **A**     Correct.

2           **Q**     Show you what has been marked as State's 64 and  
3 ask that you take a look at this and see if you recognize  
4 that item.

5           **A**     Yes, I do.

6           **MR. MARCHANT:**     Move 64 into evidence.

7           **THE COURT:**     Any objection?

8           **MR. JOHNSON:**     No objection.

9           **THE COURT:**     It's so admitted.

10           **(WHEREUPON, State's Exhibit 64 is admitted into the**  
11 **record.)**

12           **BY MR. MARCHANT:**

13           **Q**     Detective Conroy, if you would for the benefit  
14 of the jury, please explain what 64 is and how you  
15 retrieved that sample.

16           **A**     64 is a buccal swab. I retrieved it from the  
17 defendant, Mr. Lowrance. I met with him one afternoon  
18 and handed him a sealed envelope containing a Q-Tip on a  
19 stick with a capsule over the Q-Tip part. I asked him to  
20 open the sealed envelope, slide the capsule down the  
21 stick and rub the Q-Tip on the interior of his cheeks.  
22 At that point, he then slid the capsule back up, closed  
23 the cap on it. I had a box that he put it in that was  
24 later taped and placed into evidence.

25           **Q**     You handed it to him and he did all of the

1 work, if you will, and sealed it back up?

2 A That's correct, so I wouldn't contaminate it.

3 Q All right. You're the lead investigator in  
4 this case?

5 A Yes, sir.

6 Q And explain for the jury what the lead  
7 investigator means in connection with an event such as  
8 this.

9 A In the detective division, everybody is  
10 assigned cases. As a lead investigator, all the  
11 information comes through you so that it's not  
12 duplicated. If you need something done or somebody's not  
13 busy, you can ask them to do it and they will assist you.

14 Q On this particular incident, we talked about  
15 three different crime scenes. Did you go to the Comfort  
16 Inn on October the 28th, 2011?

17 A No, I did not.

18 Q Did you go to Berkeley Pointe?

19 A I did.

20 Q Did you go to 105 Mooremont?

21 A No.

22 Q Do you recall where you were when Officer Lane  
23 called out "shots fired" on the radio that morning?

24 A Yes, I was in my office at the Law Enforcement  
25 Center.

1           **Q**     And is that the same office Detective Flavell  
2 works in?

3           **A**     Yes, sir.

4           **Q**     And if you would for the benefit of the jury,  
5 describe those offices. Do you have a door to your  
6 office? Is it a cubicle? Or how is the detective  
7 division set up?

8           **A**     The detective division is -- in our office in  
9 the violent crimes unit, there are three cubicles and  
10 then two offices within one big room. Detective Flavell  
11 and I have our own office. The cubicles are directly  
12 outside that.

13          **Q**     There are five members of your unit?

14          **A**     Yes, sir.

15          **Q**     And y'all investigate --

16          **A**     Violent crimes.

17          **Q**     Strictly violent crimes?

18          **A**     No, sir. Violent crimes, missing persons, just  
19 a variety of cases.

20          **Q**     You conduct routine patrol and do traffic stops  
21 on a daily basis?

22          **A**     No, sir.

23          **Q**     Can you?

24          **A**     I can.

25          **Q**     So you are at the Law Enforcement Center when

1 the "shots fired" call comes from Lane. What did you do?

2 **A** I run down the steps, jump in my car and ride  
3 down Laurens Road to 291 to Mauldin Road and enter  
4 Berkeley Pointe through that first entrance from Mauldin  
5 Road.

6 **Q** Did you ride by yourself or did someone ride  
7 with you?

8 **A** By myself.

9 **Q** You recall where you parked when you arrived at  
10 Berkeley Pointe?

11 **A** I do.

12 **Q** Do you recall how long it took you to get to  
13 Berkeley Pointe?

14 **A** Uh, five to ten minutes.

15 **Q** Detective Conroy, if you would, step down for  
16 me please, sir.

17 **A** (Witness complies.)

18 **Q** With this green Sharpie, please indicate where  
19 you parked when you arrived at Berkeley Pointe.

20 **A** I parked right on this side.

21 **Q** You didn't exactly pull into that spot?

22 **A** No.

23 **Q** You recall how many law enforcement vehicles  
24 you saw when you arrived?

25 **A** There were numerous vehicles there. That's why

1 I couldn't pull any further. The parking lots were  
2 congested with vehicles.

3 Q Now, as the lead investigator in this case,  
4 what was the first thing that you did when you arrived at  
5 Berkeley Pointe?

6 A I spoke with Officer Cruell and Officer Lane  
7 and got the information, as much information from that as  
8 I could:

9 Q Why would you speak with the two of them?

10 A Just so I could get firsthand information.

11 Q And with the information that they gave you,  
12 who did you call or what did you do to start directing  
13 that investigation?

14 A At that point, there was -- I wanted to make  
15 sure that the descriptions were fresh in their mind and  
16 they could give me everything that I could take down. At  
17 that point, there was -- the same description was going  
18 out over the radio. Several other people were arriving  
19 and command post was being set up through all this area.

20 Q Did you have the opportunity to go up to  
21 Building 1300 at that time?

22 A Not at that time.

23 Q When was the first time you went up to 1300?

24 A It was approximately 11:30.

25 Q How is it that you approached the 1300

1 Building?

2       **A**     In the SWAT vehicle.

3       **Q**     Please describe for the jury what a SWAT  
4 vehicle is and what's on the inside of that vehicle and  
5 the purpose for you and the department to use that  
6 vehicle.

7       **A**     A SWAT vehicle is an armor vehicle that houses  
8 -- it's got platforms on the side where officers can ride  
9 up to a location and deploy quickly and safely. It's got  
10 communication within, a PA system to speak with people  
11 inside the residence.

12       **Q**     Roughly, how many individuals were in that  
13 vehicle at 11:30?

14       **A**     In that vehicle, there are approximately 8 to  
15 10 of us.

16       **Q**     What happened when y'all reached building 1300?

17       **A**     Somebody got on the PA and started calling the  
18 occupants of the 1300 Building out so it could be  
19 searched.

20       **Q**     Did they call them out one by one?

21       **A**     They called the occupants of 1300 to come out.  
22 People were staggering out. There was an older lady that  
23 needed some assistance getting out. But eventually, we  
24 confirmed who everybody was out of the apartment  
25 building.

1           **Q**     The team searched each residence in that  
2 building?

3           **A**     Yes. At that point, SWAT members had a master  
4 key or a key to each apartment and went in and made sure  
5 that nobody was hiding in the building.

6           **Q**     Did you find anyone hiding in the building?

7           **A**     No, sir.

