

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM FLORENCE COUNTY
Court of Common Pleas
Post Conviction Relief
Honorable D. Craig Brown, Circuit Court Judge

S.C. SUPREME COURT

Appellate Case No. 2015-002033

Gregory Daniels, 297449,.....Petitioner,

vs.

State of South Carolina,.....Respondent.

APPENDIX
VOLUME II OF III

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INDEX

Trial Transcript.....	1
Arrest Warrant.....	637
Indictment.....	639
Sentencing Sheet.....	641
South Carolina Supreme Court Opinion.....	643
PCR Application.....	671
Motion for Substitution of Counsel.....	690
Order for Substitution of Counsel.....	693
Amendment to PCR Application.....	694
Motion for Continuance.....	700
Motion in Opposition to Continuance.....	704
Order for Continuance.....	710
PCR Hearing Transcript	711
PCR Hearing Exhibits.....	1083
PCR Order of Dismissal.....	1168
Motion Pursuant to Rule 59, SCRCPP.....	1200
Return to Motion Pursuant to Rule 59, SCRCPP.....	1233
Order Denying Motion.....	1236

1 how you can help with me getting out of here. I don't
2 know what you told them people, but all I need is for you
3 to say is I was with you at the time that they said this
4 happened. I told you that when we went to the room,
5 remember I said we was together at the setting up. But
6 you told them you was asleep and I came and picked you up
7 in a van. My people told me that if you tell my solicitor
8 that you will give him or her a statement saying we were
9 together and they will give me a bond.

10 Q All right. Now, move on a little bit to another part
11 of that letter with they ain't got?

12 A They ain't got no gun, no bloody clothes, no shells
13 nothing. Those are the main things they need to actually
14 convict me. It don't matter how many people say it did
15 it -- I did it or we agree without the accurate
16 substantial evidence they ain't got shit, you feel me.

17 Q All right. I am going to show you what's also listed
18 as October the 18th 2008, starting with but?

19 A But all I need for you to do is say we left me with
20 your brother-in-law playing dominos on the computer. You
21 went home and I came and got you and we went to the room
22 in a cab. You don't know what number, but an old man was
23 driving the van, but you got to let old boy know to tell
24 the same thing.

25 Q All right. Move down here. Just that little

1 photograph here please?

2 A Did you call up and me at him know that you calling
3 for Scou -- read the whole thing?

4 Q That will be fine. Now, let me ask you in the course
5 of your investigation, did you come to find out a nickname
6 for Gregory Deleon Daniels?

7 A Actually, I found out two nicknames one is Scou and G
8 Man.

9 Q All right. On this letter of October the 18th, how
10 does he end the letter?

11 A Love always friend forever Greg a/k/a G Man.

12 Q All right. Let me show you -- I am going to show you
13 what I call the -- it looks like 16 October 2008. And it
14 the smile face heart you letter, okay?

15 A Yes, sir.

16 Q I just need you to start here and stop at this
17 bracket?

18 A The only thing that they are going on is what
19 somebody is telling them, but they can't put me at the
20 scene cause we at the setting up and the room.

21 Q All right. I am going to show you what is the
22 November 16th letter and if you could starting with but?

23 A But anyways, I need you to call this number 665-3055
24 and talk to Mr. Jack Lawson and that is my lawyer tell him
25 that you are my girl. And we were at the room during the

1 time they said that this occurred. You can still tell him
2 that I pick you up in a van and we went to the room, but
3 tell him that you were waiting on me at your sister's
4 house, but you left because I took too long. If they ask
5 you a time, just say you don't know what time it was. But
6 you were sleep and we was at the room sleep when the
7 report on the news said at 5:00 a.m. But anyways, you
8 don't have to -- but it will help me and my bond hearing
9 you are who I was with when they found him. How can we
10 talk about being together if you still letting streets
11 both you, cuz.

12 Q All right. And the last part of that letter in the
13 post script just read the post script?

14 A P.S. kiss my babies, tell them I'll see them soon.

15 Q Keep going.

16 A Handle that for me ASAP. I need to have that money
17 up. Call Luck [REDACTED]-2274 tell him I said get at dude he
18 running his mouth.

19 Q All right. I am going to show you what's been marked
20 as February 19th 2009. Start with if there please?

21 A If I see you this weekend, I will tell you what they
22 saying, but your statement could hurt me in court because
23 they saying you told them that it was not a taxi and it
24 was a young dude driving the van. And also that you was
25 sleep and I was on the phone talking to somebody about the

1 dude, but that has got to be when my phone started ringing
2 and that I left you and didn't come back until 6:00 a.m.
3 But they said dude was dead at 5:17 a.m. and the receipt
4 from/the room shows us checking in at 5:34 a.m. But the
5 clerk saying he didn't see me but to cover that up, I'll
6 just say I was smoking a cigarette. And for you -- did
7 they read you any rights most of the statements look like
8 they were reworded.

9 Q Let me just stop there, in any of the statements you
10 took from any of these people, were any of your statements
11 reworded?

12 A No, sir, that exactly what the tape has on them?

13 Q All right. Finally, I am going to show you looks
14 like June the 14th. Can you start with a call all the way
15 to ASAP I guess?

16 A Call 617-6919 and tell Gary that calling for me and
17 let him know that Eddie Barefoot says he will take \$2,000
18 and come get me out. Tell him my momma need one thousand,
19 that's who was -- dropped us off at the room or if you see
20 Ray tell him to tell G.A. I really need you to do this for
21 me ASAP.

22 Q And G.A. was -- that you saw on the State's Exhibit
23 16; correct?

24 A That's correct.

25 Q And that would be Gary Leon Bostic?

1 A Correct.

2 Q Now, one of the last things that you did in this case
3 this year, who did you get a phone call from about this
4 Andre Bradley?

5 A Actually, Detective Clark advised me that he was
6 interviewing Mr. Bradley and he wanted to give information
7 about this murder and shooting.

8 Q So someone must have called Detective Clark?

9 A Yes, sir.

10 Q And at that point had you spoken to Andre Bradley at
11 all about the facts and circumstances of this case and the
12 individual details?

13 A I never spoke to him about any details. When I
14 learned of him wanting to talk about this murder, I went
15 to him and I told him to tell me which he proceeded to
16 tell me the facts as he knew it.

17 Q Did you ever tell him about a Taurus vehicle?

18 A I did not.

19 Q All right. Did he know anything about what was in
20 the cell phones one way or the other? Did you clue him in
21 on that?

22 A No, sir.

23 Q Did you clue him in on -- and I suppose the stuff was
24 on the news; correct?

25 A Yes, sir, it was on the news.

1 Q But were there any particular details that would not
2 have been on the news that only you knew like the Taurus
3 so on and so forth?

4 A The Taurus was never put on the news. And if I am
5 not mistaken, they gave general that an individual -- I
6 believe, they end up telling the victim's name that was
7 shot at the corner of Dargan and Marlboro but beyond that
8 there was no details released.

9 Q All right. And that was the first time that you had
10 that information; correct?

11 A I am sorry.

12 Q With Bradley getting any information he had, this
13 year was the first time you required that information?

14 A Correct, yes, sir.

15 Q As a result of talking to Bradley, did you want to
16 speak with Miss Barrett, Jasmine Barrett?

17 A Yes.

18 Q And you spoke with her as a result of your
19 conversation with Bradley?

20 A Yes, sir. And she gave me a taped statement as well
21 as Mr. Bradley did.

22 Q Okay. And what was your purpose of wanting to talk
23 to Miss Barrett?

24 A To corroborate what Mr. Andre Bradley had told me
25 about the meeting at the house or at the trailer and that

1 he come over to ---

2 Q What she testified to?

3 A Yes, sir.

4 Q Okay.

5 MR. JEPERTINGER: Beg the Court's indulgence one
6 second.

7 (WHEREUPON, a pause in the proceedings.)

8 MR. JEPERTINGER: Can we approach one second?

9 THE COURT: Yes, sir.

10 (WHEREUPON, a bench conference was held in the
11 presence of the jury, but out of the hearing of the
12 jury.)

13 BY MR. JEPERTINGER:

14 Q That was your investigation in this case; correct?

15 A Yes, sir.

16 Q Okay.

17 MR. JEPERTINGER: Thank you. Please answer any
18 questions that Mr. Lawson may have for you.

19 THE COURT: Ladies and gentlemen, before we
20 recognize Mr. Lawson for his cross-examination, we are
21 going to take a short break, give you an opportunity to
22 get a drink or whatever and then we will get started back.
23 So if you please retire to your jury room and have no
24 conversation about the case, we will take this short break
25 and then come back and continue.

1 (WHEREUPON, the jury retire to the jury room.)

2 MR. JEPERTINGER: Your Honor, I know we are not
3 to have contact with the witness. I didn't know if the
4 witness had to go to the bathroom either.

5 THE COURT: Lieutenant, obviously, you can step
6 down. You just need to understand you can't have any
7 conversation with anybody about your testimony.

8 THE WITNESS: Yes, sir.

9 (WHEREUPON, a break was taken.)

10 THE COURT: Anything before we bring the jury
11 out?

12 MR. JEPERTINGER: No, sir.

13 THE COURT: Anything from defense?

14 MR. LAWSON: No, sir.

15 THE COURT: Let the jury join us.

16 (WHEREUPON, the jury came into open court.)

17 THE COURT: Mr. Lawson, we recognize you for
18 your cross-examination.

19 MR. JEPERTINGER: Thank you, Your Honor, may it
20 please the Court.

21 THE COURT: Yes, sir.

22 CROSS-EXAMINATION

23 BY MR. LAWSON:

24 Q Lieutenant Compton, normally when a case starts in
25 the City how does that case begin? What starts the ball

1 rolling?

2 A The officers get to the crime scene. And in this
3 particular case, it was a serious crime. The protocol is
4 to call out the on-duty detective, which was me. At that
5 time, when they told me what it was, I immediately started
6 getting crime scene involved.

7 Q I'm talking about before that. How did the first
8 officers know to go somewhere?

9 A I'm sorry, get radio call from central dispatch that,
10 you know, for instance the 9-1-1 call. I believe, Tiesha
11 Brown called and officers responded to a radio call from
12 central dispatch to respond to Dargan and Marlboro in
13 reference to a shooting or person lying on the ground.

14 Q So this instant originated with a 9-1-1 call?

15 A That's what I understand, yes, sir.

16 Q What time did that 9-1-1 call take place?

17 A According to the original report dispatch time was
18 0517.

19 Q 5:17?

20 A That's what the officer wrote, yes, sir.

21 Q And would that indicate the time that the call came
22 in or the time that dispatch out to officers to go to the
23 scene?

24 A Usually, in a call like this immediately they
25 broadcast it as soon as they start getting the call in, so

1 it's probably right close to 0517, but the dispatch time
2 says 5:17. I am not sure exactly what time it was.

3 Q So we -- at or around 5:17 is when the original
4 officers were at least dispatch began or the call came in
5 something started in relation to this case at 5:17?

6 A Yes, sir.

7 Q And prior to that there's been no notice to the
8 police?

9 A Not that I know of, no, sir.

10 Q Now, when you started the investigation, you started
11 by -- did I understand did you call crime seen or where
12 they already when you arrived?

13 A They was already on the scene if I'm not mistaken
14 before I arrived. I had call them from my home and advise
15 them what I had because I'm the first one that gets the
16 call. And it's my responsibility normally is to call out
17 crime scene which -- when I got the phone call, I knew I
18 was going to need crime scene.

19 Q All right. And so the original investigation and as
20 far as it goes as we enter the courtroom during this case,
21 there was a beer can recovered at the scene; correct?

22 A. Correct.

23 Q A cell phone recovered at the scene?

24 A Yes, sir.

25 Q A body recovered at the scene ---

1 A Yes, sir.

2 Q --- that was taken for an autopsy?

3 A Yes, sir.

4 Q What else was found at the scene?

5 A I have to go back and look at what was logged in or
6 go refer back to Corporal Myers report.

7 Q Well, there were some blood stains?

8 A Yes, sir, there was blood stain on the grass.

9 Q And some on the pavement?

10 A Yes, sir.

11 Q And basically that was it?

12 A Yes, sir.

13 Q Now, there was never a gun found?

14 A No, sir.

15 Q So there was no ballistics match done to any
16 firearms?

17 A No, sir.

18 Q And SLED didn't do a test, they did have a bullet, a
19 bullet was recovered at the autopsy; correct?

20 A Correct.

21 Q But there was no forensic test done using their
22 system or their data base to try and match that to
23 unknown gun that may have been out there somewhere?

24 A No, because what I understand through their policy
25 that they do not test .22's. Unless, they have a gun

1 along with it.

2 Q And there was none in this case?

3 A Correct.

4 Q All right. The DNA that was retrieved has been
5 tested and none of it was a match to my client, Gregory
6 Daniels?

7 A Correct.

8 Q And now the -- and no -- other than the victim no one
9 else was tested or that the samples were not drawn to or
10 test against any other individuals, were they?

11 A What's tested -- I mean ---

12 Q Any DNA that was submitted to SLED was not tested.
13 The only comparisons that were made were made to the
14 victim and to my client?

15 A Correct. We didn't have anybody else to test it for
16 him.

17 Q And nobody -- and it was not as far as you know put
18 into the system for the data base to determine if any of
19 that match some other individual; is that correct?

20 A As far as I know, I mean, the SLED person testified.
21 I'm not sure what all he done. I just know the blood
22 stains didn't match to the victim excuse me -- to Mr.
23 Gregory Daniels.

24 Q In your investigation, you found that there was an
25 actual fight between several individuals; is that correct?

1 A Yes, sir.

2 Q And in your investigation, you found that Corey Byrd
3 was the -- got in the middle of that fight and broke it up
4 acted -- tried to calm everybody down?

5 A Yes, sir, he -- what I understand he got the tail end
6 of the argument. They had went to the store and when he
7 come back, he was trying to keep peace and broke them up.

8 Q And there were guns involved in that situation?

9 A Yes, sir.

10 Q Did you find in your investigation information about
11 someone riding in an SUV, a green SUV that was hanging out
12 the window with a gun yelling at the victim you die today?

13 A I was told that, but based on my investigation, I
14 never found anybody who could corroborate what -- that was
15 actually occurred, nobody could corroborate that.

16 Q Nobody would admit to having done that?

17 A Nobody admitted to me that that occurred.

18 Q But there was information that someone was hanging
19 out a window yelling tonight you die or you die tonight
20 something to that effect?

21 A That was information I gathered along with other
22 information from other things that I checked out and could
23 not corroborate.

24 Q Now, the individual -- the most recent witness to
25 come along in this case was a Mr. Bradley I assume?

1 A Yes, sir.

2 Q And now I assume that someone interviewed him, did
3 they not?

4 A Detective Clark interviewed him the first time,
5 that's how I -- Detective Clark after he interviewed him
6 he had contacted me knew he even help me with the
7 investigation, so he knew I was the chief investigator and
8 he contact me and told me I need to talk to Mr. Bradley.

9 Q And did you talk to him?

10 A Yes, sir, I did.

11 Q Okay. Did he give you information about the gun that
12 was used?

13 A Information ---

14 Q Did he tell you what kind of gun was used?

15 A The only thing he told me. He told me he never saw a
16 gun, but he said he was told by Mr. Daniels that Mr.
17 Daniels told him that he had shot the victim. But he said
18 he never saw a gun.

19 Q Didn't tell him what kind of gun?

20 A Not that I can recall.

21 Q Did you ask him if he knew what kind of gun it was?

22 A Well, I did ask him if he ever see a gun he said no.

23 Q Did you ask him if he knew where the gun was?

24 A Again, he said he never saw a gun, so he couldn't
25 tell me where a gun would be.

1 Q Did he tell you how many times the person was shot?

2 A He did tell me that Gregory told him he shot three
3 time.

4 Q Three times?

5 A Yes, sir.

6 Q And was that what your investigation showed was it
7 three times?

8 A The investigation showed he was shot once. According
9 to Miss Brown, she heard one shot. All I know there was
10 one shot. I can't tell you if there's anything in the
11 grass or not, projectile in the grass or anything, but
12 shell casing ---

13 Q They did check the scene, did they not?

14 A Yes, but based on my 25 and a half years in the
15 police department, it's hard to find a shell casing at a
16 crime scene sometimes in the grass much less trying to
17 find a lead projectile coming from it in the dirt.

18 Q Did they look for one?

19 A I mean, we all looked to see if it's a shell casing
20 or anything that we could find and we didn't find
21 anything.

22 Q And what information at that point that you had would
23 make you think there was more than one shot?

24 A Based on my investigation, I only learned it was one
25 shot. Now, Mr. Bradley said that Mr. Daniels told him he

1 shot the victim three times.

2 Q So somebody lied?

3 A No, sir. I don't believe anyone lied. I wasn't
4 there at the conversation. He could have told him he shot
5 three times. He may not have shot three times. All I can
6 say is we found the victim with one gunshot. I think
7 Mr. Bradley reported to us what Mr. Daniels told him.
8 Now, whether that part was completely accurate, your
9 client can be lying on your part.

10 Q Now, so anything that your witnesses tell you if they
11 are your witnesses, if it's not corroborated by the
12 investigation, it can be a mistake or inadvertent or
13 somebody else lying to them. But if someone who's a
14 suspect tells you something that doesn't pan out, that
15 become as lie?

16 MR. JEPERTINGER: Your Honor, I object that is
17 an argumentative question.

18 THE COURT: Sustained.

19 BY MR. LAWSON:

20 Q All right. You had said something in relation to the
21 statements that the statements are all recorded, but not
22 all the statements are recorded, are they?

23 A I mean, the people at the cookout, I recorded their
24 statements. Miss Brown, Miss Fludd, and Shavonne even
25 your client. You want me to name names, I can ---

1 Q Well, I mean not all -- the clerk from the hotel he
2 was not -- his statement was not recorded?

3 A No, I didn't record his statement no, sir.

4 Q And my client was not recorded the second time?

5 A No, sir.

6 Q So that's subject to your interpretation and what you
7 wrote down?

8 A That would be a negative, sir. I wrote down what he
9 told me. I didn't interpret anything.

10 Q So if I ask you a question, you will always put it
11 down as a question if you perceived it as such?

12 A When I was talking to him, wrote down what he told me
13 and then I went back and wrote my report of what he said.
14 I didn't interpret that.

15 Q All conversation involves interpretation, don't you
16 agree officer? You have to interpret what's being said in
17 order to make a response?

18 A You respond based on what they said when you ask them
19 a second question or follow-up question. I didn't
20 interpret anything. I wrote down what he said then I
21 asked a question based on his answer. Now, when you tell
22 one person to another person to another person, if I am
23 just telling a normal story, I may have a little bit of
24 interpretation. But if I'm writing down facts, I'm
25 writing down facts and that's what I did.

1 Q And you -- but you recorded the first statement?

2 A Yes, sir, the second statement he didn't want it
3 recorded the second one.

4 Q And he told you that?

5 A Yes, sir, he didn't want nothing recorded, he just
6 wanted to talk to me.

7 Q Said I talk to you but not recorded?

8 A He said, he didn't want it recorded. And I wasn't
9 prepared to record it because I wasn't suppose to
10 interview him.

11 Q But you could have been? It wouldn't have taken
12 long.

13 A If I went back and got a digital recorder, which I
14 didn't carry with me at that time.

15 Q Now, how many people would you say were at this
16 cookout?

17 A I can't tell you how many was actually at the
18 cookout. I can tell you who I learn that I was able to
19 identify at the cookout, but, I mean, based on what
20 Miss Gass said it could be 50 to 80. I didn't find that
21 many. And normally at a party usually a lot of people
22 show up you didn't want to show up.

23 Q You have any question in your mind that there were
24 people at this party you did not talk to?

25 A Do I have any questions in my mind?

1 Q Yeah. You think you talk to everybody that was
2 there?

3 A No, sir, I didn't. I attempted to find everybody I
4 could.

5 Q Do you think that you came close to talking -- if
6 there were 50 to 80 people there, you didn't come close to
7 talking to all of them, did you?

8 A No, sir. The information I got is the one I talk to
9 that I could find and people ---

10 Q How many people did you talk to that were involved in
11 the alleged fight between the Woodmont boys?

12 A There was Joseph Washington, Little B. Bryan Timmons,
13 James Black, Bernard Cooper. And, of course, can't talk
14 to Mr. Byrd. There's -- I talk to Gregory, Shavonne Gass,
15 Arthur White. Bryan wasn't there at the time that the
16 party was actually going on. There was like three
17 brothers there. I talk to, I believe, one of them on the
18 telephone. And two of them, I think, I'm not mistaken
19 were out of town because of their work, but I did talk to,
20 I believe, two of the brothers. They said they didn't see
21 anything and Mr. Hinnix, which we've already mention too.
22 And those are the ones I basically talk to and got -- what
23 they can tell me about what happened at the cookout, what
24 they saw and what they heard and did.

25 Q Basically, you just went through a list of basically

1 pretty much people that's testified?

2 A Yes, I did. You got Tiesha, you got Brittany. I may
3 have left somebody out. I don't think I have, but I may
4 have. But those the ones just basically, you know, about
5 and they have testified to.

6 Q And basically that's the entire population of those
7 interviewed in relation to this case?

8 A Yes, sir, those are the ones I've interviewed.

9 Q Did you do statements on all of them?

10 A Mr. Hinnix I did not. I can pull out my statements
11 and tell you who I did get statements from.

12 Mr. Washington, Mr. Black, Gabriel Petterson,
13 Mr. Daniels, Shavonne Gass, Bernard Cooper, Bryan Timmons,
14 did get a statement from Nyrena, but she wasn't at the
15 cookout. These are statements from Mr. Bradley and
16 Miss Barrett. I believe that be it, sir.

17 Q Did you find out during the course of your
18 investigation any information about another cookout that
19 took place at the same time as this cookout approximately
20 the same time -- fish fry I believe it was?

21 A Yes, sir, on Sopkin Avenue.

22 Q And is that one that Mr. Corey Byrd attended?

23 A I understand he attended in a short period of time,
24 yes, sir.

25 Q Did you talk to anyone that was at that get together?

1 A I did talk to Mr. Hinnix. Mr. Byrd and Mr. Hinnix
2 left from the cookout on Liberty Street went to Sopkin
3 Avenue for a short period of time and went to the fish fry
4 what they call it. And then back from the fish fry back
5 to Liberty Street cookout.

6 Q Did you check the fish fry -- did you go by the area
7 of the fish fry and check there to see how many people
8 were involved in that get together?

9 A No, sir, because at the time I saw no point in
10 talking to people at the fish fry that had nothing to do I
11 understand of this incident.

12 Q Well, what made you so sure that this cookout had
13 something to do with this instance?

14 A Cause the information I received through phone calls,
15 people I interviewed said there was a fight and an
16 argument at the cookout, so that's why. And the last
17 place the victim left before -- just prior to him being
18 killed, that's why I went and did an investigation at that
19 cookout.

20 Q And how many people did your investigation show were
21 present when he left?

22 A Gabriel Petterson was there. Shavonne Gass, Mr.
23 Byrd, Arthur White, and Ryan Evans and, of course, Ryan
24 was in the vehicle. He had pulled up according to his
25 testimony. And when he told me he pulled up, he had made

1 a previous phone call to Mr. White to go to a bootlegger's
2 house to get a bottle of gin.

3 Q He testified; correct?

4 A Mr. Evans did, yes, sir.

5 Q And I mean Mr. Evans was in that vehicle too, right?

6 A Right.

7 Q There two people in the vehicle?

8 A Ryan Evans was by himself when he pulls up. Gabriel
9 Petterson wanted a ride. He was there to actually pick up
10 Mr. White and go to a bootlegger's house, but Mr. White
11 decided he didn't want to go because he had his girlfriend
12 there. He had his girlfriend there and he didn't want to
13 leave her. And Mr. Byrd asked Mr. Evans if he could catch
14 a ride down the street and he was going to get in the car
15 and then he realize he left his phone charger in the
16 house.

17 Q I know we've heard that, that's the testimony we
18 heard.

19 A Okay, I'm just answering what you asked.

20 Q What I'm asking is how many people were there, I
21 didn't ask?

22 A I just told you, sir. I just told you.

23 Q Well, but what I'm getting at is how many people knew
24 or could have known what time Corey Byrd left that party
25 or the cookout. The cookout was long since over?

1 A Yes, sir.

2 Q Left that location?

3 A Arthur White knew he was leaving. He didn't know --
4 I don't believe he knew what he was gone do. I think
5 Arthur told me that he was going to go get a pack of
6 cigarettes and be back. Gabriel and Shavonne knew. Ryan
7 all he knew was he was to take him down the street and
8 drop him off. Beyond that, I don't know.

9 Q From your investigation, there's nobody else there;
10 correct at that time?

11 A Correct.

12 Q And from your investigation everybody else had been
13 filtering out for some time since really around three
14 o'clock ---

15 A Around three o'clock.

16 Q --- started filtering out. And by 4:30 or five
17 o'clock, it was barely anybody there?

18 A Yes, sir.

19 Q Now, in relation to State Taxi, wasn't -- didn't
20 State Taxi advised that they had two minivans?

21 A Yes, sir.

22 Q And, of course, based on their records, there was no
23 taxi driver that was on the clock at that point at 5:30 in
24 the morning on September the 5th, 2008?

25 A One was and one wasn't.

1 Q Huh?

2 A One was and one wasn't.

3 Q And nobody reported a call arriving?

4 A Nobody called in according to log books and the lady

5 I interviewed.

6 Q Now, when you got these letters from Miss Goodman was

7 this after you had told her that she could get arrested on

8 these charges or for this or was it before you told her

9 that?

10 A To answer that question, I have to go back to the

11 first day I interviewed her, which is the day I

12 interviewed Mr. Daniels or shortly thereafter I

13 interviewed Mr. Daniels. She wanted to know what this was

14 about. I told her I wanted to talk to her about the

15 shooting and she was scared like anybody else would be.

16 You know, didn't know what was going on. And I told her I

17 said listen, you know, I'm doing an murder investigation

18 and basically, you know, if you are withholding any

19 information, you could be arrested. And just like if

20 anybody interviewed, if they are withholding information.

21 And it's proven that they lied in the investigation, they

22 could be arrested and that's true. And I did tell her

23 that. Now, this was back in 2008. Now, 2009 when she

24 came up to the complex to be reinterviewed in Ms. Parr's

25 office, I called her on the phone said Ms. Parr would like

1 to talk to you because we are preparing to go to court
2 with this. And she came up and she, you know, went over
3 her statement again. And then that's when she told me
4 about Gary that she knew who drove them to the motel. Was
5 she told that again that day, absolutely not. She
6 volunteered all this information.

7 Q After having been told she could be arrested?

8 A Over a year and a half ago.

9 Q So the fear -- the fear drops with time?

10 A I don't know if she was ever in fear. I can't tell
11 you that.

12 Q Now, well, I mean the whole purpose of telling people
13 they are subject to being arrested is to put them in a
14 state of extreme cooperativeness is it not, Officer?

15 A I wouldn't say those words. I put that you wanted to
16 be truthful. You want to get as truthful a statement as
17 you possibly can.

18 Q What if she had told you, I just don't have anything
19 to say to you?

20 A And she very well could have said that, but she
21 didn't that day.

22 Q What if she would have?

23 MR. JEPERTINGER: Your Honor, those good
24 questions, but it is speculative and I object.

25 THE COURT: Sustained.

1 MR. LAWSON: I can't ask that question, Your
2 Honor, that's fine.

3 BY MR. LAWSON:

4 Q Now, if -- how many letters did she bring to you?

5 A I believe, there was 39 -- I count the envelopes.
6 There was approximately two to three letters per envelope.

7 Q And you went through all of those?

8 A I read everyone of them, yes, sir.

9 Q And picked out the ones that we went through today?

10 A Yes, sir.

11 Q In court?

12 A Yes, sir.

13 Q And the letters that some situation nothing more than
14 a boyfriend-girlfriend letter?

15 A I'm sorry.

16 Q Some are nothing more than girlfriend-boyfriend
17 letters?

18 A Yes, sir.

19 Q And one I think he actually told her to continue and
20 get her GED, did he not?

21 A Yes, sir.

22 Q And out of all those letters the ones that have
23 anything to do with this case, were the ones that have
24 been gone over in your direct testimony; is that correct?

25 A I'm not sure I understand that. What the question?

1 Q Out of all the letters that you receive from her, the
2 ones that have anything to do with this case specifically
3 and in relation to the motel are -- were the ones that you
4 went over on direct with?

5 A I believe so, yes, sir.

6 Q Okay. So there would be many more letters that had
7 nothing at all about that incident?

8 A Yes, sir.

9 Q Of course, Gregory was charged at that time. He knew
10 what he was facing, did he not?

11 A Yes, sir, he knew.

12 Q He was advised at the time of his arrest of what he
13 was charged with?

14 A Yes, sir.

15 Q Did you serve the warrant or did officer Clark serve
16 the warrant?

17 A Detective Clark served the warrants on Mr. Daniels.

18 Q Now, the cell phone could you determine whether or
19 not this was a prepaid plan?

20 A I believe it was prepaid.

21 Q And on a prepaid plan -- my tongue doesn't want to
22 work. On a prepaid plan, if you make a call, does it --
23 and there's -- the phone starts ringing is there a
24 connection made and it will show a one minute call?

25 A To be honest with you, I know when it rings you know

1 who's going to call. But I mean based on pre -- I got the
2 same problem you got. Based on, you know, that I'm not, I
3 can't tell you what, you know, basically that plan or a
4 regular cell phone that, you know, you're connected with a
5 company T-Mobile or whatever. My son was up here
6 testifying, he could tell you anything about a phone. I
7 can't tell you except what the records show.

8 Q And the records show one minute calls on a number of
9 occasions?

10 A It shows minute calls. I think it shows zero and I
11 take that as, you know, a call, but there was -- no one
12 answered or whatever.

13 Q And those calls are both ways incoming and outgoing
14 minute calls both ways?

15 A Yes, sir, I believe so.

16 Q Was there -- you checked if I'm not mistake from your
17 direct testimony, you checked calls to Mr. Bradley on the
18 cell phone records, did you not?

19 A I looked at the records sitting up here and it has
20 his phone number basically their words cause to him from
21 Mr. Daniels. And I believe if I am not mistaken, calls
22 back from Bradley to Mr. Daniels.

23 Q As to September the 5th or September the 4th ---

24 A September the 5th.

25 Q Between five o'clock -- from five o'clock in the

1 morning on September the 5th, the first call to Mr.

2 Bradley was at 5:59 p.m.; is that correct?

3 A That's what I can find, yes, sir.

4 Q That's 5:59 in the afternoon not a morning call;
5 correct?

6 A Correct.

7 Q But Mr. Bradley told you he got a call in the
8 morning, didn't he?

9 A He said he got a call, yes, sir.

10 Q All right. I think you told me on cross-examination
11 that the call was from a cell phone and from Gregory?

12 A Yes, sir, I did.

13 Q No such call in the records?

14 A I do not have those records on his old phone. I
15 don't have those records. I don't have his number or when
16 I say his Mr. Bradley number being called, no, sir.

17 Q Do you know of -- what on direct you testified as to
18 the cell phone being terminated on 9-5-08?

19 A The numbers were changed.

20 Q The cell being terminated?

21 A I don't think I seen anything terminated, the numbers
22 were changed.

23 Q Of course, the cell -- if there's a problem with the
24 cell, that's how you correct it is it not, by changing
25 numbers? Your cell goes out something happens to your

1 phone?

2 A No, I've had to return my phone and ship it off, I've
3 always kept the same number.

4 Q But if they can't -- I'm saying if there's a reason
5 if the cell phone -- is a problem with the cell phone, one
6 way to correct it is to change the number is it not?

7 A I still say, no, sir. I mean, it's not the phone
8 numbers the problem, it's the data or the -- I'm looking
9 for a word not data but programs or whatever on cell
10 phones and the phone companies have.

11 Q You ever use prepaid phone?

12 A No, I have not.

13 Q Now, you had testified that -- the DNA information in
14 relation to comparison, when did you receive that
15 information?

16 A I never received it, the Solicitor's office received
17 that information.

18 Q The information was never sent to the investigating
19 officer?

20 A The Solicitor's office request the information
21 themselves to find out, you know, what the results were.
22 And SLED had sent the information straight to the
23 Solicitor's office. And I've been shown the results, but
24 I never received it myself, no, sir.

25 Q You know when that testing was done?

1 A Without that report in front of me, I couldn't tell
2 you, sir.

3 Q You know when you saw the report?

4 A I didn't look at the date. I was in the office and
5 they said by the way this information came back from SLED
6 and I looked at the paper and that was it.

7 Q Okay. So you don't recall what day you got the
8 information or you found out about the information in
9 relation to the DNA test?

10 A No, sir, I know it was this year.

11 Q This year?

12 A Yes, sir.

13 Q Do you know when -- did you request DNA information
14 in this case?

15 A No, sir, I don't request. Crime scene handles all
16 evidence. And they would send it and they would do the
17 proper paperwork and request the -- what they would like
18 for SLED to take a look at.

19 Q Do you know when that request was done?

20 A No, without seeing the paperwork, I can't tell you
21 exactly the day. I know it more likely be shortly after
22 the incident. They usually -- one individual at a crime
23 scene will gather up all evidence. And they will go like
24 every other Tuesday or whatever, I'm not sure what their
25 schedule is, but they'll go like once or twice every other

1 week or so.

2 Q As the lead investigator, you don't receive copies of
3 all documents in a particular case?

4 A I receive most of them yes, sir, but just like you
5 already know and I testified, I didn't get the results
6 because the Solicitor's office requested that..

7 Q Now, did you ever find anybody that gave you any
8 information that my client ever got in a fight with Corey
9 Byrd that night?

10 A Got in -- I'm sorry that got into arguments and made
11 threatens, but physically, no physical fights, only
12 argument and threats.

13 Q Exactly what do you call a threat? What information
14 did you find in your investigation that led you to believe
15 my client threaten Corey Byrd?

16 A He was standing in the street and when Corey said I
17 been shot twice and Mr. Daniels said I been shot in the
18 head. And he -- Mr. Daniels made a statement come on down
19 the street, I got something for you. And I think Gabriel
20 and James and them grab Corey and Corey wanted to do it
21 right there at the cookout at the street there. And they
22 basically talked him out of going down the street with
23 Mr. Daniels. So do I see it as a threat, yes.

24 Q And where -- at what time were they separated
25 physically from each other in order to break up the fight

1 between them?

2 A There wasn't a fight. There was an argument and
3 threats, but there was no physical fight. I think
4 Mr. Black and Mr. Petterson grabbed Corey and told him,
5 hey, you know, you don't do it.

6 Q As a matter of fact, there was much more physical
7 contact from the fight that went on with the Woodmont boys
8 than there ever was between my client and Corey Byrd; is
9 that not an accurate statement?

10 A Yeah, the Woodmont boys -- I mean, there was a fight
11 between Bryan Timmons, Bernard Cooper, and James Black,
12 those are the three that I know physically fought at the
13 cookout. Those are the three that was actually in a
14 physical fight.

15 Q And Cooper actually argued with Corey Byrd as well?

16 A There was an argument, yes, sir.

17 Q Did Gregory's cell phone ring during the interview
18 that you had with him?

19 A No, sir.

20 Q You don't remember answering his phone?

21 A I did answer his phone, but it wasn't in the
22 interview.

23 Q You answered his phone?

24 A Yes, sir, I did cause I recognize the number that was
25 calling, it was Nyrena Goodman.

1 Q Miss Goodman was calling him?

2 A Yes, sir.

3 Q This was the first interview; correct?

4 A Correct..

5 MR. LAWSON: Bear with me one minute.

6 (WHEREUPON, a pause in the proceedings.)

7 BY MR. LAWSON:

8 Q One more thing, Lieutenant Compton, now in the
9 mornings, normally there's a train coming across Irby runs
10 up back and forth, back and forth picking up cars
11 approximately five o'clock, did you check to ---

12 MR. JEPERTINGER: Your Honor, I would object
13 unless he's going to offer some evidence about a train
14 running across other than through this witness, Your
15 Honor. I don't know if we have somebody from C.S.X. or
16 any of the railroads who can say a train run across at
17 that time, that's testimonial evidence.

18 THE COURT: You guys come up here real quick.

19 (WHEREUPON, a bench conference was held in the
20 presence of the jury, but out of the hearing of the
21 jury.)

22 THE COURT: Mr. Jepertinger, your objection is
23 sustained.

24 Mr. Lawson, you can ask your question, sir.

25 BY MR. LAWSON:

1 Q Now, did you check to see if there's a train that
2 runs across Irby in the mornings in Florence?

3 A No, sir, I do not.

4 MR. LAWSON: I don't have any further questions.

5 REDIRECT EXAMINATION

6 BY MR. JEPERTINGER:

7 Q Just a couple things you mention, you mention a
8 Ms. Parr, is that a prosecutor in my office?

9 A Yes, sir.

10 Q And did you -- were you sent a CAD report from -- in
11 terms of, I guess, emergent 9-1-1 calls?

12 A Yes, sir.

13 Q Would that been the call tied to 9-1-1?

14 A Yes, sir.

15 Q Okay. Is that in your note somewhere?

16 A I believe so.

17 Q Using that to refresh your recollection, when would
18 the 9-1-1 call come in?

19 A Came in at 0515, 16:00 a.m.

20 Q And then, I think, Mr. Lawson, asked you about some
21 -- police being dispatch 5:17?

22 A Yes, sir.

23 Q But the call initially came in at 5:15; is that
24 correct?

25 A Yes, sir, the duration time was a minute and 50

1 seconds.

2 Q Okay. In terms of phone call to Bradley's number
3 that was on the [REDACTED] 0731 number; isn't that correct?

4 A Yes, sir.

5 Q And we did not get any information in terms of the
6 5339 number; is that correct?

7 A That's correct.

8 Q I mean, in terms of just a complete log of 5339?

9 A Correct.

10 Q I know there was this that Excel Spread sheet is that
11 true with some calls between Nyrena's number and the 5339;
12 isn't that correct?

13 A Yes, sir.

14 MR. JEPERTINGER: Thank you. That's all I have
15 of this witness, Your Honor.

16 THE COURT: Anything further, Mr. Lawson?

17 MR. LAWSON: No, Your Honor.

18 THE COURT: Thank you very much, sir. You may
19 step down.

20 (WHEREUPON, the witness leaves the witness
21 stand.)

22 THE COURT: Yes, sir.

23 MR. JEPERTINGER: Your Honor, I believe that
24 would be the State's case, Your Honor.

25 THE COURT: All right. Ladies and gentlemen,

1 the State has rested its case. And at the close of the
2 State's case, it is necessary for me to take up matters of
3 law with the attorneys. And it is about 17 minutes to
4 five, so we're going to adjourn for the afternoon cause it
5 will take me a little time to take up these matters of
6 law. Ask you to again continue to adhere to your
7 instructions, that you have no conversation about the case
8 with anyone. You can let them know that their close to
9 you being able to talk to them, but they have to wait
10 until the case is over. And when it is over, you can let
11 them know whatever it is they would like to know about it.
12 Please if you would again, as we done, please be back in
13 your jury room at nine o'clock and we will get started as
14 soon as we get everybody assembled. So if everyone would
15 remain seated in the courtroom. Ladies and gentlemen, you
16 are free to go please be back at nine o'clock in your jury
17 room.

18 (WHEREUPON, the jury excuse for the day.)

19 THE COURT: All right. At this time, I'll be
20 happy to take up any motions at the close of the State's
21 case.

22 MR. LAWSON: May it please the Court, the
23 defense would move for a motion for a directed verdict on
24 the basis that there is insufficient evidence that's been
25 put forward by the State to establish anywhere near

1 evidence beyond a reasonable doubt, that the only evidence
2 at all that indicates any form of guilt is the defendant's
3 own words attributed to the defendant by others. And I
4 don't believe that the defendant's own words can be used
5 in and of itself if convicting him of a crime and I think
6 that's what we have here.

7 THE COURT: All right, sir.

8 Mr. Jepertinger.

9 MR. JEPERTINGER: Your Honor, taking all this
10 evidence in the like most favorable to the State at the
11 this stage, I think based on Dr. Schandl's testimony that
12 this individual met his demise through homicide, Your
13 Honor, the taking of a person's life by another person,
14 Your Honor. And then, Your Honor, we know he was shot in
15 the back of the head based on her testimony, Your Honor.
16 And then, of course, what he told Andre Bradley. And, of
17 course, you know, this sufficiency of the evidence and I
18 suppose not the weight of it at this stage, Your Honor.
19 But I think those elements, Your Honor, if we couple them,
20 I think we have met our burden in terms of evidence in
21 this case.

22 THE COURT: All right. There is those things
23 that -- if I recall, there is also testimony that -- I
24 don't remember names, but that first young lady that
25 testified heard a gunshot, walked out and looked down in

1 the direction of the gunshot and saw someone leaving the
2 area in just all dark clothing. There's testimony that
3 that was the defendant's attire that evening. Again, I
4 don't know how the jury is going to look at anything, but
5 I just think that there is circumstantial evidence that is
6 in the record that whereby a jury could find. And I
7 respectfully deny your motion for directed verdict.
8 Anything else, Mr. Lawson?

9 MR. LAWSON: I just -- I'm trying to figure out
10 what it was about her testimony that would indicate
11 anything in relation to my client. She didn't say she
12 recognized him ---

13 THE COURT: I didn't say she did.

14 MR. LAWSON: --- or that it appeared to be him
15 or anything.

16 THE COURT: She describe a man in all dark
17 clothing leaving that area where the body was found.
18 There was testimony -- and again, I'm not trying to make
19 the State's case, I'm not arguing to the jury. I'm just
20 telling you there's evidence in the record, circumstantial
21 evidence the testimony from that night was that your
22 client was dressed in all dark clothing and was there at
23 the gathering. Again, I'm saying that there is evidence
24 in the record, circumstantial evidence that I think
25 depending on how the jury views the evidence and what

1 weight they give evidence. Anything further?

2 MR. LAWSON: Nothing from the defense.

3 THE COURT: I have taken the liberty guys of
4 copying or making y'all a copy of -- this is just a
5 proposed charge, it's not by any means a final charge,
6 something for you to look at. You can add to, take away,
7 change, alter whatever you want to do, but just -- it's
8 something that we need to look at or need me to look at.
9 Also, Mr. Lawson, I would ask you, sir, have you discussed
10 with Mr. Daniels what the defense intends to do with
11 regards to the defense's case?

12 MR. LAWSON: We have discussed it, but we're not
13 in a position to make a final decision right now, Your
14 Honor.

15 THE COURT: All right.

16 MR. LAWSON: We'll be prepared to do that first
17 thing in the morning.

18 THE COURT: All right. I'm going to -- we're
19 suppose to start at nine o'clock in the morning, so -- and
20 I can tell -- and I apologize both to Mr. Lawson
21 Mr. Jepertinger about this morning. I just forgot about
22 the Bible study I attend on Thursday's. I know I don't
23 have one tomorrow and I got to take my kids to school, so
24 I will be here early. So if you need me before then, I'll
25 be in chambers. If you would this evening, look over that

1 charge and then any prepose charges that you may have. Be
2 prepared if you would in the morning to give those to me
3 and we will discuss those things as well. Anything else
4 that we could do this evening that will help us in the
5 morning?

6 MR. JEPERTINGER: I can't think of anything.

7 MR. LAWSON: Not that I of know.

8 THE COURT: All right. Court will be in recess
9 then until nine o'clock.

10 (WHEREUPON, the proceedings were concluded for
11 the day to be reconvened on April 16, 2010.)

12 THE COURT: All right. If I recall where we
13 left off, Mr. Lawson, you were going to take the evening
14 to decide or finalize what the State's intentions were
15 regarding or excuse me -- the defense's case. Have you
16 had that opportunity to discuss that with Mr. Daniels?

17 MR. LAWSON: Yes, Your Honor, I also thought
18 about the State's case, Your Honor. And on behalf of the
19 State, I just move to dismiss the case, Your Honor.

20 MR. JEPERTINGER: Awfully generous of him.

21 THE COURT: Well, Mr. Lawson, tends to be a very
22 generous man. I am sure you thought about the State's
23 case, but how about the defense's case.

24 MR. LAWSON: Yes, Your Honor, and my client has
25 indicated that he does not wish to testify.

1 THE COURT: All right. Mr. Daniels, let me ask
2 you if I may, sir, about that decision. Sir, you
3 understand that you have the right to testify and call
4 witnesses in your defense. You understand that you have
5 that right?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right, sir. And also, I know
8 you talked at length with Mr. Lawson. You also maintain
9 your Constitutional Right to remain silent. Mr. Lawson
10 has indicated that is what you're going to choose to do is
11 to exercise your Constitutional Right to not testify; is
12 that correct, sir?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Mr. Daniels the decision -- of
15 course, it is appropriate and I encourage all defendants
16 to -- the reason you have good lawyers as you do in
17 Mr. Lawson and Mr. Smith is so that you can discuss with
18 them and get their input and their thoughts. But the
19 bottom line is any time someone chooses to exercise or not
20 exercise their Constitutional Right, it is important that
21 the final decision is their decision. So the decision to
22 exercise your Constitutional Right to not testify has that
23 been your decision, sir?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And you have discussed that though

1 with your attorneys; is that correct?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Has anyone forced you to make that
4 decision or coerced you in anyway to make that decision?

5 THE DEFENDANT: No, sir.

6 THE COURT: So the decision to exercise your
7 right to not testify has been your decision freely and
8 voluntarily without any coercion; is that correct?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Now, you understand that when I
11 charge the jury on the law, that I will explain to the
12 jury that the fact that you have chosen to exercise your
13 Constitutional Right that they cannot hold that against
14 you in any way. I'll explain to them in greater detail
15 that you don't have to prove anything because the burden
16 of proof is on the State. They got to satisfy that burden
17 of proof, you don't have to prove anything. And I would
18 instruct them that they are not even allowed to discuss it
19 in the jury room. You understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right, sir. Thank you very much
22 Mr. Daniels, you may have a seat. Let me -- Mr. Lawson,
23 if I may, let me suggest that that maybe we -- while the
24 jury is out, that we go ahead and take up motions at the
25 close of all the evidence. And then we -- rather than

1 bring the jury out and have you rest on the record, send
2 the jury back out or would you rather do it in that
3 fashion?

4 MR. LAWSON: We can do it most in the convenient
5 way.

6 THE COURT: And I thought once we bring the jury
7 out, then we'll be prepared to just move forward with
8 closing arguments. So at this time, I will be happy to
9 take up any motions at the close of all the evidence.

10 MR. LAWSON: May it please the Court.

11 THE COURT: Yes, sir.

12 MR. LAWSON: The defense will renew all motions
13 made during trial, all motions made at the close of the
14 State's case, which there's been no other evidence
15 introduced.

16 THE COURT: All right, sir. I respectfully
17 would deny those motions, but note them for the record. I
18 gave y'all a propose charge yesterday that was just a
19 rough draft. We need to probably go ahead and discuss
20 that -- from the State you had an opportunity to review
21 that.

22 MR. JEPERTINGER: Yes, sir. I think, we are
23 okay. Whatever the applicable law is, Your Honor, we ask
24 that you apply it. If the Court feels that any
25 lesser-included offense applies, so be it, leave that to

1 the Court's discretion, but the charge is fine, Your
2 Honor.

3 THE COURT: Mr. Smith.

4 MR. SMITH: Thank you, Your Honor. May it
5 please the Court, we are okay with it too for the most
6 part. We would request that the Court include the Manning
7 language, we don't want you to take out the reasonable
8 doubt language that's there, but we would ask that you ---

9 THE COURT: Would cause a reasonable person to
10 hesitate to act.

11 MR. SMITH: Hesitate to act, we ask that you
12 include that as well.

13 THE COURT: All right, sir.

14 MR. SMITH: In addition to that, Your Honor,
15 under the heading fair and impartial trial ---

16 THE COURT: Let me -- give me one second, I'm
17 going to go ahead and pull it up and get there, so I can
18 look along with you.

19 MR. SMITH: That will be on page 15.

20 THE COURT: Again on page 15, okay. All right.

21 MR. SMITH: Your Honor, again on page 15, the
22 conclusion of your fair and impartial trial, we would ask
23 -- we do take exception to some of this language. It's
24 actually over on page 16 first. It is, You and I are
25 acting for the community and that is why we must see to it

1 that the trial is fair and that the verdict is just.
2 That -- there's more language down about the honor of this
3 community, to honor this state, and to honor of this
4 country. And then the paragraph under that. Now, you,
5 the jury, take into your care the preservation of the
6 honor of this community, the honor of this state, the
7 honor of this country ---

8 THE COURT: I thought I took that out. You got
9 that in yours?

10 MR. JEPERTINGER: We don't have it in the
11 State's copy, Your Honor.

12 THE COURT: It's not in your copy.

13 How did we get it in you all's copy. I
14 specifically took that out.

15 MR. SMITH: Well, the language about the honor
16 of this community ---

17 THE COURT: I see where you say you and I are
18 acting for the community and that is why you must see to
19 it that this trial is fair and this verdict is just.

20 MR. SMITH: Your Honor, your are right. Now,
21 you, the jury, taken good care has been taken out of this
22 copy out of. I don't know how we got into this other copy
23 we have.

24 THE COURT: Must be when you use to clerk for
25 me.

1 MR. SMITH: The only other thing we take
2 exception to everyone is entitled to justice in this case,
3 that's the last paragraph.

4 THE COURT: I see it.

5 MR. SMITH: We would argue that that is burden
6 shifting. The fact that we don't feel like the State is
7 necessarily entitled to justice. Instead, they have the
8 burden of proving defendant guilty beyond a reasonable
9 doubt. And we would cite Cage vs. Louisiana, which
10 suggest that the jury instructions that dilute the burden
11 of proof on the government prove beyond a reasonable doubt
12 violate due process and constitute reversible error.

13 MR. JEPERTINGER: Your Honor, I think your
14 charge as a hold places the burden on the State to prove
15 guilt beyond a reasonable doubt. And I think you say that
16 more than one time, Your Honor. The other thing, too, is,
17 I think, at the basis for any sort of trial in the United
18 States of America is that both sides receive a just and
19 fair trial. And I think to ---

20 THE COURT: I was going to say why isn't the
21 State entitled to justice just as any defendant who comes
22 into court is entitled to justice. Being entitled to
23 justice doesn't remove a burden or lessen a burden. I am
24 going note your exception to that, but...

25 MR. SMITH: It may be the language, Your Honor,

1 that's bothersome. I beg the Court's indulgence.

2 (WHEREUPON, a pause in the proceedings.)

3 MR. SMITH: Your Honor, and after consulting
4 with Mr. Lawson, one of our concerns is how the jury would
5 interpret this not as lay people not as us folks that work
6 in the legal field.

7 THE COURT: I understand. I am trying to figure
8 out how the jury could adversely interpret that by the
9 Court saying that everyone in this case is entitled to
10 justice.

11 MR. JEPERTINGER: Pledge of allegiance says in
12 liberty and justice for all, Your Honor, so, I mean, it's
13 something that I think that everyone is familiar with.

14 MR. SMITH: And I certainly agree with
15 Mr. Jepertinger in that respect, I wouldn't bring it in an
16 arena of a courtroom. We feel like the State does have a
17 burden to prove beyond a reasonable doubt ---

18 THE COURT: Well, I tell you what I'm going to
19 do. Surely, they accept the burden, that's part of the
20 system of justice that we work under. But it's fairly --
21 you know, that paragraph you are referring to where it
22 starts with that everyone is entitled to justice, I will
23 take that out and just put your verdict in this case
24 cannot based on sympathy, compassion or prejudice, just
25 doesn't seem to be that big a deal. I think it's a true

1 statement of the status of this -- criminal jury trials
2 and civil jury trials in this country, that everyone is
3 entitled to justice. Now, let me go back up because we
4 had that -- you had some language that I thought I had
5 taken out and so I just want to make sure that's not an
6 issue.

7 MR. SMITH: Yes, sir, it is not in this.

8 MR. JEPERTINGER: Which page will you be looking
9 at?

10 THE COURT: Now, back on page 16 says presiding
11 officer of this court and has nothing to do guy with the
12 guy wearing the robe, but the Court is entrusted with the
13 honor of the community, honor of this state, and the honor
14 of this country in seeking... Is that the language you're
15 talking about you got a problem with?

16 MR. SMITH: Yes, sir, and it's not quite as
17 offensive to the defense without that other paragraph.

18 THE COURT: About they now take it into their
19 care?

20 MR. SMITH: Yes, sir.

21 THE COURT: But you also made a comment that --
22 where it says you're not called as jurors very often
23 proper performance of that duty requires each of you to
24 reach the height of freeing your mind of all improper
25 influences. You and I are acting for the community and

1 that is why we must see to it that this trial is fair and
2 this verdict is just. You got a problem with that?

3 MR. SMITH: Yes, sir. And we would just argue
4 that that last sentence is improper. We feel like it puts
5 the jury ---

6 THE COURT: We must see to it that the trial is
7 fair and the verdict is just.

8 MR. SMITH: No, not the last clause in that
9 sentence, but you and I are acting for the community. And
10 we just feel like that puts the jury as a conscious of the
11 community, similar to a golden rule argument, Your Honor,
12 in reference to the victim.

13 MR. JEPERTINGER: I don't perceive it that way,
14 it's a matter of perception, Your Honor. I think part of
15 what you are trying to do for the jury is to show them
16 that in every single case, Your Honor, that the burden is
17 on the State. However, they are the judge of the facts
18 and the judges of the facts part of their responsibility
19 is to make sure that this defendant receives a fair and
20 impartial trial. And taken as a whole, I think this
21 charge does that. I don't think the language is
22 offensive, Your Honor. I don't think it's burden
23 shifting. I don't think it violates the golden rule.
24 You're not asking them to put them -- putting them in
25 shoes of the victim in this case, Your Honor, or as being

1 on bugsmen for the community to fight crime.

2 THE COURT: Well, what I think it says is that
3 we are acting for the community, so that every trial here
4 is fair and just. It is not -- it is not making a plea on
5 behalf of -- as Mr. Japertinger indicated not making a
6 plea on behalf of a victim or on behalf of the State. I'm
7 going to note your exception to that language, I'm going
8 to leave that language in.

9 Now, as far as any lesser-include offenses, I
10 reviewed in my mind, I've gone over the evidence. I've
11 gone over the stuff that I recall that came through the
12 course of the trial and I don't think there is any
13 evidence -- and I am assuming I don't think there's a
14 lesser-included to the possession of a weapon charge, but
15 with regards to the murder charge and I considered and I
16 looked at the law regarding voluntary manslaughter versus
17 murder and I don't think there's evidence in this record
18 to support a charge on the lesser-include offense. I
19 think the charge of murder -- if the jury believes the
20 evidence, if the jury looks at the evidence in the like
21 most favorable to the State -- I mean, if that's where
22 they end up coming down on, I don't think that there's
23 evidence to support a voluntary manslaughter conviction.
24 So I'm going to leave the charge regarding the charge on
25 murder and the charge on the possession of a weapon during

1 the commission of a violent crime as the two charges that
2 I am going to charge. I took out that language on that
3 last page and I certainly would note your exception on the
4 other language. Is there anything else from the defense
5 regarding the charge and the Manning language?

6 MR. SMITH: That's all, Your Honor, thank you.

7 THE COURT: All right. Mr. Jepertinger, would
8 you agree if I recall during the course of the case, it's
9 been several days, but I don't believe the defense has put
10 anything into evidence?

11 MR. JEPERTINGER: I agree with that.

12 THE COURT: All right. Mr. Lawson, I'm assuming
13 you would prefer to argue last; is that correct, sir?

14 MR. LAWSON: That's correct, Your Honor.

15 THE COURT: All right. Well, why don't we take
16 a few minutes while I finalize those changes.

17 MR. LAWSON: Bear with me one moment, Your
18 Honor.

19 (WHEREUPON, a pause in the proceedings.)

20 MR. SMITH: One last thing in regard to this
21 charge, we would also ask that the Court eliminate the
22 section of statement of the defendant. We feel like that
23 charge is normally included ---

24 THE COURT: Statement of a witness?

25 MR. SMITH: Statement of defendant.

1 THE COURT: Statement of defendant? Where did
2 you get your charge, Mr. Smith, cause I took that out too.

3 MR. JEPERTINGER: Mine is statement of
4 defendants.

5 THE COURT: You got that in there too?

6 MR. JEPERTINGER: Yes, sir.

7 MR. LAWSON: Thank God.

8 THE COURT: You are exactly right. It is in
9 there. And let me hear why you think it shouldn't be?

10 MR. SMITH: We would just ask that the Court
11 omit this from this particular case. We think that
12 normally when that's included, it is talking about
13 confession. We don't think there's been one in this case.

14 THE COURT: That is not the purpose of that
15 charge to discuss a confession. It is in there because
16 any time statement from the defendant comes in -- I mean,
17 that's the purpose of the charge now.

18 MR. SMITH: Well, we would just argue that by
19 including it it brings more attention to his statement as
20 oppose to all the witnesses that, you know, that have been
21 heard from in this trial. And we would ask the Court to
22 exclude it on that basis. We just feel like it highlights
23 his statement over everybody else's.

24 THE COURT: All right.

25 MR. JEPERTINGER: I think it should come in.

1 (WHEREUPON, a pause in the proceedings.)

2 THE COURT: Anything further, Mr. Smith? I am
3 going to respectfully deny your request to take that
4 language out, that is standard language in many criminal
5 trials where the defendant -- where a statement -- and in
6 all honesty, and I've ready through it and I'm looking
7 through it, it's really written to the protection of the
8 defense to give the jury a reason to not consider the
9 statement if they don't find that it's been appropriately
10 received.

11 MR. SMITH: Your Honor, may it please the Court,
12 we would just ask if the Court would to see if they could
13 just maybe pair it down a little. Mainly, our concern is
14 ---

15 THE COURT: Just so y'all understand, I got a
16 message from a juror's husband that he is having to take
17 her mother to the hospital and is asking that she call him
18 immediately. So I'm getting Ms. Joe to take that juror to
19 the telephone, so she can make that phone call to find out
20 what's going on with her mother. Let me get you wait for
21 a moment, sir, to make sure that door is not open.

22 (WHEREUPON, a pause in the proceedings.)

23 THE COURT: I'm sorry, Mr. Smith. I just wanted
24 to get that to the juror. Go ahead, sir.

25 MR. SMITH: Thank you, Your Honor. We got

1 nothing further in regard to the charge, sir.

2 THE COURT: All right, sir.

3 Just for y'all information, I don't know what
4 the result of that phone call is going to be, but just to
5 keep y'all posted that involves juror number 33 Brete
6 Duffee. And we'll just have to see what the end result of
7 that ends up being.

8 MR. LAWSON: Can we take a brief minute?

9 THE COURT: Yes, we are just going to be ease to
10 see how this shakes out.

11 (WHEREUPON, a break was taken.)

12 THE COURT: Yes, ma'am.

13 MRS. DUFFEE: My mother she's at Methodist
14 Maner. She's 80 and she has Alzheimer's. She fell this
15 morning. And they -- she passed out and was cold and
16 clammy and they couldn't get her heart rate back up and
17 her blood pressure was very low like 50. So they are
18 taking her to McLeod's to the emergency room. I'm her
19 power of attorney and everything and I'm the only child in
20 town. Would it be all right if I go up there?

21 THE COURT: Absolutely. Absolutely.

22 MR. JEPERTINGER: Judge, please seat the
23 alternate.

24 THE COURT: That's the reason we have alternates
25 in case anything happens like this. You are absolutely

1 free to go and get whatever you need and don't worry about
2 this. You go take care of her.

3 MRS. DUFFEE: Okay, how about do I need to come
4 back Monday or do I have to call or anything.

5 THE COURT: No, no, you are fine. As matter of
6 fact, what they will do is they will send you a check for
7 your service this week and inside that check will be a
8 work excuse if you need it. All right. Thank you so
9 much. I hope your mother is going to do well.

10 MRS. DUFFEE: Thank you so much.

11 (WHEREUPON, where upon juror number 33 Brete
12 Duffee was dismissed.)

13 THE COURT: All right. Mr. Smith, let me
14 explain or let me tell you my understanding of the
15 appropriate procedure when you have a situation where you
16 have two alternates. It is my understanding that we put
17 the names of both of those alternates essentially in a hat
18 and have the clerk draw out a name and that the name
19 that's drawn out is the one that's seated. When you have
20 one alternate, it doesn't matter, you substitute the
21 alternate. When you have two alternates, I recall -- I
22 think there's a case on it.

23 MR. JEPERTINGER: Judge, whatever you think is
24 proper.

25 THE COURT: Well, they use to just say the first

1 alternate is the one that steps in, but in a criminal
2 trial, I think it goes back to anonymous selection
3 process.

4 MR. JEPERTINGER: Whatever you think is proper,
5 Judge, the State will concede to doing that.

6 (WHEREUPON, a pause in the proceedings.)

7 MR. JEPERTINGER: Your Honor, since we're doing
8 it this way, obviously, I waive any selection by a blind
9 person or child or any of that business how they use to do
10 it, Judge.

11 MR. LAWSON: I've never do it this way, I just
12 seated the first alternate.

13 THE COURT: I was telling Mr. Smith and
14 Mr. Jepertinger that -- I'll just take a moment to go back
15 and look real quick, but I believe it's different in a
16 criminal trial then the way they do it in a civil trial
17 when you have more than one alternate. Let me double
18 check it.

19 (WHEREUPON, a pause in the proceedings.)

20 THE COURT: All right. Let me point you to some
21 language here. Section 14-7-1340 in South Carolina Code
22 of Laws states that if before the final submission of the
23 case to the jury, a juror thereon dies or becomes so ill
24 or disabled as to be unable in the judgment of the Court
25 to perform his or her duties thereon, the Court shall

1 order him or her to be discharged and should then draw the
2 name of one of the alternates if there be more than one by
3 ballot to serve in place of such dead or charge juror
4 throughout the remainder of the proceedings, being subject
5 to the same rules and regulations as applied to the
6 remaining jurors. And it says to cross reference that
7 with Rule 47 of the civil rules. Rule 47 of the civil
8 rules indicates that the jurors -- alternate jurors shall
9 be drawn in the same manner as they were selected. And so
10 this is what I thought was the case is that in criminal
11 cases if you have more than one alternate juror, you would
12 draw those names out of a hat so the speak, it be by
13 ballot. In a civil case, you would draw them in the order
14 in which they were selected. So I have the jurors -- the
15 two alternate jurors names on a piece of paper here that I
16 placed in this so called hat. I'm going to ask madam
17 clerk to draw a name out. All right. And it is alternate
18 juror Phillip Roberts juror number 122 who just so happens
19 to be the first alternate that was selected, so I guess it
20 ends up being a wash.

21 MR. JEPERTINGER: Yes, sir.

22 THE COURT: Gentlemen, I have not produced to
23 you a verdict form, but I am assuming that the -- and I do
24 have a verdict form prepared, I just haven't printed it
25 out yet. It is just simply as the charge of murder

1 whether it be guilty or not guilty as to the charge of
2 possession of a weapon guilty or not guilty.

3 MR. JEPERTINGER: Thank you, Your Honor.

4 THE COURT: Is there anything further from the
5 State before we bring the jury out?

6 MR. JEPERTINGER: Nothing further from the
7 State, Your Honor.

8 THE COURT: From the defense?

9 MR. LAWSON: Nothing from the defense.

10 THE COURT: Now, Mr. Lawson, when the jury comes
11 out, I recognize you on behalf of Mr. Daniels. You can
12 then rest on the record and then we will go right into the
13 closings.

14 MR. LAWSON: Thank you, Your Honor.

15 THE COURT: All right. Ms. Joe, ask the jury to
16 join us.

17 (WHEREUPON, the jury came into open court.)

18 THE COURT: All right. Ladies and gentlemen,
19 welcome back this morning, we had a little bit of a change
20 up as you are probably aware. Mrs. Duffee had a family
21 matter that was necessary for her to go take care of.

22 So, Mr. Roberts, I am going to move you from the
23 role of an alternate to being on the main panel. And so
24 you will move into that position on the main panel.

25 Ladies and gentlemen, if you recall yesterday,

1 the State had rested their case. And so at this time, I
2 would recognize Mr. Lawson on behalf of the defense.

3 MR. LAWSON: May it please the Court.

4 THE COURT: Yes, sir.

5 MR. LAWSON: Your Honor, the defense rest.

6 THE COURT: Thank you, Mr. Lawson.

7 Ladies and gentlemen, the evidence that you are
8 going to have to decide this case is all in. We are at
9 the close of all the evidence. So we have reached the
10 portion of this trial where the attorneys are going to
11 have an opportunity to address you with what we commonly
12 refer as their closing arguments or final summation. It
13 is their opportunity to -- well, we call it arguments,
14 but they are not going to argue, but they are going to
15 give you their view as to what the evidence has shown and
16 what their belief is as to what the evidence is and what
17 it has shown. It is important that you give them your
18 attention throughout their comments. What I do want you
19 to understand though is this, the evidence is closed. The
20 evidence that you are going to have to decide this case is
21 closed. So just like I told you with their opening
22 statements, what the lawyers tell you during their closing
23 remarks is not evidence. It is merely their belief as to
24 what the evidence has shown. It is important even though
25 it is not evidence, it is important that you listen

1 carefully to each side. The State and the defense and
2 then at the close of their arguments, I will then give you
3 the law that applies to this action. And then after you
4 receive that, you will be in a position to then deliberate
5 to decide this case. You are very close to finally
6 reaching that time when you can actually talk about this
7 case to somebody other than yourself. So if you would
8 please listen carefully as the attorneys have an
9 opportunity to address you with their closing remarks.
10 Mr. Deberry.

11 MR. DEBERRY: Thank you, Your Honor.

12 Ladies and gentlemen, I just want to begin this
13 morning by reading from the letter that was written from
14 Mr. Gregory Daniels to Nyrena Goodman, his girlfriend.
15 They ain't got no gun, no bloody clothes, no shells,
16 nothing. Those are the main things they need to actually
17 convict me. It don't matter how many people say I did it
18 or we argue. Without accurate substantial evidence, they
19 ain't got nothing.

20 Well, ladies and gentlemen, I submit to you over
21 the course of this trial the last four or five days, the
22 State has done nothing but put substantial evidence into
23 this record that that man killed Corey Byrd. There is no
24 doubt. Judge gone tell you about reasonable doubt. He's
25 gone tell you that absolute certainty is not required,

1 okay. There can be some type of doubt but can't be a
2 reasonable doubt, there's no reasonable doubt in this
3 record. All the State has to prove is that you are firmly
4 convinced that that man, Gregory Daniels, killed Corey
5 Byrd. The evidence is here. It is in the record. When
6 y'all retire to your jury room, you're going to have it
7 all. You can look at it, you can read the letters.
8 Everything you remember that came from that witness stand,
9 you are the judges of those facts. You can believe any
10 part of it, all of it, none of it. The judge will tell
11 you that. It's up to you. You are the finders of the
12 facts in this case. And the facts have been presented to
13 you and they prove that Gregory Daniels killed Corey Byrd.
14 There's no doubt about it.

15 'I want to just take a minute before I get
16 started commenting on the evidence, which is my job during
17 the closing argument. I just want to thank you. I want
18 to thank each and everyone of you for your undivided
19 attention, for your patience, for your willingness to
20 serve. I know that you rather be probably anywhere
21 besides here this week. But this country, this nation is
22 founded on the principle if you're accused of a crime, you
23 have the right for 12 citizens of the community to come in
24 and decide the facts of your case. You are innocent until
25 the State proves you guilty beyond that reasonable doubt.

1 And it takes 12 citizens a fair and impartial sample of
2 the community to decide that. It is the fairest system
3 in the world and I thank you for being a part of it. It
4 is honor to serve as a jury and I appreciate y'all
5 willingness to do so. I watched you all week. I know you
6 paid attention and I sincerely appreciate it. I
7 appreciate the fact that I know that you are giving
8 Mr. Daniels and the State of South Carolina a fair and
9 impartial trial in this case. So just I want to thank you
10 for that, I really appreciate it.

11 Now, the judge is also gone tell you when we get
12 finished, that Mr. Lawson is going to present their
13 closing. Judge is gone charge you with the law. Then
14 he's gone tell you, unlike he's told you every time you
15 had to get up and go back to the room and go home all week
16 or go to lunch whatever the case was, you can't discuss
17 this case, can't talk about it, it's not time. Well,
18 after we're finish here today, that's the time. Y'all go
19 back there and the 12 of you get to sit down and talk
20 about it all, talk about what you think happened, what you
21 know happened, who you might believe, who you might not
22 believe. You get to talk about the inconsistencies of
23 Mr. Daniels' statements. The way he tried to cover this
24 up the days and months and years after this killing. An
25 innocent person doesn't do those things, have no reason

1 to. But after you talked about it and you come to your
2 conclusion, it's your job to bring in this courtroom a
3 verdict. And I'll practice -- and I think every lawyer in
4 here has practice in front of Judge Ralph King Anderson,
5 and he always tells the jury that the word verdict, the
6 Latin word, okay, and that it means to speak the truth,
7 that's the meaning of the word verdict is to speak the
8 truth. Well, I ask you to bring back a true verdict and a
9 verdict that is true. There's only one verdict in this
10 case that is true. There's only one and there is no doubt
11 about it. And it says Gregory Daniels killed Corey Byrd.
12 There's too much in this case not to believe that.
13 There's too much evidence. It is all there, you heard it.
14 You can take what of it you need to find him guilty and
15 that's the only truth that can come out of this case. I
16 ask you to do that.

17 Now, it is the State's burden to prove him
18 guilty beyond a reasonable doubt. And I believe and I
19 told you already that I believe we done that. You should
20 become firmly convinced beyond a reasonable doubt that he
21 killed Corey Byrd.

22 We have to prove the crime of murder in this
23 case. Now, Dr. Schandl from MUSC, she came here. She
24 told you Corey Byrd was killed, it was a homicide. The
25 word homicide means the taking of one life by another

1 human being. There's no question that's what we have
2 here. There's no question. He was shot in the back of
3 the head around 5:07, maybe 5:08, 5:09 in the morning
4 September the 5th. No question that we have a homicide.
5 Now, that is the killing, that is an element of murder.
6 There's another element of murder and it's called malice
7 aforethought. Malice is a ill will or a hatred. The law
8 in South Carolina says that that ill will or hatred can be
9 formed in a split, it doesn't have to be predetermine.
10 But in this case and if it is predetermined if this is
11 just a split that you decide to kill somebody and you
12 carry it out, you can be convicted of murder, okay. That
13 would be implied malice. The judge is gone read this to
14 you. But express malice is when you plan to do something.
15 It's when you lie in weight. It's when you carry out a
16 plan to kill somebody.

17 Andre Bradley told you that he knew he had to
18 kill that man about a month before he had to do it. Andre
19 Bradley told you he didn't really believe he was gone do
20 it, that wasn't really what something that Gregory Daniels
21 would do. He's known him for a long time, but he did it.
22 He called him right he did it, told him he did it, showed
23 up that afternoon, watch the news with him. You think
24 it's a normal thing for Gregory Daniels to do to go over
25 to Andre Bradley's house and sit down and watch the news

1 with him every day, I don't think so.

2 Now, I believe the evidence shows you that
3 Gregory Daniels lied in wait. He was lying in wait in
4 that neighborhood that night. He messed up when he told
5 Sergeant Compton that he didn't -- he left the cookout
6 9:30, ten o'clock, didn't know Corey Byrd from a can
7 paint, went to a setting up, then went to the room, stayed
8 there until check out time. Now, we know that's a lie,
9 every bit of it. You heard from Shavonne Gass what she
10 tell you when is the last time she saw Gregory Daniels, it
11 was late. It was around the time Ryan Evans showed up.
12 Remember, he worked until three o'clock in the morning.
13 He got there. Corey Byrd and Gabriel Petterson were gone
14 got get a ride with him, but Corey Byrd forgot his
15 charger, so Ryan left.

16 About that time, she said that Gregory Daniels
17 walked by dress in black and that she was sitting on the
18 front porch and she ask him for a cigarette. And he came
19 up there and gave her one. He was in the area.
20 Mr. Lawson asked every one of the State's witnesses who
21 was around when Corey left, who knew where he was going,
22 was there anybody outside, who knew where he was going.
23 Were you around? No, sir, I was already gone. I don't
24 know who was around. Brittany Fludd I was in the computer
25 room, I couldn't tell you who was watching him leave. I

1 can tell you who was watching him leave, it was Gregory
2 Daniels. He was there. He was in the neighborhood and it
3 was late. And he was lying in wait with express malice
4 for the opportunity for Corey Byrd to present himself to
5 be killed and that's what happened. No question about it.
6 He lived on Fraser Street, I think that's one street over
7 from Dargan. He's in his neighborhood, but he told
8 Compton that he was in the motel. We know that he checked
9 in the motel at 5:34. It didn't make any difference
10 whether or not he walked in that motel with Nyrena
11 Goodman, but he thought in sending a letter, he's gone
12 write to cover that up since the clerk didn't see me walk
13 in, I just tell them I was outside smoking a cigarette,
14 innocent man doesn't need to cover up anything, that's the
15 fact.

16 But I'm gone tell you what happened. Here's the
17 cookout -- excuse me for just one second. Fraser Street
18 and Liberty Street right here, right here is the cookout.
19 Okay. That's where Shavonne Gass bummed a cigarette from
20 the killer. It's was 3:30 maybe four o'clock, maybe later
21 in the morning than that, okay. He want us to believe he
22 wasn't in the area, but he was in the area. Mr. Lawson
23 kept asking every other witness were you in the area, who
24 was in the area, who saw him leaving, who knew where he
25 was going. Well, Gregory Daniels did, he was in the

1 shadows. He was in the neighborhood, he was lying in
2 wait. He had to do the job. Gary Bostic had already
3 paid him \$500. He was out of money, that's what Andre
4 Bradley told you. Maybe, if he would have given \$500 back
5 and gotten out of the deal, but I believe he was too far
6 down that road. I don't believe it was Gregory Daniels
7 personalty to do what he did, but the evidence proves
8 there ain't no question he did what he did. He was in it
9 \$500. He had already taken the first payment, now it's
10 all he had left he could do. Gary Bostic and Corey Byrd
11 had probably over \$3,500, but for a \$1,000, he's gone take
12 his life. And that man right there agreed to do it, he
13 took the money. He'd already spent the first five, he
14 needed the next. And the only thing he could do about it
15 was kill Corey Byrd, so he killed him. He was there. He
16 was arguing with him. He was trying to boost up his --
17 get a state of mind he needed to actually kill somebody.
18 He wasn't a killer, but he is now.

19 When he followed Corey Byrd from that house
20 around 4:30, 4:45 when Corey Byrd is walking to meet
21 Tiesha Brown, it all adds up. The times are there. I
22 will explain it to you. He's walking down -- Corey Byrd's
23 walking down Dargan Street, okay. It's in the
24 neighborhood that you know that that man was in at that
25 time. Tiesha Brown hears the gunshot about the time Corey

1 should be coming up. You know, she testified it might
2 have been 4:15, 4:30 when she got home from walking home
3 from the cookout. Brittany needed to go to school the
4 next day. They got home from the cookout. Corey called
5 her. She said Corey Byrd's phone number. I'll get to
6 that in just a second. It's all established, she's
7 looking for headlights. But she doesn't know, you know,
8 he got left by Ryan Evans and Gabby. They went ahead, got
9 them a bottle of liquor. They went and sat Gabriel
10 Pettersen's grandmother's house. They sat there for 20 or
11 30 minutes. It all adds up, the times are there. The
12 times are there, okay. Tiesha Brown here's the gunshot,
13 goes back inside ask Brittany if she thought she heard
14 one. But as soon as she hears the gunshot, she looks down
15 there and she sees a man in black walking off Dargan
16 Street onto Marlboro Street and disappears.

17 Now, we know that's around 5:07 or 5:09 right
18 around that time. And how do we know that because Corey
19 Byrd was on the phone with Shavonne Gass. And we got
20 phone records to prove it, okay. We got a time that
21 Tiesha Brown heard the gunshot. She saw the killer walk
22 off, okay. I'm gone tell you what he did. He killed a
23 man right here. He walked off of Marlboro Street and he
24 got in the van with Gary Bostic. The man who wanted Corey
25 Byrd dead, who paid for it to be done and who paid Gregory

1 Daniels \$500 already and probably told him the job needed
2 to be done if you want the rest of the money, okay. We
3 know that because there was a young black driver in the
4 van, okay. Gregory Daniels wants us to believe that it
5 was an old black man driving a taxi cab, but we know
6 that's not true because Sergeant Compton checked that out.
7 They do have two green taxi's that say State Taxi on the
8 side of it only one of them one was running at that time.
9 And there was no record that man -- Sergeant Compton says
10 that man says he didn't pick him up, okay. That's out of
11 the question. But remember in an effort to cover all this
12 trouble up, all these things that look bad for him in
13 court, he writes her a letter and what does he tell her.
14 Nyrena, I need you to call this number. And I'll tell you
15 what the number was in a minute. This number was Gary's
16 number. He was the one who was driving the van that
17 night. Innocent man doesn't do that.

18 Telling you, ladies and gentlemen, he's not
19 innocent. He is guilty. He killed Corey Byrd. He got in
20 the van with Gary Bostic. They drove to Chase Street. We
21 got some phone calls of Nyrena Goodman and Gregory Daniels
22 just before the murder, just after the murder. He's
23 saying get up, get ready, we going to the room. Nyrena
24 Goodman says, you know, we go to the room sometime, yeah,
25 that's normal. But what's not normal, what we ain't never

1 done before is go at 5:30 in the morning, okay. And he
2 told Sergeant Compton not once but twice that he was in
3 that room all night. He was in the room all night. He
4 was in the room all night. But we got records. He was in
5 132, told us he was in room 132. He told Lieutenant Tim
6 Compton in his statement they stayed in room 132.
7 Mr. Presnell from the motel he testified yesterday it says
8 right here room 132. He also testified what time it was
9 when they checked in 5:34, okay. He testified that would
10 be the last payment copy, but I would submit to you that
11 this is all you need to do to get a room at the Country
12 Hearth Inn. You got to file this out. You got to put
13 your name, your address, and Florence, and your city, and
14 your driver license number and they can give you a room.
15 How long can that take?

16 Now, Tim Compton, the investigator in this case,
17 he did a daytime study or investigation how long it would
18 take to drive around from around the corner of Marlboro
19 Street where Gregory Daniels killed Corey Byrd. How long
20 would it take to drive there, to walk off that street, get
21 in a car, drive Nyrena Goodman's house on Chase Street not
22 too far away. I think he said 1.2 or three miles, okay.
23 He sat there for five minutes. I don't know how long it
24 took him to get Nyrena out of the house, but I would say
25 she probably was ready, okay. They had called before,

1 Gregory Daniels called before. Well, he stayed there five
2 minutes and then he took off and went the most direct way
3 down Irby Street to this motel, okay. He did it in enough
4 time to be able to check in between the time of 5:07 in
5 the morning when the murder happened and 5:34. Just
6 remind yourself, he did it in the middle of the daytime.
7 There's more traffic out there in the daytime, it's going
8 to take you longer. They had time to do it and they did
9 it. It all adds up, there is no doubt.