8           **Q**     Were you present when Forensics arrived?

9           **A**     I was.

10          **Q**     And we've seen some photographs earlier and  
11 some evidence of items of clothing that were found at the  
12 bottom of the stairwell. Were you present with Detective  
13 Flavell and Sergeant Shaw when y'all went through those  
14 items?

15          **A**     Yes, I was.

16          **Q**     Were you also present when you found the Social  
17 Security card and birth certificate of the defendant?

18          **A**     I was.

19          **Q**     At that point in time, what did you and  
20 Detective Flavell do?

21          **A**     We spoke about, uh, what we were going to do,  
22 how we were going to try to get -- uh, identify Mr.  
23 Lowrance and capture him, uh, locate him. He went back  
24 and looked at his list that he got previously from the  
25 Comfort Inn. We -- I stayed on the scene until Forensics

1 was done processing the scene.

2 Q At that point in time, you had the birth  
3 certificate and Social Security card and other personal  
4 effects. Did you believe that you had a suspect?

5 A We did.

6 Q Did you focus on Mr. Lowrance?

7 A Yes, we did.

8 Q Did you have any reason to believe that it was  
9 anyone else you needed to be focusing on?

10 A There was never any information of another  
11 person.

12 Q What did you do throughout the course of the  
13 time forensics was there? Did you do any collection of  
14 evidence?

15 A I did not do any collection. I was with  
16 Forensics and watching where they were collecting the  
17 items and relaying to them what the officers told me  
18 occurred.

19 Q Why is it necessary for you to stay there the  
20 entire time while forensics is collecting the evidence if  
21 you are not collecting it yourself?

22 A Just so I have firsthand knowledge of where it  
23 was collected from. If there was any other evidence that  
24 was collected, I would know about it immediately.

25 Q You recall how long you stayed out there with

1 Forensics?

2 **A** I stayed there until 4:00, 4:15.

3 **Q** Where did you go at 4:00 or 4:15?

4 **A** I went back to the office.

5 **Q** We've heard testimony earlier that Detective  
6 Flavell went back to the Comfort Inn and retrieved some  
7 evidence around 4:30. Why didn't you go with him back to  
8 the Comfort Inn?

9 **A** I was trying to get in touch with Mr. Norman  
10 and interview him. On the way to his house to interview  
11 him, I was contacted and told he was at the office.

12 **Q** So Mr. Pearson subsequently met you at the Law  
13 Enforcement Center?

14 **A** That's correct.

15 **Q** And the testimony that he provided, he gave you  
16 a statement that afternoon as well?

17 **A** Yes.

18 **Q** You recall what time you took that statement  
19 from Mr. Pearson?

20 **A** It was roughly 4:40.

21 **Q** Now, after you retrieved that statement from  
22 Mr. Pearson, what did you do -- where did you take that  
23 statement from Mr. Pearson?

24 **A** In my office.

25 **Q** In your office. And that's in the division

1 that you described earlier?

2 **A** Yes, sir. That's correct.

3 **Q** So you get finished with Mr. Pearson, what did  
4 you do then?

5 **A** Uh, I spoke with other investigators and we  
6 were able to, uh, investigate the possible whereabouts of  
7 Mr. Lowrance.

8 **Q** Did you have, uh, the phone number that Mr.  
9 Pearson provided to you earlier?

10 **A** I did.

11 **Q** And yourself and Garrison and Flavell, were  
12 y'all working on getting phone obtained on this  
13 individual --

14 **A** Yes, sir.

15 **Q** -- phone number? Where you able to determine  
16 which mobile carrier that was?

17 **A** We were. It's T-Mobile.

18 **Q** And did y'all, in fact, make contact with T-  
19 Mobile?

20 **A** We did.

21 **Q** Was a trace started?

22 **A** Yes, it was.

23 **Q** Now, at some point in time, did you use the  
24 information from T-Mobile to determine the location of  
25 that cell phone?

1           **A**     Yes, we did.

2           **Q**     Now, you earlier heard testimony from Detective  
3 Flavell that he went to the Home Depot, did you go to the  
4 Home Depot?

5           **A**     No, sir. I did not.

6           **Q**     Why is it that you did not go to Home Depot?

7           **A**     There were numerous other units out there with  
8 Detective Flavell. I stayed back at the office.

9           **Q**     Now, I'm going to jump back on you just a  
10 minute, Detective Conroy. You indicated when you arrived  
11 over there at Berkeley Pointe, you had to park down low  
12 because there were a number of law enforcement vehicles  
13 present. Were you able to give this jury a conservative  
14 estimate of the number of officers that were either on  
15 this scene or the Mooremont scene that were involved in  
16 this incident throughout the day with your agency as well  
17 as other agencies here in the county.

18           **A**     There was -- there was roughly 70 law  
19 enforcement officers investigating in this case.

20           **Q**     Now, we briefly touched on it earlier with  
21 other witnesses. What's the purpose of attempting to set  
22 up the perimeter when an incident like this occurs?

23           **A**     To capture the suspect quickly.

24           **Q**     Was the suspect contained within the perimeter  
25 that y'all set up that day?

1           **A**    No, sir. He was not.

2           **Q**    Now, we heard the testimony of Detective  
3 Hammett and the dog track that he started and  
4 subsequently stopped. He even testified that the county  
5 took over. Are you aware of whether or not the county's  
6 track resulted in locating anyone?

7           **A**    It did not locate anybody.

8           **Q**    As Detective Flavell heads over to Mooremont,  
9 did you go with him?

10          **A**    No, sir.

11          **Q**    Why not?

12          **A**    I wanted to stay in the office in case other  
13 information came in.

14          **Q**    And did some other information come in?

15          **A**    Uh, after he was located at Mooremont.

16          **Q**    Were you made aware that the defendant was  
17 apprehended?

18          **A**    Yes, I was.

19          **Q**    Were you made aware of where he was being  
20 taken?

21          **A**    I was.

22          **Q**    And where was that?

23          **A**    Greenville Memorial.

24          **Q**    Did you go to Greenville Memorial?

25          **A**    Yes, I did.

1           **Q**     What was the purpose of your visit to  
2 Greenville Memorial?

3           **A**     To see if there was any evidence at the  
4 hospital that needed to be collected.

5           **Q**     And did you locate any evidence at the hospital  
6 that needed to be collected?

7           **A**     I did not collect any evidence at the hospital.  
8 Forensics later collected clothing.

9           **Q**     Did you see the defendant at the hospital?

10          **A**     I did.

11          **Q**     Did you see whether or not he was wounded?

12          **A**     I did.

13          **Q**     Did you recall the location of that wound?