10 Now, let's talk about the witnesses that
11 testified there were at the cookout, okay. Gabriel
12 Petterson, I think he was the first one we put up. He
13 testified that he was the cook, okay. She called him that
14 morning said, hey, I think we're going to have a cookout,
15 could you come over and help, so he got there early, okay.
16 He testified that throughout the day Gregory Daniels was
17 there dressed in black and arguing, testified that he
18 invited Corey Byrd, the victim, who died at his hands
19 later that night, he invited him down the street several
20 times that day. But that he and Bernard Cooper and the
21 other guy was there told Corey, man, don't go down that
22 road with him and he didn't. He was waiting for an
23 opportunity, he was lying in wait, he had his malice
24 already. He just didn't have the killing, okay. He
25 already had his first payment, he just didn't have the job

1 done.

2 Late that night, the opportunity presented
3 itself and he killed Corey Byrd. But Gabriel Petterson
4 tells you that they were arguing and he invited him down
5 the street. Gabriel Petterson also corroborates Ryan
6 Evans, okay. Ryan Evans didn't have a reason to come in
7 here and tell a lie. I submit to you that he told the
8 truth. He said that he was working second shift or third
9 shift, got off from work after three o'clock in the
10 morning, drove by there to see his friends. There was a
11 couple of guys there that wanted a ride here, there, and
12 everywhere. That brings up another point. Jack Lawson
13 asked almost -- well, he asked Shavonne Gass, he says,
14 well, your party started at 12 o'clock in the afternoon
15 and at four o'clock the next morning, it's still going on
16 people must have been pretty high by then. They were
17 drinking. There's testimony they were drinking. Well,
18 Gregory Daniels wasn't drinking, that's what she said.
19 Gregory Daniels wasn't drinking. He was there to do a
20 job, okay.

21 Well, Gabriel Petterson tells you that sometime
22 after four o'clock they got ready to go. They go in
23 Ryan's car, they go get a bottle of liquor and he was
24 going on home, okay. Well, Corey Byrd miss that ride.
25 And I don't know if he had caught it, he might still be

1 alive, maybe not. But what's important about that there
2 are the times. Sometime after four they went across
3 through the neighborhood over at Gabriel's house, stayed
4 there 20 or 30 minutes. It was four, 4:30 he testified
5 that could have taken five, ten minutes to get a bottle of
6 liquor, okay. Fifteen to 20 minutes both of them
7 testified that, you know, they sat and talked outside
8 Gabriel's grandmother's house before Gabriel called it a
9 night, all right. And then Ryan Evans comes back, he's
10 going home. He testified he was going home and that he
11 lives on Commander Street, one street over from Dargan.
12 It's a reasonable route for him to take home. But we know
13 that he didn't have anything to do with this because Ryan
14 Evans was seen coming up the road after Tiesha Brown found
15 the body. Ryan Evans just came by. He saw what was going
16 on. He saw Tiesha Brown there. She was upset, he told
17 her to call the police and he went to Shavonne's house,
18 they were all friends. That's the reasonable thing to do.

19 Now, you heard from James Black. He was the
20 slim -- I think they even called him Slim, the slim fellow
21 that testified. He said he didn't get there until about
22 four o'clock that day, okay. Well, four o'clock that day
23 he said, yeah, Gregory Daniels was there dressed in all
24 black. Corey was there, everybody was there. Bryan
25 Timmons threw a chicken bone at me, we got in a fight. I

1 didn't want to fight him, but I had to defend myself, him
2 and Bryan Timmons, okay. But he witness Gregory Daniels
3 arguing with Corey Byrd. He witness him invite him down
4 the street, come on down the street I got something for
5 you. He witnessed it. There's more than one. Him and
6 Gabriel Petterson they testified they witness that and
7 that's during the day. And then he tells Sergeant
8 Compton that, oh, I went to a setting up and then went to
9 the room for the rest of the night. I was gone from
10 there, but we know he wasn't. We know he wasn't, okay.

11 He tells you in the letters, I ain't never told
12 them no times Nyrena. Don't tell them no times. I ain't
13 never told them on times. But that's because he knows --
14 and when he gave Shavonne Gass that cigarette, it was
15 probably after four o'clock in the morning, but he told
16 Sergeant Compton that he did that right before he left to
17 go to the setting up and then to the room for the rest of
18 the night. He says he layed in the room right up until
19 check out. We know that's wrong, we know that's wrong.
20 Nyrena told you he left. I tell you where he left. He
21 went to get rid of whatever evidence he had. He had a
22 gun. When I read you this first letter this morning say
23 they ain't got no gun. They ain't got no bloody clothes.
24 How does he know? How does he know what they have? That
25 was a letter dated October the 15th. Investigations --

1 you know -- how does he know they don't have a gun? How
2 does he know they don't have any shells? How does he know
3 they don't have any bloody clothing? Because he got rid
4 of them. He left that motel. He left Nyrena in that
5 motel and he went and did what he had to do.

6 MR. LAWSON: Your Honor, I hate to object during
7 closing arguments, but we may need to approach on that
8 issue.

9 THE COURT: All right.

10 (WHEREUPON, a bench conference was held in the
11 presence of the jury, but out of the hearing of the
12 jury.)

13 THE COURT: Thank you, gentlemen. You may
14 continue, sir.

15 MR. DEBERRY: Thank you. He wasn't in the motel
16 for a period of time. I want to turn your attention,
17 ladies and gentlemen -- excuse me for just one second.
18 These phone numbers represent what have been put into
19 evidence throughout this week. I can tell you exactly who
20 told you, how they came into evidence. They are into
21 evidence, okay. Tiesha Brown testified that Corey Byrd's
22 phone number [REDACTED]-7083. She testified that was his
23 number. She was involved with Corey Byrd at the time of
24 the killing. Y'all know what she did, she was waiting on
25 him to come see her that night. She talk to him on the

1 phone. The last time she had talked to him he was in Ryan
2 Evans' car, but he forgot his charger, okay. So that's
3 Corey Byrd's phone number [REDACTED]-7083. Shavonne Gass
4 testified that her phone number at the time was 667-4769,
5 that was at her house where the cookout was, okay.
6 Gregory Daniels his phone number before the killing and
7 shortly thereafter was [REDACTED]-5339, that's not the number
8 that's in that cell phone, okay. Because the day of the
9 killing for whatever reason he thought he needed to do it,
10 he changed his phone number. I can't explain that. Don't
11 know why he did it, but he changed his phone number the
12 day he killed Corey Byrd, okay, so that was the number
13 before. This is the number after [REDACTED]-0731, okay. The
14 State does not have records for [REDACTED]-5339. But we do have
15 in evidence records for [REDACTED]-0731, that is the phone number
16 he used to call Andre Bradley right before he pulled up at
17 his house to watch the news, okay. That be this phone
18 call right here 5:59 p.m. on 9-5, September the 5th.

19 He killed Corey Byrd that morning. Andre
20 Bradley testified he told you that, you know, early that
21 morning Gregory called him and told him he did it and he'd
22 see him later. He calls him back 5:59 p.m. just before
23 the evening news, Andre Bradley told you as soon as he
24 hung up, he saw a Taurus coming up in the yard, okay, came
25 in and watch the news. And I told you before, I don't

1 think that's probably what they use to do when they hung
2 out together. But he had point and he needed -- you know,
3 he wanted to tell somebody. He thought Andre was his
4 friend. Andre problem was his friend. Andre told you he
5 didn't have a deal to come here and testify. But I'll
6 tell you right now Andre's in a bad spot. He's with the
7 federal government and they got him on some terrible drug
8 charges. They don't have a deal with him though.

9 Ladies and gentlemen, sometimes when you get
10 pushed into a corner whether it be your fault or not
11 sometimes you got to start doing the right thing, okay. I
12 am telling you Andre Bradley he definitely came here
13 hoping to help himself, but we are not going to dispute
14 that fact. But he doesn't have a deal. He's just doing
15 stuff that will make him look good when his time comes to
16 go before a federal judge. He's building his resume, you
17 can't blame him for that. He told you it's dangerous to
18 tell on people like this. It is not a good thing to do to
19 come into court and testify, might wind up just like Corey
20 Byrd if you do something like that. I don't know Bradley
21 may decide it is time now he shouldn't be living that of
22 kind of life anymore. He got time, he's have time to
23 think about it. But he didn't have a deal. The proffer
24 agreement is not a deal. It is not a deal. You know, he
25 didn't have a deal, he is just hoping for help later doing

1 the right thing now. I guarantee you and I'll be the
2 first one to tell you, he's no saint. These aren't good
3 people. These activities they are involved in are not
4 good activities, but a man doesn't deserve to get killed
5 on Dargan Street for any reason. We got Gary Bostic's
6 phone number. Gregory Daniels wrote Nyrena a letter said
7 Eddie Barefoot, my bondsman, will take \$2,000, call Gary
8 he was the one in the van that morning that dropped us off
9 at the room. It's in the letter. Y'all have the letters,
10 y'all can read them, pass them around and read them.
11 They've got guilt written all over them. Well, that's
12 Gary's phone number, it's in his phone as G.A. He writes
13 it, that's Gary's phone number, that's who's in the van
14 and drove us to the room that morning. That's the guy who
15 Andre Bradley told you paid him a \$1,000 to kill the man.
16 It is clear. And between 9-5 and 9-9 they called each
17 other 41 times, 41 times.

18 Let's look at the calls between Gregory Daniels
19 and Nyrena Goodman. This is between Nyrena's phone
20 number, Nyrena Goodman and Gregory Daniels phone before he
21 change the number, okay. These are into evidence. He
22 called her at 3:04 in the morning. He called her at 4:28.
23 He called her at 5:21. These are all leading up to her
24 get up let's go, we got to get in the room, that's where
25 we been all night. But all night is over with and so was

1 the killing and he killed him, okay. Well, you looked at,
2 you go from 5:21 to 8:15. All of this does is back up
3 what Nyrena told you. She told you he left and I told you
4 what he did when he left. He had some business he had to
5 take care of, all right. And then you got these other
6 phone calls between. He said that he laid in that bed
7 until check out, it is a lie. An innocent man has no
8 reason to tell a lie, that's a fact. Innocent man has no
9 reason to tell a lie. This is the last phone call Corey
10 Byrd ever made between him and Shavonne Gass. Call
11 started around 4:53 in the morning, he's walking down
12 Dargan Street. What did she say that he said? The last
13 words that anybody knows -- except for maybe Gregory
14 Daniels, but the last words that anybody knows that Corey
15 Byrd said before he got shot in the back of head was that
16 that guy from the cookout is behind me. It's Gregory
17 Daniels he was in the neighborhood, he was dressed in all
18 black. He was seen before the murder. He was seen after
19 the murder. He killed him for \$500. And he told us just
20 before he died, the man from the cookout was behind me.

21 Now, y'all heard about a beer can that was right
22 there around the body, that was some distance away from
23 the body, testified to by the crime scene guys. And you
24 heard from Dr. Schandl, doctor from MUSC. She read in the
25 toxicology reports and ain't no question that Corey Byrd

1 been drinking all day, okay. His blood alcohol was -- I
2 can't remember exactly what it was, it is into evidence.
3 But he had blood -- he had alcohol in his system.

4 Ladies and gentlemen, Bo Myers from the crime
5 scene Mr. Lawson asked him he said, Investigator Myers or
6 Corporal Myers, how did that beer can appear, did it
7 appear to be fresh to you? Yes, sir, it did. As a matter
8 of fact, when I first arrived on the scene I smell an odor
9 of alcohol. Well, use your common sense. I'm not saying
10 that man wasn't being truthful, but if you walk up on a
11 beer can in an open environment on the side of the road, I
12 don't care how long it's been there, I just don't think
13 you can smell it. I mean, it's a beer can on the side of
14 the road. I honestly believe the odor he detected
15 probably came from Corey Byrd, okay.

16 Now, there's DNA taken from the beer can and it
17 doesn't come back to Corey Byrd. It doesn't come back to
18 Gregory Daniels, no surprise he wasn't drinking. He was
19 there to do a job. Shavonne Gass told you there might
20 have been 80 to 100 come to the cookout that day, it's in
21 the neighborhood. There's people in the neighborhood.
22 There's testimony there's a fish fry going on somewhere
23 else, that beer can could have come from anywhere. It's
24 not relevant in this case, it's not relevant. We know
25 it's not the killer's beer can because Gregory Daniels DNA

1 didn't come back on it. And we know it's not Corey Byrd's
2 beer can. We don't know who's beer can it is, it's not a
3 strange thing to find on the side of the road anywhere, I
4 am sorry to say in our community. But I imagine you can
5 probably find a beer can about anywhere you want to. And
6 I just will tell you that I don't believe you can walk up
7 and smell a beer can. I don't think so, it could have
8 been fresh. It was 80 people at her cookout, there was
9 another fish fry going on could have been somebody who
10 came through there and threw it out that morning. I don't
11 know. Could have been there for weeks nobody know.

12 What we do know is that the evidence is
13 substantial. No matter what he writes in his letters, we
14 have substantial evidence. We don't need a gun. We don't
15 need bloody clothing. We got all this other evidence. We
16 got his coverup. We got his letters. We got his phone
17 calls. Forty-one phone calls between him and the man who
18 hired him to kill Corey Byrd. We got the phone calls
19 between him and Goodman, Nyrena. You know, if they were
20 in that room all night like he says they were, why is he
21 calling her? If you are in a hotel room with somebody,
22 you don't need to call them. It don't add up.

23 As a matter of fact, everything that he has
24 offered to investigators, in his letters and off of his
25 phone records doesn't add up. Everything that everybody

1 else has offered in this case has been corroborated, it
2 does add up. It adds up. Andre Bradley told you he call
3 me right before the news, he came and watched the news.
4 Jasmine Barrett she's a victim, okay. She's got Andre
5 Bradley living with her maybe loves him, you know. We all
6 love people who got problems. When she found out what's
7 up, she told you what she did. Andre Bradley told you
8 what she did. This guy got to get out of my house. Yeah,
9 she hold this information back for a couple of years, she
10 got kids. He told you she be afraid to tell this
11 information under any other circumstances. Andre Bradley
12 told you, it's dangerous to come in here and testify. But
13 the evidence shows without a doubt, it's firmly convincing
14 that Gregory Daniels killed Corey Byrd September the 5th
15 shortly after five o'clock, firmly convinced, absolute
16 certainty is not required. The judge will tell you that.
17 It is not beyond any doubt, it's beyond a reasonable
18 doubt. I doubt that will make somebody hesitate to act to
19 do something. But he will tell you absolute certainly is
20 not require, you just must be firmly convinced and this
21 evidence would firmly convince you to speak the truth as
22 the word verdict, got to give a true verdict in this case.

23 Now, ladies and gentlemen, I want to just close
24 take a few more minutes of your time to make sure I hadn't
25 miss anything because this is an important case, it is the

1 killing of a human being. So please just give me just a
2 second.

3 I like to read to you these letters just before
4 I close. This letter dated October the 10th 2008. These
5 letters are between the killer and Nyrena Goodman, his
6 girlfriend, who he tried to base his alibi on. Our
7 stories are not the same. I told them we left off Carver
8 Circle in a green van cab with an old driver. We were on
9 the computer. But I will tell them I was still playing
10 dominos when you went home to get clothes and I came and
11 got you from there, no times though, make sure dude know
12 this story State Taxi. We know it wasn't a taxi. It was
13 a green van, but it was Gary Bostic driving it.

14 This is dated October the 15th. Some things I
15 need to say to you I can't write down or say on the phone,
16 you feel me. Someone told me how you can help with me
17 getting out of here. I don't know what you told them
18 people, but all I need is for you to say is I was with
19 you. I was with you at the time they say that this
20 happened. I told you that when we went to the room,
21 remember I said we was together at the setting up, but you
22 told them you was sleep and I came and picked you up in a
23 van. He got trouble. He's got trouble. We know he's
24 trying to cover it up. They ain't got no gun, no bloody
25 clothes, no shells, nothing. Those are the main things

1 they need to actually convict me. It doesn't matter how
2 many people say I did it or we argue. Without the
3 accurate substantial evidence, they ain't got nothing, you
4 feel me. P.S. [REDACTED]-2274, Luck. Andre Bradley is Luck
5 [REDACTED]-2274. Get his address for me P.S. [REDACTED]-2274 Luck, get
6 his address for me.

7 Letter dated October the 16th. They can't put
8 me at the scene cause I was at the setting up and at the
9 room. Letter dated November the 12th 2008. I need you to
10 call this number and talk to Mr. Jack Lawson, as my
11 lawyer, tell him that you are my girl and we were at the
12 room during this time they said this occurred. You can
13 still tell them that I picked you up in a van and we went
14 to the room. But tell them that you were waiting on me at
15 your sister's house, but you left because I took too long.
16 If they ask you a time, just say you don't know what time
17 it was. But you were sleep and we was at the room sleep
18 when the report on the news said at 5:00 a.m. But anyways
19 you don't have to, but it will help me at my bond hearing.
20 You are who I was with when they found me. P.S. call Luck
21 229-2274, tell him I said to get at dude that's running
22 his mouth.

23 Letter dated February 19th 2009, anyways I got
24 my motion of discovery on yesterday, it's got a lot of
25 different stories on what happened on that day. If I see

1 you this weekend, I will tell you what they saying. But
2 your statement can hurt me in court because they saying
3 you told them it was not a taxi and that it was a young
4 dude driving. We all know these ~~are~~ coverups. You know
5 the truth. You heard the facts. The van -- there's a
6 young dude driving the van and also that you was sleep and
7 I was on the phone talking to somebody about dude, but
8 that is got to be when my phone started ringing and that I
9 left you and didn't come back until 6:00 a.m. But they
10 say dude was dead at 5:17 and the receipt from the room
11 show us checking in at 5:34, but the clerk saying he
12 didn't see me. But to cover that up, I will just tell
13 them I was smoking a cigarette. He's covering up stuff he
14 don't need to cover up. What difference does it make?
15 The only difference it makes is that he told Tim Compton
16 he walked in there and checked in with Nyrena Goodman, but
17 now he's got to cover it up. He's got bigger problems
18 than these little lies he told. He's got a murder charge,
19 that he's guilty of. He is worried about the van, the
20 taxi driver, tell them it was a taxi van, it was an old
21 dude driving.

22 Nyrena told us the truth, she said that it was a
23 young guy driving. And then there's a letter, the very
24 next letter. She told you it was a green van, but it was
25 a young guy driving. He's says no, no, no, it's a taxi.

1 It's a taxi, it's a green State Taxi van and there's an
2 old man driving. We checked it out, Sergeant Compton
3 checked it out. They didn't pick him up. Green taxi van
4 did not pick him up. The call [REDACTED]-6919, that's Gary
5 Bostic's phone number. This is the very next letter.
6 Call [REDACTED]-6919 and tell Gary that you're calling for me and
7 let him know that Eddy Barefoot said he'll take two grand,
8 \$2,000 and come get me out tell him, I mean, tell him my
9 momma need a 1,000, that's who dropped us off at the room.
10 Call Gary that's who dropped us off at the room.

11 All these letters are into evidence. Y'all gone
12 have them back there if you need to read them. Just look
13 at this evidence, it all point to one thing. It all
14 points to Gregory Daniels killing Cory Byrd, he shot him
15 in the back of the head five something in the morning,
16 been together all day. He was hired to do it and he did
17 it for a thousand dollars must have had trouble getting
18 the second \$500 because I can't imagine he called Gary
19 Bostic 40 something times in two days after the murder,
20 must have had trouble, but he did the job.

21 Andre Bradley didn't think he do it, he wasn't
22 that kind of person, he was talking about it for a month.
23 Andre says he believes he had the first 500. He's in a
24 bad spot then, these guys aren't anything to play with.
25 You take first 500, you got do it. He lied in wait, had

1 express malice. He killed a man with a .22. He knows
2 there weren't any shells there. He knows there weren't
3 any bloody clothes, he knows there ain't no gun cause he
4 knows what he did with it. Those things are probably in
5 the very place today that they were when he got rid of it.
6 We will never know.

7 What we do know beyond a reasonable doubt, we
8 are firmly convinced that that man killed Corey Byrd. You
9 taken a duty. You taken a sworn oath in this courtroom
10 today. He took it back on Monday, I believe that you give
11 a verdict that speaks the truth. And there's only one
12 verdict that speaks the truth in this case and that's he
13 is guilty.

14 And there's another he's charged with is
15 possession of a weapon during a violent crime. The judge
16 is going to tell you the crime of murder is a violent
17 crime. You heard that he was killed with a gun. You find
18 him guilty for murder, he is guilty of possession of a
19 weapon during a violent crime. He is guilty of murder.
20 He is guilty everybody's story adds up except for his. He
21 covered it up from the day he did it. He's guilty of
22 murder. Please, please take this case serious, take as
23 much time as you need to, consider all the evidence, look
24 at all the evidence that's into evidence, make your
25 decision fairly. But you are firmly convinced beyond a

1 reasonable doubt, he did it. There's no other answer in
2 this case. Please find him guilty. He killed Corey Byrd
3 and he is guilty. Thank you, very much. I appreciate
4 your attention.

5 THE COURT: Thank you, Mr. Deberry.

6 Ladies and gentlemen, we are going to take a
7 very short break, give you an opportunity if you need to
8 use the restroom and grab something to drink. This is
9 going to be just a short break, so please retire to your
10 jury room, have no conversation about the case. We will
11 get you back out here in about five minutes.

12 (WHEREUPON, the jury retire to the jury room.)

13 THE COURT: We are going to take just long
14 enough if anyone needs to use the restroom.

15 (WHEREUPON, a break was taken.)

16 THE COURT: We ready to bring the jury out?

17 MR. JEPERTINGER: Yes, sir, State's ready.

18 THE COURT: Okay.

19 (WHEREUPON, the jury came into open court.)

20 THE COURT: Ladies and gentlemen, when I sent
21 you out, I fully intended to take just five minutes let
22 you use the restroom and come back out, then it dawned on
23 me this might be a good opportunity to get your lunch
24 orders because the county is going to buy your lunch
25 today. We did take the extra time to get that done, so

1 thank you for your patience. You heard from the State
2 with their closing remarks. And at this time, we
3 recognize Mr. Lawson on behalf of the defense.

4 MR. LAWSON: May it please the Court.

5 THE COURT: Yes, sir.

6 MR. LAWSON: Mr. Jepertinger, Mr. Deberry.

7 Madam forelady and members of the jury, first of all, I
8 want to thank you for your time and attention in this
9 case. I know it's been a long situation that has taken us
10 the full duration of the week and it's taken a lot of your
11 time. But as it is a very important matter to my client,
12 Gregory Daniels, and to the State of South Carolina. And
13 as I said in opening and I want to take this opportunity
14 to thank each and every one of you for the time and the
15 effort that you put forward in this case. For without
16 people like you, our system of justice would not operate
17 and it is because of people like you, that we have
18 probably the best system of criminal justice that's ever
19 been devised by mankind in the long history that we been
20 on this earth.

21 It is only by the concept of our forefathers
22 when the government decides to make charges against an
23 individual citizen, it is only when a jury is impaneled, a
24 jury of regular people, people from the community to come
25 in listen to the evidence and then having heard the

1 evidence, being charged with the law, render a verdict
2 based on that evidence. You in effect are the judges of
3 the evidence. Your Honor is the judge of the law. He
4 will inform you of the law that applies in this case at
5 the conclusion of my argument. And then you will retire
6 to your jury room and render a verdict or a judgment if
7 you will on the evidence. Because it is only after you
8 decide that the State has brought forth evidence to prove
9 guilt beyond a reasonable doubt. The judge will charge
10 you first and foremost that any citizen in these United
11 States, in this the State of South Carolina who's accused
12 of a crime is presumed to be innocent and that presumption
13 of innocence is a real presumption. And it follows an
14 individual all the way into the jury room and the
15 presumption of innocence is not removed until you, the
16 jury, determine by the evidence beyond a reasonable doubt
17 that the State has proven their case beyond a reasonable
18 doubt that the accused is guilty of the crimes.

19 Now, the judge will charge you in relation to
20 the presumption of innocence. He will charge you in
21 relation to the burden of proof that being beyond a
22 reasonable doubt. And in other words, the State must
23 bring forth evidence that convinces you of the guilt of
24 the accused and that the defendant, Gregory, has no burden
25 of proof whatsoever. It is not incumbent upon a citizen

1 to come into court and prove that they didn't do
2 something. For that, ladies and gentlemen, is an
3 impossible burden in a lot of cases. And in most
4 circumstances, it is difficult, if not impossible, to
5 prove you didn't do something. So instead of requiring an
6 individual citizen to prove such a ridiculous presumption
7 as that, our forefathers decided that the government would
8 be required to bring forth evidence to prove guilt that
9 firmly convinces the jury, firmly convinces the jury of
10 guilt. If you are not firmly convinced by this evidence,
11 firmly convinced, if you are not firmly convinced, then
12 the defendant, Gregory Daniels, is entitled to a verdict
13 of not guilty by your oath.

14 On the other hand, if the government had brought
15 forth evidence in this case that firmly convinces you of
16 the guilt of the accused, then the State is entitled to a
17 verdict of guilty at your hands, that is your duty to
18 judge the evidence and to hold it under the most stringent
19 burden of proof that we have in the law and that's beyond
20 a reasonable doubt. And no citizen will ever be found
21 guilty of any crime until a jury finds and judges the
22 evidence to that degree. You must be convinced firmly of
23 the guilt of Gregory Daniels by the evidence, not by
24 supposition, not by what we wish it would be, not by some
25 whim or fanciful situation. It's a -- has to be a firmly

1 convinced position that you hold that the State has proven
2 guilt firmly.

3 Now, I listen to the case. I listen to the
4 evidence. I listen to the arguments. We will hear the
5 charge. It seems to me that the government is looking at
6 different evidence than I have observed in this trial.
7 Number one, I see no physical evidence. There is none.
8 The exact same evidence that they had September the 5th of
9 2008, the same evidence that was presented to you a beer
10 can, a body, some blood drippings at the scene, cell phone
11 and that's it. There is no gun. There is no bloody
12 clothes. There is no DNA evidence matching Gregory
13 Daniels to anything that was recovered in and around this
14 scene.

15 Now, you have to judge the evidence and you can
16 be firmly convinced or not firmly convinced by the
17 evidence or by the lack of evidence. There's also a
18 concept in the law that if missing evidence can rise to
19 the level of a reasonable doubt, if there is evidence
20 that's not in the record, that evidence also can lead to a
21 reasonable doubt. So when I ask the DNA expert about DNA
22 because if you recall, there was unidentified DNA in
23 certain aspects of the case that they found. They could
24 match some to Corey Byrd. None was match to Gregory
25 Daniels. Some was to an unidentified individual. Never.

1 was the data base consulted that we know of to determine
2 who that person was or if there was another person that
3 could have been identified from that evidence information.
4 They had a data base, you heard that testimony. They had
5 a data base with fingerprints. They had a data base with
6 DNA. They had a data base with bullets. All of which is
7 there for the purpose of identifying unknown samples. Did
8 we have unknown samples in this case? Yes. Were they
9 submitted to the data base to determine who those samples
10 maybe? No. Or we don't know. We know that there was no
11 identifications made. To our understanding and from what
12 we heard, none of the data bases were consulted. But why
13 is that important? Because when you have two DNA's, one
14 of which is identified and one of which is not and the one
15 that's identified is Corey Byrd in this case. Then it is
16 extremely important to know who that other one belongs to.
17 And we know it doesn't belong to Gregory Deleon Daniels,
18 we know that. We know that.

19 The government in this case taking that paint
20 can that we heard so much about and they flashing that
21 paint up on the wall. And they're standing back and they
22 are watching it run down the wall. And when it gets to
23 the bottom, they looking back up there and they're saying
24 isn't that a beautiful picture of Gregory Daniels we just
25 painted for you. And that's exactly what they want you to

1 do, exactly what they want you to do because there is no
2 real evidence.

3 We have a federal inmate someone charged with a
4 federal drug violation that carries what he assumes to be
5 20 to life. After finding out that he was charge with a
6 crime that carry 20 to life, he began investigating ways
7 that he could help himself. One way he could help himself
8 apparently was to give information on somebody else. It
9 just so happens that someone he knows is charged with
10 murder and all of a sudden that person confess to him.
11 And that confession, ladies and gentlemen, is the only
12 evidence in this case that links Gregory Daniels to this
13 crime. The letter -- you take that -- we will talk about
14 that in a little bit, but all -- as far as this crime,
15 this crime, it happen on September the 5th 2008.

16 One piece of evidence and it is a guy that's
17 looking at life, possible life in prison looking for a
18 deal with the government that comes in and tells you that
19 the defendant Gregory Daniels confess to him before the
20 crime even happened that he was gone get paid for killing
21 someone we see no money. Nobody testifies about anybody
22 having any money. Nobody testifies about anybody paying
23 any money or anybody having any money. None of that --
24 all of that is left out. We do know that this individual
25 was supposedly told the victim was shot and it was three

1 shots fired. Only one was heard, only one wound. But our
2 informant tells us three shots. Our informant tell us he
3 doesn't have a deal, but he wouldn't go so far as to say
4 he didn't think he might get a deal and that he was
5 looking for a deal. That evidence does not rise to the
6 firmly convinced letter to convince you of a crime so
7 horrible as murder. Why would somebody write a letter and
8 ask someone to call me? My name is on the letter because
9 I am a lawyer. Why and what inference would be drawn from
10 the fact that I am a lawyer and people know things about
11 their case. They know evidence. They know what's there,
12 what's not there, just use your common sense as to how
13 those things happen. You have a lawyer, your lawyer's
14 working on your case, you would assume you have interviews
15 and those kind of things. So it is not a big mystery, but
16 the State would have you wonder, Well, why in the world
17 would somebody write a letter like that. How they know?
18 How they know what evidence they have. They know it
19 because they did it. No they know it because they have a
20 lawyer, that's no big trick. It's just like everything
21 else in this case. It is a house of cards. It is paper.
22 It does not stand the test of critical judgment. Bostic
23 supposedly paid someone to hit someone, he is never
24 interviewed. He is never accused. He is never
25 confronted. Do we know if he even had a vehicle matching

1 the description that the State poses as being his vehicle.
2 There's records at the highway department of the vehicle
3 and ownership, that could have come into evidence. The
4 lack of evidence, the lack of evidence, the lack of what
5 they are suppose to do in order to get a verdict of
6 guilty. They must be held to their burden of proof. They
7 must be held.

8 The government they're our friend. They make so
9 much about it is dangerous for what Mr. Informant did to
10 come in and testify. Who he's scared of? I submit the
11 person that has him charged, that has him dressed in that
12 uniform is the one that has him up here testifying, the
13 government. He may be more afraid of the government than
14 he is about any individual out in the street. It is the
15 government that's holding life in prison over his head.
16 Not any individual, not any of us. We don't have that
17 power or that authority, but the government does. So he's
18 afraid, but I submit, he's afraid not of Gregory Daniels,
19 obviously, came in and testified against Gregory Daniels.
20 He's afraid of the government and what they may do, what
21 they will do. They've already done.

22 He has three prior convictions for drugs in
23 state court. And now he's in federal court on drug
24 charges, major drug violation if I remember. That's
25 extremely dangerous for him as far as the rest of his life

1 is concern. He had to do something to help himself. Is
2 he above fabricating something? Three shots that should
3 tell you. That should tell you. The call in the morning
4 nowhere documented. Supposedly, there's a call, he
5 testified from his own mouth there was a call early in the
6 morning, no where documented, that call is not documented.
7 There's a call in the afternoon, 5:30 in the afternoon was
8 it unusual for Gregory Daniels to come to your house, no.
9 He came there a lot, came there regularly. That's not
10 unusual in the afternoon. The morning would have been
11 unusual apparently, there's no more phone call,
12 documentation, lack of evidence. My client is charged
13 with one of the most serious crimes you can be charged
14 with. In order to convict him, make the government bring
15 the evidence to this courtroom and show it to you beyond a
16 reasonable doubt. Do not into fall into a fanciful
17 situation of believing everything or anything that they
18 want you to believe, look at the evidence critically,
19 harshly and judge it. And judge it with the presumption
20 of innocence always in mind. Always in mind for you, the
21 citizen, we, the citizen, have a right to believe that we
22 will be judged by that standard, that we will not be
23 convicted unless there's evidence that proves guilt beyond
24 a reasonable doubt.

25 Let me ask you, it is amazing to me the State

1 says, okay, there were fights at the cookout, but Gregory
2 Daniels never had a fight with anybody. He had a
3 disagreement with Corey Byrd and that disagreement
4 escalated into murder. But if you don't believe that,
5 then believe our informant who says a month earlier way
6 back here in sometime in September and to August back here
7 in August he's already planning to kill Corey Byrd over
8 here sometime in September. As a matter of fact, he takes
9 500 over here as a down payment. So if you don't believe
10 that, then you can always come back over here and believe
11 that the murder was because they had an argument. See
12 because I'm going to tell you something, if you believe
13 this story over here that he got \$500 here to commit this
14 crime over here, then you can't believe that there was any
15 arguments at that cookout. Who in their right mind would
16 plan a murder and get in an argument with the guy not
17 once, not twice, but all through the evening in front of
18 everybody that's there up to 80 or 100 people knowing,
19 knowing that later that night you gone off the guy. Who
20 in the world would do that? Why would you plan a paid for
21 killing go and create witnesses that you had conflicts
22 with the person. Why would you do that? You would sit
23 back and let everybody else argue with the guy all they
24 wanted to because everyone that argues with him is a
25 suspect. They would be if I were investigating the case.

1 That's why I want to know where are some of these people.

2 You know, it's interesting Miss Gass asked -- is
3 asked who was arguing, Cooper had an argument. Well, no
4 it was Mr. Daniels had an argument. No, no, sir, it was
5 Cooper. Mr. Daniels was talking to Cooper. Cooper was
6 arguing with Corey Byrd. Cooper was arguing with Corey
7 Byrd, not my client, not Gregory. She's repeatedly said
8 that. They wanted her to say that Gregory Daniels was
9 arguing with Corey Byrd at that particular instance, but
10 it wasn't. It was Cooper that was arguing with him.
11 Would Cooper not be -- sounds like they had a pretty
12 heated argument over somebody had stolen Mr. Cooper's car
13 I believe. Two groups of people get in a fight, a fight
14 so vicious that they pull hand guns on each other.
15 Mr. Byrd breaks that up. Neither one of those sides
16 presumably mad enough to seek any retribution as a result
17 of that interference in their conflict.

18 Fish fry didn't hear anything about it except
19 that it happened. There was a fish fry. Well, how do we
20 know or not know whether there were any arguments at the
21 fish fry. Apparently arguments follows Mr. Byrd around.
22 He certainly had a number of them on this particular
23 evening and not just with Gregory Daniels. What about the
24 fish fry were there any arguments there? What about Gary
25 Bostic? Was he not interviewed? Why not? It's another

1 Bostic that wasn't interviewed. It's a lot of things that
2 cause you to question this evidence. There's a lot of
3 things that are missing. There are a lot of things that
4 don't add up. Okay, you write a letter and you tell your
5 girlfriend to contact your lawyer, that's a horrible
6 thing, I guess. Why would you tell the police this, this
7 and this, look at what's happened. You're a poor black
8 man and you're charged with murder. Where were you every
9 minute of the day? Don't use times, why not? Because
10 most people don't pay attention to times tell you the
11 truth. I can tell you about what time I got to work
12 today. But I didn't punch a clock and I don't know what
13 time it was exactly when I got to work. But if something
14 had happened last night and I were interviewed by the
15 police, they would want to know what time I got to work
16 today. And would I tell them 7:45, 7:46, 7:48 and a half.
17 No, I wouldn't tell them that because I know. And that's
18 what they like to do in questioning is get you to commit
19 to something as inconsequential as it may be a time. And
20 then go back and say you lied about that. You know at
21 7:45 and a half you were standing at your car at the
22 complex, we got a picture of that. All of sudden I am a
23 liar because I didn't tell them the right time. The only
24 scrutiny in this case, the only scrutiny in this case is
25 placed on that man, Gregory Daniels. Nobody else got

1 scrutiny that he got. If anybody else had it, they may
2 well be sitting in this courtroom today. Cause I submit
3 to you, there's no evidence, real evidence that Gregory
4 Daniels did anything. And his girlfriend said an
5 interesting thing on the witness stand, an interesting
6 thing. She said, I guess, I was his alibi. That did not
7 seem like a term that she would just pronounce. It seemed
8 as though it was something that had been said to her or
9 recommended to her. She had been threatened with arrest.
10 She too had been threatened to be arrested. By the way,
11 the informant had also been told he may be charged with
12 this offense.

13 MR. DEBERRY: Objection, Your Honor, that is not
14 into evidence.

15 MR. LAWSON: Well, I'll quite the argument then,
16 I thought he did admit that.

17 THE COURT: Just argue the facts that are in
18 evidence.

19 MR. LAWSON: If I say anything that disagrees
20 with what you remember from the evidence, please go with
21 what you remember. I'm not trying to mislead you. You
22 know, beauty is in the eye of the beholder I've heard. So
23 when I look at something, I may see it one way and when
24 you look at something you may see the other, that doesn't
25 mean you are lying or I am lying. That means you may be

1 seeing something one way and I may be seeing it the other
2 simply because of our background, our training, our
3 learning, the way we look at things. Our prejudice, our
4 bias things that we come up with the way grow up. We may
5 be looking at things differently. So please, please you
6 are called on to be a collective unit. There's 12 of you
7 to have one mind working in conjunction. You will work
8 together and your verdict will come out and it be will one
9 verdict for all 12 of you, must be unanimous. If you
10 can't reach a verdict, then there would not be a verdict.
11 If it's 11 to one, it wouldn't be a verdict. The verdict
12 means in of part -- a verdict means that all of you have
13 to agree, so you all must agree. So please the evidence
14 is what you judge. And you judge it based on your good
15 common sense not, mine not Mr. Deberry or Mr. Jepertinger
16 or Mr. Compton but yours. And you look at it in your good
17 common every day sense of life and general how you conduct
18 yourself. And you look and see if there's evidence in
19 this case that proves guilt beyond a reasonable doubt or
20 if anything again, your verdict is guilty. But if you are
21 not firmly convinced by the evidence and not by the
22 supposition that I may draw or someone else may wish to
23 draw supposition what you judge that evidence to be. If
24 you are not firmly convinced, if you're not convinced
25 beyond a reasonable doubt, if you're not convinced to a

1 moral certainly, if you are not convinced beyond every
2 reasonable doubt, firm, you got evidence that you can grab
3 onto and firmly convinces you of guilt, that's one thing.
4 But if you don't, if there's anything that anything in the
5 evidence or the lack of evidence that causes you to doubt,
6 then the defendant is entitled to a verdict of not guilty.

7 I ask you to look at this evidence. I ask you
8 to judge it and judge it critically. I ask you to use
9 your good common sense. I ask you to please remember that
10 the government must prove a citizen guilty and they must
11 prove it beyond a reasonable doubt. They must prove to
12 you the evidence and they have to bring it forward and
13 they can't bring it forward by if and ands or by this must
14 have happen so nothing else could, it's not that way.
15 They have to prove what they say about you, I or citizens,
16 that's what makes this country so great. I rely on you
17 now to judge the evidence, judge the evidence. Thank you.

18 THE COURT: Thank you, Mr. Lawson.

19 Ladies and gentlemen, I come down here to give
20 you the charge on the law. When we started this case, as
21 I told you you are the judges of the facts of the case and
22 I am not to have any involvement in that at all. So it's
23 been appropriate that I have been on the bench out of the
24 way, out of the area here where the attorneys have been
25 presenting evidence to you because the evidence and the

1 weight that you give the evidence is solely for your
2 decision. But we have reached the point of the trial
3 where you and I are in this together. You as the judges
4 of the facts and me as the judge of the law. So it's just
5 more appropriate to come and be with you to give you the
6 charge on the law.

7 Madam forelady, this -- I am going to read this
8 charge directly from my charges here. I'm not going to ad
9 lib it, I'm going to read it to you directly and I put it
10 in this notebook and I'm going to send this back into the
11 jury room so you will have this in your jury room, but I
12 would ask that you to please give me your close and
13 undivided attention as I tell you the law that is
14 applicable to this case.

15 Madam forelady and members of the jury, you have
16 heard all of the evidence and heard arguments of both
17 parties. I will now explain to you the law which applies
18 to this action. The indictment charges the defendant
19 Gregory Daniels with the charge of murder and possession
20 of a weapon during the commission of a violent crime. I
21 remind you that the fact that the defendant was arrested,
22 charged and indicted in this case is not evidence in this
23 case and it cannot be considered by you as evidence of
24 guilt in this case. Nor does it create any presumption or
25 inference of guilt. The indictment is simply the formal

1 written instrument which contains the charge made against
2 the defendant. It is the formal document by which this
3 case is brought into this court. The defendant has pled
4 not guilty to this indictment and this charge -- to this
5 indictment and the charges and that plea puts the
6 defendant excuse me -- that plea puts the burden of proof
7 on the State of South Carolina to prove the defendant
8 guilty. A person charged with committing a criminal
9 offense in South Carolina is never required to prove him
10 or herself innocent. I charge you that it is an important
11 rule of law that the defendant in a criminal trial no
12 matter what the seriousness of the crime may be will
13 always be presumed to be innocent of the crime for which
14 the defendant was issued -- for which the indictment was
15 issued unless guilt has been proven by evidence satisfying
16 you of that guilt beyond a reasonable doubt. This
17 presumption of innocence does not end when you begin your
18 deliberations. But it accompanies the defendant
19 throughout the trial until you reach a verdict of guilt
20 based on evidence satisfying you of that guilt beyond a
21 reasonable doubt. The presumption of innocence is not a
22 mere legal theory. It is not just a legal phrase, but it
23 is a substantial right to which every defendant is
24 entitled unless you, the jury, are satisfied from the
25 evidence of the defendant's guilt beyond a reasonable

1 doubt.

2 So what is a reasonable doubt in the law? A
3 reasonable doubt is the kind of doubt that would cause a
4 reasonable person to hesitate to act. The State has the
5 burden of proving the defendant guilty beyond a reasonable
6 doubt.

7 Now, some of you may have served as jurors in
8 civil cases where you were told that the only -- that it
9 is only necessary to prove that a fact is more likely true
10 than not true such as by the greater weight or the
11 preponderance of the evidence. In criminal cases, the
12 State's proof must be more powerful than that. It must be
13 beyond a reasonable doubt. Proof beyond a reasonable
14 doubt is proof that leaves you firmly convinced of the
15 defendant's guilt.

16 Now, there are very few things in this world
17 that we know with absolute certainty. And in criminal
18 cases, the law does not require proof that overcomes every
19 possible doubt. If based on your consideration of the
20 evidence you are firmly convinced that the defendant is
21 guilty of the crime charged, you must find the defendant
22 guilty. If on the other hand, you think there is a real
23 possibility that the defendant is not guilty, you must
24 then give the defendant the benefit of that doubt and find
25 him not guilty.

1 I remind you that during this trial you and I
2 have certainly duties to perform. As the trial judge, it
3 is my responsibility to preside over this trial and I also
4 have the responsibility and the duty to rule on the
5 admissibility of the evidence that is offered during this
6 case. You are to consider only the competent evidence
7 that is before you. You are to consider only the
8 testimony which has been present from the witness stand
9 and any exhibits which may have been part of the record in
10 this case and any stipulations or agreements of counsel.
11 I have the additional duty to charge you the law that is
12 applicable to this case.

13 As the presiding judge, I am the sole judge of
14 the law of this case and it is your duty as jurors to
15 accept and to apply the law as I now state it to you. If
16 you already have an idea as to what the law is or what the
17 law ought to be and it does not agree with what I now tell
18 you the law is, you must abandon your idea because you are
19 sworn to accept the law and to apply the law exactly as I
20 state it to you. In every case tried in this court before
21 a jury, the jury becomes the sole and the exclusive judge
22 of the facts of the case. A trial judge can intimate,
23 state, comment on or make any statement to a trial jury
24 about the facts in a case.

25 Since, you, the jury, are the sole judge of all

1 the facts in this case, you are not to infer from what I
2 have said during the progress of this trial in ruling upon
3 the admissibility of evidence or otherwise or anything
4 that I say now during the course of this instruction to
5 you that I have any opinion about the facts in this case.
6 The law does not allow me to have an opinion about the
7 facts in this case. This is a matter solely for you, the
8 jury, to determine. As jurors it is your duty to
9 determine the affect, value, weight and truth of the
10 evidence presented during this trial.

11 Now, there are two types of evidence which are
12 generally presented in a trial. There's direct evidence
13 and there's circumstantial evidence. Direct evidence is
14 the testimony of a person who claims to have actual
15 knowledge of a fact such as an eyewitness. It is evidence
16 which immediately establishes the main fact to be proven.
17 Circumstantial evidence is proof of a chain of facts and
18 circumstances indicating the existence of a fact. It is
19 evidence which immediately establishes collateral facts
20 from which the main fact may be inferred. Circumstantial
21 evidence is based on inference and not personal knowledge
22 or observation.

23 Now, the law makes absolutely no distinction
24 between the weight or value to be given either to direct
25 or circumstantial evidence. Nor is there a greater degree

1 of certainty required of circumstantial evidence then of
2 direct evidence. You should weigh all of the evidence in
3 this case. After weighing all of the evidence if you are
4 not convinced of the guilt of the defendant beyond a
5 reasonable doubt, you must find the defendant not guilty.
6 However, if after weighing all of the evidence, you are
7 convinced of the guilt of the defendant beyond a
8 reasonable doubt, then you must find the defendant guilty.
9 Necessarily, you must determine the credibility of
10 witnesses who have testified in this case. And
11 credibility, ladies and gentlemen, simply means
12 believability. It becomes your duty as jurors to analyze
13 and to evaluate the evidence and to determine which
14 evidence convinces you of its truth. In evaluating eye
15 witness testimony, you should remember that the State must
16 prove the identity of the defendant as the person who
17 committed the crime beyond a reasonable doubt. In
18 determining the believability of witnesses who have
19 testified in this case, you may believe one witness over
20 several witnesses or several witnesses over one. You may
21 believe a part of the witness' testimony and reject the
22 remaining part of a witness' testimony. You may believe
23 the testimony of a witness in its entirety or reject the
24 testimony of a witness in its entirety. You may consider
25 whether any witness in this case is exhibited to you any

1 interest, bias, prejudice or some other motive that is in
2 this case. You may also consider the appearance and the
3 manner of a witness while on the witness stand.

4 Now, a person who has a past criminal record is
5 competent to testify during a trial. A past record does
6 not affect the ability of that witness to testify. The
7 past record may only be considered by you if at all in
8 determining the witnesses believability. Remember you are
9 the sole judges of the facts in this case and of the
10 believability of any and all of the witnesses who have
11 appeared in this trial.

12 Now, the rules of evidence ordinarily do not
13 allow or permit a witness to testify to opinions or
14 conclusions. There's an exception to this rule that exist
15 for witnesses that we call expert witnesses. A witness
16 who by education and experience has become an expert in
17 some art, science, profession or calling may state an
18 opinion as to relevant and material matter in which the
19 witness claims to be an expert and may also state the
20 reasons for that opinion. You should consider any expert
21 opinion received in evidence in this case and like any
22 other evidence give it the weight that you feel it
23 deserves. If you decide that the opinion of an expert
24 witness is not based on sufficient education and
25 experience or if you conclude that the reasons given in

1 support of the opinion are not sound or that the opinion
2 is outweighed by other evidence, you may disregard the
3 opinion entirely.

4 On the other hand, if you decide that the
5 opinion of an expert witness is based on sufficient
6 education and experience or if you conclude that the
7 reasons given in support of the opinion are sound, then
8 you may accept that opinion in its entirety. An expert
9 witness' testimony is to be given no greater weight than
10 that of other witness simply because the witness has been
11 classified as an expert. And further you are not required
12 to accept an expert's opinion even though it is not
13 contradicted.

14 Now, a statement allege to have been made by the
15 defendant has been admitted into evidence in this case.
16 While the Court has determine that the statement is
17 admissible, I instruct you that you make the ultimate
18 decision of whether or not the defendant made the
19 statement. If the defendant did make the statement, you
20 must determine whether the statement was made by the
21 defendant voluntarily or of his own freewill. This means
22 that the statement was not caused by pressure, force,
23 fear, threats or coercion or intimidation or by hope or a
24 promise of leniency or a reward of any kind.

25 In determining whether the statement was

1 voluntary, you should consider both the characteristics of
2 the defendant and the details of the questioning. Some of
3 the factors that you must consider are the age of the
4 defendant, the defendant's education or lack of education,
5 the defendant's mental ability or capacity, the
6 defendant's IQ or intelligence, the defendant's background
7 and environment, the place and the length of detention,
8 the nature of the questioning, and the advice or lack
9 thereof of the defendant -- or to the defendant of his
10 Constitutional Rights including but not limited to the
11 right to remain silent, that any statement could be used
12 against him in a court of law. The right to have a lawyer
13 present. That if he could not afford a lawyer, a lawyer
14 would be appointed to represent him without any cost. And
15 that he could stop making a statement at any time. You
16 must carefully consider all of the surrounding
17 circumstances before you give any weight to an alleged
18 statement. The State has the burden of proving beyond a
19 reasonable doubt that the allege statement was voluntary.
20 If you determine it was, you may give the statement any
21 further consideration that you deem proper. You must
22 decide what if any weight should be given to the allege
23 statement. If you determine the allege statement was not
24 free and voluntary statement of the defendant, you should
25 not consider the statement at all.

1 Now, I instruct you and I emphasize that the
2 fact that the defendant did not testify is not a factor to
3 be considered by you in anyway in your deliberation and in
4 your consideration on the question of the guilt or
5 innocence of the defendant. It must not be considered by
6 you in any manner whatsoever. A defendant has a
7 Constitutional Right to remain silent. And the assertion
8 of this right must not be considered by you in your
9 deliberations. I repeat under your oath you are to draw
10 no conclusions whatsoever from the fact that the defendant
11 in this case did not testify. The fact that this
12 defendant did not testify should not even be discussed in
13 the jury room. The burden of proof as I stated to you is
14 on the State. The defendant is not required to prove his
15 innocence. The burden of proof remains on the State to
16 prove guilt beyond a reasonable doubt.

17 Now, Mr. Gregory Daniels is charged with the
18 crime of murder. The State must prove beyond a reasonable
19 doubt that the defendant killed another person with malice
20 aforethought. Malice is hatred, ill will or hostility
21 toward another person. It is the intentional doing of a
22 wrongful act without just cause or excuse and with the
23 intent to inflict an injury or circumstances or under
24 circumstances that the law will infer an evil intent.
25 Malice aforethought does not require that malice exist for

1 any particular time before the act is committed. But
2 malice must exist in the mind of the defendant just before
3 and at the time of the act that is committed. Therefore,
4 there must be a combination of the previous evil intent
5 and the act itself.

6 Malice aforethought may be expressed or
7 inferred. These terms expressed and inferred do not mean
8 different types of malice, but merely the manner in which
9 malice may be shown to exist, that is either by direct
10 evidence or by inference from the facts and circumstances
11 which are proved. Express malice is shown when a person
12 speaks words which express hatred or ill will for another
13 or when the person prepared beforehand to do the act which
14 was later accomplish. For example, lying in wait for a
15 person or any other acts of preparation going to show that
16 the deed was within the defendant's mind would be express
17 malice. Malice may be inferred from conduct showing a
18 total disregard for human life. The defendant is also
19 charged with possession of a weapon during the commission
20 of a violent crime.

21 The State must prove beyond a reasonable doubt
22 that the defendant was in possession of a firearm or
23 visibly display what appeared to be a firearm during the
24 commission of a violent crime. A firearm means any
25 machine gun or automatic riffle, revolver, pistol or any

1 weapon which is design to or may be readily converted to
2 expel a projectile. In order to find the defendant guilty
3 of possession of a weapon during the commission of a
4 violent crime, you must first find that the defendant was
5 guilty of either committing a violent crime or attempting
6 to commit a violent crime. Under South Carolina law,
7 murder is classified as a violent crime.

8 Now, madam forelady and ladies and gentlemen, as
9 you retire to begin your deliberations, I wish to express
10 to you the hope that each of you will be mindful of the
11 importance of your responsibility. You are not called to
12 serve as jurors very often. And the proper performance
13 of the duty requires each of you to reach the hithe of
14 freeing your mind of all improper influences. You and I
15 are acting for the community and that is why we must see
16 to it that this trial is fair and that the verdict is
17 just.

18 You have observed that the presiding officer of
19 this court is always addressed as Your Honor. Well, the
20 reason is not because of the person wearing this robe, but
21 that this court is entrusted with the honor of this
22 community, the honor of this state, and honor of this
23 country in seeking that every case that is tried here
24 receives fair and impartial justice. And do not get the
25 idea that I'm trying to intimate to you how I might think

1 you should decide this case. As I've already told you
2 under the laws of the State of South Carolina, you, the
3 jury, are the sole judge of all questions of fact. It
4 will be highly improper for me to influence you in the
5 performance of that duty. But as the presiding officer of
6 this court, I am vitally concern that whatever your
7 verdict that you find will be the result of your going
8 into the jury room, confining your consideration to the
9 evidence, and to the law that you have in this courtroom
10 weighing it fairly and impartially as I have every
11 confidence you will do.

12 Your verdict in this case is not to be based on
13 sympathy, compassion, prejudice or some other emotion or
14 other consideration that is not found in the evidence.
15 This court is of the confirmed opinion that whatever
16 verdict you reach will represent truth and justice for all
17 parties that are involved in this case. Madam forelady,
18 remember that the jury's verdict must be unanimous, all of
19 you must agree on the verdict.

20 Now, as I told you, I'm going to send this
21 notebook back into the jury room with you and in the front
22 cover of the notebook is the verdict form. Madam
23 forelady, you will be in charge of the verdict form. And
24 the verdict form is very simple, it just -- it list the
25 caption of the case. And then as to the count of murder,

1 you will either find that the defendant is not guilty or
2 guilty. And if you find -- next is the possession of a
3 weapon during the commission of a violent crime. And
4 again two options are either guilty or not guilty. You
5 are to make no inference from the order which the verdict
6 forms are listed. It's just any time that you list more
7 than one item, you have to list one before the other, so
8 there's no significance in anyway to how these items are
9 listed just that they are on the verdict form.

10 Now, ladies and gentlemen, I am going to ask you
11 to step into your jury room and I hope and I don't know
12 for sure, but I hope for the last time I am going to send
13 you in there and I'm going to ask you do not talk about
14 the case yet. Because what I'm going to do is I'm going
15 to ask you to step in the jury room. I'm going to review
16 quickly with the attorneys if I have covered everything in
17 the law that needs to be covered. If there's anything
18 that I have admitted or left out or I need to change, I
19 will bring you back out and I will charge you on that. If
20 the charge is in fact complete and done, then I'll gather
21 the exhibits which came into evidence during the course of
22 the trial and I'll send those exhibits and this notebook
23 into the jury room.

24 Madam forelady, when the exhibits and the
25 notebook are sent into the jury room, that's going to be

1 your que to begin deliberations. And at that point, you
2 may begin your deliberations. I am going to get you to
3 begin your deliberations once you receive these items and
4 then as soon as your food gets here, we'll send that in to
5 you and you can eat. Whether you want to eat and continue
6 deliberating or whether you want to break deliberations
7 and eat and then start back, that's up to y'all to decide.
8 But we will send your food in as soon as it arrives. So
9 if you would please retire to your jury room and do not
10 begin your deliberations until you receive the exhibits in
11 this notebook.

12 (WHEREUPON, the jury retire to the jury room.)

13 THE COURT: Are there any exceptions or
14 objections to the Court's charge by the State?

15 MR. JEPERTINGER: No, sir.

16 THE COURT: Any by the defense other than what
17 we discussed during the...

18 MR. SMITH: That's all, Your Honor.

19 THE COURT: All right. Gentlemen, if y'all
20 would, come look through these exhibits and go over them
21 with Keshia to make sure that everything that's suppose to
22 go back does and anything that's not suppose to doesn't.

23 (WHEREUPON, the jury began deliberations at
24 12:23 p.m.)

25 THE COURT: Ma'am, I want to thank you for your

1 serving on this case. Unfortunately, and I tell this to
2 all the alternates. An alternate is a tough position to
3 be in because you have to be here. You have to hear
4 everything, you got to listen to everything. You got to
5 be ready because as you saw from this case, we lost one of
6 our main jurors and we had substitute one of the two
7 alternates. And so in this case, it was Mr. Roberts, so
8 it was necessary to hear everything and to be posed to
9 everything because he's now part of the main panel. If we
10 would have lost another juror, then you would have been
11 substituted in. So the alternates is kind of like that
12 football player that practices all week and then when it
13 comes time to play, the coach want let him play, okay.
14 But it does seem that everybody is healthy and ready to
15 continue, so I'm going to excuse you. You ordered
16 something? You welcome to stay and get it or you can go
17 and we will take it, whatever you want to do. But thank
18 you for your service.

19 (WHEREUPON, the alternate is excused.)

20 (WHEREUPON, court in recess while the jury
21 deliberates.)

22 THE COURT: I'll read the question to them to
23 let them know I understand the question, but that this is
24 an issue dealing with the facts or the testimony during
25 the course of the trial. And that I cannot comment on the

1 facts, that they have to take the facts as they heard
2 them. That I can replay certain testimony if they in fact
3 want to hear that, but as far as answering this question,
4 I can't answer this question.

5 MR. JEPERTINGER: Right. And the bumming of the
6 cigarette as I understand it would have been Shavonne
7 Gass' testimony?

8 THE COURT: Is that your recollection, Jack?

9 MR. LAWSON: What it seem to me they're asking
10 is did these people leave before or after that, so I don't
11 think that is necessarily her testimony.

12 THE COURT: I don't know if that came from her
13 or if it came somebody else.

14 MR. JEPERTINGER: I know in terms of bumming the
15 cigarette probably -- didn't it, Steve?

16 MR. DEBERRY: It came from her.

17 MR. JEPERTINGER: It came from her.

18 MR. LAWSON: I'm talking about what the question
19 is did those people leave before or after.

20 THE COURT: Well, I can't answer that. I can
21 just tell them that if they know of certain testimony they
22 like to rehear, it can be replayed. But I can't, you
23 know, answer the question for them.

24 All right. Miss Joe, ask the jury to join us.
25 Just mark this a Court's Exhibit please.

1 (WHEREUPON, Court's Exhibit No. 1 was marked for
2 the record.)

3 (WHEREUPON, the jury came into open court at
4 12:56.)

5 THE COURT: Ladies and gentlemen, I received
6 your note and I'm going to address that too. But just to
7 kind of give you a heads up on my understanding also is
8 that the van is arriving with your lunch, so that's not
9 far off. Let me tell you, I did receive your note and the
10 question that I have is did Evans and Petterson leave
11 before or after Miss Gass bummed a cigarette from
12 Mr. Daniels? Let me say, what you've asked is a question
13 concerning the facts in the case. And I'm not allowed to
14 make any comment on or answer any questions of fact. So
15 the short answer is I'm not able to answer that question
16 for you. However, what I can tell you is this, if you
17 know or feel, you know, from what witness that information
18 came from, I do have -- we do have the capability to play
19 back testimony. So that if there's certain testimony that
20 you would like us to play back, you know, within the
21 witness' that testified, we can play back their testimony.
22 And so if you have that request, you can talk about it and
23 I can do that. But as far as me actually answering this
24 question for you, I'm not able to answer questions of
25 fact. You either need to go off of your recollection of

1 the testimony or you can request certain portions of
2 testimony to be replayed and I can do that for you, okay.
3 I know that's not really satisfactory to your question,
4 but that is all that I can do for you. So keeping that in
5 mind, I'm going to ask you to go back into your jury room
6 and continue your deliberations please.

7 (WHEREUPON, the jury retire to the jury room at
8 12:58 to continue deliberations.)

9 THE COURT: All right. Any exceptions or
10 objections to the Court's response to the jury's question
11 from the State?

12 MR. JEPERTINGER: No, sir.

13 THE COURT: Anything from the defense?

14 MR. LAWSON: Not from the defense.

15 THE COURT: If they send something out, I'll
16 certainly give y'all a heads up, but I'm also
17 understanding that their food is here, so they may -- I
18 don't know how they are going to handle it. They may take
19 a break and eat.

20 (WHEREUPON, court in recess while the jury is
21 deliberating.)

22 THE COURT: All right. Let me have your
23 attention, ladies and gentlemen, I stand here as y'all do
24 that, all I know is that the jury has a verdict and I
25 don't know what it is. But whatever it is, there's no

1 doubt about this that one side will be pleased with the
2 verdict, the other side will not. So that's true with
3 every case, so what I want you to understand though is
4 this the jury when they were selected, they were selected
5 because of their -- at least what the attorneys felt was
6 their ability to be fair and impartial. So I can assure
7 you that whatever the verdict is, it was arrived at in a
8 fair and impartial manner and there's nothing personal
9 involved in it. So you need to understand that and you
10 need to understand that they deserve to have their verdict
11 received in a professional manner. It is okay to disagree
12 with the verdict, but what is not okay is for you to react
13 loudly or openly. If -- in other words bottom line is,
14 I'm not going to tolerate any outburst. If there's anyone
15 that cannot control their emotions and keep quiet, then I
16 would suggest that you leave now and someone will let you
17 know what the verdict is because the thing is if there are
18 any outburst or any showing to the jury that you
19 disapprove of their verdict or you greatly approve of it
20 either way, then I'm going to have the officers take you
21 into custody and take you to Effingham, just not going to
22 do it. The jury has worked hard this week. Whether you
23 agree or disagree with their verdict, it is imperative
24 that their verdict is received in a professional manner.
25 So again, if you don't think you can do that or if you

1 think you might not be able do that, you need to step out
2 now and save yourself a trip to Effingham. All right.

3 State ready to receive the jury's verdict?

4 MR. JEPERTINGER: State's ready, Your Honor.

5 THE COURT: Defense ready?

6 MR. LAWSON: Defense is ready.

7 THE COURT: Mr. Propps, if you would please have
8 the jury join us.

9 (WHEREUPON, the jury came into open court at
10 2:41 with a verdict.)

11 THE COURT: All right, madam forelady, has the
12 jury reached an unanimous verdict, ma'am?

13 JUROR: Yes, we have.

14 THE COURT: All right. If you would please pass
15 that to Mrs. Bethea.

16 All right, the verdict form appears to be in
17 order, if you would please publish that verdict, Mrs.
18 Bethea.

19 THE CLERK: The State of South Carolina, County
20 of Florence in the Court of General Session Twelfth
21 Judicial Circuit, The State of South Carolina vs. Gregory
22 Daniels, indictment 2009-GS-21-427: We, the jury, find
23 the defendant, Gregory Daniels, guilty of murder.
24 Possession of a weapon during the commission of a violent
25 crime: We, the jury, find the defendant guilty of

1 possession of a weapon during the commission of a violent.
2 Dated April 16th 2010, signed Nicole Sheeder, forelady.
3 Members of the jury, if this is your verdict, please raise
4 your right hand?

5 (WHEREUPON, all jurors raised their hands.)

6 THE COURT: All right. Thank you, ladies and
7 gentlemen. I want to thank you for your service this
8 week. You have been here all week long from Monday until
9 today. And you have -- I think both sides have indicated
10 it in their remark to you at one point or the other, but
11 I have watched you and I have been so impressed with the
12 way you have paid attention to the attorneys, to the
13 witnesses and to the Court. As you may have found during
14 this week, jury service can be exhausting not from a
15 muscular standpoint, from a mental standpoint and I want
16 to thank you so much because -- and I'll be candid with
17 you, I have sat in cases and I think all these ladies and
18 gentlemen have seen it in the past where you watch jurors
19 nod off, not necessarily go to sleep, but, you know,
20 they're sitting there with their head down and their eyes
21 close and I didn't see that. All I saw was 12 people
22 watching intently and seem to be listening and I just want
23 to tell you how much the Court appreciates your service
24 this week. These are not easy questions to answer when
25 you have to answer questions of fact. And I just want to

1 applaud you for your service this week. You have
2 obviously completed your service this week. You have
3 earned an exemption so that if you get called for jury
4 duty the remainder of this year or for the next two
5 calender years after this year if you get a notice for
6 jury service here in circuit court, you can exercise that
7 exemption and not serve. But what I want you to
8 understand is this and that is that it is only an
9 exemption, it doesn't mean that you are can't serve. So
10 if you do wish to serve again if you get notice, please
11 feel free to do so and I would encourage you to do that.

12 I tell people all the time, I'm 54 years of age
13 and I've never even been summon for jury duty ever except
14 one time and that was here in Florence and I was already
15 on the bench and, of course, I'm not qualified to serve
16 any more. So I never had the opportunity to serve on the
17 jury and I regret that. It's something I always -- I
18 clearly feel like I would always love to have done. After
19 your experience this week and having to be here all week,
20 and you may say, well, be thankful you didn't get that,
21 but I don't know. I hope you had a good experience this
22 week as far our jury system. You are going to be excused
23 for -- obviously for the balance of the day and your
24 service is concluded. You will receive a check early next
25 week for your service this week. And when you get that

1 check, please understand that that small amount that it is
2 going to be is not a reflexion of what we feel about your
3 worth. Your time is worth so much more than the county
4 could ever afford to pay you. This is just a fee that
5 state law assigns for your duty.

6 Jury service is just in fact that, it is a
7 service to your community. And so I appreciate your
8 stepping up to the plate and serving. There will be an
9 excuse in that check, a work excuse. If needs that before
10 they get their check, if you need work excuse before -- I
11 think they are going to get the checks out today, so you
12 should have them Monday or Tuesday in the mail. But if
13 you need a work excuse before then, you can go down to the
14 clerk's office in the basement and they will give you that
15 work excuse today if you need to have it, okay.

16 Now, what I'm going to do, ladies and gentlemen,
17 is I'm going to excuse you and have everyone else remain
18 in the courtroom. But I will tell you this and I tell all
19 juries this. You have worked all week long. You have put
20 in the time and effort into this case. If you desire to
21 remain or to be present for sentencing, I'm going to move
22 to the sentencing portion of this case and you wish to be
23 present for that, you're certainly welcome to. So as you
24 go out, if you would like to come back in and have a seat
25 and be present for sentencing you or if you want to remain

1 there in the jury box while I proceed to sentencing, you
2 are come welcome. Also though, you are more than welcome
3 to leave at this time if you wish to do that as well. So
4 if everyone would please remain seated, those of you who
5 wish to be -- go and be excused, you're welcome to do
6 that. Those of you that wish to remain for sentencing,
7 you're welcome to do that as well, okay.

8 (WHEREUPON, the jurors were dismissed.)

9 THE COURT: Mr. Jepertinger, are you prepared to
10 or Mr. Deberry either one have any sentencing sheets
11 prepared?

12 MR. JEPERTINGER: I have. I didn't know if you
13 wanted to hear from Mr. Lawson at this point.

14 THE COURT: Well, I'm going to hear --- but.

15 MR. JEPERTINGER: May I approach, Your Honor?

16 THE COURT: Yes, sir.

17 MR. JEPERTINGER: Your Honor, would you like to
18 take up any motions?

19 THE COURT: At this time, I like to recognize
20 Mr. Lawson for the defense with regards to any posttrial
21 motions you may have, sir.

22 MR. LAWSON: Defense renews all motions
23 previously made. Also would ask under that I think under
24 the rules we have ten days to file any additional motions
25 that we would wish to file. I would ask for that

1 extension. Just advise the Court, I like to take that
2 opportunity.

3 THE COURT: All right, sir. I'll certainly give
4 you that opportunity and give you that ten-day extension
5 within which to file any additional motions.

6 Is the State ready to proceed?

7 MR. JEPERTINGER: The State is ready. I would
8 point out that there are members of the victim's family
9 here if they could come forward and maybe Mrs.
10 Meetze could have them seated in the jury box, Your Honor.

11 THE COURT: All right, sir.

12 MR. JEPERTINGER: While they are coming forward,
13 Your Honor, I will tell you what his criminal record is.
14 Your Honor, he had according to our records three
15 forgeries, it look like they ran concurrently back in
16 January of 2001. He received five years suspended to
17 three years probation, Your Honor. Those charges there
18 was a restitution of \$322.02, Your Honor. Also, on
19 October the 25th 2001, he had a criminal domestic violence
20 of a high and aggravated nature for which he received
21 three years suspended to looks like 120 days, that was
22 done in front of Judge Harwell. At the time, Your Honor,
23 it look like he had a another forgery back in 2003 for
24 which he received forgery more than \$1,000, but less than
25 \$5,000 convicted five years suspended upon two-years

1 probation in 2003. And the other convictions on here, I
2 think, was magistrate court driving type offenses not of
3 any great significance, Your Honor.

4 Your Honor, if I could direct your attention to
5 Mrs. Meetze, she will introduce the individuals that are
6 here from the victim's family and, of course, they may
7 want to be heard.

8 THE COURT: I will be happy to hear from anyone
9 who wishes to address the Court.

10 MR. JEPERTINGER: Please state your name?

11 MS. EAGLESON: Erica Eagleson, I'm Corey Byrd's
12 sister, only sister.

13 THE COURT: Yes, ma'am.

14 MS. STENY: I'm Barbara Steny, I'm Corey's
15 aunt.

16 MR. ELLENTON: K.T. Ellenton, I'm his brother.

17 MRS. ELLENTON: Latisha Ellenton, his
18 sister-in-law.

19 MR. JEPERTINGER: I will also point out that I
20 had an opportunity to speak to the decedent's mother,
21 she's going through some health concerns right now and she
22 could not be here. But I'm sure that the family will
23 speak on her behalf if they have anything to say. Now, is
24 the time to say it if you want to say anything.

25 MS. EAGLESON: Like I said, my name is Erica,

1 I'm Corey's sister. I would like to say that I thought
2 today would be the hardest day, but actually speaking at
3 my brother's funeral was more harder than this. Our
4 family, I just ask that you just pray for our family.
5 This is not going to bring my brother back. We just pray
6 that God have mercy on our soul as we want be able to
7 forget this, we want be able to get over it like we
8 thought we would like, we expected, but this has brought a
9 real big hard burden against our family. With my mother
10 being sick and with us trying to cope along and, you know,
11 maintain a sense of stability with the lost of our
12 brother, our family member. This my brother and this want
13 bring him back but appreciate your time.

14 THE COURT: Thank you, ma'am.

15 MRS. MEETZE: That will be it, Your Honor.
16 Thank you.

17 THE COURT: Let me just say to all of you that I
18 am very sorry for your loss. Obviously, I didn't know
19 your brother, but I've lost a loved one and I know how
20 difficult that is, not in this fashion. But I know this
21 has not been an easy week for you. And I want to thank
22 you for being up here and being supportive of the
23 prosecution as they presented this case. And again,
24 you're right, it want bring your brother back and the
25 hurt's not going to go away. But maybe, it will in some

1 way help at least bring some closure to some portion of it
2 as you move on. Anyway, I hope it will and I certainly
3 will. My wife both very strong believers in the Lord and
4 we will certainly keep you in our prayers.

5 Anything further from the State?

6 MR. JEPERTINGER: No, sir.

7 THE COURT: Mr. Lawson, be happy to hear from
8 you as well as anyone who would wish to address the Court.

9 THE DEFENDANT: My condolences goes out to the
10 family. I feel like the trial went the way... I thank
11 the jury for their time. Thank you, Your Honor, for what
12 you doing. And I still even though the jury has found me
13 guilty, I still am presuming my innocence. And I like the
14 family to take in consideration that I am truly sorry
15 about what happened to your family member. And I still
16 say I am not the person who done this to your family.
17 I've lost a loved one the same way. I been through it, I
18 know how it is. But I would just like to say that I still
19 presume my innocence.

20 THE COURT: Thank you, sir.

21 MR. LAWSON: May it please the Court, I would
22 ask, Your Honor, based on the fact he doesn't have a
23 substantial record and nothing anywhere approaching
24 anything in this situation. He's 33 years old, about to
25 be 33, been in jail for the last two years basically, went

1 through the 12 grade in school, was unemployed at the time
2 this occurred. I would ask, Your Honor, consider the
3 minimum even though that's a lot of years.

4 THE COURT: All right. Mr. Lawson, is there
5 anyone else that wishes to address the Court?

6 MR. LAWSON: No.

7 THE COURT: All right, sir.

8 MR. LAWSON: I would point out his family is
9 here with him and has been here all week.

10 THE COURT: And I didn't know that. I just
11 assume that that was the case. The disturbing thing about
12 this case to me is -- and it's in how you view the
13 evidence and how you view the information that was brought
14 into the court. But there was really no -- didn't appear
15 to be any reason for this to occur other than the
16 information that came out that this was basically a murder
17 for hire. I don't know that that was the case or not.
18 It's the only reason that was given during the course of
19 the trial, of course. Then there's a grave concern that
20 the Court has plenty of evidence and documentation whether
21 it any one individual we look at it as a show of guilt or
22 not. It's just disturbing that someone would write
23 letters to witnesses asking them to change their story,
24 asking them to support their position regardless of what
25 the true facts are, which I think that was evidence that

1 was very damaging in this case. I don't know, I can't
2 speak for the jury.

3 With regards indictment 2009-GS-21-427 Count 1
4 of that indictment for murder, sentence of the Court is
5 that you be committed to the State Department of
6 Corrections for the remainder of your natural life. Of
7 course, Count 2 of that indictment for possession of a
8 weapon during the commission of a violent crime sentence
9 of the Court is five years. However, that sentence is
10 subsumed into the life sentence. That's the sentence of
11 the Court.

12 MR. LAWSON: Thank you, Your Honor.

13 END OF REQUESTED TRANSCRIPT
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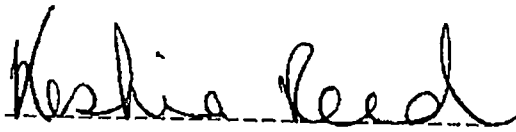
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF FLORENCE)

I, Keshia Reed, Court Reporter and Notary Public in and for the State of South Carolina At Large, do hereby certify that the above-entitled cause was heard as hereinafter set out; that I was authorized to and did transcribe the said proceedings; and that the foregoing and annexed paged, numbered 1 through 638, inclusive, constitute a true and accurate transcription of my stenographic report of the said cause taken during the said hearing. In the Court of General Sessions for Florence County, South Carolina, on the day of April 12-16 2010.

I do further certify that I am neither of kin, counsel nor interest to any party hereto. In witness whereof, I have hereunto affixed my signature this 29th day of December 2010.


Keshia Reed, Court Reporter

ARREST WARRANT

J-398790

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
FLORENCE

 THE STATE
against

GREGORY DELEON DANIELS

Address: [REDACTED]

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: [REDACTED] Weight: [REDACTED]

DL State: SC DL#: [REDACTED]

DOB: [REDACTED] Agency ORI#: [REDACTED]

Prosecuting Agency: FLORENCE MUNICIPAL COURT

Prosecuting Officer: COMPTON

Offense: MURDER

Offense Code: 0116

Code/Ordinance Sec. 16-03-0010, 16-03-0020

This warrant is CERTIFIED FOR SERVICE in the

☒ County/ ☐ Municipality of

 The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge

(L.S.)

Date: [REDACTED]

RETURN

 A copy of this arrest warrant was delivered to
defendant GREGORY DELEON DANIELS
on 9-11-08

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

 ORIGINAL
MUST BE RETURNED TO
FLORENCE MUNICIPAL COURT

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
FLORENCE

Personally appeared before me the affiant TIM COMPTON

being duly sworn deposes and says that defendant GREGORY DELEON DANIELS

did within this county and state on 09/05/2008

violate the criminal laws of the

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of FLORENCE)

in the following particulars:

DESCRIPTION OF OFFENSE: 16-03-0010, 16-03-0020 / MURDER

 I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

THE DEF. SHOT COREY BYRD IN THE 500 BLOCK OF N. DARGAN ST. IN THE CITY OF FLORENCE. THE DEF. AND COREY ATTENDED A COOK-OUT AT 301 LIBERTY ST. AT A MUTUAL FRIEND'S HOUSE. ON SEVERAL OCCASSIONS THE DEF. TRIED TO ENTICE COREY TO COME DOWN THE STREET AND FIGHT HIM WHERE HE WAS SHOT AND KILLED. THE DEF. RODE A MOPEL BACK AND FORTH IN FRONT OF 301 LIBERTY ST. NUMEROUS TIMES BEFORE BEING SEEN WALKING PAST THE HOUSE WHERE HE AND COREY HAD BEEN ARGUING. A WITNESS STATED COREY LEFT 301 LIBERTY ST. WALKING AND WAS ON THE PHONE WITH THE WITNESS AND TOLD THE WITNESS THE DEF. WAS FOLLOWING RIGHT BEHIND HIM WHEN THE PHONE WENT DEAD. ANOTHER WITNESS HEARD THE VICTIM AND DEF. ARGUING PRIOR TO THE SHOOTING AND HEARD THE DEF. SAY HE HAD BEEN SHOT IN THE HEAD AND IDENTIFIED THE DEF. AS WEARING DARK CLOTHING. SEVERAL WITNESSES KNOW THE DEF. AND PICKED HIM OUT OF A PHOTO LINE UP AS HAVING HEATED ARGUMENTS ALL EVENING WITH THE VICTIM. SEVERAL WITNESSES WERE TOLD BY THE DEF. HE HAD BEEN ROBBED BY COREY IN THE PAST AND THAT WAS THE REASON FOR THE ARGUMENTS. ANOTHER WITNESS STATED SHE SAW A PERSON WEARING DARK CLOTHING LEAVING THE MURDER SCENE SECONDS AFTER HEARING A GUNSHOT.

Signature of Affiant

Affiant's Address FLORENCE POLICE DEPT., 180 N. IRBY

FLORENCE SC 29501

Affiant's Telephone 843-665-3191

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

 It appearing from the above affidavit that there are reasonable grounds to believe that
on 09/05/2008 defendant GREGORY DELEON DANIELS

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of FLORENCE

) as set forth below

DESCRIPTION OF OFFENSE: MURDER / MURDER

 Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered
to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

(on 09/11/2008)

 Charles Hewitt (L.S.)
MUNICIPAL COURT JUDGE

Judge Code: JUDGE

Judge's Address BOX DD-CITY-COUNTY COMPLEX ROOM 506

FLORENCE SC 29501

Judge's Telephone 843-665-3148

Issuing Court:

☐ Magistrate☒ Municipal☐ Circuit

Case: 2008-008875

ORIGINAL

 Form Approved by
S.C. Attorney General
July 26, 1990
SCCA 518

 2008 SEP 20 AM 9:11
FILED
FLORENCE COUNTY, S.C.
CONNIE REESE
CLERK

J-398791

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

FLORENCE

THE STATE

against

GREGORY DELEON DANIELS

Address: [REDACTED]

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: [REDACTED] Weight: [REDACTED]

DL State: SC DL#: [REDACTED]

DOB: [REDACTED] Agency ORI#: [REDACTED]

Prosecuting Agency: FLORENCE MUNICIPAL COURT

Prosecuting Officer: COMPTON

Offense: POSS. WEAPON DURING VIOLENT CRIME

Offense Code: 0549

Code/Ordinance Sec. 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the

☒ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to law.