14          **A**     He had the -- it appeared to be a bullet wound  
15 to his left shoulder.

16          **Q**     Was there an exit wound?

17          **A**     There was no exit wound.

18          **Q**     Were you with, uh, medical personnel when they  
19 went and x-rayed him?

20          **A**     I was.

21          **Q**     Were you able to determine whether or not the  
22 projectile was lodged in his shoulder?

23          **A**     Projectile traveled down his left arm and was  
24 lodged in his arm just above his elbow.

25          **Q**     Have you subsequently retrieved that

1 projectile?

2           **A**    No, sir.

3           **Q**    Why is that?

4           **A**    To the best of my knowledge, it's still in his  
5 arm.

6           **Q**    When is the last time you checked?

7           **A**    I checked with medical personnel the last  
8 Friday before.

9           **Q**    The vehicle that's involved in this case, did  
10 you speak with the owner of that vehicle?

11          **A**    I did.

12          **Q**    Did you subsequently meet with her and return  
13 it to her?

14          **A**    Yes, I did.

15          **Q**    What was her name?

16          **A**    Delonda Grisham.

17          **Q**    Where did you meet with her and return her --  
18 that vehicle?

19          **A**    I met with her at Elgin's Body Shop on Main  
20 Street.

21          **Q**    And do you recall the date when you returned  
22 that vehicle to her?

23          **A**    I believe it was November 4th, 2011.

24          **Q**    And what was the date of this incident?

25          **A**    October the 28th.

1           **Q**    My last question for you, Detective Conroy, you  
2 were with the defendant at the hospital.

3           **A**    Yes, sir.

4           **Q**    He was on a bed or stretcher being treated?

5           **A**    Yes, sir.

6           **Q**    Did you take a GSR sample from him?

7           **A**    No, sir. I did not.

8           **Q**    Why not?

9           **A**    SLED standards are that it has to be collected  
10 within six hours of the incident or they won't process  
11 it.

12          **Q**    Does Greenville County have the ability to  
13 process?

14          **A**    They do not.

15          **Q**    It wasn't my last question, Detective Conroy.  
16 This is it. Did you talk with Jarvis Tucker that day?

17          **A**    I did.

18          **Q**    Did you talk with him on the scene?

19          **A**    I did.

20          **Q**    Did you take a statement from him?

21          **A**    I did not. I took a verbal statement. I took  
22 a written statement from him.

23          **Q**    And please describe to the jury the physical  
24 characteristics of Mr. Tucker.

25          **A**    Mr. Tucker was tall, thin, six-foot, long

1 dreads, long hair.

2 Q Lastly, Detective Conroy, when you met with Mr.  
3 Grisham, did she indicate to you that all the items in  
4 her vehicle were hers?

5 A No, sir. I asked her to look through the  
6 vehicle and tell me if something was in there that was  
7 not hers. There was some stereo equipment in the car and  
8 also a medicine bottle that was in the driver's door  
9 panel that was not hers. Those are placed in Property  
10 and Evidence.

11 Q Thank you, Mr. Conroy. Please answer any, uh,  
12 questions the defense may have.

13 THE COURT: All right, Mr. Johnson.

14 CROSS-EXAMINATION

15 BY MR. JOHNSON:

16 Q Detective Conroy, you testified at the prior  
17 hearing, is that correct?

18 A Yes, sir.

19 Q And ask you stated today, you are the lead  
20 investigate -- you are the lead investigator on this  
21 case.

22 A Yes, sir.

23 Q And all the information came through you?

24 A Correct.

25 Q Now, with regards to this trial, at the prior

1           **A**     That's correct.

2           **Q**     And, uh, he testified that he knew Mr. Tucker?

3           **A**     Yes, sir.

4           **Q**     He also testified that he was, he was out  
5 walking on that day, right?

6           **A**     Yes, sir.

7           **Q**     He was with his three-year old son?

8           **A**     Two-year old son.

9           **Q**     Two-year old son. Pardon me. Okay.

10           **MR. JOHNSON:**     I have nothing further, Your  
11 Honor.

12           **THE COURT:**     Any redirect?

13           **MR. MARCHANT:**     Yes, Your Honor.

14                                   **REDIRECT EXAMINATION**

15 **BY MR. MARCHANT:**

16           **Q**     Since we're talking about Mr. Man -- excuse me  
17 -- Mr. Mangle and the Hispanic male, Detective Conroy, if  
18 you would step down and circle the building and the  
19 location of where you spoke with that Hispanic male.

20           **A**     He was peeking out of this apartment right  
21 here, this window.

22           **Q**     And where did you -- how is it that you came  
23 into contact with him?

24           **A**     I was at my car getting ready to move for the  
25 SWAT vehicle to come by cause the road was blocked. I

1 moved my car, my vehicle. And I saw him. And I asked if  
2 he saw anything.

3 Q Where did you see him in building?

4 A He was on the top floor.

5 Q How is it that you communicated with him on the  
6 top floor?

7 A From the parking lot to the top floor.

8 Q Where were you standing when you're having this  
9 conversation?

10 A In my car.

11 Q Secondly, Mr. Johnson's asked you some  
12 questions about Mr. Gamble's, uh, report. Did you have  
13 the opportunity to review the whole report when he was  
14 discussing it with you?

15 A Not entire.

16 Q Okay.

17 A (Reviewing.)

18 Okay.

19 Q Detective Conroy, he's asking you about a lead  
20 that Gamble had. What happened with the information that  
21 Mr. Gamble had, Officer Gamble? Did it turn into a lead?

22 A No, sir.

23 Q So there was follow up on that call?

24 A There was.

25 Q And did that lead go anywhere?

1           **MR. JOHNSON:**     Nothing further, Your Honor.

2           **THE COURT:**     Anything else?

3           **MR. MARCHANT:**    No, Your Honor.

4           **THE COURT:**     All right, sir. You can step  
5 down.

6           Mr. Marchant.

7           **MR. MARCHANT:**    May it please the Court. I  
8 had a number of exhibits marked that are identified.  
9 I believe I moved them all into evidence. But if I  
10 have not, at this time, if they were identified by  
11 any witnesses, I would move those exhibits in. And  
12 with that, the State would rest its case, Your  
13 Honor.

14           **THE COURT:**     All right. Ladies and Gentlemen,  
15 I need to take up a legal matter outside your  
16 presence. I'm going to ask you to step to the jury  
17 room. We'll have about a 10 or so minute break if  
18 anybody wants to smoke or anything like that.

19           **(WHEREUPON,** the jury exits at approximately  
20 11:12 a.m.)

21           **THE COURT:**     Mr. Johnson?