Signature of Judge

(L.S.)

Date: [REDACTED]

RETURN

A copy of this arrest warrant was delivered to defendant GREGORY DELEON DANIELS

on 9-11-08

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

ORIGINAL
MUST BE RETURNED TO
FLORENCE MUNICIPAL COURT

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

FLORENCE

Personally appeared before me the affiant TIM COMPTON

being duly sworn deposes and says that defendant GREGORY DELEON DANIELS

did within this county and state on 09/05/2008

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of FLORENCE)

in the following particulars:

DESCRIPTION OF OFFENSE: 16-23-0490 / POSS. WEAPON DURING VIOLENT CRIME

Further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

THE DEF. SHOT COREY BYRD IN THE 500 BLOCK OF N. DARGAN ST. IN THE CITY OF FLORENCE. THE DEF. AND COREY ATTENDED A COOK-OUT AT 301 LIBERTY ST. AT A MUTUAL FRIEND'S HOUSE. ON SEVERAL OCCASSIONS THE DEF. TRIED TO ENTICE COREY TO COME DOWN THE STREET AND FIGHT HIM WHERE HE WAS SHOT AND KILLED. THE DEF. RODE A MOPED BACK AND FORTH IN FRONT OF [REDACTED] LIBERTY ST. NUMEROUS TIMES BEFORE BEING SEEN WALKING PAST THE HOUSE WHERE HE AND COREY HAD BEEN ARGUING. A WITNESS STATED COREY LEFT 301 LIBERTY ST. WALKING AND WAS ON THE PHONE WITH THE WITNESS AND TOLD THE WITNESS THE DEF. WAS FOLLOWING RIGHT BEHIND HIM WHEN THE PHONE WENT DEAD. ANOTHER WITNESS HEARD THE VICTIM AND DEF. ARGUING PRIOR TO THE SHOOTING AND HEARD THE DEF. SAY HE HAD BEEN SHOT IN THE HEAD AND IDENTIFIED THE DEF. AS WEARING DARK CLOTHING. SEVERAL WITNESSES KNOW THE DEF. AND PICKED HIM OUT OF A PHOTO LINE UP AS HAVING HEATED ARGUMENTS ALL EVENING WITH THE VICTIM. SEVERAL WITNESSES WERE TOLD BY THE DEF. HE HAD BEEN ROBBED BY COREY IN THE PAST AND THAT WAS THE REASON FOR THE ARGUMENTS. ANOTHER WITNESS STATED SHE SAW A PERSON WEARING DARK CLOTHING LEAVING THE MURDER SCENE SECONDS AFTER HEARING A GUNSHOT.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

FLORENCE

Affiant's Address FLORENCE POLICE DEPT. 180 N. IRBY ST.

FLORENCE SC 29501

Affiant's Telephone 843-665-3191

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 09/05/2008 defendant GREGORY DELEON DANIELS

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of FLORENCE) as set forth below:

DESCRIPTION OF OFFENSE: WEAPONS / POSS. WEAPON DURING VIOLENT CRIME, SENTENCED TO LIFE WITHOUT PAROLE OR DEATH

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 09/11/2008

Signature of Judge (L.S.)
MUNICIPAL COURT JUDGE

Judge Code: JUDGE

ORIGINAL

Judge's Address BOX DD-CITY-COUNTY COMPLEX ROOM 506
FLORENCE SC 29501

Judge's Telephone 843-665-3148

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

Case: 2008-008875

AFFIDAVIT

Form Approved by
S.C. Attorney General
July 28, 1990
SCCA 518



2008 SEP 29 P

CLERK OF SUPERIOR COURT
FLORENCE, SC

FILED
2008 SEP 26 AM 13
CLERK OF SUPERIOR COURT
FLORENCE, SC

Compton

D/O: 09-05-2008

J398790 (1); J398791 (2).

TRUE BILL

Foreman of Grand Jury

VERDICT

Foreman of Petit Jury

Date:

The State of South Carolina,

County of FLORENCE

PSP

COURT OF GENERAL SESSIONS

APRIL TERM 2009

THE STATE
vs.

GREGORY DELEON DANIELS

Indictment for

**MURDER
POSSESSION OF WEAPON DURING
COMMISSION OF VIOLENT CRIME**

In witness whereof
CLERK OF COURT C. B. G.
FLORENCE COUNTY, S.C.

2009 APR -2 PM12:33
CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

1000

INDICTMENT FOR

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

MURDER POSSESSION OF WEAPON DURING
COMMISSION OF VIOLENT CRIME

At a Court of General Sessions, convened on APRIL 02, 2009, the Grand Jurors of FLORENCE
County present upon their oath:

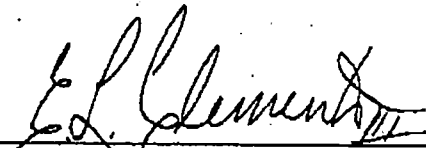
COUNT ONE - MURDER

That GREGORY DELEON DANIELS did in FLORENCE County on or about September 05, 2008, violate Sections 16-03-0010, 0020 and 16-01-0060 of the Code of Laws of South Carolina (1976), as amended, in that he did feloniously, wilfully and with malice aforethought kill one Corey Lee Byrd by means of shooting him, and that the said Corey Lee Byrd did die as a proximate result thereof.

COUNT TWO - POSSESSION OF WEAPON DURING THE COMMISSION OF VIOLENT CRIME

That GREGORY DELEON DANIELS did in FLORENCE County on or about September 05, 2008, violate Section 16-23-0490 of the Code of Laws of South Carolina (1976), as amended, in that he was in possession of and did visibly display a weapon, to wit: a hand gun during the commission of a violent crime, to wit: murder.

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


SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Florence

VS.

GREGORY DELEON DANIELS

AKA:

Race: B

Sex: M

Age: 30

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: FLORENCE, SC 29501

DL#: [REDACTED]

SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Murder / Murder

in violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code #

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory CPS (ESC

w/minor (SC Code Lewd Act)

☐ § 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

John J. [Signature]

9826

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention Center,for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

§ 47.12 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

§ 90.7 (SCCA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (11/2009)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 09-GS-21-427

A/W#: J398790

Date of Offense: 9/11/2008

S.C. Code § : 16-03-0010; 16-03-0020

CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

CERTIFIED: A TRUE AND CORRECT COPY OF THE RECORD OF THE COURT OF GENERAL SESSIONS, COUNTY OF FLORENCE, SOUTH CAROLINA.

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel
§ 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 2141

Sentence Date: 4-16-2010

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Florence

VS.

GREGORY DELEON DANIELS

AKA:

Race: B

Sex: M

Age: 34

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: FLORENCE, SC 29501

DL#: [REDACTED]

SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death.

in violation of § 16-23-0490

of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS (CSC☐ §17-25-45

within 1st or 2nd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST: [Signature] 9826

PATRICIA ST.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention Center,

for a determinate term of 5 days/months/years or

☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____

days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

This Sentence is Subsumed by Life

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied

by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

§ 47.12 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

§ 90.7 (SCCA Surcharge)

3% to County (if paid in installments)

TOTAL

\$100

\$100

\$12

\$25

\$500

\$25

\$100

\$50

\$40/ea

\$5

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (11/2009)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 09-GS-21-427

A/W#: J398791

Date of Offense: 9/5/2008

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

(5)

CDR Code # 0549

Mandatory GPS (CSC

within 1st or 2nd Act)

within 1st or 2nd Act)

within 1st or 2nd Act)

within 1st or 2nd Act)

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within 1st or 2nd Act)

within 1st or 2nd Act)

within 1st or 2nd Act)

Presiding Judge

Judge Code:

Sentence Date:

2141

4-16-2010

THE STATE OF SOUTH CAROLINA
In The Supreme Court

The State, Respondent,

v.

Gregory Daniels, Appellant.

Appellate Case No. 2010-159728

Appeal From Florence County
Thomas A. Russo, Circuit Judge

Opinion No. 27180
Heard May 3, 2012 – Filed October 10, 2012

AFFIRMED

Appellate Defender Tristan M Shaffer and Deputy Chief
Appellate Defender Wanda H. Carter, both of South
Carolina Commission on Indigent Defense, of Columbia
for Appellant.

Attorney General Alan McCrory Wilson, Chief Deputy
Attorney General John W. McIntosh, Senior Assistant
Deputy Attorney General Donald J. Zelenka, and
Assistant Attorney General Brendan Jackson McDonald,
all of Columbia, and Solicitor Edgar Lewis Clements, III,
of Florence, for Respondent.

JUSTICE PLEICONES: Appellant was convicted of murder and possession of a
weapon during a crime of violence and received concurrent sentences of life

(murder) and five years (weapon). On appeal, he alleges the trial judge committed reversible error in charging the jury that they were acting "for the community" and that their verdict "will represent truth and justice for all parties that are involved." We agree that these charges are erroneous, but because appellant did not properly preserve his issues for appeal, we affirm.

FACTS

The victim was shot at about 4:30 am on a Florence street. A witness who was to meet the victim testified that she heard a single gunshot and saw a person dressed in black clothing running away from the scene. There was testimony that appellant and the victim had argued at Shavonne's party. Shavonne did not observe the two fighting, but testified she was on the phone with the victim right before he was shot, and that he told her he was being followed by a man he had argued with at her party. Another witness testified that appellant had told him he had been hired to kill the victim. Appellant told this witness he had "done it" about an hour after the victim was killed.

Appellant and his girlfriend checked into a motel at about 5:35 am on the day of the murder. Excerpts from letters written to the girlfriend following appellant's arrest were introduced at trial. These letters suggested what she should tell people to give him an alibi. In one, he pointed out the absence of physical evidence to convict him, and in another asked her to contact his lawyer and suggests what to say, including the instruction that "it will help me and my bond hearing [sic] you are who I was with when they found him . . ." In short, while the State's case lacked forensic and eyewitness evidence, there was nonetheless substantial evidence that appellant murdered the victim.

At the pre-charge conference, appellant objected to the trial judge's inclusion of a charge that "You and I are acting for the community and that is why we must see to it that the trial is fair and the verdict is just." Appellant contended the "acting for the community" language was akin to a solicitor's improper golden rule argument, but did not object to the "fair and just" portion of this proposed charge. The judge declined to alter the "acting for the community" language. Appellant also objected to a different part of the proposed charge, which included the statement "[E]veryone is entitled to justice in this case," arguing that charge diluted the State's burden of proof. The judge agreed to omit this "everyone" charge.

The jury was charged on the presumption of innocence and the State's burden of proof beyond a reasonable doubt. Later, they were charged "You and I are acting

for the community," and that "This court is of the confirmed opinion that whatever verdict you reach will represent truth and justice for all parties that are involved in this case." Appellant renewed his pre-charge objection, but made no additional complaint about the charge.

ISSUES

1. Did the trial judge's charge include an improper "Golden Rule" instruction?
2. Did the trial judge's charge improperly shift the State's burden of proof or dilute it?

1. Golden Rule

Appellant argued to the trial judge that to the extent the jury was to be instructed that it and the judge were acting for the community, the charge was erroneous because it was akin to an improper Golden Rule argument. The judge disagreed. We affirm.

A 'Golden Rule' argument is one in which the jurors are asked to put themselves in the victim's shoes. It is improper because it is meant to destroy the jury's impartiality, and to arouse passion and prejudice. *Brown v. State*, 383 S.C. 506, 680 S.E.2d 909 (2009). A charge that the jury is acting for the community, however, is not similar to a Golden Rule argument in that it does not ask the jury to consider the victim's perspective. While appellant has not shown reversible error here, we caution the trial judge to restrict his jury instructions to matters of law.

2. Burden of Proof

On appeal, appellant contends the jury charge unconstitutionally shifted the burden of proof. He specifically objects to the part of the charge in which the judge stated it was his "confirmed opinion" that the verdict would represent "truth and justice for all parties." To the extent appellant now complains about the "confirmed opinion" part of the charge, he is improperly attempting to expand on appeal the scope of his objection below. *E.g.*, *State v. Meyers*, 262 S.C. 222, 263 S.E.2d 678 (1974). There was no objection to the "confirmed opinion" language at the charge conference, and appellant stood on his pre-charge objection after the jury instructions were given. It is axiomatic that an objection to a jury charge may not

2012 OCT 29 AM 11:51
FILED
CLERK OF COURT
FLORIDA
JUDGE
COUNTY-SC

be raised for the first time on appeal. *E.g. State v. Rios*, 388 S.C. 335, 696 S.E.2d 608 (Ct. App. 2010); Rule 20(b), SCRCrimP.

Appellant also now argues the trial judge erred in charging the jury that their verdict would represent the "truth and justice for all parties."¹ The State contends that there was no contemporaneous objection made at trial to this "truth and justice for all" language in the charge. We agree. It is axiomatic that a party cannot raise an objection to a jury charge for the first time on appeal. *State v. Rios, supra*; Rule 20(b), SCRCrimP.

Although the issue is not preserved, we instruct the trial judge to remove any suggestion from his general sessions charges that a criminal jury's duty is to return a verdict that is "just" or "fair" to all parties. Such a charge could effectively alter the jury's perception of the burden of proof, substituting justice and fairness for the presumption of innocence and the State's burden to prove the defendant's guilt beyond a reasonable doubt. Moreover, to a lay person, the "all parties involved" in a criminal case may well extend beyond the defendant and the State, and include the victim. These inaccurate and misleading charges risk depriving a criminal defendant of his right to a fair trial.

CONCLUSION

Appellant's convictions and sentences are

AFFIRMED.

Acting Justice E. C. Burnett, III, concurs. TOAL, C.J., concurring in result in a separate opinion in which KITTREDGE, HEARN, JJ., and Acting Justice E. C. Burnett, III, concur.

¹ Appellant had objected to a different proposed charge at the pre-charge conference, that "Everyone is entitled to justice in this case." The judge agreed not to give this charge, and a review of the record shows that he did not.

CHIEF JUSTICE TOAL: I concur in the result reached by Justice Pleicones, but writing for a majority of the Court, find that Appellant's burden-shifting arguments are preserved. The adequacy of the trial court's entire overall instruction cured any possible constitutional deprivation. In addition, the State presented overwhelming evidence of Appellant's guilt, rendering any error in the jury instruction harmless.

I. PRESERVATION

At trial, defense counsel objected to portions of the trial court's proposed jury instruction. First, defense counsel took exception to the trial court's proposed statement that "everyone is entitled to justice in this case."

Defense Counsel: We would argue that this is burden shifting. The fact that we don't feel like the state is necessarily entitled to justice. Instead, they have the burden of proving defendant guilty beyond a reasonable doubt. And we would cite *Cage v. Louisiana* [498 U.S. 39 (1990)], which suggest that the jury instructions that dilute the burden of proof on the government prove [sic] beyond a reasonable doubt violate due process and constitute reversible error.

....

The Court: I was going to say why isn't the State entitled to justice just as any defendant who comes into court is entitled to justice. Being entitled to justice doesn't remove a burden or lessen a burden. I am going to note your exception to that, but

The trial court then agreed to remove the objectionable language:

But it's fairly – you know, that paragraph you are referring to where it starts with that everyone is entitled to justice, I will take that out and just put your verdict in this case cannot be based on sympathy, compassion or prejudice, just doesn't seem to be that big a deal.

However, the trial court issued a jury instruction containing substantially similar language:

Your verdict in this case is not to be based on sympathy, compassion, prejudice or some other emotion or other consideration that is not found in the evidence. This court is of the confirmed opinion that

whatever verdict you reach will represent truth and justice for all parties that are involved in this case.

(emphasis added).

Defense counsel also objected to the trial court's proposed language that the judge and jury were "acting for the community," and argued that this statement asked the jury to act as the "conscious of the community, similar to a golden rule argument." The court refused to remove this language from his instruction, "I'm going to note your exception to the language, I'm going to leave that language in."

The Court then stated the following during his instruction:

You are not called to serve as jurors very often. And the proper performance of the duty requires each of you to reach the hithe [sic] of freeing your mind of all improper influences. You and I are *acting for the community* and that is why we see to it that this *trial is fair and the verdict is just.*

Following the completion of the jury instructions, the court referenced defense counsel's objections:

The Court: Are there any exceptions or objections to the Court's charge by the State?

The State: No sir.

The Court: And by [defense counsel] other than what we discussed during the . . .

Defense Counsel: That's all, Your Honor.

The Record clearly demonstrates that Appellant did not raise the propriety of the jury instructions for the first time on appeal, but objected to the offensive language both before and after the trial court delivered his instruction. Thus, Appellant's objections were properly preserved for this Court's consideration on appeal, and consequently, we must address the critical burden shifting issue.²

² The trial court's instruction that the jury is "acting for the community" is dangerous, and has all the earmarks of a "Golden Rule" argument. While it may not directly instruct the jury to place themselves in the victim's shoes, a charge to

II. BURDEN SHIFTING

While I agree with Appellant's argument that the jury should not have been instructed that their verdict would represent truth and justice for the parties, this Court must consider instructions as a whole, and "if as a whole they are free from error, any isolated portions which may be misleading do not constitute reversible error." *State v. Aleksey*, 343 S.C. 20, 27, 538 S.E.2d 248, 251 (2000). The standard of review when considering an ambiguous jury instruction is whether there is a reasonable likelihood that the jury applied the challenged instruction in a way that violates the constitution. *Id.* at 27, 538 S.E.2d at 251 (citing *Estelle v. McGuire*, 502 U.S. 62, 72 (1991)). Under this standard, the trial court's improper statements do not require reversal.

In *Aleksey*, this Court addressed whether a trial court's instruction shifted the burden of proof to the defendant. In that case, the trial court issued a complete and proper instruction on reasonable doubt, the presumption of innocence, and the State's burden of proof. *Id.* at 26, 538 S.E.2d at 251. The trial court then instructed the jury to weigh the credibility of witnesses as follows:

Ladies and gentlemen, throughout this entire process, you have but one single objective, and that is to seek the truth, to seek the truth regardless of from what source that truth may be derived. Now, all of these things, ladies and gentlemen, you will consider, bearing in mind that you must give the defendant the benefit of every reasonable doubt.

Id. at 26, 538 S.E.2d at 250.

The Court in *Aleksey* relied on *United States v. Gonzalez-Balderas*, 11 F.3d 1218 (5th Cir. 1994), in analyzing a contested jury charge. In *Gonzalez-Balderas*, the district court instructed the jury: "Remember, at all times, you are judges—judges of the facts. Your sole interest is to seek the truth from the evidence in this case." *Id.* at 1223. The defendant argued that instructing the jury that its "sole

"act for the community" carries the same connotation and effect. However, because of the overwhelming evidence of Appellant's guilt, discussed *infra*, any "Golden Rule" error harmless. See *Vasquez v. State*, 388 S.C. 447, 468–69, 698 S.E.2d 561, 572 (2010) ("Furthermore, even if the solicitor did make an improper 'Golden Rule' argument, I would find the error harmless in light of the enormity of the evidence against Petitioner.")

interest is to seek the truth" diluted the reasonable doubt standard of proof. *Id.* The Fifth Circuit Court of Appeals disagreed:

As an abstract concept, "seeking the truth" suggests determining whose version of events is more likely true, the government's or the defendant's, and thereby intimates a preponderance of evidence standard. Such an instruction would be error if used in the explanation of the concept of proof beyond a reasonable doubt. The district court, however, did not use it in this way. Rather, the trial court began its instructions with a clear definition of the government's burden of proof in which it repeatedly stated that the defendant could not be convicted unless the jury found that the government had proven him guilty beyond a reasonable doubt.

Id.

Similarly, the trial court in *Aleksey* issued complete and proper reasonable doubt and circumstantial evidence charges. Although that trial court's statements regarding witness credibility were improper, this Court held that this did not taint the overall instruction. Thus, it was not reasonably likely that the jury applied the instructions in a manner inconsistent with the notion that the State has the burden of proof beyond a reasonable doubt. *Id.* at 28–29, 538 S.E.2d at 252.

In the instant case, the trial court included several improper statements as part of his jury instruction. However, the trial court prefaced those remarks with full and adequate instructions on reasonable doubt. It is troubling that the trial court concluded his jury instruction with statements that could have distracted the jury from their core functions: to examine evidence and make factual determinations, weigh credibility, and perhaps most importantly, decide whether the State has proven its case beyond a reasonable doubt. The injection of extraneous language only serves to distract the jury from performing their critical role. However, despite the trial court's mistake, the instruction as a whole properly conveyed the law to the jury and it is not reasonably likely that the jury acted in contravention of the reasonable doubt standard. *See Aleksey*, 343 S.C. at 29, 538 S.E.2d at 252–53 (finding reversal not required when the trial court's improper instructions were given in the context of witness credibility and not reasonable doubt).

Furthermore, unconstitutional burden shifting does not result in reversible error when that error was harmless beyond a reasonable doubt. *Rose v. Clark*, 478

U.S. 570, 579-80 (1986); *Tate v. State*, 351 S.C. 418, 426, 570 S.E.2d 522, 526 (2002).

The State presented substantial circumstantial evidence that Appellant committed the crime charged. One witness testified that, as the result of a "drug deal went bad," Gary Bostic hired Appellant to kill the victim for \$1,000. The witness testified that Appellant told him four or five times that he planned to commit the crime. The witness stated that he and Appellant watched a news report regarding the murder, and that following the conclusion of the report, Appellant admitted to the murder.³ The witness's girlfriend corroborated his testimony. She testified that she was present when Appellant watched the news report, and that she also heard Appellant state that he murdered the victim. The State also presented evidence that between September 5, 2008, the day of the murder, and September 9, 2008, Appellant and Bostic called each other forty-one times.

The most revealing evidence presented by the State consisted of actual letters Appellant wrote in which he attempted to convince his girlfriend to provide him with an alibi.

Appellant's girlfriend testified that she saw Appellant on the Thursday evening of September 4, 2008, at approximately 7:30 or 8:00 p.m., and the next time she saw him was at 5:30 a.m. the morning of September 5. On that morning, Appellant picked her up in a van driven by a man named Gary, and Appellant and his girlfriend checked into a motel. Following their check-in, Appellant left and returned some time later with a rental car. Appellant then drove his girlfriend back to her residence, and informed her that he would be changing his phone number that day, and called her later that day from the new phone number.

The State introduced letters authored by Appellant, which sought to persuade his girlfriend to change her version of the events of September 4 and 5, 2008.

In a letter from October 2008, Appellant wrote:

They aint got no gun, no bloody clothes, no shells, nothing . . . those are the main things they need to actually convict me it don't matter how many people say I did it or we argued the time that they say this

³ Bradley admitted that he faced pending federal charges for trafficking cocaine, but received no deal in exchange for his testimony, and only hoped to help himself in federal court.

happened. I told u that when we went to the room. Remember I said we was [sic] together at the settin [sic] up. But you told them u [sic] was sleep and I came and pick up [sic] in a van. My people told me that if u [sic] tell my solicitor that u will give him or her a statement saying we were together then they will give me a bond.

In another undated letter, Appellant wrote:

Someone told me how u [sic] can help me getting [sic] out of here. I don't know what u [sic] told them people but all I need is for u [sic] to say is I was with you at morning noon and night.

In another letter dated October 2008, Appellant acknowledges that his version and his girlfriend's version of the events are not similar:

Our stories are not the same. I told them we left off Carver Circle in a green van cab with a [sic] old driver. We were on the computer. But I will tell them I was still there playing dominoes u [sic] went home to get clothes and I came and got u [sic] from there. No times though . . . Make sure dude no [sic] this story. State Taxi

On November 16, 2008, Appellant wrote:

But anyways I need you to call this number . . . and talk to . . . my lawyer. Tell him that you are my girl and we were at the room during the time they said that this occurred. You can still tell him that I picked you up in a van and we went to the room but tell him that you were waiting on me at your sisters [sic] house but you left because I took to [sic] long. If they ask you a time just say you don't know what time it was but you were asleep and we was at the room sleep when the report on the news said at 5:00 a.m. But anyways you don't have to but it will help me at my bond hearing. You are who I was with when they found him.

By February 2009, Appellant became desperate for his girlfriend to provide a false alibi:

But your statement could hurt me in court because they saying you told them that it was not a taxi and it was a young dude driving the

van and also that you was sleep and I was on the phone talking to somebody about dude but that has got to be when my phone started ringing and that I left you and didn't come back until 6:00 am but they said dude was dead at 5:17 a.m. and the receipt from the room show us checking in at 5:34 a.m. but the clerk saying he didn't see me but to cover that up I'll just say I was smoking a cigarette.

On June 14, 2009, Appellant admits that a man named "Gary" drove him to the hotel following the murder:

Call 617-6919 and tell Gary that you calling [sic] for me and let him know that . . . said he will take \$2,000 and come get me out tell him my mama need \$1,000. *That's who . . . dropped us off at the room.*

(emphasis added).

These letters clearly demonstrate that Appellant could not account for his whereabouts at the time of the victim's murder. His attempts to pressure his girlfriend to provide a false alibi, and the testimony of two individuals who witnessed his confession provided the jury with substantial circumstantial evidence of his guilt. Put another way, the circumstances proven are consistent with each other, and when taken together, point conclusively to the guilt of Appellant to the exclusion of every other reasonable hypothesis. *State v. Hernandez*, 382 S.C. 620, 626 n.2, 677 S.E.2d 603, 606 n.2 (2009) (citing *State v. Edwards*, 298 S.C. 272, 274-76, 379 S.E.2d 888, 889 (1989)). Thus, based on the overwhelming evidence of guilt presented to the jury, the trial court's erroneous instructions could not have contributed to the guilty verdict. *See Lowry v. State*, 376 S.C. 499, 509, 657 S.E.2d 760, 765 (2008) ("From this perspective, in order to conclude that the error did not contribute to the verdict, the Court must find that error unimportant in relation to everything else the jury considered on the issue in question, as revealed in the record.") (internal citation omitted).

III. CONCLUSION

As a final note, although no constitutional error occurred, the trial court's inappropriate statements in this case came close to jeopardizing the legitimacy of the trial. Judges and juries are critical actors in our judicial system. Jurors are sworn to declare the facts of the case as they are proved from the evidence placed before them. 50A C.J.S. *Juries* § 1 (2004). The very term "jury" connotes a deliberative body of persons. *Id.* A judge sits as a public officer, who presides

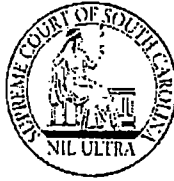
over, conducts, and administers the law by virtue of the office, and does so cloaked in judicial authority. *Id.* Judges § 7 (2004). Judges and juries are not, as this trial judge put it, "in it together." While their functions may act as a complement to one another, it is erroneous to imply that they somehow work hand in hand, and any blurring of their roles serves as an unnecessary and improper distraction.

Judicial instructions to the jury in a criminal case that "whatever verdict you reach will represent truth and justice for all parties," that "we must see to it that the trial is fair and the verdict is just" and that you and I are "in it together," may seem at first blush to be simply harmless phrases intended to put the jury at ease and portray the judge as a "regular guy." However, the constitutional framework governing criminal trials is a highly technical body of law developed by the United States Supreme Court and by state courts operating under the Supreme Court's guidance. It is inappropriate to jeopardize the constitutionality of a trial by instructing the jury in this way.

It is critical that jurors understand the proper application of the reasonable doubt standard. That standard does not charge the jury with ensuring justice for all of the parties. Justice Pleicones correctly notes that this language could result in jurors substituting concepts of justice or fairness for the State's constitutional duty to prove guilt beyond a reasonable doubt. Thus, I join the Justice Pleicones's admonition to the trial court to restrict his jury instructions to matters of law, and refrain from issuing instructions which run the risk of depriving defendants of their right to a fair trial.

AFFIRMED.

KITTREDGE, HEARN, JJ., and Acting Justice E. C. Burnett, III, concur.



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
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COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499
www.sccourts.org

October 26, 2012

Connie Reel-Shearin
180 N Irby St MSC-E Rm B11
Florence SC 29501-3456

REMITTITUR

Re: The State v. Gregory Daniels
Lower Court Case No. 2009-GS-21-00427
Appellate Case No. 2010-159728

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

CLERK

cc:

Edgar Lewis Clements, III

Donald J. Zelenka

Tristan M Shaffer

Wanda H. Carter

Brendan Jackson McDonald

26/2 OCT 29 AM 11:51
JUDGE HEARIN
CLERK OF COURT
FLORIDA COUNTY, SC

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Florence

VS.

GREGORY DELEON DANIELS

AKA:

Race: B

Sex: M

Age: 30

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: FLORENCE, SC 29501

DL#: [REDACTED]

SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder / Murder (30-Life)

in violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory CPS/ESC

w/minor Isop/Lewd Act

☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand JuryThe plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

John J. [Signature]

9826

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

§ 47.12 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ _____

§ 14-1-213 (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

§ 90.7 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ _____

TOTAL \$ 105.00

Clerk of Court/ Deputy Clerk

Court Reporter: [Signature]

SCCA/217 (11/2009)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 09-GS-21-427

A/W#: J398790

Date of Offense: 9/11/2008

S.C. Code § : 16-03-0010; 16-03-0020

CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

CERTIFIED: A TRUE AND CORRECT COPY OF THE ORIGINAL SENTENCE SHEET HAS BEEN FILED IN THE CLERK OF COURT'S OFFICE.

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel.
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code: 2141

Sentence Date: 4-16-2010

STATE OF SOUTH CAROLINA

COUNTY OF Florence
 STATE VS.
GREGORY DELEON DANIELS

AKA: _____
 Race: B Sex: M Age: 26
 DOB: 01/15/1982 SS#: 987654321
 Address: 1234 Main St
 City, State, Zip: FLORENCE, SC 29501
 DL#: 123456789 SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST: Patricia S. Parr SC Bar# _____ Defendant _____ Attorney for Defendant _____ SC Bar# _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: This Sentence is Subsumed by Life Sentence
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

§ 47.12 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ _____

§ 14-1-213 (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

§ 90.7 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ _____

TOTAL \$ 105.00

Clerk of Court/ Deputy Clerk: AK Bell

Court Reporter: Patricia S. Parr

SCCA/217 (11/2009)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 09-GS-21-427

A/W#: J398791

Date of Offense: 9/5/2008

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST: Patricia S. Parr SC Bar# _____ Defendant _____ Attorney for Defendant _____ SC Bar# _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: This Sentence is Subsumed by Life Sentence
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

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§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

§ 47.12 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ _____

§ 14-1-213 (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

§ 90.7 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ _____

TOTAL \$ 105.00

Presiding Judge: AK Bell

Judge Code: 2141

Sentence Date: 4-16-2010

THE STATE OF SOUTH CAROLINA
In The Supreme Court

The State, Respondent,

v.

Gregory Daniels, Appellant.

Appellate Case No. 2010-159728

Appeal From Florence County
Thomas A. Russo, Circuit Judge

Opinion No. 27180
Heard May 3, 2012 – Filed October 10, 2012

AFFIRMED

Appellate Defender Tristan M Shaffer and Deputy Chief Appellate Defender Wanda H. Carter, both of South Carolina Commission on Indigent Defense, of Columbia for Appellant.

Attorney General Alan McCrory Wilson, Chief Deputy Attorney General John W. McIntosh, Senior Assistant Deputy Attorney General Donald J. Zelenka, and Assistant Attorney General Brendan Jackson McDonald, all of Columbia, and Solicitor Edgar Lewis Clements, III, of Florence, for Respondent.

JUSTICE PLEICONES: Appellant was convicted of murder and possession of a weapon during a crime of violence and received concurrent sentences of life

(murder) and five years (weapon). On appeal, he alleges the trial judge committed reversible error in charging the jury that they were acting "for the community" and that their verdict "will represent truth and justice for all parties that are involved." We agree that these charges are erroneous, but because appellant did not properly preserve his issues for appeal, we affirm.

FACTS

The victim was shot at about 4:30 am on a Florence street. A witness who was to meet the victim testified that she heard a single gunshot and saw a person dressed in black clothing running away from the scene. There was testimony that appellant and the victim had argued at Shavonne's party. Shavonne did not observe the two fighting, but testified she was on the phone with the victim right before he was shot, and that he told her he was being followed by a man he had argued with at her party. Another witness testified that appellant had told him he had been hired to kill the victim. Appellant told this witness he had "done it" about an hour after the victim was killed.

Appellant and his girlfriend checked into a motel at about 5:35 am on the day of the murder. Excerpts from letters written to the girlfriend following appellant's arrest were introduced at trial. These letters suggested what she should tell people to give him an alibi. In one, he pointed out the absence of physical evidence to convict him, and in another asked her to contact his lawyer and suggests what to say, including the instruction that "it will help me and my bond hearing [sic] you are who I was with when they found him . . ." In short, while the State's case lacked forensic and eyewitness evidence, there was nonetheless substantial evidence that appellant murdered the victim.

At the pre-charge conference, appellant objected to the trial judge's inclusion of a charge that "You and I are acting for the community and that is why we must see to it that the trial is fair and the verdict is just." Appellant contended the "acting for the community" language was akin to a solicitor's improper golden rule argument, but did not object to the "fair and just" portion of this proposed charge. The judge declined to alter the "acting for the community" language. Appellant also objected to a different part of the proposed charge, which included the statement "[E]veryone is entitled to justice in this case," arguing that charge diluted the State's burden of proof. The judge agreed to omit this "everyone" charge.

The jury was charged on the presumption of innocence and the State's burden of proof beyond a reasonable doubt. Later, they were charged "You and I are acting

for the community," and that "This court is of the confirmed opinion that whatever verdict you reach will represent truth and justice for all parties that are involved in this case." Appellant renewed his pre-charge objection, but made no additional complaint about the charge.

ISSUES

1. Did the trial judge's charge include an improper "Golden Rule" instruction?
2. Did the trial judge's charge improperly shift the State's burden of proof or dilute it?

1. Golden Rule

Appellant argued to the trial judge that to the extent the jury was to be instructed that it and the judge were acting for the community, the charge was erroneous because it was akin to an improper Golden Rule argument. The judge disagreed. We affirm.

A 'Golden Rule' argument is one in which the jurors are asked to put themselves in the victim's shoes. It is improper because it is meant to destroy the jury's impartiality, and to arouse passion and prejudice. *Brown v. State*, 383 S.C. 506, 680 S.E.2d 909 (2009). A charge that the jury is acting for the community, however, is not similar to a Golden Rule argument in that it does not ask the jury to consider the victim's perspective. While appellant has not shown reversible error here, we caution the trial judge to restrict his jury instructions to matters of law.

2. Burden of Proof

On appeal, appellant contends the jury charge unconstitutionally shifted the burden of proof. He specifically objects to the part of the charge in which the judge stated it was his "confirmed opinion" that the verdict would represent "truth and justice for all parties." To the extent appellant now complains about the "confirmed opinion" part of the charge, he is improperly attempting to expand on appeal the scope of his objection below. *E.g., State v. Meyers*, 262 S.C. 222, 263 S.E.2d 678 (1974). There was no objection to the "confirmed opinion" language at the charge conference, and appellant stood on his pre-charge objection after the jury instructions were given. It is axiomatic that an objection to a jury charge may not

be raised for the first time on appeal. *E.g. State v. Rios*, 388 S.C. 335, 696 S.E.2d 608 (Ct. App. 2010); Rule 20(b), SCRCrimP.

Appellant also now argues the trial judge erred in charging the jury that their verdict would represent the "truth and justice for all parties."¹ The State contends that there was no contemporaneous objection made at trial to this "truth and justice for all" language in the charge. We agree. It is axiomatic that a party cannot raise an objection to a jury charge for the first time on appeal. *State v. Rios, supra*; Rule 20(b), SCRCrimP.

Although the issue is not preserved, we instruct the trial judge to remove any suggestion from his general sessions charges that a criminal jury's duty is to return a verdict that is "just" or "fair" to all parties. Such a charge could effectively alter the jury's perception of the burden of proof, substituting justice and fairness for the presumption of innocence and the State's burden to prove the defendant's guilt beyond a reasonable doubt. Moreover, to a lay person, the "all parties involved" in a criminal case may well extend beyond the defendant and the State, and include the victim. These inaccurate and misleading charges risk depriving a criminal defendant of his right to a fair trial.

CONCLUSION

Appellant's convictions and sentences are

AFFIRMED.

Acting Justice E. C. Burnett, III, concurs. TOAL, C.J., concurring in result in a separate opinion in which KITTREDGE, HEARN, JJ., and Acting Justice E. C. Burnett, III, concur.

¹ Appellant had objected to a different proposed charge at the pre-charge conference, that "Everyone is entitled to justice in this case." The judge agreed not to give this charge, and a review of the record shows that he did not.

CHIEF JUSTICE TOAL: I concur in the result reached by Justice Pleicones, but writing for a majority of the Court, find that Appellant's burden-shifting arguments are preserved. The adequacy of the trial court's entire overall instruction cured any possible constitutional deprivation. In addition, the State presented overwhelming evidence of Appellant's guilt, rendering any error in the jury instruction harmless.

I. PRESERVATION

At trial, defense counsel objected to portions of the trial court's proposed jury instruction. First, defense counsel took exception to the trial court's proposed statement that "everyone is entitled to justice in this case."

Defense Counsel: We would argue that this is burden shifting. The fact that we don't feel like the state is necessarily entitled to justice. Instead, they have the burden of proving defendant guilty beyond a reasonable doubt. And we would cite *Cage v. Louisiana* [498 U.S. 39 (1990)], which suggest that the jury instructions that dilute the burden of proof on the government prove [sic] beyond a reasonable doubt violate due process and constitute reversible error.

....

The Court: I was going to say why isn't the State entitled to justice just as any defendant who comes into court is entitled to justice. Being entitled to justice doesn't remove a burden or lessen a burden. I am going to note your exception to that, but . . .

The trial court then agreed to remove the objectionable language:

But it's fairly – you know, that paragraph you are referring to where it starts with that everyone is entitled to justice, I will take that out and just put your verdict in this case cannot be based on sympathy, compassion or prejudice, just doesn't seem to be that big a deal.

However, the trial court issued a jury instruction containing substantially similar language:

Your verdict in this case is not to be based on sympathy, compassion, prejudice or some other emotion or other consideration that is not found in the evidence. This court is of the confirmed opinion that

whatever verdict you reach will represent truth and justice for all parties that are involved in this case.

(emphasis added).

Defense counsel also objected to the trial court's proposed language that the judge and jury were "acting for the community," and argued that this statement asked the jury to act as the "conscious of the community, similar to a golden rule argument." The court refused to remove this language from his instruction, "I'm going to note your exception to the language, I'm going to leave that language in."

The Court then stated the following during his instruction:

You are not called to serve as jurors very often. And the proper performance of the duty requires each of you to reach the hithe [sic] of freeing your mind of all improper influences. You and I are *acting for the community* and that is why we see to it that this *trial is fair and the verdict is just.*

Following the completion of the jury instructions, the court referenced defense counsel's objections:

The Court: Are there any exceptions or objections to the Court's charge by the State?

The State: No sir.

The Court: And by [defense counsel] other than what we discussed during the . . .

Defense Counsel: That's all, Your Honor.

The Record clearly demonstrates that Appellant did not raise the propriety of the jury instructions for the first time on appeal, but objected to the offensive language both before and after the trial court delivered his instruction. Thus, Appellant's objections were properly preserved for this Court's consideration on appeal, and consequently, we must address the critical burden shifting issue.²

² The trial court's instruction that the jury is "acting for the community" is dangerous, and has all the earmarks of a "Golden Rule" argument. While it may not directly instruct the jury to place themselves in the victim's shoes, a charge to

II. BURDEN SHIFTING

While I agree with Appellant's argument that the jury should not have been instructed that their verdict would represent truth and justice for the parties, this Court must consider instructions as a whole, and "if as a whole they are free from error, any isolated portions which may be misleading do not constitute reversible error." *State v. Aleksey*, 343 S.C. 20, 27, 538 S.E.2d 248, 251 (2000). The standard of review when considering an ambiguous jury instruction is whether there is a reasonable likelihood that the jury applied the challenged instruction in a way that violates the constitution. *Id.* at 27, 538 S.E.2d at 251 (citing *Estelle v. McGuire*, 502 U.S. 62, 72 (1991)). Under this standard, the trial court's improper statements do not require reversal.

In *Aleksey*, this Court addressed whether a trial court's instruction shifted the burden of proof to the defendant. In that case, the trial court issued a complete and proper instruction on reasonable doubt, the presumption of innocence, and the State's burden of proof. *Id.* at 26, 538 S.E.2d at 251. The trial court then instructed the jury to weigh the credibility of witnesses as follows:

Ladies and gentlemen, throughout this entire process, you have but one single objective, and that is to seek the truth, to seek the truth regardless of from what source that truth may be derived. Now, all of these things, ladies and gentlemen, you will consider, bearing in mind that you must give the defendant the benefit of every reasonable doubt.

Id. at 26, 538 S.E.2d at 250.

The Court in *Aleksey* relied on *United States v. Gonzalez-Balderas*, 11 F.3d 1218 (5th Cir. 1994), in analyzing a contested jury charge. In *Gonzalez-Balderas*, the district court instructed the jury: "Remember, at all times, you are judges—judges of the facts. Your sole interest is to seek the truth from the evidence in this case." *Id.* at 1223. The defendant argued that instructing the jury that its "sole

"act for the community" carries the same connotation and effect. However, because of the overwhelming evidence of Appellant's guilt, discussed *infra*, any "Golden Rule" error harmless. See *Vasquez v. State*, 388 S.C. 447, 468–69, 698 S.E.2d 561, 572 (2010) ("Furthermore, even if the solicitor did make an improper 'Golden Rule' argument, I would find the error harmless in light of the enormity of the evidence against Petitioner.")

interest is to seek the truth" diluted the reasonable doubt standard of proof. *Id.* The Fifth Circuit Court of Appeals disagreed:

As an abstract concept, "seeking the truth" suggests determining whose version of events is more likely true, the government's or the defendant's, and thereby intimates a preponderance of evidence standard. Such an instruction would be error if used in the explanation of the concept of proof beyond a reasonable doubt. The district court, however, did not use it in this way. Rather, the trial court began its instructions with a clear definition of the government's burden of proof in which it repeatedly stated that the defendant could not be convicted unless the jury found that the government had proven him guilty beyond a reasonable doubt.

Id.

Similarly, the trial court in *Aleksey* issued complete and proper reasonable doubt and circumstantial evidence charges. Although that trial court's statements regarding witness credibility were improper, this Court held that this did not taint the overall instruction. Thus, it was not reasonably likely that the jury applied the instructions in a manner inconsistent with the notion that the State has the burden of proof beyond a reasonable doubt. *Id.* at 28-29, 538 S.E.2d at 252.

In the instant case, the trial court included several improper statements as part of his jury instruction. However, the trial court prefaced those remarks with full and adequate instructions on reasonable doubt. It is troubling that the trial court concluded his jury instruction with statements that could have distracted the jury from their core functions: to examine evidence and make factual determinations, weigh credibility, and perhaps most importantly, decide whether the State has proven its case beyond a reasonable doubt. The injection of extraneous language only serves to distract the jury from performing their critical role. However, despite the trial court's mistake, the instruction as a whole properly conveyed the law to the jury and it is not reasonably likely that the jury acted in contravention of the reasonable doubt standard. *See Aleksey*, 343 S.C. at 29, 538 S.E.2d at 252-53 (finding reversal not required when the trial court's improper instructions were given in the context of witness credibility and not reasonable doubt).

Furthermore, unconstitutional burden shifting does not result in reversible error when that error was harmless beyond a reasonable doubt. *Rose v. Clark*, 478

U.S. 570, 579-80 (1986); *Tate v. State*, 351 S.C. 418, 426, 570 S.E.2d 522, 526 (2002).

The State presented substantial circumstantial evidence that Appellant committed the crime charged. One witness testified that, as the result of a "drug deal went bad," Gary Bostic hired Appellant to kill the victim for \$1,000. This witness testified that Appellant told him four or five times that he planned to commit the crime. The witness stated that he and Appellant watched a news report regarding the murder, and that following the conclusion of the report, Appellant admitted to the murder.³ The witness's girlfriend corroborated his testimony. She testified that she was present when Appellant watched the news report, and that she also heard Appellant state that he murdered the victim. The State also presented evidence that between September 5, 2008, the day of the murder, and September 9, 2008, Appellant and Bostic called each other forty-one times.

The most revealing evidence presented by the State consisted of actual letters Appellant wrote in which he attempted to convince his girlfriend to provide him with an alibi.

Appellant's girlfriend testified that she saw Appellant on the Thursday evening of September 4, 2008, at approximately 7:30 or 8:00 p.m., and the next time she saw him was at 5:30 a.m. the morning of September 5. On that morning, Appellant picked her up in a van driven by a man named Gary, and Appellant and his girlfriend checked into a motel. Following their check-in, Appellant left and returned some time later with a rental car. Appellant then drove his girlfriend back to her residence, and informed her that he would be changing his phone number that day, and called her later that day from the new phone number.

The State introduced letters authored by Appellant, which sought to persuade his girlfriend to change her version of the events of September 4 and 5, 2008.

In a letter from October 2008, Appellant wrote:

They aint got no gun, no bloody clothes, no shells, nothing . . . those are the main things they need to actually convict me it don't matter how many people say I did it or we argued the time that they say this

³ Bradley admitted that he faced pending federal charges for trafficking cocaine, but received no deal in exchange for his testimony, and only hoped to help himself in federal court.

happened. I told u that when we went to the room. Remember I said we was [sic] together at the settin [sic] up. But you told them u [sic] was sleep and I came and pick up [sic] in a van. My people told me that if u [sic] tell my solicitor that u will give him or her a statement saying we were together then they will give me a bond.

In another undated letter, Appellant wrote:

Someone told me how u [sic] can help me getting [sic] out of here. I don't know what u [sic] told them people but all I need is for u [sic] to say is I was with you at morning noon and night.

In another letter dated October 2008, Appellant acknowledges that his version and his girlfriend's version of the events are not similar:

Our stories are not the same. I told them we left off Carver Circle in a green van cab with a [sic] old driver. We were on the computer. But I will tell them I was still there playing dominoes u [sic] went home to get clothes and I came and got u [sic] from there. No times though . . . Make sure dude no [sic] this story. State Taxi . . .

On November 16, 2008, Appellant wrote:

But anyways I need you to call this number . . . and talk to . . . my lawyer. Tell him that you are my girl and we were at the room during the time they said that this occurred. You can still tell him that I picked you up in a van and we went to the room but tell him that you were waiting on me at your sisters [sic] house but you left because I took to [sic] long. If they ask you a time just say you don't know what time it was but you were asleep and we was at the room sleep when the report on the news said at 5:00 a.m. But anyways you don't have to but it will help me at my bond hearing. You are who I was with when they found him.

By February 2009, Appellant became desperate for his girlfriend to provide a false alibi:

But your statement could hurt me in court because they saying you told them that it was not a taxi and it was a young dude driving the

van and also that you was sleep and I was on the phone talking to somebody about dude but that has got to be when my phone started ringing and that I left you and didn't come back until 6:00 am but they said dude was dead at 5:17 a.m. and the receipt from the room show us checking in at 5:34 a.m. but the clerk saying he didn't see me but to cover that up I'll just say I was smoking a cigarette.

On June 14, 2009, Appellant admits that a man named "Gary" drove him to the hotel following the murder:

Call 617-6919 and tell Gary that you calling [sic] for me and let him know that . . . said he will take \$2,000 and come get me out tell him my mama need \$1,000. *That's who . . . dropped us off at the room.*

(emphasis added).

These letters clearly demonstrate that Appellant could not account for his whereabouts at the time of the victim's murder. His attempts to pressure his girlfriend to provide a false alibi, and the testimony of two individuals who witnessed his confession provided the jury with substantial circumstantial evidence of his guilt. Put another way, the circumstances proven are consistent with each other, and when taken together, point conclusively to the guilt of Appellant to the exclusion of every other reasonable hypothesis. *State v. Hernandez*, 382 S.C. 620, 626 n.2, 677 S.E.2d 603, 606 n.2 (2009) (citing *State v. Edwards*, 298 S.C. 272, 274-76, 379 S.E.2d 888, 889 (1989)). Thus, based on the overwhelming evidence of guilt presented to the jury, the trial court's erroneous instructions could not have contributed to the guilty verdict. *See Lowry v. State*, 376 S.C. 499, 509, 657 S.E.2d 760, 765 (2008) ("From this perspective, in order to conclude that the error did not contribute to the verdict, the Court must find that error unimportant in relation to everything else the jury considered on the issue in question, as revealed in the record.") (internal citation omitted).

III. CONCLUSION

As a final note, although no constitutional error occurred, the trial court's inappropriate statements in this case came close to jeopardizing the legitimacy of the trial. Judges and juries are critical actors in our judicial system. Jurors are sworn to declare the facts of the case as they are proved from the evidence placed before them. 50A C.J.S. *Juries* § 1 (2004). The very term "jury" connotes a deliberative body of persons. *Id.* A judge sits as a public officer, who presides

over, conducts, and administers the law by virtue of the office, and does so cloaked in judicial authority. *Id.* Judges § 7 (2004). Judges and juries are not, as this trial judge put it, "in it together." While their functions may act as a complement to one another, it is erroneous to imply that they somehow work hand in hand, and any blurring of their roles serves as an unnecessary and improper distraction.

Judicial instructions to the jury in a criminal case that "whatever verdict you reach will represent truth and justice for all parties," that "we must see to it that the trial is fair and the verdict is just" and that you and I are "in it together," may seem at first blush to be simply harmless phrases intended to put the jury at ease and portray the judge as a "regular guy." However, the constitutional framework governing criminal trials is a highly technical body of law developed by the United States Supreme Court and by state courts operating under the Supreme Court's guidance. It is inappropriate to jeopardize the constitutionality of a trial by instructing the jury in this way.

It is critical that jurors understand the proper application of the reasonable doubt standard. That standard does not charge the jury with ensuring justice for all of the parties. Justice Pleicones correctly notes that this language could result in jurors substituting concepts of justice or fairness for the State's constitutional duty to prove guilt beyond a reasonable doubt. Thus, I join the Justice Pleicones's admonition to the trial court to restrict his jury instructions to matters of law, and refrain from issuing instructions which run the risk of depriving defendants of their right to a fair trial.

AFFIRMED.

KITTREDGE, HEARN, JJ., and Acting Justice E. C. Burnett, III, concur.

FORM 5

2013CP-21-280



STATE OF SOUTH CAROLINA

COUNTY OF Florence

CERTIFIED: A TRUE COPY
 Clerk of Court C.P. & G.S.
 FLORENCE COUNTY, S.C.

~~Lee Correctional Institution~~

Full name and prison number (if any) of Applicant.

Gregory D. Daniels 297449

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

2013 FEB - 1 PM 09
 COURT REPORTER
 FLORENCE COUNTY CO

FILED

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lee Correctional Institution
2. Name and location of Court which imposed sentence Florence City County Complex
180 N Irby St. Florence S.C. 29501
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Indictment 2009-GS-21-#27 Count 1 Murder
 - (b) Possession of weapon during commission of a violent crime
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) April 16th 2010
 - (b) Guilty Verdict from Jury Natural Life sentence + 5 years

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. South Carolina Court of Appeals

ii. Supreme Courts of South Carolina

iii. _____

(b) the result in each such Court to which you appealed:

i. Assumed the Conviction

ii. _____

iii. _____

(c) the date of each such result:

i. October, 10, 2012

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. _____

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____

(b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in

custody unlawfully: I believe that my legal representation at trial failed to object to the charge to the jury as a whole and if done would have lead to the overturning of my case and the granting of a new trial.² Defendant feels that the states case was based on mere suspicion and should have ended in direct verdict.
Revised 3/2003
672

- (a) Judges Charge to jury lead to prejudice
- (b) Prosecutions Comments made during Closing arguments XIV Amend
- (c) Inconsistent Statements made by several witnesses (Request Incident Rep
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Golden Rule Violation
- (b) Burden shifting Due Process clause of the Fourteenth Amendment
- (c) Prosecution misconduct leading of witnesses (Transcripts)
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? _____
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? Supreme Court of South Carolina
- (d) any other petitions, motions or applications in this or any other Court? _____
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. Oral Argument
- ii. Golden Rule Violation
- iii. Burden shifting Due Process Clause of the Fourteenth Amendment
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. Supreme Court of South Carolina
- ii. Supreme Court Building at the Corner of Gervais and
- iii. Sumter Streets in Columbia
- iv. _____
- (c) the disposition thereof:
- i. ~~Reversed~~ Golden Rule Violation
- ii. Burden shifting Due Process clause of the Fourteenth Amendment
- iii. _____

- iv. _____
(d) the date of each such disposition:
i. May 3, 2012
ii. _____
iii. _____
iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. Judge's Opinion is that the Court's Charge to Jury was
ii. erroneous but could not be argued for first time on appeal
iii. therefore Affirmed conviction.
iv. Judge agreed that the Court's did error on Charge to Jury

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

Yes

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. Golden Rule Violation
ii. Burden shifting Due Process Clause of the Fourteenth Amendment
iii. _____

(b) the proceedings in which each ground was raised:

- i. Court of Appeals
ii. Supreme Court of South Carolina Oral Argument
iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) _____
(b) _____
(c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? _____
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. Mr. Jack Lawson + Mr. Grayson Smith Florence Public Defenders
 - ii. Mr. Tristan M. Shaffer S.C. Department of Indigent Defense
 - iii. Ms. Wanda H. Carter SC Department of Indigent Defense
- (b) the proceedings at which each such attorney represented you:
 - i. Trial and Sentencing
 - ii. Direct Appeal
 - iii. Direct Appeal

19. State clearly the relief you seek in filing this application:

I'm Seeking a new trial or the ^{Aquittal} ~~dropping~~ of the charges against me

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA

County of

VERIFICATION

I, , being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Angela S. Smith

SWORN to and subscribed before me this 29
day of Jan, 2013.

Debra Sures (L.S.)
Notary Public

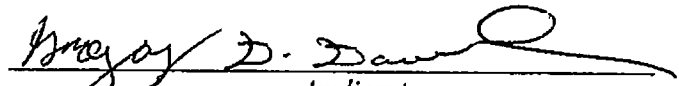
My Commission Expires: 11-4-2015

FILED
2013 FEB - 1 PM 2:09
DONNIE REEL-SHEARER
CSP & GS
FLORENCE COUNTY, SC

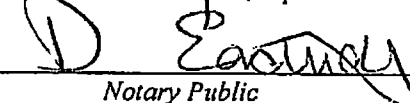
**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, _____, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.


Applicant

SWORN or affirmed to and subscribed before me this
29 day of Jan, 2013.


Notary Public

My Commission Expires: 11-4-2015

FILED
2013 FEB - 1 PM 2:09
CORRIGEE-SHEA
6008 2 RS
FLORENCE COUNTY, SC

(A) Golden Rule Violation

It is improper for the Court to suggest that jurors "stand in the shoes" of a party because it encourages the jurors to depart from neutrality and to decide the case on the basis of personal interest rather than evidence.

State v Brown, 383 S.C. 506, 516, 680 S.E. 2d 909, 915 (2009)

State v Reese, 259 S.C. 260, 271, 597 S.E. 2d 169, 175 (Ct. App. (2004))

A juror should not convict a criminal defendant in order to protect community values, preserve civil order, or deter future lawbreaking. State v Liberte, 384 S.C. 648, 654, 521 S.E. 2d 744, 747 (Ct. App. 1999) (commenting "The amelioration of society's woes is far too heavy a burden for the individual criminal defendant to bear")

Relevant Facts

② When the trial court told the jury they were acting for the community and must seek a just verdict, the court was essentially asking them to stand in the shoes of the state whose job is to seek justice

3) Judge's charge to jurors stated that in evaluating eyewitness testimony you should remember that the state must prove identity of the defendant as the person who committed the crime beyond a reasonable doubt. Transcripts page # 612 (lines 14-17)

4) (Reasonable doubt) Jurors during deliberation had a question to the court as to whether witnesses Evans and Peterson had already left the party / cookout when witness Miss Gass burned a cigarette from the defendant. Transcripts pages # 624-625 lines 1-11

5) When argued in direct appeal before the Supreme Court this issue was agreed to be erroneous.

6) Judge allowed the prosecution time enough to present evidence before the jury at trial new evidence that defense knew nothing about and stated that he was not going to allow 40 letters in as evidence. Transcripts page # 366 (lines 22-25)

3) Judge allowed hearsay that was prejudicial toward the defendant to be admitted in as evidence. This hearsay or statement came from witness Shavonne Gass. Page # 258 (lines 7-25) page # 259 (lines 1-25) page # 260 (lines 1-25) page # 261 (lines 1-25) page # 262 (lines 1-25) page # 263 (lines 1-25) page # 264 (lines 1-25) page # 265 (lines 1-25) page # 266 (lines 1-25) page # 267 (lines 1-25) page # 268 (lines 1-25) page # 269 (lines 1-25) Transcript

(A) The witness giving this testimony gave not one version but three different versions to the last phone conversation between her and the victim

(B) The state and judge both agree that this conversation was hearsay

(C) The judge agreed that this information is prejudicial

(D) The defense argued that under Rule 403 that this was inadmissible

(E) The state argued that under Rule 803(1), presence sense impression that this statement or testimony is admissible.

Defendant argues that this evidence was prejudicial and should not have been allowed under the 403 Rule

(F) The defendant argues that the state says that this statement was given to prove presence sense impression but the witness giving this testimony or statement stated that it was not the defendant that the ^{victim} ~~defendant~~ was arguing with but another subject. The defense argued this issue before the judge outside the jurors presence and the judge made it clear that this witness stated that it was not the defendant who was arguing with the ^{victim} ~~defendant~~ but another subject. Transcripts page # 262 (lines 1-25) page # 263 (lines 1-23)

Continue from page #3 Question 1)

(B) Burden Shifting Due Process Clause Fourteenth Amendment

1) In state criminal trials, the Due Process Clause of Fourteenth Amendment protects the accused against conviction except upon proof beyond a reasonable doubt. *Cage*, 498 U.S. at 39, 111 S.Ct. at 329 (citing *In Re Winship*, 397 U.S. 358, 364, 90 S.Ct. 1068, 1073 (1970) A jury's job is to weigh the evidence and determine if the state has proven its case beyond a reasonable doubt. Courts should not impute truth or justice to a verdict because it is essentially asking the jury to make their decision on something other than reasonable doubt. Cf. *State v Alexey*, 343 S.C. 20, 26-27 538 S.E. 2d, 248, 251 (2000) *State v Anderson*, 153, was, App. 417, 422, 220 P.3d 1273, 1280 (Wash. Ct App. 2009)

2) Jury instructions on reasonable doubt which charged the jury to seek the truth are disfavored because they run risk of unconstitutionally shifting the burden of proof to the defendant. (*State v Anderson*)

3) Defense Counsel objected to the prosecution calling forth a lay witness by the name of Andrea Bradley Transcripts Page # 372 Lines 24-25. Due to the fact that Defense Counsel felt that the state withheld information from discovery about this witness testifying never received any statements in discovery.

4) This witness stated in testimony that he was doing this to get himself out of the situation. Transcripts Page # 422 Lines 19-20

5) Defense Counsel felt that this witness was coming forth with this information only because he was facing time in Federal Court. (Rule 35 b) This witness didn't come forth with this information ~~until this information~~ until after he ~~was facing~~ signing this proffer Agreement with Federal government *State v Bostic* 392 S.C. 134, 708 S.E. 2d 774 (2011) Mere suspicion

6) Judge presiding over the trial at the time questioned both the prosecution and State Enforcement at the time of this objection and stated that this witness was not going to testify because the defense is entitled to this information and

playing anything hiding under the table springing something on anybody in this courtroom. While I'm on the bench every defendant that comes into this courtroom is going to get a fair and impartial trial. ~~Transcripts~~ Transcripts page # 375 (lines 1-2) page # 375 (lines 11-15) page # 876 (lines 7-10) were not going to play games with informants who have cut deals but were not going to tell the defendant. -- Witness Testimony as to defendant telling him that he was going to do a job a month before the crime.

7) Judge residing on bench at the time of trial allowed prosecution for the state to bring forth evidence during trial that the defense was not aware of before trial that came from witness Myrena Goodman letters written to her from the defendant during the time of his incarceration and allowed the state time to review this evidence and present them at trial after saying that ~~it~~ it was not like I'm allowing the state the opportunity because they have taken for two years. Transcripts page # 368 (lines 1-25) 369 (lines 1-25)

8) Defendant believes that this is more evidence that should have not been allowed because of the time frame of which the state brought this information forth. And believe that this was prejudicial and was used to shift the burden of proof from the ~~state~~ state to the defendant and to show suspicion to the jury by the defendant not taking the stand. Fifth Amendment Right to remain silent.

State v Wharton 624 S.E. 2d 654, 367 S.C. 71 S.C. App(2005)

Law to be charged must be determined from the evidence presented at trial.

9) Defense counsel moved for a motion of a direct verdict from the judge at trial due to the states failure to present a prima facie case for jury consideration. The judge denied this motion. Transcripts page # 539 lines 22-25 Transcripts page # 540 lines (1-6) lines 22-25) page # 541 (lines 1-25)

10) Mere Suspicion State v Bostic, 392 S.C. 134, 142, 708 S.E. 2d 774, 778 (2011) The evidence presented by the state raised, at most, a mere suspicion that Bostic committed this crime. Under settled principles the trial court should grant a directed verdict motion when the evidence merely raises suspicion of guilt.

(1) Defendant argues that the state never showed or proved that the person wearing dark clothing leaving the ~~area~~ area where witness from the state Tiesha Brown stated that she saw from her mailbox. Even if there is testimony from witnesses who attended the party/cookout of the defendant having on all black entire the night of that gathering there is still doubt as to rather the person that this witness saw leaving the area dressed in dark clothing was the defendant or not. No Identity of the defendant was made by this witness. (Mere suspicion) Transcripts page # 100 (lines 1-16)

State v Manis 214 S.C. 99, 51 S.E. 2d 370 (1949) contends that where as here, the evidence is completely circumstantial his guilt must be proven to the exclusion of every other reasonable ~~hypothesis~~ hypothesis. In so contending appellant is arguing the standard to be charged for use by the jury in its deliberation. Under this test the jury may not convict unless; every circumstance relied upon by the state be proven beyond reasonable doubt and all of the ~~evidence~~ circumstances so proven be consistent with each other and taken together point conclusively to the guilt of the accused to the exclusion of every other reasonable hypothesis. It is not sufficient that they create a probability, though a strong and if assume them to be true they may be accounted for upon any reasonable hypothesis which does not include the guilt of the accused, the proof has failed.

(2) Charge to jury by trial court stated that they are acting for the community and that their verdict will represent truth and justice for all parties involved. This charge ~~merely~~ demanded that jurors do more than merely weigh the evidence but required them to seek justice in the ~~interest~~ interest of the community. In doing so this charge also delated the reasonable doubt standard. Transcripts, page # 547 lines 1-21
682
page # 552 lines 4-11 Case v Louisiana 494 U.S. 39,

Continue from Page # 3 Question 1

A) Ineffective assistance of Counsel

- 1) Counsel for defendant failed to object to jury charge as a whole
- 2) Counsel for defendant failed to object to Solicitor's closing argument that ~~exceeded~~ the burden shifting charges and also stating personal opinions on the matter Quoted in transcript page # 566 lines 9-16 page # 572 lines 18-25
- 3) Counsel for defendant could have brought forth a witness that could have given testimony that could have helped prove defendant's innocence.
- 4) Counsel for defendant objected to the context to exhibit #2 the CD containing the defendant's statement to investigators that also contained statements given by witnesses. Defendant questions if his representation would have suppressed these statements given by witnesses may have proved that the testimony and statements given to investigators that were also on this CD that the jury could have seen or heard the inconsistencies of statements and testimony by the witnesses and could have lead to a mistrial by jury or Not Guilty verdict, (Jackson v Den
- 5) Counsel for defendant brought forth an issue before the judge residing on the bench at the time of this trial regarding an issue of inmates overhearing the judge while holding court on another floor talking with other court personnel about the trial saying he didn't know why the case was going to trial that the defendant was going to be found guilty. Defendant told his representation at that time that he did not feel like he was going to get a fair trial and asked his lawyer to ask for a motion for the judge to be removed from his trial. Defendant's lawyer failed to ask for this motion and raised this issue but still proceeded with this trial. Defendant believes that he was ~~prejudiced~~ prejudiced by this issue not being handled in the right way and believe that this was not very professional by the court or law.
- 6) State exhibit 14 was admitted into evidence without any objection by Counsel for defendant which is a cellphone that belonged to the defendant and was taken from defendant at the time of his arrest. Later during trial the defendant's Counsel

Exhibits ~~came from exhibits~~ came off of exhibit 14. Defendant believes that these exhibits were used to show or prove the state's case to the jury and produced prejudice toward the defendant and showed more suspicion to the jury. Have the Counsel for defendant had made ~~an~~ objection to exhibit 14 and exhibit 14 not admitted as evidence the jury may have come to a different verdict. Transcripts page # 331 (lines 23-25) page # 332 (lines 1)

(7) Counsel for defendant failed to subpoena witnesses that investigators took statements from or other parties that the state claims to have been involved in this case.

(8) Defendant asked his Counsel at trial to present the incident report with statements from witnesses in as evidence to prove the inconsistencies of testimony at trial and statements given to investigators. Counsel told the defendant that those statements are irrelevant.

(9) Defense for defendant failed to object to several leading questions from prosecution to witnesses throughout trial.

(10) Defense for defendant did raise the motion to ~~dismiss~~ for direct verdict on a basis that there is insufficient evidence that's been put forward by the state to establish anywhere near evidence beyond a reasonable doubt. but didn't raise the issue of (mere suspicion.)

(11) Defense for defendant failed to oppress the issue of the degraded DNA that could have possibly lead to another suspect in this case and could have shown or proved innocence of the defendant. Transcripts page # 214

Lines (12-20)

2) Defendant argues that over the period of time that he was ~~detained~~ being held for these charges in the Detention Center that he did notify his Attorney at that time on several occasions that there were motions that I would ~~not~~ ask that he filed before trial both in writing and during our client lawyer visits to the Detention Center. (1) Motion in limine,

(2) Motion to Dismiss, (3) Motion to suppress (4) Motion to strike. Defense Counsel failed.

13) Defendant was told by Judge Russo at trial off the record after stating to the court that he felt that his representation by Public Defender Jack Lawson was not to the best ability and that he believed that more time put into his case and further investigation by the ~~state~~ representation appointed by the state could have lead to the verdict of not guilty or mistrial. Judge Russo stated that the defendant had the best trial lawyer that the state has to offer. Defendant found out that 2 months after his trial that Mr. Lawson passed away due to the illness of Cancer. Defendant believes that the fact that this Counsel was suffering from an illness of such seriousness could have affected the time needed to focus on a case of such a high profile

Prosecution Misconduct

- (1) Closing Arguments and Comments made by prosecution during trial and the echoing of these comments to the jury. By ~~State~~ Assistant prosecutor Steven Deberry.
- (2) There's only one verdict in this case that is true. There's only one and there's no doubt about it. And it says Gregory Daniels Killed Corey Byrd. There's not much in this case not to believe that, There's so much evidence. It is all there, you heard it. You can take what of it you need to find him guilty and that's the only truth that can come out this case. I ask you to do that. Transcripts page # 566 lines 9-16
- (3) Telling you ladies and gentlemen he's not ~~guilt~~ innocent. He is guilty. He killed Corey Byrd. He got in the van with Gary Bostic. They drove to Chase Street. We got some phone calls of Nyrena Goodman and Gregory Daniels just before the murder, just after the murder. He's saying get up get ready we going to the room, Transcripts lines (8-25)
- (4) But you are convinced beyond a reasonable doubt he did it. There's no other answer in this case. Please find him guilty. Transcripts page # 570-5 line 25 / Lines 1-2) US V Weatherspoon (2003)
- (5) Prosecution in this case had several witnesses while in question at trial and also withheld information from Defense in discovery evidence.
- (6) Prosecution in this case knew that their case against the defendant was weak due to the lack of evidence and a case that was so weak from day one produced all evidence against the defendant was all to show more suspicion to prove guilt. Not one prosecutor handled this case but 3 starting with Solicitor Ed Clements III then Ms. Patricia Parr and then the week before trial Deputy Chief prosecutor John Tegeringer, Ms. Parr held the case for 1 year and half before handing the case over to Mr. Tegeringer. Only after investigating and coming up with the only theory that ~~could~~ could prove the defendant guilty was

the crime scene. When finding that this theory was not going to work and had no other evidence to go on Ms. Parr then gave the case to Mr. Tegetinger.

7) Prosecutor Mr. Tegetinger when taking over this case with this same evidence didn't show any new evidence in discovery or provide the defense with any copy of any new evidence that was going to be brought forth against the defendant until the defendant was called to trial. In fact this prosecutor had two key witnesses that the defense was not aware of until the day of trial. (Andrea Bradley, Jasmine Bar

8) ~~The~~ Prosecutor Mr. Tegetinger failed to allow the defense or make the defense aware of evidence which were letters that were written by the defendant to his girlfriend at the time a witness for the state also of which the defense was not aware was a witness for the state were going to be admitted in as evidence at trial. (Due process clause 5th and 14th Amendments) (More Suspicion)

9) Prosecution Brought forth no evidence to prove its theory of a Gary Bostic being involved in the crime at all. This is who the prosecution stated paid the defendant to murder the deceased. (More Suspicion)

10) Prosecution at trial talked or spoke on witness testimony that never where called as evidence or to trial to be cross examined.

11) Prosecution allowed investigator over case to threaten state witnesses as of there testimony or imprisonment in order to build a case against the defendant.

12) Prosecution when questioning witnesses at times would rephrase the witnesses answer and ask the question again the way that ^{prosecution} ~~they~~ want that witness to answer. Leading of witnesses

13) Defendant argues that prosecution knew that there was a degraded DNA found under the victims fingernail that was insufficient for comparison that could have lead to another suspect in this case. Transcripts page 214 (lines 12-20) witness Mr. Fitts exhibits 6 and 15

4) Mere presence, Mere presence at or near the scene of a crime does not, of itself, permit an inference to be drawn by you that the defendant had knowledge of any criminal plan which might have been known to the defendant. Mere presence support an inference of intent to assist

In or to aid Criminal Conduct. Suspicious Circumstances like
Mere presence are not sufficient for a finding of guilt against
any defendant.

State v Green, 261, S.C. 366, 200 S.E. 2d. 74 (1973)

State v Hyder, 242 S.C. 372. 131, S.E. 2d. 96 (1963)

State v Leonard 292 S.C. 133, 355, S.E. 2d. 270 (1987)

State v Johnson 291 S.C. 127, 352 S.E. 2d 480 (1987)

Continued From page # 10 Question 10 + 11

Inconsistent Statements made by witnesses Trail vs Incident Report

- (1) Witness Tiesha Brown Transcripts page # 91-108 (possible suspect)
Incident Report page # 1
- (2) Witness Brittany Fludd Transcripts page # 126-145 (possible cover up for witness)
- (3) Witness Ryan Evans Transcripts page # 155-165
- (4) Witness James Black Transcripts page # 237-242
- (5) Witness Gabriel Peterson Transcripts page # 174-181-191
- (6) Witness Shavonne Gas Transcripts page # 249-270
- (7) Request that Incident Reports be included and compared statements from witnesses to testimony at trial
- (8) Also Defendant Request that copies of both CDs containing statements from Defendant and witnesses be reviewed.
- (9) Erica Eagleton Incident Report page # 2 and page # 4
- (10) Crime Stoppers Caller Incident Report page # 3
- (11) CI Called text tip for investigators Incident Report page # 5
- Reginald Coleman Incident Report page #'s 6 + 7

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

Gregory Daniels, #297449,
☒ Plaintiff

v.

State Of South Carolina
☐ Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.
2013-CP-21-0280

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney:
Tricia A. Blanchette, Bar No. 74904
Address:
PO Box 12725
Columbia, SC 29211
phone: 803-988-0008 fax: 803-0988-8070
e-mail: blanchettelaw@gmail.com other:

Defendant's Attorney:
Josh Thomas, Bar No.
Address:
PO Box 11549
Columbia, SC 29211
phone: 803-734-3737 fax: 803-734-4113
e-mail: other:

FILED
2013 AUG 13 PM 1:28
CONNIE REEL-SHEPARD
CCCP & GS
FLORENCE COUNTY, SC

- ☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
☒ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

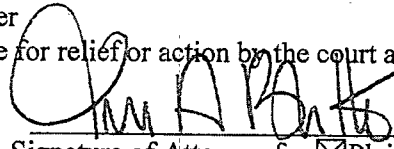
Nature of Motion: Substitution of Counsel

Estimated Time Needed: Court Reporter Needed: ☐ YES / ☒ NO

SECTION II: Motion/Order Type

- ☐ Written motion attached
☒ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.


Signature of Attorney for ☒ Plaintiff / ☐ Defendant

August 12, 2013

Date submitted

SECTION III: Motion Fee

☐ PAID - AMOUNT:

- ☒ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☒ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter:

☐ Other:

JUDGE'S SECTION

- ☐ Motion Fee to be paid upon filing of the attached order.
☐ Other:

JUDGE

CODE: Date:

CLERK'S VERIFICATION

Collected by: _____

Date Filed: _____

- ☐ MOTION FEE COLLECTED: _____
☐ CONTESTED - AMOUNT DUE: _____

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

Gregory Daniels, #297449,)
Applicant,)

v.)

State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
TWELTH JUDICIAL CIRCUIT

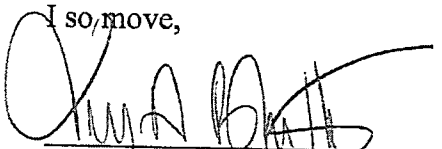
2013-CP-21-0280

**MOTION FOR SUBSTITUTION
OF COUNSEL**

FILED
2013 AUG 13 PM 1:28
CONNIE REEL-SHEARN,
CLERK OF COURT, S.C.
FLORENCE COUNTY, SC

This matter comes before the Court pursuant to an Application for Post Conviction Relief filed on February 26, 2013. Tristan Shaffer, Esquire, was appointed to represent Applicant. Tricia A. Blanchette, Esquire, with the consent of Applicant and appointed counsel, would respectfully move before this Court to be substituted in as counsel in place of appointed counsel.

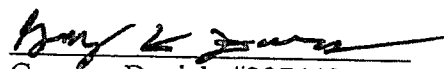
I so move,


Tricia A. Blanchette, Esq.

I consent,


Tristan Shaffer, Esquire

I consent,


Gregory Daniels #297449

CERTIFIED TRUE COPY
Connie Reel-Shearn
CLERK OF COURT, S.C.
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
TWELTH JUDICIAL CIRCUIT

Gregory Daniels, #297449,)
Applicant,)

2013-CP-21-0280

v.)

CERTIFICATE OF SERVICE

State of South Carolina,)
Respondent.)

I, Tricia A. Blanchette, Attorney at Law, hereby certify that I placed in the United States Mail this 12th day of August 2013, a copy of a Motion for Substitution Counsel to Josh Thomas of the Attorney General's Office, at:

Office of the Attorney General
Att: Josh Thomas, Ast. AG
P.O. Box 11549
Columbia, SC 29211-1549



Tricia A. Blanchette
PO Box 12725
Columbia, SC 29211
(803) 988-0008

2013 AUG 13 PM 1:28
JONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

FILED

August 12, 2013

CERTIFIED: A TRUE COPY
Jonnie Reel-Shearin
CLERK OF COURT, CP & GS
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
TWELTH JUDICIAL CIRCUIT

Gregory Daniels, #297449,)
Applicant,)

2013-CP-21-0280

v.)

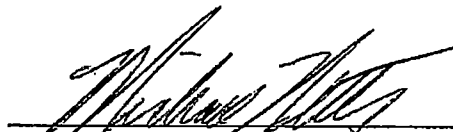
**ORDER FOR SUBSTITUTION
OF COUNSEL**

State of South Carolina,)
Respondent.)

2013 AUG 14 PM 1:34
FILED
CONNIE REEL-SHEARIN
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, SC

This matter comes before the Court pursuant to an Application for Post Conviction Relief filed on February 26, 2013. For good cause shown in the Motion for Substitution of Counsel, this Court orders that Tricia A. Blanchette, Esquire, is substituted as counsel for the Applicant in place of Tristan Shaffer, Esquire.

AND IT IS SO ORDERED.


Honorable Michael G. Nettles
Administrative Judge, 12th Judicial Circuit

8-13, 2013

CERTIFIED: A TRUE COPY
Connie Reel-Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

Gregory Daniels, #297449,

☒ Plaintiff

v.

State Of South Carolina

☐ Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.

2013-CP-21-0280

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney:

Tricia A. Blanchette, Bar No. 74904

Address:

PO Box 12725

Columbia, SC 29211

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e-mail: blanchettelaw@gmail.com other:

Defendant's Attorney:

Croom Hunter, Bar No.

Address:

PO Box 11549

Columbia, SC 29211

phone: 803-734-3737 fax: 803-734-4113

e-mail: other:

☒ **MOTION HEARING REQUESTED** (attach written motion and complete **SECTIONS I and III**)

☐ **FORM MOTION, NO HEARING REQUESTED** (complete **SECTIONS II and III**)

☐ **PROPOSED ORDER/CONSENT ORDER** (complete **SECTIONS II and III**)

SECTION I: Hearing Information

Nature of Motion: Amendment to PCR Application

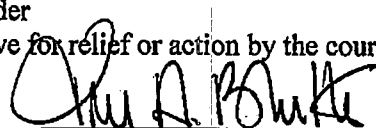
Estimated Time Needed: 6 hours Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached

☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.