22           **MR. JOHNSON:**    Your Honor, at this time, I  
23 think it would be appropriate to make motion for  
24 directed verdict. I'd like to separate the charges.

25           **THE COURT:**     All right.

1           **MR. JOHNSON:**     One for Failure to Stop and the  
2           other one, Attempted Murder.

3           **THE COURT:**     Yes, sir.

4           **MR. JOHNSON:**     Uh, first of all, the Failure  
5           to Stop. There's been no testimony that -- no  
6           testimony provided that my client was driving the  
7           car on the date of the incident by anyone. No one  
8           can identify him in the car. No one -- Norman  
9           Pearson testified he was driving the car the prior  
10          day. No one can put him in the car on that specific  
11          day.

12          **THE COURT:**     Okay.

13          **MR. JOHNSON:**     So that's my motion based upon  
14          that. There's no evidence of material fact that  
15          supports the Failure to Stop.

16                 Now, Your Honor, with regards to Attempted  
17          Murder, Officer Cobb testified that they could not  
18          see the face of the person who was shooting at them.  
19          They saw a hat. Kandala tested it. The tests were  
20          inconclusive. Meaning, again, my client was not  
21          identified as wearing the hat. They did touch the  
22          gun. They established that my client was holding  
23          the gun. As Dr. Kandala testified, you could not  
24          tell how or when his DNA got there.

25                 Based upon those items, I'm asking for directed

1           verdict. Those cases are entirely circumstantial.  
2           I believe there was a recent case, uh, State versus  
3           Odoms or something of that nature that required more  
4           than just a substantial circumstantial evidence on  
5           that. And also with regards to officers not being  
6           able to see him, with regards to not being able to  
7           put the gun in his hand at that certain time, that's  
8           my request based on Attempted Murder at this time,  
9           Your Honor.

10           **THE COURT:** All right. Thank you. I  
11           appreciate your argument.

12           **MR. JOHNSON:** And I'd like to renew any and  
13           all prior objections, Your Honor. I think I should  
14           say this. A lot of things in the previous trial that  
15           I didn't say anything in this trial because I  
16           understand res judicata applied.

17           **THE COURT:** Yes, sir.

18           **MR. JOHNSON:** Therefore, Your Honor, I'd like  
19           to preserve any objections made there as well.

20           **THE COURT:** They are so preserved. Your  
21           objections are noted for the record and reiterated  
22           for the record and denied.

23           Mr. Marchant, in regards to the motion for  
24           directed verdict.

25           **MR. MARCHANT:** The State's position, as the

1 Court is well aware, at this stage of the game to  
2 concern itself of the weight of -- excuse me, the  
3 existence of the evidence, not the weight of the  
4 evidence referenced in Williams. I can go through  
5 what the State's position would be with respect to  
6 each of those charges if Your Honor would like me  
7 to.

8 **THE COURT:** Why don't you summarize it very  
9 briefly?

10 **MR. MARCHANT:** Long and short, Your Honor.  
11 Officer Cruell testified she saw him at the Comfort  
12 Inn. A car chase ensued. The car ended up in  
13 Berkeley Pointe. His fingerprints were found both  
14 inside and outside of the vehicle. His DNA was  
15 found at the scene. He's caught with the gun at  
16 Mooremont Avenue several hours later. DNA comes off  
17 the gun. There's no indication of any witnesses at  
18 any point in time that there's anyone else involved  
19 in this incident. While it is circumstantial and  
20 there is a large amount, tremendous amount of  
21 circumstantial evidence, it would be the State's  
22 position that it was more than sufficient for Your  
23 Honor to deny the motion for directed verdict.  
24 That's what we'd respectfully ask.

25 **THE COURT:** Certainly at this point, as I'm

1 purposes. And just so the record's clear, I do not  
2 intend that those exhibits be moved into evidence.  
3 There are other pieces of evidence that were not put  
4 in. I did not intend for these either. It's  
5 State's 47, 65, 69, 70, 81 and 89.

6 **THE COURT:** Okay.

7 **MR. MARCHANT:** Thank you, Your Honor.

8 **THE COURT:** All right. All right then.  
9 Anything else we need to take up?

10 (No response.)

11 **(WHEREUPON, the jury enters at approximately**  
12 **11:43 a.m.)**

13 **THE COURT:** Mr. Johnson, you ready to  
14 proceed?

15 **MR. JOHNSON:** Yes, ma'am, Your Honor. I'd  
16 like to call my client, Patrick Lowrance, to the  
17 stand.

18 **THE COURT:** All right, sir. If you would,  
19 come forward to be sworn.

20 **THE CLERK:** Sir, please place your left hand  
21 on the Bible and raise your right.

22 **PATRICK LOWRANCE**  
23 having first been sworn, testifies as follows:

24 **THE CLERK:** Thank you. You may be seated.

25 **THE WITNESS:** Thank you.

1           **THE CLERK:**     Would you please state your name  
2           for the record.

3           **THE WITNESS:**     Patrick Dean Lowrance.

4           **THE CLERK:**     Thank you.

5                           **DIRECT EXAMINATION**

6   **BY MR. JOHNSON:**

7           **Q**     I'm over here. The first thing I'd like to do.  
8           Introduce yourself to the jury for me.

9           **A**     My name is Patrick Dean Lowrance.

10          **Q**     How old are you?

11          **A**     27 now. Turned 27 last December.

12          **Q**     Where are you from?

13          **A**     I grew up in Welford. My mom was able to  
14          afford a house and move to Duncan.

15          **Q**     Now, when you say Welford and Duncan, what  
16          county is that in South Carolina?

17          **A**     It's still in Spartanburg county.

18          **Q**     Okay. Now, how far did you go in school?

19          **A**     I graduated Burns High School. Then I went to  
20          Houston to attend UTI, University Technical Institute.

21          **Q**     What did you study there?

22          **A**     I studied how to be an auto collision  
23          technician.

24          **Q**     Did you get your degree?

25          **A**     Yes, I got my certification, ASE certified.

1           **Q**    Uh, now what type of -- were you able to --  
2 what type of work have you done? What type of work are  
3 you able to do?

4           **A**    Once I graduated college, I moved back here. I  
5 worked for three years doing insurance work, fixing  
6 wrecked cars.

7           **Q**    Now, during the time of this incident, October  
8 28th, 2011, were you working?

9           **A**    Uh, at this time, I was doing part-time work at  
10 place called Pop's Body Shop that's in Lyman.

11          **Q**    What did you do there?

12          **A**    I painted -- I painted most of the police cars  
13 and the Crown Vics for a place.

14          **Q**    About your immediate family, your mom and your  
15 dad. Can you tell me about the relationship you had with  
16 your mom, dad, brothers, sisters, anything of that  
17 nature?