Signature of Attorney for ☒ Plaintiff / ☐ Defendant

September 19, 2014

Date submitted

SECTION III: Motion Fee

☐ PAID - AMOUNT:

☒ EXEMPT: ☐ Rule to Show Cause in Child or Spousal Support

(check reason) ☐ Domestic Abuse or Abuse and Neglect

☐ Indigent Status ☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act ☒ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)

☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter:

☐ Other:

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other:

JUDGE

CODE: Date:

CLERK'S VERIFICATION

Collected by: _____

Date Filed:

☐ MOTION FEE COLLECTED: _____

☐ CONTESTED - AMOUNT DUE: _____

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF FLORENCE	)	DOCKET NO.: 2013-CP-21-280
	)	
Gregory D. Daniels, #297449	)	
Applicant,	)	
v.	)	AMENDMENT TO APPLICATION
	)	FOR POST CONVICTION RELIEF
State of South Carolina,	)	
Respondent.	)	

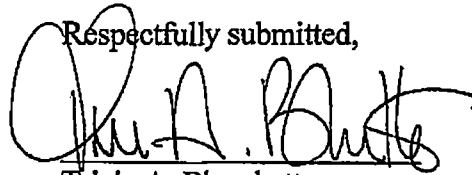
This matter comes before the Court pursuant to an Application for Post Conviction Relief filed February 1, 2014. Applicant amends his Application by adding the following specific allegations of ineffective assistance of trial and appellate counsel:

1. Ineffective assistance of trial counsel for failure to provide Applicant with a complete copy of discovery and review it with him prior to trial.
2. Ineffective assistance of trial counsel for failure to conduct an independent investigation and properly prepare Applicant's case for trial. Ineffective assistance of trial counsel for failure to call witnesses at trial. Specifically, failure to interview Gary Bostic and subpoena him for trial, which would have resulted in the discovery of a Brady violation and/or prosecutorial misconduct for failing to disclose the law enforcement interview of Gary Bostic. See attached Affidavit of Gary Bostic, Transcript pp. 598, lns. 22-25. Alternatively, prosecutorial misconduct and/or newly discovered evidence of a Brady violation regarding the failure of the State to disclose the law enforcement interview of Gary Bostic.
3. Ineffective assistance of trial for counsel for failure to object to the State being allowed to proceed on two theories: murder for hire and argument at cookout. Failure to file a motion to elect theory, motion to quash indictment, raise the argument on directed verdict or request a charge for the jury to be unanimous on the theory.
4. Ineffective assistance of trial counsel for failure to raise a third party guilt defense and utilize exculpatory evidence at trial.
5. Ineffective assistance of trial counsel for failure to make all viable contemporaneous objections at trial.

6. Ineffective assistance of trial counsel for failure to review Applicant's statement with him prior to trial, utilize Applicant at the Jackson v. Denno hearing and make a proper argument for suppression of Applicant's statement.
7. Ineffective assistance of trial counsel for failure to utilize Applicant as a witness at trial.
8. Ineffective assistance of trial counsel for failure to investigate and object at trial to the search and resulting records obtained on and from Applicant's phone.
9. Ineffective assistance of trial counsel for failure to advise Applicant of the State's intention to use his girlfriend's letters as evidence against him, failure to utilize the complete letters and/or additional letters to put the selected text into context, failure to prepare and utilize Applicant to testify in response to the introduction of the letters.
10. Ineffective assistance of trial counsel for failure to impeach the state's witnesses with contradictory testimony, oral and written statements and other discovery documents.
11. Ineffective assistance of trial counsel for failure to advise Applicant of the evidence the state intended to introduce involving the phone call between the victim and Gass. Failure to effectively argue against the admission of the testimony/evidence under the present sense impression exception.
12. Ineffective assistance of trial counsel for failure to review the statements of Andre Bradley and Jasmine Barrett and proffer agreement of Andre Bradley with Applicant prior to trial. Failure to make the record clear as to the disclosure of the proffer agreement by the State and ensure the issue was properly preserved for appeal. Failure to effectively cross-examine Andre Bradley and Jasmine Barrett.
13. Ineffective assistance of trial counsel for failure to properly preserve the arguments made by appellate counsel regarding the impermissible jury charge. See State v. Daniels, 410 S.C. 251, 737 S.E.2d 473 (2012).
14. Ineffective assistance of appellate counsel for failure to raise all meritorious issues on appeal and address the credibility and inconsistent testimony of the State's witnesses. Specifically, failure to raise the following motions/objections made by trial counsel:
 - a. Objection to the testimony of Gass regarding the call with the victim and the admission of such under the present sense impression exception.
 - b. Objection to the admission of the Applicant's letters to his girlfriend.
 - c. The Jackson v. Denno hearing and admission of Applicant's statement.
15. Pursuant to Rule 15(b), SCRCP, Applicant would move to amend to conform to the evidence and testimony presented at the evidentiary hearing.

September 9, 2014
Columbia, SC

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tricia A. Blanchette", written over a horizontal line.

Tricia A. Blanchette
Attorney for Applicant
Post Office Box 12725
Columbia, South Carolina 29211

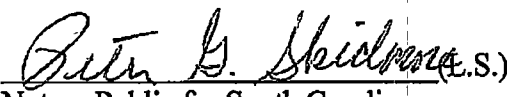
STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF FLORENCE	)	DOCKET NO.: 2013-CP-21-280
Gregory D. Daniels, #297449	)	
Applicant,	)	
v.	)	AFFIDAVIT
	)	
State of South Carolina,	)	
Respondent.	)	

PERSONALLY appeared before me, Gary L. Bostic, who being duly sworn, deposes and says:

1. I affirm that I was interviewed by law enforcement regarding the murder of Corey L. Byrd on September 5, 2008.
2. I affirm that I was not contacted by Jack Lawson, Esquire, or anyone on behalf of Gregory D. Daniels prior to the trial held on April 12-16, 2010.
3. I affirm that I was not notified about the trial held on April 12-16, 2010 nor was I transported as a witness to the Florence County Courthouse.
4. I affirm that I am willing to testify to the above information.


 Gary L. Bostic

SWORN TO before me this 15
 day of sep, 2014.


 Notary Public for South Carolina
 My Commission Expires: 12/10/2020

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

Gregory Daniels, #297449,)
Applicant,)

v.)

State of South Carolina,)
Respondent.)

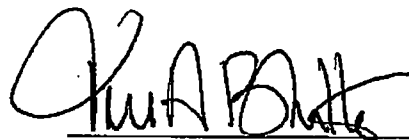
IN THE COURT OF COMMON PLEAS
TWELTH JUDICIAL CIRCUIT

2013-CP-21-0280

CERTIFICATE OF SERVICE

I, Tricia A. Blanchette, Attorney for Applicant, hereby certify that I hand delivered a copy of an Amendment to Application for Post Conviction Relief to Croom Hunter of the Attorney General's Office, at:

Office of the Attorney General
Att: Croom Hunter, Ast. AG
100 Assembly Street, 5th Floor
Columbia, SC 29201



Tricia A. Blanchette
PO Box 12725
Columbia, SC 29211
(803) 988-0008

September 19, 2014

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

Gregory D. Daniels, #297449,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE TWELFTH JUDICIAL CIRCUIT

Case No. 2013-CP-21-0280

MOTION FOR CONTINUANCE

FILED
2014 OCT -1 AM 11:37
CONNIE REEL-SHEARIN
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, SC

The hearing in this Post-Conviction Relief action is scheduled for October 6, 2014. Counsel for Applicant has notified Respondent that she intends to call certain witnesses with regard to allegations of Brady violations, as well as Applicant's private investigator with regard to claims of ineffective assistance of counsel for failure to thoroughly investigate the case and prepare for trial. In order to fully investigate and be prepared to defend these claims, as well as to line up possible rebuttal witnesses, Respondent would request a continuance until the next PCR term of court. Respondent notes that Applicant was represented at trial by Jack Lawson, Esquire, who is now deceased. As such, Respondent anticipates this matter will be relatively complex.

Respondent would further request that Applicant's evidentiary hearing on the roster for October 6 be converted to a motion hearing on Respondent's Motion for Discovery that is attached to this continuance request.

Because further time is necessary to properly investigate Applicant's allegations, the undersigned respectfully request this matter be continued to the next scheduled PCR term for the Twelfth Circuit. Respondent notes this is the first time this case has appeared on a roster. Pursuant to Rule 11, SCRCP, the undersigned has consulted with Applicant's counsel, Tricia A.

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Connie Reel-Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

Blanchette, Esquire, who does not consent to said continuance.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

J. CROOM HUNTER
Assistant Attorney General
S.C. Bar No. 101253

Post Office Box 11549
Columbia, South Carolina 29211

By:


Attorneys for Respondent

9/29, 2014

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT

Gregory D. Daniels, 297449,

2013-CP-21-0280

Applicant,

MOTION FOR LIMITED DISCOVERY

v.

State of South Carolina,

Respondent.

2014 OCT -1 AM 11:37
CONNIE REEL-SHEARIN
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, SC

FILED

The Respondent, State of South Carolina, pursuant to S.C. Code Ann. § 17-27-150, moves the court to grant limited processes of discovery. Discovery is not typically permitted in non-capital post-conviction relief proceedings however, S.C. Code Ann. § 17-27-150(A) states, "[a] party in a noncapital post-conviction relief proceeding shall be entitled to invoke the processes of discovery available under the South Carolina Rules of Civil Procedure if, and to the extent that, the judge in the exercise of his discretion and for good cause shown grants leave to do so, but not otherwise." The issue being raised by the Applicant is one of alleged ineffective assistance of counsel for failure to properly investigate Applicant's case. Upon information and belief, Respondent believes Applicant intends to call Pete Skidmore, private investigator, as a witness in this matter to testify as to possible investigative practices that Applicant's trial counsel should have employed. Respondent notes that Applicant's trial counsel in this case was Jack Lawson, Esquire, who is deceased.

Respondent requests the available processes of discovery limited to:

- 1) The contents of Investigator Skidmore's files in this matter, including, but not limited to
 - a. Witness interviews;

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Connie Reel-Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

- b. Photographs;
- c. Videos;
- d. Affidavits;
- e. Billing invoices;
- f. Any other documents relevant to Mr. Skidmore's investigation in this matter.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

J. CROOM HUNTER
Assistant Attorney General

BY:


ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
(803) 734-3737

Columbia, South Carolina

September 30, 2014

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

Gregory Daniels, #297449,

☒ Plaintiff

State Of South Carolina

☐ Defendant.

FILED

2014 OCT -2 PM 1:27

v. CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

IN THE COURT OF COMMON PLEAS

CASE NO.
2013-CP-21-0280

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney:

Tricia A. Blanchette, Bar No. 74904

Address:

PO Box 12725

Columbia, SC 29211

phone: 803-988-0008 fax: 803-988-8070

e-mail: blanchettelaw@gmail.com other:

Defendant's Attorney:

Croom Hunter, Bar No.

Address:

PO Box 11549

Columbia, SC 29211

phone: 803-734-3737 fax: 803-734-4113

e-mail: other:

☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)

☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Motion in Opposition to State's Motions

Estimated Time Needed: 10 minutes Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached

☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☒ Plaintiff / ☐ Defendant

September 30, 2014

Date submitted

SECTION III: Motion Fee

☐ PAID - AMOUNT:

☒ EXEMPT:

(check reason)

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☐ Indigent Status

☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act

☒ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication

☐ Motion for Execution (Rule 69, SCRCP)

☐ Proposed order submitted at request of the court; or,

reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter:

☐ Other:

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other:

JUDGE

CODE:

Date:

CLERK'S VERIFICATION

Date Filed:

Collected by: _____

☐ MOTION FEE COLLECTED: _____

☐ CONTESTED - AMOUNT DUE: _____



CERTIFIED: A TRUE COPY
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE) DOCKET NO.: 2013-CP-21-280
Gregory D. Daniels, #297449)
Applicant,)
v.) MOTION IN OPPOSITION TO
State of South Carolina,) RESPONDENT'S MOTION FOR
Respondent.) CONTINUANCE AND DISCOVERY

FILED
2014 OCT -2 PM 1:27
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, SC

This matter comes before the Court pursuant to an Application for Post Conviction Relief filed February 1, 2014. An evidentiary hearing was scheduled by the Respondent for October 6, 2014. On September 29, 2014, Applicant's counsel received, via email, a Motion for Continuance and Motion for Discovery. On September 30, 2014, Tricia A. Blanchette, Esquire, met with Applicant and is filing the instant motion in opposition to the State's motions.¹

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Clerk of Court
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY

First, Applicant, through counsel strongly opposes the State's Motion for Continuance. In October 2013, Applicant's counsel went and reviewed the file of trial counsel, who is deceased, and the trial exhibits at the Florence County Courthouse. Thereafter, without court instructions to do so, Applicant's counsel provided the Attorney General's Office the two compact discs containing electronic discovery from trial counsel's file. Applicant's counsel also repeatedly inquired as to how the case would be handled due to trial counsel's death and informed the State in advance of the Roster being set that the case was highly complex and would take the better part of a day, plus anytime needed for the State's witnesses. In conversation, Applicant's counsel suggested that a witness may need to be called from the Solicitor's Office due the unavailability of trial counsel and the limited role of the second chair counsel at trial.

¹ Applicant's counsel received the State's Motions after leaving for the day on September 29, 2014, but Applicant's counsel sent an email in opposition to the Honorable William Henry Seals, Jr., on September 29, 2014.

Prior to the issuance of the Roster, Applicant's counsel provided J. Croom Hunter, Assistant Attorney General, a draft Amendment to aid in his preparation of the case. She also informed Mr. Hunter that she would finalize the Amendment after meeting with a witness, which took place on September 15, 2014. On the same day Applicant's counsel received the Roster, she hand delivered the Amendment, along with twenty paper exhibits to the Office of the Attorney General. In the interest of full disclosure, counsel attached the Affidavit of Gary Bostic to the Amendment, so the State would have a full understanding of the alleged Brady violation. Counsel also had previously informed Mr. Hunter about the audio portions she planned to utilize from the electronic discovery. During the month of September, counsel met with Applicant on three occasions to prepare for the evidentiary hearing. She also had numerous phone conversations with Pete Skidmore, privately retained private investigator, and several phone calls with Johnny Etheridge, Esquire.

On September 29, 2014, Applicant's counsel was engaging in emails with Mr. Hunter about the busy schedule of Attorney Etheridge and a map exhibit, when Mr. Hunter sent an email indicating that he had not had the opportunity to review Applicant's Amendment and packet of exhibits prior to that day and later informed counsel he was moving for a continuance. He asked for counsel's consent, which was not given due to the extensive preparation put in by counsel and all parties involved as well as the prejudicial impact of a six month delay. In prior cases, counsel has been very agreeable to offering consent due to unavailable witnesses or unforeseeable circumstances, but here Applicant's counsel provided the State all her allegations, offered to provide any explanation or information needed, but such offers were not acted upon by opposing counsel.

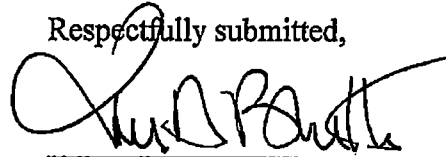
Applicant's counsel is a solo practitioner that put all other cases aside to properly prepare for the evidentiary hearing the State set for October 6, 2014. It is prejudicial to her solo practice to have this matter continued as she will have to reinvest numerous hours preparing this case again after the passage of six months. Applicant has retained Pete Skidmore as a private investigator. Mr. Skidmore will have to reinitiate his investigation and reissue subpoenas after the passage of six months. Applicant is incarcerated at Lee Correctional. Based upon her vast experience with SCDC, counsel submits it is the most violent and unpredictable prison in the State. Applicant will have to endure continued incarceration where each day is uncertain. Finally, Applicant has submitted the Affidavit of Gary Bostic regarding a Brady violation. Counsel is strongly concerned about witness intimidation that may occur and Mr. Bostic's safety in SCDC while waiting for the next term of PCR court. Therefore, if the State's Motion is granted, Applicant would move for the proffer of Gary Bostic's testimony on October 6, 2014 to avoid any prejudicial impact the six month delay may make on his testimony and/or safety.

For the above stated reasons, Applicant, through counsel would respectfully ask that this Court deny the State's Motion for a Continuance.

Secondly, Applicant, through counsel, would request that this Court deny the State's Motion for Limited Discovery. As stated in the Motion, discovery is not permitted in non-capital PCR without a court order. Counsel submits this request is rather confusing since counsel has already provided the State the only Affidavit obtained by Pete Skidmore, has offered to give the State a complete overview of his anticipated testimony, and offered to provide pictures and/or video that may be introduced and/or relied upon during Mr. Skidmore's testimony. Mr. Skidmore has not prepared reports or any information that is contained in counsel's file that has not been turned over the State prior to the filing of the Motion for Discovery. Simply put, Applicant's

counsel submits that this Motion is completely unnecessary since she has offered to provide all the information, which may be deemed discoverable. As to Respondent's request for billing records and all other relevant documents, Applicant submits that billing records are not relevant or discoverable in this matter and that the latter request is simply overbroad and appears to be a fishing expedition. For some reason, it appears the State would rather go on a fishing expedition than have a conversation with counsel regarding the matters she plans to present through Mr. Skidmore's testimony. Therefore, Applicant, through counsel, would respectfully request that this Motion be denied in light of counsel's willingness to provide all relevant information without a court order.

Respectfully submitted,



Tricia A. Blanchette
Attorney for Applicant
Post Office Box 12725
Columbia, South Carolina 29211

September 30, 2014
Columbia, SC

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
TWELTH JUDICIAL CIRCUIT

Gregory Daniels, #297449,)
Applicant,)

2013-CP-21-0280

v.)

CERTIFICATE OF SERVICE

State of South Carolina,)
Respondent.)

I, Tricia A. Blanchette, Attorney for Applicant, hereby certify that I placed in the mail this 30th day of September 2014 a copy of a Motion Croom Hunter of the Attorney General's Office, at:

Office of the Attorney General
Att: Croom Hunter, Ast. AG
PO Box 11549
Columbia, SC 29211



Tricia A. Blanchette
PO Box 12725
Columbia, SC 29211
(803) 988-0008

2014 OCT -2 PM 1:27
FILED
CONNIE REEL-SHEARIN
CLERK OF COURT
FLORENCE COUNTY, SC

September 30, 2014

CERTIFIED: A TRUE COPY
Connie Reel-Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

Gregory D. Daniels, #297449,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE TWELFTH JUDICIAL CIRCUIT

Case No. 2013-CP-21-0280

ORDER OF CONTINUANCE

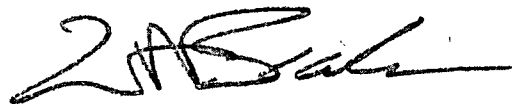
FILED
2014 OCT 16 PM 3:43
CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

This matter comes before the Court by way of Respondent's motion for continuance. The hearing in this Post-Conviction Relief action is scheduled for October 6, 2014. Respondent has requested a continuance based on Applicant's allegations of Brady violations and the fact that Applicant's trial counsel, Jack Lawson, Esquire, is deceased. Because Respondent has demonstrated a need for further time to properly identify witnesses and investigate Applicant's allegations, the Court finds Respondent has shown good cause to justify the granting of a continuance.

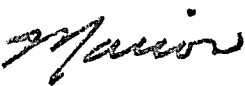
IT IS THEREFORE ORDERED THAT:

1. This post-conviction relief matter shall be continued and rescheduled for the next available term of PCR cases for the Twelfth Circuit.

AND IT IS SO ORDERED this 1 day of October, 2014.



THE HONORABLE WILLIAM H. SEALS, JR.
Chief Judge for Administrative Purposes
Twelfth Judicial Circuit



_____, South Carolina

CERTIFIED: A TRUE COPY

CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

State of South Carolina	)	Court of Common Pleas
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2013-CP-21-00280
	)	
Gregory Daniels,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
State of South Carolina,	)	
	)	
Defendant.	)	
	)	

October 6, 2014
 Florence, South Carolina

B E F O R E:

The Honorable Edgar W. Dickson, Judge

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

Tricia Blanchette, Esquire
 Attorney for the Plaintiff

Croom Hunter, Esquire
 Attorney for the Defendant

Krystal J. Smith
 Court Reporter

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I N D E X

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NUMBER</u>
Motions.....	4
Court Reporter Certification.....	28

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>

(No Exhibits Presented)

1 OCTOBER 6, 2014

2 (WHEREAS this matter was scheduled for a post-conviction
3 relief hearing, the applicant appeared along with his
4 counsel of record. The hearing began at 10:50 a.m.)

5 MR. HUNTER: Judge, if I could approach? I'm just going
6 to --

7 THE COURT: Oh, yeah.

8 MR. HUNTER: This is just a copy of the discovery motion
9 that I filed. That one is not a true copy or anything, just

10 --

11 THE COURT: Okay.

12 MS. BLANCHETTE: Does he have a copy of mine or should I

13 --

14 MR. HUNTER: I haven't -- I didn't give him a copy.

15 MS. BLANCHETTE: Okay. Your Honor, may I approach?

16 THE COURT: Oh, sure.

17 MS. BLANCHETTE: I have a copy of my response that was
18 filed --

19 THE COURT: Okay.

20 MS. BLANCHETTE: -- as well, just so you have that.

21 THE COURT: Thank you.

22 MR. HUNTER: Your Honor, give me just a second and then
23 we'll be ready to go.

24 (WHEREUPON, there was a pause in the proceedings.)

25 MR. HUNTER: Your Honor, whenever you're ready.

1 THE COURT: I'm ready, Mr. Hunter.

2 MR. HUNTER: Okay. This is a motions hearing in the case
3 of Gregory Daniels v. the State of South Carolina. It's 2013-
4 CP-21-280.

5 Mr. Daniels is presently confined in SCDC pursuant to
6 orders of the Florence County Clerk of Court. He was indicted
7 in April of 2009 for murder and possession of a weapon during
8 the commission of a violent crime. He was represented at
9 trial by Mr. Jack Lawson.

10 On April 16th, 2010, a jury convicted him as indicted and
11 the Honorable Thomas Russo sentenced Mr. Daniels to life in
12 prison for the murder charge and a concurrent five years for
13 the weapons possession charge.

14 He filed a timely notice of appeal. It was handled by
15 Tristan Shaffer and Wanda Carter of the Office of Appellate
16 Defense. The South Carolina Supreme Court affirmed Mr.
17 Daniels' conviction on October 10th, 2012. A remittitur was
18 returned to Circuit Court on October 26th, 2012.

19 He filed this application for post-conviction relief on
20 February 1st, 2013, and he's represented by Ms. Blanchette.
21 And this case was put on the roster for this term of court,
22 but last week I moved for a continuance, which was granted by
23 Judge Seals.

24 At the same time I moved for a continuance, I filed a
25 motion for limited discovery in this case, my main issue being

1 that Jack Lawson, who represented Mr. Daniels at trial, is
2 deceased and Ms. Blanchette tells me that Mr. Daniels has
3 hired Pete Skidmore as a private investigator in this case.

4 And based on my conversations with Ms. Blanchette, I'm
5 under the impression that some of Mr. Skidmore's testimony may
6 veer -- it may not, but some of it may veer into the realm of
7 opinion testimony, in which case I would think he needs to be
8 qualified as an expert.

9 That being said, I've asked for discovery from Mr.
10 Skidmore's files in this case. And just so Your Honor doesn't
11 think I'm going on a fishing expedition here, Ms. Blanchette
12 has raised 15 allegations of ineffectiveness in this case and,
13 given the fact that Mr. Lawson is dead and I can't question
14 him about any of these allegations, I just think that in this
15 case, due to its complexity, that the State would be entitled
16 to discovery.

17 THE COURT: Okay. And I believe in your list you listed
18 -- well, I guess --

19 MR. HUNTER: Yes, sir. I listed --

20 THE COURT: You want to see -- essentially see what --
21 who Mr. Skidmore met with and what kind of information he got;
22 right?

23 MR. HUNTER: Correct, Your Honor. So that I can, you
24 know, contemplate what sort of rebuttals I'm going to need to
25 have for the testimony he presents.

1 THE COURT: Okay.

2 MR. HUNTER: Given the fact that this is a murder case
3 and trial counsel has passed away.

4 THE COURT: Okay.

5 MR. HUNTER: And there was -- and trial counsel I believe
6 did not hire an investigator in this case or I haven't gotten
7 into it enough to, you know, really get into the weeds on that
8 yet, but --

9 THE COURT: Did anybody get Mr. -- you said Mr. Lawson's
10 file?

11 MR. HUNTER: I haven't yet. I believe Ms. Blanchette has
12 looked at it.

13 THE COURT: Ms. Blanchette, do you have Mr. Lawson's
14 file?

15 MS. BLANCHETTE: Your Honor, in October of 2013, I
16 reviewed his file here at the courthouse, along with the clerk
17 of court's file. I believe that Mr. Thomas and I talked about
18 doing that together, but it just didn't work out. So what I
19 did was I provided shortly thereafter two CDs that had all the
20 information that they copied for me. There were audios and
21 different discovery documents. I also had a number of other
22 documents that I pulled from the file.

23 THE COURT: Uh-huh.

24 MS. BLANCHETTE: Three weeks ago -- I believe it may have
25 been two, just to be fair. I provided the State 20 exhibits

1 from that file that I plan to introduce and I marked those as
2 being from Mr. Lawson's file --

3 THE COURT: Uh-huh.

4 MS. BLANCHETTE: -- or the clerk's file. So I have
5 turned over to them everything I intend to use from that file.

6 THE COURT: Uh-huh.

7 MS. BLANCHETTE: Along with all the electronic discovery
8 I got, but they are -- you know, they are free to go review
9 that file. It was very well organized and easy to get
10 through.

11 THE COURT: Okay. Okay. But now -- okay.

12 MR. HUNTER: But, Your Honor, there's some motions.

13 THE COURT: But now -- but this is a motion to see what
14 -- to get some information. You hired --

15 MS. BLANCHETTE: Yes, Your Honor, and I'd be happy to
16 respond to the motion.

17 THE COURT: Yeah. If you don't mind.

18 MS. BLANCHETTE: Yes.

19 THE COURT: Okay.

20 MS. BLANCHETTE: First, Your Honor, just for the record,
21 I would like to put that I did oppose the State's motion for a
22 continuance. So you have in front of you a combined motion in
23 opposition to the continuance and discovery in this case.

24 THE COURT: Right.

25 MS. BLANCHETTE: In my prayer, I've not opposed a

1 continuance from the State because they're always kind and try
2 to work with me and I do the same.

3 THE COURT: Uh-huh.

4 MS. BLANCHETTE: But this is a case where I tried to stay
5 in good communication with the Attorney General's Office about
6 this. We knew that Mr. Lawson was deceased from the time I
7 took this case.

8 THE COURT: Uh-huh.

9 MS. BLANCHETTE: And I continually posed the question --
10 I've never had a deceased attorney -- how do we handle this?

11 THE COURT: Right.

12 MS. BLANCHETTE: So I opposed the motion for continuance
13 for several reasons just because I felt that I had been
14 completely forthright with the State and provided them
15 anything and everything that I had. I repeatedly said that I
16 was happy to answer any questions regarding our allegations.
17 I filed our allegations on September 22nd, but they were
18 actually provided via hand delivery to the State that Friday
19 before, and that's when I gave them all the exhibits as well.

20 And what I did in this case is we have an interesting
21 issue that I think has really been -- the crux of the problem
22 is we are alleging a possible Brady violation. I have here
23 today -- he was transported -- Gary Bostick.

24 In this case, the State alleged that Gary Bostick hired
25 Gregory Daniels to perform a hit on Corey Byrd. In Jack

1 Lawson's closing argument, he says no one ever talked to Jack
2 -- or to Gary Bostick. No one ever interviewed him.

3 Myself and Pete Skidmore have done that and Gary Bostick
4 has provided an affidavit that I attached to our amendment
5 indicating that he was interviewed by law enforcement, he was
6 never contacted by Jack Lawson, and he was not transported or
7 subpoenaed to the trial held in this case and that he would've
8 been willing to testify.

9 We have him here today because I had intended to go
10 forward with a full evidentiary hearing and have him testify
11 to that. I'll get back to that issue in a minute.

12 But this went to the discovery. This affidavit was
13 obtained by Pete Skidmore. I attached it to my amendment.
14 That's not something I even have to do, but just because I
15 want to give the State full disclosure and the opportunity,
16 you know, to be able to respond and get the rebuttal witnesses
17 together.

18 Additionally, I have offered to give the State everything
19 that Pete Skidmore has. So I was really kind of caught by
20 surprise with the need for a motion for discovery. I've
21 explained everything that Pete Skidmore has done in this case.

22 It's not a case where I'm appointed and we have indigent
23 funds. My client is paying for Pete Skidmore. He's privately
24 retained. He had X amount of dollars; so we had Pete do X
25 amount of things, which I have told the Attorney General's

1 Office what those were. It's not a case where we have endless
2 resources.

3 Also, with the age of the case, the crime scene is stale.
4 Witnesses are either gone or deceased. You know, you can't do
5 a murder investigation. So I've tried to convey to the
6 assistant attorney general it's not like we went out and did a
7 full-fledged murder investigation. And that's what's
8 difficult in these cases. In PCR, we have to allege
9 ineffective assistance of counsel for failure to investigate,
10 but we can't re-create what should've been done.

11 All he's done in this case is he went out and walked the
12 scene and took pictures. He was going to make a video and I
13 told the State I would be happy to turn those over. And he's
14 obtained the statement of Gary Bostick, which I've already
15 turned over.

16 In the motion, it actually goes a little bit further than
17 the State alluded to. He's asked for billing invoices, which
18 I would say are entirely irrelevant for the reason I stated.
19 This was a public defender case. They would have had
20 different resources. Here, Mr. Daniels is paying for this
21 privately. He only had X amount of dollars and Mr. Skidmore
22 can go to that cap and nothing more. So I don't see where the
23 billing invoices would be relevant to any claims in this case.

24 And then there's any other documents relevant to Mr.
25 Skidmore's investigation in this matter. Like I said, I've

1 already offered to turn over everything that was relevant or
2 that I plan to utilize at the PCR hearing. So I don't really
3 see a need for an actual order for discovery in this case, you
4 know, when I'm willing to answer questions or provide
5 anything.

6 And that's the reason also why I didn't have Mr. Skidmore
7 come today because he's out of Rock Hill.

8 THE COURT: Okay.

9 MS. BLANCHETTE: And Mr. Daniels would have had to pay
10 hourly for him to be here.

11 One more matter, Your Honor, if I can?

12 MR. HUNTER: Look, if I could respond to that? Were you
13 going to move on to your next motion?

14 MS. BLANCHETTE: Yeah. I didn't know if we were going to
15 treat that separately.

16 MR. HUNTER: Is that okay?

17 MS. BLANCHETTE: I'll go ahead and sit down. Yeah,
18 that's fine.

19 MR. HUNTER: And, Your Honor, just so you don't think I'm
20 trying to be difficult or go on a fishing expedition, the
21 reason I put billing invoices on -- billing invoices --
22 included that in my motion is that after conferring with some
23 other members -- some other attorneys at the Attorney
24 General's Office --

25 THE COURT: Right.

1 MR. HUNTER: You know, I was informed that Mr. Skidmore's
2 invoices have been used to impeach his testimony in the past
3 and so it was decided that I should probably include that. So
4 I'm not coming out of left field on that.

5 And as far as any other documents relevant to Mr.
6 Skidmore's investigation in this matter, as Ms. Blanchette --
7 as Ms. Blanchette stated, she has offered to give me
8 everything that she thinks is relevant and she's planning on
9 using, but my, you know, response to that would be there could
10 be things in Mr. Skidmore's file that I can think are relevant
11 that she might not think are relevant. And so that's where
12 that's coming from.

13 THE COURT: Okay. Well, I did not -- and, Ms.
14 Blanchette, correct me if I'm wrong. I thought you were going
15 to turn over everything, not just what you thought was
16 relevant. I thought you were turning over everything.

17 MS. BLANCHETTE: And, Your Honor, that -- that is what I
18 was alluding to because I don't have reports. He doesn't have
19 any other witness statements. We just have Gary Bostick's.
20 That's all he's prepared for me is Gary Bostick's affidavit.

21 He took pictures and was going to come to my office and
22 go through those with me and, if the State wants every
23 picture, they can have those. And then he was going to make a
24 video of the scene. That's all he's been hired to do at this
25 point.

1 THE COURT: Okay.

2 MS. BLANCHETTE: Now, we have another six months. If
3 another issue comes up, I'll let the State know and would be
4 happy to provide that.

5 As far as the billing invoices, I think that may come
6 from an issue when -- Mr. Skidmore does a lot in death penalty
7 cases and where the Office of Indigent Defense pays for his
8 funding, and I know there's been some matters there where the
9 State tries to get into that with the indigent funding, but
10 this is a private case and I just -- I mean we don't -- at the
11 end of the day, I don't have an issue turning it over, but I
12 don't -- I'm not trying to hide anything.

13 THE COURT: Okay.

14 MS. BLANCHETTE: But I don't think it's relevant or goes
15 to any of the claims that we're making in this case.

16 THE COURT: And it might not, but, you know, in discovery
17 requests sometimes you give -- you get discovery whether or
18 not you get it or not. So, you know, whether it will turn out
19 to be relevant or not, you still give the discovery. They get
20 to look at it.

21 MS. BLANCHETTE: Yes, Your Honor, and --

22 THE COURT: Okay.

23 MS. BLANCHETTE: I just want to clarify I don't intend to
24 qualify Mr. Skidmore as an expert. I've never had to do that
25 before in PCR court.

1 THE COURT: Uh-huh.

2 MS. BLANCHETTE: But I don't want this to be a situation
3 where he has to generate reports and keep notes and things
4 like that because we really just don't have anything else to
5 turn over. We could turn over his bills or his billing
6 invoices.

7 THE COURT: Okay.

8 MS. BLANCHETTE: But I've not even seen that myself.

9 THE COURT: Okay.

10 MS. BLANCHETTE: But I just don't want it to be a
11 situation where he has to go out and make reports and start
12 taking notes just so the State can have those.

13 MR. HUNTER: And, Your Honor --

14 THE COURT: Well, I don't think they're asking for that.
15 I think -- and, Mr. Hunter, correct me if I'm wrong. I think
16 --

17 MR. HUNTER: That's correct.

18 THE COURT: -- you just want everything that he's done.
19 If you -- if you just have copies shipped to Mr. Hunter,
20 including the billing invoices.

21 MS. BLANCHETTE: Okay.

22 THE COURT: And I think one of the reasons -- and I'm
23 just presuming. Sometimes people -- attorneys file motions
24 just to make sure everything gets turned over so that when we
25 go to the hearing we don't go, well -- and didn't we have this

1 that you found, you know. You know how that is.

2 MS. BLANCHETTE: Okay.

3 THE COURT: You've dealt with that in court too.

4 MR. HUNTER: And, Your Honor, I'd like to put on the
5 record Ms. Blanchette has been very forthright in giving me
6 everything --

7 THE COURT: Okay.

8 MR. HUNTER: -- she's planning to use so far.

9 THE COURT: Okay.

10 MR. HUNTER: But I just wanted to make sure I cover my
11 bases.

12 THE COURT: That's just so nobody will be surprised.

13 This is -- since this is a civil case, it's full discovery.

14 So to the extent you need an order granting you the discovery
15 -- since she's willing to give it to you -- you know, the only
16 issue seem to be the billing invoices. I am going to order
17 that.

18 And, Ms. Blanchette, if you don't mind, if you get any
19 other information, if he does do the video, if you'd just make
20 a copy or have a copy prepared for the State as well, I'd
21 appreciate it.

22 MS. BLANCHETTE: I would be happy to do that, Your Honor.

23 THE COURT: Okay. All right.

24 MR. HUNTER: And then I believe --

25 MS. BLANCHETTE: And, Your Honor, as part of my motion in

1 opposition -- and just my concern in this case --

2 THE COURT: Okay.

3 MS. BLANCHETTE: I've had very few cases where a Brady
4 violation comes up.

5 THE COURT: Uh-huh.

6 MS. BLANCHETTE: And it can get pretty testy.

7 THE COURT: Uh-huh.

8 MS. BLANCHETTE: For lack of better words. And Mr.
9 Bostick is here today and, because of the State's continuance,
10 this case is now going to be postponed six months.

11 What I would like to ask this Court today is if I could
12 proffer his testimony so we have that on the record and we
13 know that is secure and safe. He was not charged in this
14 case; so I have concerns regarding intimidation, interference,
15 things like that that could happen in the next six months.

16 So that was one request I'd like to make to the Court. I
17 have an additional request regarding Mr. Bostick, but I'll let
18 --

19 THE COURT: Okay.

20 MS. BLANCHETTE: -- the Court address that first.

21 THE COURT: And you want to proffer the testimony of who?

22 MS. BLANCHETTE: Of Gary Bostick regarding the affidavit
23 that I've attached to the amendment. Does Your Honor have
24 that?

25 THE COURT: Okay. Well, I don't have the affidavit, but

1 the affidavit would essentially be a proffer. That's what
2 he's going to testify to? That's what your proffer is; right?

3 MS. BLANCHETTE: It is, Your Honor, but when I tried to
4 use affidavits in the past, then the State said they didn't
5 have the ability to cross exam. So that's why I wanted to do
6 a proffer so that we could have that safe and secure just in
7 case something happened in the next six months.

8 THE COURT: And I understand your concern about that, but
9 my -- oh, you want to call him as a witness?

10 MS. BLANCHETTE: I want to call him as a witness and
11 proffer his testimony.

12 THE COURT: Okay. Not just --

13 MS. BLANCHETTE: So that if he became unavailable or
14 something happened --

15 THE COURT: Okay.

16 MS. BLANCHETTE: -- in the next six months.

17 THE COURT: Okay.

18 MS. BLANCHETTE: He's incarcerated. I said in my motion
19 there's always the dangers of being in SCDC.

20 THE COURT: Okay.

21 MS. BLANCHETTE: You know, just a number of concerns that
22 come into play and I already had him transported on the list
23 for today.

24 THE COURT: Okay. So what you wanted to do is actually
25 just have him testify today and preserve his testimony?

1 MR. HUNTER: So I have questions whether or not Your
2 Honor could -- could take jurisdiction over the case right now
3 to hear testimony.

4 And then I have -- then I have questions about whether or
5 not Your Honor would -- would have to retain jurisdiction over
6 the case if you heard testimony.

7 And, third, my third issue with that is that his test --
8 you -- you are the -- as the judge here, are in the best
9 position to --

10 THE COURT: Judge the credibility of what I'm going to
11 hear.

12 MR. HUNTER: Yes. That's what I'm trying to --

13 THE COURT: Yeah.

14 MR. HUNTER: Judge his credibility.

15 THE COURT: Yeah.

16 MR. HUNTER: And if the case goes, you know, before
17 another judge -- I believe it's Judge Brown next term.

18 THE COURT: Okay.

19 MR. HUNTER: He will not have seen Mr. Bostick if he
20 chooses not to come and testify again and so he won't be in
21 any -- in any position to judge that credibility.

22 And then going on to the practical aspects, I asked for a
23 continuance so that I could prepare to go forward on the
24 matter.

25 THE COURT: Okay.

1 MS. BLANCHETTE: Exactly, Your Honor.

2 THE COURT: Yeah. I --

3 MS. BLANCHETTE: I'm not asking the Court to keep
4 jurisdiction because I understand that would be a complicated
5 --

6 THE COURT: Right. Yeah. And see, when -- when -- when
7 you were telling -- when I -- when you were making the
8 statement of a proffer, generally this is what he's going to
9 say.

10 MS. BLANCHETTE: Right, Your Honor. I actually want to
11 proffer his testimony. I apologize.

12 THE COURT: Okay. Okay. That's okay. That's okay.
13 And, Mr. Hunter, are you prepared to -- you can cross-examine
14 him today, can't you?

15 MR. HUNTER: Well --

16 THE COURT: Or do you have any problems with that?

17 MR. HUNTER: Well, Your Honor, I would object to this on
18 basically two grounds.

19 THE COURT: Okay.

20 MR. HUNTER: First, jurisdictional and, second,
21 practical. First off, the case has been continued by Judge
22 Seals. It wasn't continued except for the testimony of Mr.
23 Bostick. The whole case was continued; so it's not -- it's
24 not on the roster to be called as a case.