18          **A**    Uh, yeah. My mom raised me and my sister. My  
19 dad...

20          **Q**    What is your sister's name?

21          **A**    Walisha Davis.

22          **Q**    And your dad -- I'm sorry. You didn't say  
23 anything audible, so I'm going to ask you to say  
24 something. What's the relationship with your dad?

25          **A**    He left right when I was around, about seven.

1 Q So it was you, your mom and your sister?

2 A Yes.

3 Q You have any extended family that you are close  
4 with or anything like that?

5 A Me, my wife, my son, we spend time with my mom.  
6 We spend time with my sister. We got to Durham for  
7 Christmas and stuff like that. My cousins, my grandma  
8 and my grandpa.

9 Q I'm going to ask you more about your grown up  
10 family. Are you married?

11 A Yes.

12 Q What's your wife's name?

13 A Ciera.

14 Q Did y'all have any children?

15 A Yes. We had one, one eight-year-old together.  
16 Zavian.

17 Q You and your wife, are y'all currently  
18 together?

19 A Yes.

20 Q What's y'all's status?

21 A Uh, last November the 3rd, that was our fifth  
22 year anniversary. Before that, we was having a little  
23 bit of problems, you know what I'm saying. But we just  
24 worked through it.

25 Q All right. Now, I'm going to go ahead and go

1 to the incident date. I'm going to go to October 27th  
2 and 28th. Okay.

3 A Okay.

4 Q Do you remember those dates?

5 A Uh, the 27th and the 28th?

6 Q Yes.

7 A Yes.

8 Q Of 2011.

9 A Yes.

10 Q Now, you were in the room when Norman Pearson  
11 testified, right?

12 A Yes.

13 Q And you heard what he had to say?

14 A Yes.

15 Q Do y'all know each other?

16 A Yes, it's my cousin. We grew up together.

17 Q Now, in association with this case, he talks  
18 about -- I'm not going to go to the exhibit at this point  
19 -- but a Yukon, a car. Are you familiar with that car?

20 A Yes.

21 Q Now, is that a car that you had been in any  
22 point in your life? How is that -- you have any  
23 relationship with that car?

24 A Yes. I would drive it.

25 Q Okay. When did you drive the car?

1           **A**     When Meat would let me drive it, I would drive  
2 the car.

3           **Q**     Okay. Now, you said Meat. Who is Meat?

4           **A**     Uh, I don't know his last name. I know his  
5 first name is Lemetrius. I heard a female call him that  
6 one time.

7           **Q**     Okay. Now, you call him -- today, you called  
8 him something. What's his name?

9           **A**     He goes by Meat.

10          **Q**     Okay. Now, you are saying, you are testifying  
11 to the court that that was his car?

12          **A**     Yes.

13          **Q**     Okay. Now, Norman also testified that, uh, he  
14 saw you in the car the day before. Is that right?

15          **A**     Yes, he did.

16          **Q**     Could you tell me -- tell the Court what were  
17 your interactions with Norman on the 27th.

18          **A**     We was just hanging out together. We normally  
19 just hang out with each other. I was at his house. I  
20 was actually -- we went to the store. Me, him and his  
21 uncle went to the store. We was just sitting around the  
22 house, just socializing and drinking, smoking.

23          **Q**     Socializing and drinking. Smoking? Smoking  
24 what?

25          **A**     Smoked weed. Smoked marijuana.

1           **Q**     Now, we're talking about October 27th. Were  
2 you with Norman all day?

3           **A**     No, not all day. The majority of the day.

4           **Q**     Now, Norman states that he gave you some money  
5 for a hotel room. Did he do that?

6           **A**     Yeah. He gave me some money. He kind of owe  
7 me. But I mean, we always give each other money. It's  
8 all the same.

9           **Q**     Now, he also stated when he rode in the car  
10 with you that he saw, you been in the courtroom. You  
11 seen that gun. He said he also saw that gun in the car.  
12 Was that gun in the car with you when y'all was driving  
13 around?

14          **A**     No.

15          **Q**     Okay.

16          **A**     I didn't know there was a gun in the car. I  
17 didn't see a gun in the car.

18          **Q**     Now, he said it was in the console. Do you  
19 believe it was there?

20          **A**     No, it was on the console. I was driving the  
21 console. It was right there beside me. I didn't know a  
22 gun was there.

23          **Q**     Now, you are familiar with the gun, is that  
24 right?

25          **A**     Yes.

1           Q     Okay. Now, whose -- is that your gun or whose  
2 gun is it?

3           A     It's not my gun. The gun belongs to me.

4           Q     Okay. Now Meat, this guy that you classify as  
5 Lemetrius?

6           A     Yes.

7           Q     Now, I'd like to go a little bit about -- I  
8 want to go back to the, uh, Norman giving you money for  
9 the hotel room. You stated you were with Norman all day.  
10 What did you do after you got the room?

11          A     Uh, later on that night, I mean, we kind of had  
12 a get together at the room, like a party.

13          Q     Okay. Was that the only place that y'all went  
14 that day or did y'all do other stuff? I mean, first of  
15 all, who is y'all? Were you with anybody? Were you by  
16 yourself?

17          A     No, I was with my cousin most of the day.  
18 After I left my cousin's house, I went and met with  
19 Lemetrius and Tee.

20          Q     Now, Tee is a new name. Who is Tee?

21          A     That's Lemetrius' good friend. He's just a  
22 dude that's with him most of the time.

23          Q     How long -- first of all, how long have you  
24 known Lemetrius?

25          A     We only known each other for like a month or

1 something like that.

2 Q So you only known him for a month, but he let  
3 you drive his car?

4 A Yeah. He just kind of like looked at me -- he  
5 was just always telling me from the time I met him, he  
6 was like, I'm going to look out for you. I met him at a  
7 place called -- a club called Dollar Bill.

8 Q How did y'all meet?

9 A Uh, me and Norman went to Dollar Bill one  
10 night. We were just in there just socializing, hanging  
11 out and, uh, I was -- we were in the area of Lemetrius.  
12 I was smoking a cigarette. He was like, man, you -- he  
13 asked me if I wanted to smoke. I was like yeah.

14 Q He asked you if you want to smoke a cigarette?

15 A No, he asked me did I want to -- he said do you  
16 want to hit a blank. So I was like yeah. I smoked with  
17 him. That's how we first got acquainted.

18 Q Okay. From that point on, what happened? Did  
19 y'all become friends or how did that work?

20 A Yeah. We just -- from now on, we just kind of  
21 started hanging out. That's where we started building  
22 from.

23 Q Okay. So let's go back. The night before, you  
24 stated you were with your cousin. At some point, you  
25 left your cousin. We talking about Norman, right?

1           **A**    Yes, I did.

2           **Q**    All right.

3           **A**    He stayed at the house. I left.

4           **Q**    Okay. Where did you -- what did you do next?

5           Where did you go?

6           **A**    Once I got together with Meat and Tee, we went  
7           to a couple of places. We went to Godiva's. I also had  
8           went to Swag that night.

9           **Q**    Okay.

10          **A**    That's where I seen Joel there.

11          **Q**    What are you talking about about Joel? Who is  
12          that?

13          **A**    Uh, it's just a friend that I met through my  
14          cousin.

15          **Q**    Which cousin?

16          **A**    Norman.

17          **Q**    Does he go by Joel? Do you know him as Joel?

18          **A**    Yeah. He goes by Joel. Most people call him  
19          T.P.

20          **Q**    So some people call him T.P.?

21          **A**    Yeah.

22          **Q**    Do you remember how late out you stayed and  
23          what y'all were doing? Were y'all partying? What were  
24          y'all doing?

25          **A**    No. I guess he thought I was in there by

1 myself. We just stepped out for second. He let me in  
2 the car. That was it. Then he left.

3 Q Okay. Now, when, uh, -- after you went to  
4 Swag, what did y'all -- we still on October 27th, is that  
5 right?

6 A Yes.

7 Q What did y'all do after that?

8 A Uh, went to the room.

9 Q What room -- we stated earlier the room. But  
10 where was the room? Where did you get the room at?

11 A I believe it's called -- I don't even know if  
12 it's still called the same thing. But at the time, it  
13 was called the Comfort Inn.

14 Q That's actually the Comfort Inn in question  
15 that they been talking about in this trial, is that  
16 right?

17 A Yes.

18 Q Same place?

19 A Yes.

20 Q And you got a room there?

21 A Yes.

22 Q And you stated that y'all went back and partied  
23 at the room?

24 A Yes.

25 Q Was it just -- who was with you?

1           **A**     It was just myself, Tee and Lemetrius. Several  
2 other people were there. Several other people was in and  
3 out of the room all night.

4           **Q**     And what were y'all doing in there?

5           **A**     Uh, just hanging out. Smoking and drinking.

6           **Q**     Smoking what and drinking what?

7           **A**     I mean, drinking liquor and smoking weed and  
8 just socializing and talking to females. I mean, it was  
9 other guys there too. But it was just kind of like a  
10 little mini bar if you want to say.

11          **Q**     Now, at some point, I suppose the party ends?

12          **A**     Yes. I mean, it really didn't ever end. Some  
13 people like started to fall asleep around 4:00 or 5:00  
14 and kind of leave or whatever. The next morning, the  
15 majority of the people left. The rest of the people left  
16 that were still there. The only people that were still  
17 there was Tee and Lemetrius and myself.

18          **Q**     Okay. So now we are on October the 28th, is  
19 that right?

20          **A**     Yes, that morning or whatever.

21          **Q**     That morning. So that morning, what did y'all  
22 do? Did y'all stay at the room?

23          **A**     No, I had asked Meat to take me to a friend of  
24 mine's house. So I took a shower and got ready to get  
25 ready to let him take me over there.

1           **Q**     You talking about a friend of your's house.

2 Can you be more specific than that?

3           **A**     A friend girl of mine.

4           **Q**     You have a name?

5           **A**     Yeah. Here name is Laila. I don't know her  
6 last name. I wasn't on a first and last name basis with  
7 people cause I'm married. At the time, I really didn't  
8 want nobody going back telling my wife anything I was  
9 doing. I was wanting to still be with her and work it  
10 out.

11          **Q**     Okay. So you trying to kind of hide it from  
12 her?

13          **A**     Yes.

14          **Q**     Okay. So you needed a ride. What do you mean  
15 you needed a ride? At what point -- you couldn't drive  
16 yourself over there? What was the deal?

17          **A**     No, I had been riding with Lemetrius the night  
18 before when I left my cousin. So I just asked him would  
19 he take me over there.

20          **Q**     In what car was he going to take you over  
21 there?

22          **A**     In his Yukon.

23          **Q**     Okay.

24          **A**     The tinted truck.

25          **Q**     The one they been referring to?

1           **A**     Yes.

2           **Q**     All right.  You heard, uh, you heard Officer  
3 Cruell today -- not today.  I guess in this trial --  
4 state, uh, that, uh, somebody was onto the car and said  
5 somebody walked through the lobby.  Did you hear that?

6           **A**     Yes.  I heard them say that.

7           **Q**     Can you tell the Court today -- how did all of  
8 y'all get out of the car?  It was three of y'all.  Maybe  
9 she should have see three of you.  Tell me how did this  
10 work?

11          **A**     What are you talking about?  Like when did we  
12 get out of the car?

13          **Q**     When y'all went down to the car when he was  
14 going to take you someplace?

15          **A**     I guess Meat must have had to walk through the  
16 lobby.  Me and Tee left out the side.  When you come down  
17 the long hallway, you can make the left.  And it's like a  
18 waiting room right there.  The side door goes out right  
19 there.

20          **Q**     Is that over by where the coffee and stuff is  
21 or is that somewhere else?

22          **A**     Uh, not as far as I can remember.  When you are  
23 coming down, uh, -- like if you was coming in the front  
24 door and pass where the coffee and stuff was and you  
25 start going down the long hallway, you can make that

1 right and go right out on the side of the door right  
2 there.

3 Q Now, as far as you know, I guess you know what  
4 you look like. What does Meat look like?

5 A He's about 6 -- 6'2. He's six something. He's  
6 way taller than me. I'm like 5'8 or 5'9. He has long  
7 hair. I guess the best way to describe him is like  
8 similar to my cousin Norman's long dreads.

9 Q Dreads or like -- I'm sorry. I don't know too  
10 much about it. Dreads? Dreads or braids? How does that  
11 work? What's the difference?

12 A It's just similar to my cousin's hair.

13 Q What about Tee? What does he look like?

14 A He's a little shorter than, uh, -- he's a  
15 little shorter than Meat. He's caramel, like a honey  
16 brown color.

17 Q Okay. So you stated that y'all went out  
18 through the side. Where was Meat when y'all went out to  
19 the side?

20 A In the room, he was like I'm going to go ahead  
21 and head out or whatever. I was in there getting the  
22 rest of my stuff ready or whatever. Then, me and Tee  
23 left out. Meat left out before we did.

24 Q Now, did y'all get in the car?

25 A Yeah, we went and got in the car.

1           **Q**     How did y'all get -- where was everybody  
2 sitting?

3           **A**     Uh, Lemetrius was driving and me and Tee was  
4 sitting in the back seat watching TV, watching videos.

5           **Q**     Watching videos? Well, first of all, I guess  
6 it's strange that y'all would be sitting in the back seat  
7 rather than somebody sitting in the front seat. Explain  
8 further why you would be sitting in the back seat. What  
9 about the car made you sit back there?

10          **A**     The truck had a -- it's a drop down screen DVD  
11 player. A lot of times when we ride, we just sit back  
12 there and watch videos while we ride.

13          **Q**     What videos were y'all watching?

14          **A**     Some music videos. It's a DVD with a whole lot  
15 of hip-hop music videos on it.

16          **Q**     Okay. And I'm skipping ahead, a whole lot  
17 ahead. But by the time, whenever y'all got out of the  
18 car, did y'all leave the DVD in there? Was it still in  
19 the car?

20          **A**     Yeah. I would think the DVD would still be in  
21 there. We didn't take it out. I didn't take it out.

22          **Q**     Okay. At this point, y'all are in the car.  
23 What did y'all do? Where were y'all going?

24          **A**     We was on the way to take Meat and drop Meat  
25 off at my friend's house. We leave out the hotel parking

1 lot and proceed over 85.

2 Q Okay. So you're going up 85. At this point,  
3 have you noticed any police cars or anything of that  
4 nature?

5 A No, I mean, everything seemed regular. We were  
6 heading up 85 towards Atlanta. All of a sudden, the  
7 lights came on.

8 Q When you say lights come on, what are you  
9 referring to?

10 A Police lights.

11 Q Now, when y'all saw the police lights, what  
12 happened? Was there any dialog going on in the truck?

13 A When the lights came on, I mean, he just  
14 punched it.

15 Q Who is he?

16 A Meat.

17 Q Why -- were y'all talking about this? Why did  
18 he punch it?

19 A I don't know. When he first --

20 **MR. MARCHANT:** Your Honor, I'm going to  
21 object to anything this Lemetrius fellow says, it's  
22 hearsay, as well as Tee that occurred in the  
23 vehicle.

24 **THE COURT:** Mr. Johnson?

25 **MR. JOHNSON:** I can rephrase the question.

1                   **THE COURT:**     All right.  Thank you.

2 **BY MR. JOHNSON:**

3           **Q**     When y'all were in the car, what was the topic  
4 of discussion?

5           **A**     I again asked him why don't he just pull over.  
6 Tee was doing the same.

7           **Q**     Okay.  Now, did you ever find out why he  
8 wouldn't pull over?

9           **A**     While we was having a discussion or whatever or  
10 arguing if you want to say.  He told me I got this gun on  
11 me and I got these drugs on me.  I don't got time to deal  
12 with the police.

13                   **MR. MARCHANT:**     Your Honor --

14                   **THE COURT:**     Objection?

15                   **MR. MARCHANT:**     Objection to hearsay.

16                   **THE COURT:**     All right.  You can develop that  
17 a little bit more.

18                   **MR. JOHNSON:**     Just a little bit more.  Okay.

19 **BY MR. JOHNSON:**

20           **Q**     At that point in time, did you know -- did  
21 y'all know about this gun?  Did y'all know he had this  
22 gun on him?

23           **A**     No.  I mean, most of the time he was around, I  
24 know he probably had a gun on him.  You know what I'm  
25 saying?  I had seen him with a couple of guns.

1           **Q**     Okay. And what about the drugs?

2           **A**     Yeah, he -- that's pretty much why everybody  
3 hang around with him, I guess.

4           **Q**     Why?

5           **A**     Cause he always got weed.

6           **Q**     So we at the point where you guys are in the  
7 car. You've been blue lighted. You said he punched it.  
8 Then what happened after that?

9           **A**     He proceeded to run away from the police. When  
10 he veered off, I looked up at the sign. It said we got  
11 off on Mauldin Road or whatever. The only thing I know  
12 is he took us into this apartment complex. I didn't even  
13 know the name of it until everything that occurred that  
14 it was Berkeley Pointe.

15          **Q**     Now, did y'all have any connection to Berkeley  
16 Pointe or anybody?

17          **A**     No, I never been to Berkeley Pointe. I thought  
18 he just knew somebody over there. He went in. When he  
19 went in, he immediately like went to the left and went  
20 and parked the car, backed the truck in and got out.

21          **Q**     So you thought y'all were going -- you thought  
22 he knew somebody over there?

23          **A**     Yeah. I thought he knew somebody over there or  
24 something.

25          **Q**     When y'all got there, what did y'all do after

1 that?

2           **A**     When he was getting out, Tee and myself were  
3 getting out too. We just sat there in the parking lot  
4 and kind of argued a little bit and asked him, you know  
5 what I'm saying, like man why you ain't just pull over or  
6 whatever. We was still trying to stay cool, stay calm  
7 cause he was right there with a gun in his hand.

8           **Q**     What did y'all do after that? Did y'all stay  
9 out there? Did y'all leave? Did you go somewhere else?

10          **A**     Well, we was trying to get out in the open. So  
11 I mean, I started following Tee in. That's when we went  
12 to the breezeway in the apartment complex.

13          **Q**     Why were y'all trying to get out in the open?

14          **A**     I mean, I was just trying to clear myself. We  
15 was out there arguing and he had the gun in his hand. I  
16 really didn't want nobody to see us out there like that.

17          **Q**     So you stated that Tee started to leave. Then  
18 what happened?

19          **A**     I followed -- I was following him. I thought  
20 he knew where he was going. So we went into the  
21 breezeway. He started going down the steps. That's why  
22 -- I was following right behind him. Meat was right  
23 behind me.

24          **Q**     So talking about Tee in front and you in the  
25 middle and then Meat is in the back of you?

1           **A**    Yes.

2           **Q**    Then where did y'all go?

3           **A**    I was right there on the stairwell. I was  
4 trying to call somebody to come get me. I had tried to  
5 call my cousin. I was just trying to call somebody to  
6 come get me because of what had just happened.

7           **Q**    Now, at that point, I want you to elaborate a  
8 little further. What happens after that?

9           **A**    After that when I was trying to make the phone  
10 call and we was kind of arguing in the hallway still a  
11 little bit. That's when I heard, I guess, the police had  
12 figured out where the vehicle had went to. That's when I  
13 heard the walkie-talkie or whatever.

14          **Q**    You heard the walkie-talkie? What type of  
15 walkie-talkie did you hear?

16          **A**    Like a radio or scanner or whatever, like a  
17 police scanner or like a CB or something like that.

18          **Q**    Okay. What happened after y'all hear that?

19          **A**    After that, that's when everything occurred.

20          **Q**    What is "everything occurred"? Please  
21 elaborate.

22          **A**    Shots started going off.

23          **Q**    Did you know who was shooting?

24          **A**    Nah. I didn't know who was shooting. I could  
25 see what was going on in front of me. Tee was right

1 there in front of me. I was trying to turn around to  
2 adjust myself to see if Meat was shooting at us or  
3 shooting at me because we was arguing or whatever. So  
4 that's when it happened.

5 Q What happens after the shooting starts? Did  
6 y'all stay there? Did y'all run? What happened?

7 A Uh, when I turned around, I seen that Meat was  
8 shooting at somebody. I heard the fire being returned or  
9 whatever. I was kind of behind him for a second. That's  
10 when it happened. For the first time in my life, I got  
11 shot.

12 Q So you got shot. Where were you shot?

13 A In my shoulder.

14 Q After you were shot, what happened? Did you  
15 run?

16 A When I got shot, I went down to the bottom of  
17 the stairwell. I was trying to gather myself. I was in  
18 a whole lot of pain. I didn't really know how to react  
19 to it. I was panicking. I was trying to gather myself.  
20 Things stopped for a second.

21 Q Okay. Now, you were here when the testimony, I  
22 believe, of Dar Shaw and some of the other officers  
23 testified that they found some of your stuff, like your  
24 wallet and things in a bag down there.

25 A Yes, I had my duffle bag with me. When I went

1 down to the bottom of the steps, that's when I dropped my  
2 bag right there.

3 Q Why did you drop your bag?

4 A I was shot. I was in a whole lot of pain.

5 Q So after you were shot, you stated there were  
6 two parties, somebody looks like they were shooting at  
7 each other, what did you do?

8 A When I was at the bottom of the steps, they  
9 started shooting again. When they started shooting  
10 again, I was just -- I started running for my life  
11 because I didn't want to get shot no more. I was afraid  
12 of being killed.

13 Q What about Tee? Where did he go?

14 A Tee, I guess Tee had already took off behind  
15 the building somewhere. I didn't really see which  
16 direction he had went into.

17 Q Where did you run to?

18 A I just ran to a wooded area. I ran towards the  
19 woods.

20 Q What happened after you were in the woods? Did  
21 you hide? Were you just running?

22 A Yeah. I was in the woods laying down. I was  
23 bleeding a whole lot. I was sitting there just laying  
24 down praying. I didn't know what was going to happen to  
25 me. You know what I'm saying? I didn't really know

1 exactly where I got shot at the time. When I got shot,  
2 it just felt like this whole area was -- I don't know.  
3 It was just hurting. And shortly after that, I heard  
4 somebody coming through the woods. I was trying to hide  
5 myself.

6 Q So you were hiding from somebody that was  
7 coming through the woods?

8 A Yes. I didn't know who it was that was coming  
9 through the woods.

10 Q Did you end up ever seeing that person? Who  
11 was that?

12 A Well, it was Lemetrius. I guess he had seen  
13 the direction I had went into. So he called my name. He  
14 was like Pat. But I ain't answered him the first time.  
15 I was still scared. Then he called me again. He was  
16 like Pat. I was like yeah, man. He was like you good?  
17 And I was like nah, man, I been shot.

18 Q What did y'all do next? Did y'all stay there  
19 and talk?

20 A I was just trying to tell them. I was like if  
21 you wouldn't never did this, none of this would have ever  
22 happened. The only thing you had to do was just pull  
23 over for the police. You probably just would have got a  
24 ticket or something. She probably would have let you go  
25 or something. The officer would have let you go.

1           **Q**     At that point in time, what did y'all do?  
2 Y'all talked a little bit about the incident. Did y'all  
3 stay there any longer? Did y'all leave? Or what have  
4 you?

5           **A**     Nah, he was like, uh, he had a way for us to  
6 leave. I didn't want to go with him. I just wanted to  
7 go home. He was telling me he think the officer had seen  
8 his face that he had shot at him.

9           **Q**     What happened next?

10          **A**     I mean, I was trying to call -- I was trying to  
11 call for help. He was just standing over me just trying  
12 to tell me what I needed to do. He asked me to do  
13 something for him. He asked me to keep the gun or  
14 whatever because he said the police seen my face. They  
15 ain't see you. So he put the gun on me.

16          **Q**     You took it?

17          **A**     Nah. He put the gun on me. I mean, this is  
18 right before I passed out. This is the last thing I  
19 remember him saying.

20          **Q**     So what happened next? Are you saying that as  
21 soon as it happened, you passed out or you seen him leave  
22 or what happened?

23          **A**     I mean, I can't even recall him leaving. The  
24 only thing I know is when I woke up, I was in the woods  
25 by myself. I was in there a long time.

1 Q How long had you been there?

2 A I don't know. I know it was daylight before my  
3 eyes closed. When I woke up, it was almost dark.

4 Q When you woke up and it was almost dark, what  
5 did you do with it?

6 A I got up and gathered myself. I just started  
7 heading towards my cousin house. I was trying to go to  
8 my cousin's house for some help.

9 Q Now, did you still have the gun?

10 A The gun was on me.

11 Q You didn't try to throw it or get rid of it or  
12 nothing?

13 A No, I mean, I wasn't the person that was  
14 shooting so I just figured I didn't have to do that.

15 Q So anyway, you woke up. It was almost dark.  
16 What did you do?

17 A When I woke up, I started walking towards my  
18 cousin house, trying to get to my cousin house for some  
19 help. On the way there, that's when I seen Will.

20 Q Okay. So you saw Will. What did you do when  
21 you saw Will?

22 A I flagged him down. I said hey, man. I  
23 flagged him down. He stopped for me. He was like, man,  
24 you alright. I was like nah, I need to get to my  
25 cousin's house. I got in. He let me in the car.

 ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Letitia H. Verdin, Circuit Court Judge

**RECEIVED**

APR 01 2016

**SC Court of Appeals**

THE STATE,

RESPONDENT,

V.

PATRICK DEAN LOWRANCE,

APPELLANT

APPELLATE CASE NO. 2013-000320

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Record on Appeal in the above referenced case has been served upon Benjamin Aplin at the Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, SC 29201, this 1st of April, 2016.


By: 

David S. Jones  
Private Appointed Counsel (pro-bono)

ROBERT M. DUDEK  
Chief Appellate Defender

ATTORNEYS FOR APPELLANT

SUBSCRIBED AND SWORN TO before me  
This 1st day of April, 2016

 (L.S.)

Notary Public for South Carolina  
My Commission Expires: July 3, 2023.