25 THE COURT: Uh-huh.

1 MR. HUNTER: And as such, I am not prepared to go
2 forward. So I have issues with being able to competently
3 cross-examine --

4 THE COURT: Okay.

5 MR. HUNTER: -- Mr. Bostick. And actually, if I might
6 add one more?

7 THE COURT: Sure.

8 MR. HUNTER: He may need to be appointed counsel, if he's
9 going to testify, depending on what he's going to testify to.

10 THE COURT: What about the -- Ms. Blanchette, what about
11 him -- does he need to have an attorney appointed for him? Is
12 he -- is he -- I don't know what he's going to testify to.

13 MS. BLANCHETTE: Right. Well, Your Honor, that's why I
14 gave the affidavit so everybody would know and I don't plan to
15 go further than the affidavit. I just had serious concerns
16 about if this case -- I've just had cases where they get --

17 THE COURT: Right.

18 MS. BLANCHETTE: -- postponed because of me or because of
19 the State. It's happened because of myself as well.

20 THE COURT: Oh, I know.

21 MS. BLANCHETTE: And then you lose someone. But just
22 responding first to the jurisdiction issue, I did move I
23 believe in my motion; so I would assume that the Court does
24 have jurisdiction based upon my motion in opposition to the
25 discovery. I referenced this. Since it's being called in for

1 the State's motion --

2 THE COURT: Uh-huh.

3 MS. BLANCHETTE: -- I do believe you have jurisdiction to
4 allow me to proffer his testimony.

5 When I talked -- I met with Mr. Bostick one time. Mr.
6 Skidmore has met with him twice.

7 THE COURT: Uh-huh.

8 MS. BLANCHETTE: He indicated to me he was very
9 comfortable testifying and he didn't need an attorney at that
10 time.

11 THE COURT: Uh-huh.

12 MS. BLANCHETTE: I also had planned to call and spoke
13 with Johnny Etheridge, who was his criminal attorney at the
14 time. And Mr. --

15 MR. ETHERIDGE: Your Honor, I'm here.

16 MS. BLANCHETTE: Oh. He's right here.

17 MR. ETHERIDGE: I'm also on eleven under court order to
18 be there. So --

19 THE COURT: Okay. Well, Mr. Etheridge, I won't keep you
20 here too long, but you represented Mr. Bostick?

21 THE WITNESS: No, sir, I didn't. On an unrelated charge,
22 which --

23 THE COURT: Oh, okay.

24 MS. BLANCHETTE: But at the time that this case was
25 taking place.

1 MR. ETHERIDGE: Right.

2 MS. BLANCHETTE: So I was going to call him to testify to
3 the same things, essentially his limited knowledge of what Mr.
4 Bostick was going to testify to.

5 THE COURT: Okay.

6 MS. BLANCHETTE: I just talked to Mr. Bostick this
7 morning. He indicated that someone -- he didn't say who --
8 came in and talked to him and asked him if he understood what
9 he was going to be testifying about today and a series of
10 questions.

11 MR. HUNTER: That --

12 MS. BLANCHETTE: Which -- which immediately made me
13 realize if he wasn't going to testify today, I was going to
14 move for his protection to get an attorney appointed, but
15 maybe we need to do that as a first act.

16 THE COURT: Okay.

17 MS. BLANCHETTE: Just get someone to protect his
18 interests.

19 THE COURT: Right.

20 MR. HUNTER: If I could put on the record, that was me.
21 I spoke to him and I asked him if he -- I believe all I asked
22 him was was he represented by counsel and he said no.

23 THE COURT: Okay.

24 MR. HUNTER: And then I asked him if he knew what he was
25 here to testify about and he said no.

1 THE COURT: Okay. All right. Well, the administrative
2 judge continued the case; so whoever is going to hear this I
3 think would be better off having and listening to Mr. Bostick
4 because I think -- to me when I hear cases, it's just better
5 for me to see the witnesses. And if he's going to be a
6 crucial witness, I'm going to want to hear him, see him, so I
7 can judge his credibility.

8 And if Judge Brown is going to -- is going to hear this
9 on April 13th -- as a matter of fact, that week. I do know the
10 date. I think it would be better for him to appear and have
11 his -- and have that testimony at that time.

12 But I do think he needs to have an attorney appointed for
13 him. So I will -- whoever is -- I don't -- I don't know who
14 is on the list, but if we can appoint somebody to represent
15 him on this, I'd feel more comfortable with him talking to him
16 ahead of time.

17 And that -- and that would also give him plenty of time
18 to do it before the April 13th hearing. Okay?

19 MR. HUNTER: And, Your Honor, if I could just -- I don't
20 know if Tristan Shaffer is still on the appointment list, but
21 he did represent Mr. Bostick -- or Mr. Daniels on the direct
22 appeal. So it would probably be best for him not to represent
23 Mr. Bostick.

24 THE COURT: Okay. Yeah. Not Mr. Shaffer, even though
25 we'd love to have him here. Okay.

1 MS. BLANCHETTE: Yes. He was original PCR counsel. So
2 he's already been conflicted out for this case.

3 THE COURT: Okay. All right. Is there anything else we
4 need to discuss?

5 MR. HUNTER: Nothing from the State, Your Honor.

6 THE COURT: Ms. Blanchette, anything from you?

7 MS. BLANCHETTE: I'd just like to put on the record, Your
8 Honor, that because this has been continued until April 13th, I
9 already know that I'm supposed to be in two other counties for
10 PCR. Court administration scheduled I think at least three
11 terms that week.

12 THE COURT: Well --

13 MS. BLANCHETTE: So I wanted to make sure that that's --

14 THE COURT: Well, I want this one to take priority.

15 MS. BLANCHETTE: This one I would love for it to take
16 priority. That's something they'd have to work out at their
17 office, but I just wanted to make sure --

18 THE COURT: Yeah.

19 MS. BLANCHETTE: -- I put that out there.

20 MR. HUNTER: And, Your Honor, I've let Ms. Blanchette
21 know that she can have a full day, whichever day of that week
22 she wants.

23 THE COURT: Okay. Ms. Blanchette, you can't get better
24 than that.

25 MS. BLANCHETTE: Okay. This was next week --

1 THE COURT: The State Attorney General's Office is going
2 to let you pick the date during the week of April 13th to hear
3 this case. Okay? I'll let y'all -- and I'll let you get with
4 them and decide that. You can't get any more helpful than
5 that.

6 MS. BLANCHETTE: That is true, Your Honor.

7 THE COURT: Uh-huh.

8 MS. BLANCHETTE: I just -- my client has to be
9 incarcerated for another six months.

10 THE COURT: Okay.

11 MS. BLANCHETTE: So that's the downside of all this.

12 THE COURT: And I am sorry for that, but sometimes -- and
13 unfortunately, you've got to get all your ducks in a row
14 before we can have a hearing and so this should allow for
15 that. Okay?

16 MS. BLANCHETTE: Thank you, Your Honor.

17 THE COURT: All right.

18 MS. BLANCHETTE: I appreciate it.

19 MR. HUNTER: Thank you, Judge.

20 THE COURT: Okay. Thank y'all. Okay. And, Mr. Hunter,
21 if you'll do the order?

22 In that order, I want you to put on there that she's
23 going to get to pick a date during -- her date for trial
24 during that week of April 13th. Okay?

25 MR. HUNTER: Yes, Your Honor.

1 THE COURT: Okay. Thank you.

2 MR. HUNTER: Thank you.

3
4 (WHEREUPON, the proceedings ended at 11:14 a.m.)

5
6 --- END REQUESTED TRANSCRIPT ---

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1 State of South Carolina)
2) Certificate
3 County of Florence)
4

5 I, the undersigned, Krystal J. Smith, Notary Public and
6 Official Court Reporter for the Twelfth Judicial Circuit of
7 the State of South Carolina, do hereby certify that the
8 foregoing pages, numbered 1 through 27 constitute a true,
9 accurate, and complete Transcript of Record of all the
10 proceedings had and evidence introduced in the hearing of the
11 above captioned case, relative to appeal, in the Court of
12 Common Pleas for Florence County, South Carolina, on the 6th
13 day of October, 2014.

14 I do further certify that I am neither of kin, counsel,
15 nor interest to any party hereto.

16
17 Krystal J. Smith

18 Court Reporter

19
20 Florence, South Carolina

21 September 21, 2016

NOTE: PURSUANT TO RULE 607(h)(1)(B), SCACR, "A COURT REPORTER SHALL RECEIVE THE FEE OF \$.75 PER PAGE FOR FURNISHING A COPY OF A PREVIOUSLY PREPARED TRANSCRIPT." ALL REQUESTS FOR COPIES OF THE ATTACHED TRANSCRIPT FROM OPPOSING PARTY OR NON-PARTIES MUST BE SENT TO:

KRYSTAL J. SMITH, COURT REPORTER
12TH CIRCUIT AT LARGE
P.O. BOX 13563
FLORENCE SC 29504

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT

Gregory D. Daniels, #297449,)

2013-CP-21-0280

Applicant,)

**ORDER GRANTING
LIMITED DISCOVERY**

v.)

State of South Carolina,)

Respondent.)
_____)

2014 OCT 30 PM 2:18
FILED
CLERK OF COURT
C.C.P. & G.S.
FLORENCE COUNTY, SC

This matter is before the Court by way of an application for post-conviction relief (PCR) filed February 1, 2013. By motion dated, September 30, 2014, and heard by the Court on October 6, 2014, Respondent, the State of South Carolina, pursuant to S.C. Code Ann. § 17-27-150(A), moved the Court to grant limited discovery.

Respondent argued Applicant intends to call Pete Skidmore, private investigator, as a witness in this matter to testify to possible investigative practices that Applicant's trial counsel should have employed. Respondent further argued that Applicant's trial counsel in this case was Jack Lawson, Esquire, who is deceased. Respondent argued that due to the unusual circumstances in this case, the State should be entitled to discovery of Mr. Skidmore's files.

By way of the Motion for Limited Discovery, this Court finds that Respondent has shown a sufficient basis for allowing discovery of the following:

- 1) The contents of Investigator Skidmore's files in this matter, including, but not limited to,
 - a. Witness interviews;
 - b. Photographs;
 - c. Videos;
 - d. Affidavits;

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739

CERTIFIED: A TRUE COPY
Claudia R. Spear
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

- e. Billing invoices;
- f. Any other documents relevant to Mr. Skidmore's investigation in this matter.

Based upon Respondent's Motion and the rare and unique circumstances involved in this case, this Court finds Respondent has shown good cause for discovery pursuant to S.C. Code Ann. § 17-27-150(A). Therefore, Respondent's request shall be granted to ensure Respondent can properly prepare for Applicant's post-conviction relief hearing.

IT IS THEREFORE ORDERED:

1. Limited discovery is **GRANTED** to Respondent to review and retain the entirety of any and all files relating to Mr. Skidmore's investigation of Applicant's case. Counsel for Applicant is directed to forward any and all relevant materials to Respondent.
2. Applicant's PCR hearing is to be scheduled on the day of Applicant's choosing during the next PCR term of court in the Twelfth Circuit.

AND IT IS SO ORDERED this 22nd day of October 2014.



Edgar W. Dickson
Presiding Judge
12th Judicial Circuit

, South Carolina

2014 OCT 30 PM 2:18
CONNIE REEL-SHEARER
CCCP & GS
FLORENCE COUNTY, SC

FILED

CERTIFIED: A TRUE COPY
Connie Reel-Shearer
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

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STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

Gregory Daniels, #297449,

Plaintiff(s),

-vs-

State of South Carolina,

Defendant(s).

IN THE COURT OF (Select one.)

☒ COMMON PLEAS ☐ FAMILY COURT

Twelfth JUDICIAL CIRCUIT

CASE NO.: 2013-CP-21-00290

APPOINTMENT OF COUNSEL OR GAL

(Select one.)

☒ ORDER

☐ AMENDED ORDER

TYPE OF CASE/PROCEEDING: (Check one.)

☒ Post-Conviction Relief (PCR)/habeas case

☐ Adoption

☐ Juvenile

☐ SVP case

☐ Custody and/or Visitation

☐ Abuse and Neglect

☐ Minor Name Change

☐ Other:

It appears that Gary L. Bostic, who is a litigant in this case, is entitled to court appointed counsel or a guardian ad litem.

It further appears that: (Select only one.)

- ☐ counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.
- ☐ counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on: _____
- ☐ counsel was previously appointed by the court but has not indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.
- ☐ court appointed counsel has obtained _____, Esquire as substitute counsel pursuant to Rule 608(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.
- ☒ Other: Gary L. Bostic has been called as a witness in the above captioned case. Because his testimony may expose him to legal consequences, the Court finds appointment of counsel is necessary to protect his interests.

Therefore, it is ordered that Jonathan Waller, hereby is appointed as (Select one.)

☒ counsel ☐ lead counsel (if capital PCR case) ☐ guardian ad litem
for the above-named person. Any counsel or GAL previously appointed is/are hereby relieved.

☐ (If Death Penalty PCR Case) It is further ordered that _____, Esquire, is hereby appointed as second counsel in this capital PCR case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED THIS 9th DAY OF October, 2014.

☒ Circuit Judge

☐ Clerk of Court

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense

(OID) to register the case online with OID within fifteen (15) days of this appointment at www.sccid.sc.gov, and further directs that reimbursement vouchers be submitted directly to SCCID and not to the trial judge or clerk of court. See SCCID website for further details.

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
FOR THE TWELFTH JUDICIAL CIRCUIT

In re: Gary L. Bostic,)
)
Gregory Daniels, #297449,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)

Case No. 2013-CP-21-280

**ORDER OF APPOINTMENT
FOR TESTIFYING WITNESS**

FILED
2014 OCT -9 PM 4:33
JAMIE REEL-SHEARIN
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, SC

The above named **Gary L. Bostic** has been subpoenaed to appear and give testimony in this Post-Conviction Relief action. Because his testimony in this PCR action may have legal consequences, Mr. Bostic requires counsel to advise him regarding his testimony. The Court finds as follows:

(1) Mr. Bostic is currently incarcerated in the Department of Corrections, and is therefore indigent.

(2) Appointment of counsel is necessary to protect Mr. Bostic's interests.

(3) Jonathan D. Waller, Esquire, is qualified to represent Mr. Bostic. This representation is for the limited purpose of advising Mr. Bostic regarding his testimony in the above captioned PCR action.

(4) Jonathan D. Waller, Esquire, is entitled to fees related to his representation, to be paid by the South Carolina Commission on Indigent Defense from available funds at the rate published for representation of indigents in post-conviction relief matters

CERTIFIED: A TRUE COPY
Cristie Hol-Spaul
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

IT IS THEREFORE ORDERED THAT:

1. Jonathan D. Waller, Esquire, is appointed to represent Gary L. Bostic in relation to his testimony in the post-conviction relief action of Daniels v. State.
2. The Commission on Indigent Defense shall reimburse Jonathan D. Waller, Esquire, for fees related to his representation of Gary L. Bostic.

AND IT IS SO ORDERED this 9th day of October, 2014.



THE HONORABLE EDGAR W. DICKSON
Presiding Judge

Florence, South Carolina

2014 OCT -9 PM 4:33
JONIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

FILED

CERTIFIED: A TRUE COPY
Cornie Reel-Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

State of South Carolina	)	Court of Common Pleas
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2013-CP-21-00280
	)	
Gregory Daniels,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
State of South Carolina,	)	
	)	
Defendant.	)	
	)	

April 14 & 17, 2015
Florence, South Carolina

B E F O R E:

The Honorable D. Craig Brown, Judge

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

Tricia A. Blanchette, Esquire
Attorney for the Plaintiff

Croom Hunter, Esquire
Attorney for the Defendant

Krystal J. Smith
Court Reporter

I N D E X

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NUMBER</u>
(APRIL 14, 2015)	
Tristan Shaffer	
Direct by Ms. Blanchette.....	9
Cross by Mr. Hunter.....	18
Redirect by Ms. Blanchette.....	23
Gary Bostick	
Direct by Ms. Blanchette.....	25
Cross by Mr. Hunter.....	33
Redirect by Ms. Blanchette.....	35
Johnny Etheridge	
Direct by Ms. Blanchette.....	37
Cross by Mr. Hunter.....	40
Gregory Daniels	
Direct by Ms. Blanchette.....	42
(APRIL 17, 2015)	
Gregory Daniels	
Cross by Mr. Hunter.....	182
Redirect by Ms. Blanchette.....	201
Andrew Williams	
Direct by Ms. Blanchette.....	205
Cross by Mr. Hunter.....	211
Redirect by Ms. Blanchette.....	213
(CONTINUED ON THE NEXT PAGE)	

	<u>PLAINTIFF APPLICANT'S EXHIBITS</u>			
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
1				
2				
3	1	Incident Report	54	55
4	2	Letters		62
5	3	Transcript of Goodman Audio	81	
6	4	Statement of Shavonne Gass	155	
7	5	Key Card Swipes List		85
8	6	Statement of Daniels		93
9	7	Search Warrant		102
10	8	Incident Report		107
11	9	Phone Records		111
12	10	Phone Records		111
13	11	Incident Report	115	
14	12	Polygraph Report	120	
15	13	Statement	121	
16	14	Transcript of Statement	127	
17	15	Incident Report	133	
18	16	Polygraph Report	155	
19	17	Statement	165	
20	18	Statement of Andre Bradley	169	
21	19	Statement of Jasmine Barrett	169	
22	20	Proffer Agreement		172
23	21	Audio CDs (4) - see below	78	
24	22	Color Photograph		225
25	23	Color Photograph		226

1	24	Color Photograph		226
2	25	Large Map		228
3	26	Video	231	234
4	27	Color Photograph		235
5	28	Color Photograph		235
6	29	Color Photograph		236
7	30	Color Photograph		236
8	31	Letter		328

9				
10	21-A	Audio of Nyrena Goodman	78	
11	21-B	Audio		93
12	21-C	Audio		136
13	21-D	Audio	143	

14

15

16 STATE'S EXHIBITS

17	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
18	1	Letter		193

19

20

21

22

23

24

25

1 APRIL 14, 2015

2 (WHEREAS this matter was scheduled for a post-conviction
3 relief hearing, the applicant appeared along with his
4 counsel of record. The hearing began at 9:30 a.m.)

5 THE COURT: Yes, sir?

6 MR. HUNTER: May it please the Court?

7 THE COURT: Yes, sir.

8 MR. HUNTER: This is Gregory Daniels versus the State of
9 South Carolina, Case Number 2013-CP-21-280. Mr. Daniels is
10 presently confined with SCDC pursuant to the Florence County
11 Clerk of Court's orders. The Georgetown County Grand Jury --
12 excuse me. I should say Florence. The Florence County Grand
13 Jury indicted Mr. Daniels in 2009 for murder and possession of
14 a weapon during the commission of a violent crime. That was
15 2009-GS-21-427. He was represented by Jack W. Lawson Jr.

16 On April 16th, 2010, a jury convicted Mr. Daniels as
17 indicted. The Honorable Thomas A. Russo sentenced him to life
18 in prison for the murder charge and a concurrent five years
19 for the weapons charge.

20 He filed a timely Notice of Appeal. The appeal was
21 perfected by Tristan M. Shaffer of the Office of Appellate
22 Defense. The South Carolina Supreme Court confirmed Mr.
23 Daniels' conviction on October 10th, 2012. That was *State v.*
24 *Daniels*, 401 S.C. 251, 737 S.E.2d 473, 2012. The remittitur
25 was sent on October 26th, 2012. Mr. Daniels filed this post-

1 conviction relief application on February 1st, 2013. He's
2 represented here today by Ms. Blanchette, and the State is
3 ready to proceed.

4 THE COURT: Mr. Prescott is not here yet. Is that still
5 correct?

6 MR. HUNTER: Yes, Your Honor. I think Mr. Waller just
7 walked in the door and said he had to speak with Mr. Prescott
8 before --

9 THE COURT: Okay.

10 MR. HUNTER: -- we start that case.

11 THE COURT: All right. Ms. Blanchette, you're so
12 recognized.

13 MS. BLANCHETTE: May it please the Court, your Honor?

14 THE COURT: Yes, ma'am.

15 MS. BLANCHETTE: I'm here today on behalf of Gregory
16 Daniels. It is my understanding we are going to call a couple
17 of brief witnesses, and then take a break and maybe take a
18 couple out of order just so we can move things along.

19 THE COURT: Yes, ma'am.

20 MS. BLANCHETTE: Briefly though before we begin, the
21 incident date in this case was September 5th, 2008, and I have
22 just a small recitation of facts taken directly from the
23 transcript for Your Honor, just to give some context.

24 THE COURT: All right.

25 MS. BLANCHETTE: There was a cook-out on September 4th of

1 2008 on the corner of Liberty and Frazier Streets here in
2 downtown Florence at the home of Shavonne Gass. Supposedly,
3 as the State alleges on pages 81 through 82 of the transcript,
4 my client picked a fight with the victim. They did
5 acknowledge that there were other fights, and two people
6 pulled guns at this cook-out.

7 Early Friday morning, the victim was leaving the home of
8 Shavonne Gass and he was going to leave with Gabriel Peterson
9 and Clifton Ryan Evans. He supposedly forgot his phone
10 charger. Then he set off on foot to meet his girlfriend,
11 Tiesha. He was shot while he was on the phone with Shavonne
12 Gass at 5:07 a.m. at the corner of Dargan and Marlboro Street.

13 THE COURT: All right.

14 MS. BLANCHETTE: Your Honor, it is my understanding just
15 to expedite matters we are going to go ahead and call Tristan
16 Shaffer, who was appellate counsel, because he's present here
17 in the courtroom.

18 THE COURT: All right.

19 THE CLERK: Please place your left hand on the Bible and
20 raise your right hand. Do you swear or affirm that the
21 testimony that you are about to give will be the truth, the
22 whole truth, and nothing but the truth, so help you God?

23 MR. SHAFFER: I do.

24 THE CLERK: Please take a seat and state your name for
25 the record.

TRISTAN SHAFFER - DIRECT BY MS. BLANCHETTE

1 MR. SHAFFER: Tristan Michael Shaffer. That's S-h-a-f-f-
2 e-r.

3 TRISTAN MICHAEL SHAFFER, being
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. BLANCHETTE:

7 Q: Mr. Shaffer, thank you for being present this morning.

8 How are you currently employed?

9 A: I currently work for Stewart Axelrod, an attorney out of
10 Myrtle Beach.

11 Q: Okay. And were you appellant counsel on Gregory Daniels'
12 direct appeal?

13 A: I was.

14 Q: Okay. And when you handled his direct appeal, where were
15 you employed?

16 A: I worked for SCCID, the Commission on Indigent Defense
17 for appellate -- their appellate division; so I was an
18 appellate defender.

19 Q: Okay. And you've had the opportunity to review the
20 appellate decision in this case?

21 A: I have.

22 Q: Okay. And just briefly, if you could explain to us the
23 issue that you raised on appeal?

24 A: The issue I raised involved the several -- or two
25 comments made by -- by -- I believe it was Judge Russo, the

TRISTAN SHAFFER - DIRECT BY MS. BLANCHETTE

1 trial judge. He made one comment saying that he believed that
2 the verdict would represent truth and justice for all parties
3 or -- and he also made a comment involving the jury acting for
4 the community. And I don't recall the exact wording of it,
5 but I found both of those to be objectionable.

6 I thought that -- my personal thought is that they were
7 probably both somewhat preserved, but I think that especially
8 the -- yeah, one of them was preserved, the comment -- one of
9 the comments were preserved, the Court found at least. One
10 they found that was not preserved.

11 Q: Okay. And you had an oral argument in this case --

12 A: Yeah.

13 Q: -- in front of the court?

14 A: It was actually a rather strange case because I had filed
15 the brief and I don't know the exact day, but when the final
16 brief went out to the Court of Appeals, within about a month
17 or two they moved it to the Supreme Court, and the Supreme
18 Court immediately granted oral argument. They did that in two
19 different cases. I have no idea why they did it, but I
20 thought it was really strange because we were able to get an
21 oral argument. It was definitely within six months of me
22 filing the final brief.

23 Q: And it's an interesting appellate decision, and the Court
24 has a copy of it in his packet, but it also -- it begins with
25 Justice Pleicones writing for a minority and then the majority

1 opinion follows, and he specifically found that the issue
2 wasn't preserved; is that correct?

3 A: That's correct.

4 Q: Okay. Now, ultimately, they found that is was error?

5 A: Yes.

6 Q: And correct me if I'm wrong because you were appellate
7 counsel and the decision will speak for itself. But that it
8 was harmless error due to substantial circumstantial evidence
9 of guilt. Now, those are some fun legal words. Did you agree
10 that there was substantial circumstantial evidence of guilt in
11 this case?

12 A: I actually definitely disagree with that. In fact --

13 MR. HUNTER: Objection, Your Honor. That calls for
14 speculation.

15 THE COURT: I'm going to allow him to answer the
16 question.

17 BY MS. BLANCHETTE:

18 A: I believe the reason that that came up -- and this came
19 up at the Supreme Court during oral argument. I think I'd
20 made a comment, which Chief Justice Toal jumped on and sort of
21 attacked me for, but I'd made the comment that throughout
22 reading the record, I was actually planning on raising a
23 directed verdict issue because I did not think that there was
24 -- basically their case was entirely circumstantial up until
25 one of the last witnesses, which was a jail house snitch.

1 Outside of the jailhouse snitch, I thought that it
2 probably really came close to -- to a directed verdict issue
3 and I probably would have raised the directed verdict issue
4 but for that jailhouse snitch. I made that comment to the
5 Supreme Court and I think that Chief Justice Toal didn't --
6 you know, I think she jumped on it to some degree and decided
7 to question me very harshly involving that comment. Even
8 though I stand by that, I believe that after reading it I
9 don't think they had substantial circumstantial evidence of
10 guilt.

11 Q: And you argued that to the South Carolina Supreme Court?

12 A: Yes, I did.

13 Q: Is that correct?

14 A: Yeah.

15 Q: Okay. Now, by way of his amendment, Mr. Daniels has
16 alleged that there are three additional issues that you should
17 have raised. And just tell me kind of what was the process
18 when you were in appellant defense as far as issue spotting.
19 How did you go about doing that?

20 A: I -- what would happen -- and appellant defense, like
21 anything in the public defender system, you don't have a whole
22 lot of time to work on cases and that's just part of the
23 process. That's the way it goes. So essentially, I was
24 pushing out -- you know, I would do two briefs a week on
25 average, maybe. Basically I'd read the transcript; I'd mark

TRISTAN SHAFFER - DIRECT BY MS. BLANCHETTE

1 down what I thought about it as I was going through the
2 transcript. And then I would raise it -- I thought -- like I
3 said, as I was reading the transcript up until close to the
4 end, I was probably thinking that I was going to raise a
5 directed verdict issue on this case. In fact, I remember it.

6 And I have very limited recollection of this -- of most
7 of my cases in appellant defense just because so many -- they
8 happen so fast, but this one I actually do remember. I don't
9 think that there was a whole lot of evidence that he did it,
10 and that's probably the reason I remember it. I know that I
11 was planning the directed verdict issue and I didn't --
12 whenever I found the jailhouse -- the jailhouse snitch's
13 testimony, I didn't raise that or I chose not to raise that.

14 Q: Do you recall a lengthy objection made to the present
15 sense impression testimony of Shavonne Gass regarding a
16 conversation she was having with the victim when he was
17 deceased? Or -- sorry -- right before he was killed?

18 A: Now that you mention it, I -- I think that I know what
19 you're talking about involved. Basically, it was over the
20 phone. The victim was on the phone at the time he was shot or
21 right before he was shot; correct?

22 Q: Yeah. The State is alleging that. So do you recall that
23 in the transcript and then is there a specific reason why you
24 didn't raise that on direct appeal?

25 A: No. I mean there -- there actually is no specific reason

TRISTAN SHAFFER - DIRECT BY MS. BLANCHETTE

1 I didn't. Honestly, I probably missed the issue or missed the
2 objection if I didn't raise it because that -- I can't tell
3 you the exact context because I don't remember enough about
4 where it was in the transcript, but I remember the events. I
5 remember the fact that the victim was on the phone and said
6 it's that guy from earlier or that guy from the party or
7 something -- something to that effect. I still don't think
8 they'd necessarily established that it was him because there
9 were several guys from the party, several guys with guns. So
10 I certainly don't think it established it was him, but
11 honestly, I don't know why I didn't raise the issue.

12 Q: And the second issue that he's alleged that you failed to
13 raise was there was lengthy argument throughout the transcript
14 about the admission of jailhouse letters he had exchanged with
15 his girlfriend. Do you have a specific reason why you did not
16 raise the objections that counsel made to those jailhouse
17 letters that were later cited as part of the circumstantial
18 overwhelming evidence appeal?

19 A: I -- I don't recall the specific reason. I might have
20 missed it. It's possible I missed the issue. That or, you
21 know, according to Justice Toal's concurring opinion -- and I
22 have not reviewed the transcript since I originally took the
23 case or maybe I reviewed it once sometime after it, but
24 Justice Toal's concurrent -- according to Justice Toal's
25 concurrent opinion, that was important. It appeared to be

1 important. I didn't think it was all that important at the
2 time; so I might have missed it or -- that or I didn't think
3 that the objection was very good. I can't really tell you
4 without knowing more about it.

5 Q: When you say it appears to Chief Justice Toal it's
6 important, she actually quotes lengthy portions of --

7 A: Yes, she does.

8 Q: -- those letters; is that correct?

9 A: That's correct.

10 Q: Okay.

11 A: That's correct. And based off of Justice Toal's opinion,
12 it seems that that's -- that was rather important. I still --
13 and maybe it was grasping at straws a little bit to -- to come
14 up with -- that's not exactly what I meant to say. What I
15 mean to say is that maybe she was coming up with the reasons
16 for why the -- why there was evidence of guilt. I still don't
17 think that even with his letters -- because basically they
18 were -- my -- my recollection of his letters said I didn't do
19 anything essentially. There was no evidence to convict me.
20 That's my recollection of them, but I haven't reviewed them in
21 a long time.

22 Q: Okay. And then finally we're alleging -- or -- sorry.
23 Mr. Daniels is alleging in his amendment that you failed to
24 raise an issue regarding the *Jackson v. Denno* hearing where
25 his counsel argued that his two statements should not be

TRISTAN SHAFFER - DIRECT BY MS. BLANCHETTE

1 admitted. Do you have a specific reason why you did not raise
2 that issue on appeal?

3 A: No. I can't tell you what the statements were either.

4 Q: Okay.

5 A: I can't -- based on my recollection, I can't tell you.

6 Q: And, Mr. Shaffer, how long had you been practicing law
7 when you took your job at Appellate Defense?

8 A: When I took the job, probably a year. Somewhere around
9 there.

10 Q: Okay. And just looking at the date there of Mr. Daniels'
11 appeal that you have in front of you, do you know how many
12 cases you had handled at that point or how many cases you had
13 briefed in your career?

14 A: I don't know when I filed the initial brief on this. I
15 don't -- do you -- I want to say that it was fairly quick.
16 Like I said, when the final brief got filed, we had an
17 argument, which I think was probably in March.

18 Q: The argument --

19 A: May?

20 Q: -- was heard was heard May 3rd --

21 A: Okay.

22 Q: -- of 2012.

23 A: I want to say that the -- the final briefs were filed in
24 probably May. The initial briefs were probably filed -- maybe
25 I worked on it the summer of 2011, if I had to guess. While I

TRISTAN SHAFFER - DIRECT BY MS. BLANCHETTE

1 was at Appellate Defense, I was assigned about eighty files.

2 I completed -- I mean I'd probably done forty appeals -- fifty
3 appeals, direct appeals at that point.

4 Q: Where did the argument in May of 2012 fall in your career
5 at Appellate Defense? Was that early on or is that --

6 A: No. That actually -- that's actually --

7 THE COURT: Hold on a minute. Hold a minute. Both of
8 you can't talk at the same time. Ms. Blanchette, please let
9 him finish. Mr. Shaffer, let her finish her questions before
10 you start responding. All right?

11 THE WITNESS: Thank you, Your Honor.

12 THE COURT: Thank you.

13 MS. BLANCHETTE: Your Honor, I'll restate my question.

14 THE COURT: All right.

15 BY MS. BLANCHETTE:

16 Q: Mr. Shaffer, with the argument being in May of 2012,
17 where did that fall in your career and the timeline that you
18 were at Appellate Defense?

19 A: I had actually left Appellate Defense at that point.

20 Q: And how long were you at Appellate Defense?

21 A: I was there about a year.

22 Q: Okay.

23 MS. BLANCHETTE: Your Honor, if I could just beg the
24 Court's indulgence one moment.

25 THE COURT: Yes, ma'am.

26

TRISTAN SHAFFER - CROSS BY MR. HUNTER

1 MS. BLANCHETTE: Your Honor, I have no further questions
2 of this witness. Thank you.

3 THE COURT: All right. Cross-examination.

4 MR. HUNTER: Yes, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. HUNTER:

7 Q: Mr. Shaffer, there's been some testimony with regards to
8 Justice Toal's concurrence, but in reality it was the majority
9 opinion, was it not?

10 A: I believe that's correct.

11 Q: Okay. And do you have a copy of the opinion in front of
12 you?

13 A: Yes, I do.

14 Q: Okay. Mr. Shaffer, if you will turn to the second page
15 of Chief Justice Toal's majority opinion, down at the bottom?
16 Would you please --

17 MR. HUNTER: May I approach, Your Honor?

18 THE COURT: Yes, sir.

19 BY MR. HUNTER:

20 Q: Would you mind reading this last paragraph?

21 A: Yeah. The record clearly demonstrates that appellant did
22 not raise the propriety -- propriety of the jury instruction
23 for the first time on appeal, but the object -- but objected
24 to the offensive language both before and after the trial
25 court delivered his instruction. Thus, appellant's objections

TRISTAN SHAFFER - CROSS BY MR. HUNTER

1 were properly preserved for this Court's consideration on the
2 appeal and, consequently, we must address the critical burden-
3 shifting issue.

4 Q: Okay. Thank you, Mr. Shaffer.

5 A: Thank you.

6 Q: Now, is it fair to say that when you go through and
7 prepare a case for appeal that you -- that you pick out the
8 issues that you feel are the most amenable?

9 A: I mean, yeah, that would be fair to say. I mean I would
10 definitely try to.

11 Q: Okay. So could -- within the constraints, you testified
12 that, you know, you had a high work load?

13 A: Yes.

14 Q: So you had to go through quickly and pick which issues,
15 you know, you thought were the best?

16 A: Yes.

17 Q: Okay. And so is it fair to say that you decided that
18 after reading the testimony of the so-called jailhouse snitch,
19 who I believe is Andre Bradley, that you thought a directed
20 verdict issue wasn't the best way to go?

21 A: Yeah, that's correct. I thought that, at that point,
22 there was at least some -- some direct evidence and I've
23 thought about that since then and maybe -- maybe -- at the
24 time I was under the impression that -- that a confession
25 relayed through a second party would be considered direct

TRISTAN SHAFFER - CROSS BY MR. HUNTER

1 evidence of guilt. I don't know if that's necessarily true.

2 Q: Okay. But at the time --

3 A: But at the time, that's -- that was my belief is that
4 that established at least some direct evidence. So really my
5 argument for the directed verdict would have been that there's
6 not substantial circumstantial evidence --

7 Q: Okay.

8 A: -- of guilt.

9 Q: And I believe you said that the Court ordered oral
10 arguments within six months of briefing; is that correct?

11 A: Yeah. It was really, really quickly.

12 Q: Okay. Well, would that not strike you as thinking that
13 you probably did a good job in raising an interesting issue
14 for the Court?

15 MS. BLANCHETTE: Your Honor, I object based on
16 speculation. That's asking for a thought.

17 THE COURT: Overruled. Respond to the question please.

18 BY MR. HUNTER:

19 A: At the time I thought that, but it might have just been
20 an administrative thing. There was -- there were two cases
21 that this happened to. Mr. Daniels' case -- and it happened
22 at the exact -- or within about a month of each other. Mr.
23 Daniels' case and a case involving jurisdictional-wise. They
24 were both sort of unusual issues.

25 Q: Okay.

1 A: And that's why I thought that I had done a good job and
2 that that's why they did it, but it may very well have just
3 been an administrative thing. I mean I'm not qualified to say
4 that.

5 Q: Do you think there is any import to the fact that the
6 Supreme Court released this opinion with Justice Pleicones'
7 dissent first?

8 A: Honestly, I think that he was probably assigned the case
9 and that's probably why he wrote the opinion first. It was
10 originally going to be his case because my understanding is
11 judges or justices are assigned cases. Basically before the
12 argument, they know who's going to be writing the opinion,
13 who's the primary judge on the case, and he was probably
14 assigned it. That's why I thought it. I thought that it was
15 weird because this case took quite a while for an opinion to
16 come out. The other one came out. Like I said, both of them
17 got moved to the -- from the Court of Appeals to the Supreme
18 Court at the same time. The other one came out in about a
19 week.

20 Q: Okay. But it is rare for the Supreme Court to release an
21 opinion with the dissent before the majority decision?

22 A: Oh, yeah, definitely.

23 Q: Okay.

24 A: But I think -- I don't know if that necessarily is
25 indicative of anything that the Supreme Court is thinking or

TRISTAN SHAFFER - CROSS BY MR. HUNTER

1 whether it's just --

2 Q: Right.

3 A: -- he was assigned the case.

4 Q: Okay. And just very briefly touch on the testimony of
5 Shavonne Gass. It's fair to say that that testimony didn't
6 jump out at you as being the best appellate issue when you
7 were reading through it, and that's why you didn't brief that?

8 A: It -- hold on one second. Let me -- do you mind if I
9 read something real quick?

10 (WHEREUPON, there was a pause in the proceedings.)

11 A: Okay. I apologize. Can you answer -- ask the question
12 again?

13 Q: With regard to the testimony of Shavonne Gass that Ms.
14 Blanchette asked you about, you know, Ms. Gass was the person
15 that the victim was on the phone with right before he was
16 shot, and Ms. Blanchette had asked you why you didn't raise,
17 you know, that issue on appeal. Is it fair to say that that
18 didn't jump out at you?

19 A: Honestly, I can't tell you why I didn't. I raised the
20 issue that I knew going into it I don't think had a great
21 chance of success. It's possible I missed the issue.

22 Q: But at the time, you thought that was the best issue to
23 go forward with?

24 A: Yeah. I mean I think that that was -- I thought that
25 that issue had just as good of a chance as anything I saw, and

TRISTAN SHAFFER - CROSS BY MR. HUNTER

1 I can't tell you why I thought that because I don't know
2 enough -- enough about her. I can't recall enough about the
3 facts of it.

4 Q: Okay.

5 A: I don't know if there was a legitimate reason for not
6 picking that issue or if I just missed it. I can't tell you
7 that without looking at it.

8 Q: Okay. Thank you, Mr. Shaffer.

9 MR. HUNTER: I don't have any further questions.

10 THE COURT: Any redirect?

11 MS. BLANCHETTE: Yes, briefly, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. BLANCHETTE:

14 Q: Mr. Shaffer, you were given notice about this hearing
15 today; is that correct?

16 A: That's correct.

17 Q: And you were actually -- were you under a subpoena by the
18 State for this hearing today?

19 A: That's correct.

20 Q: Okay.

21 MR. HUNTER: Objection. It's outside the scope of cross.

22 THE COURT: Sustained.

23 BY MS. BLANCHETTE:

24 Q: Mr. Shaffer, my question was -- was going to be is there
25 a reason why you didn't have access to your file before today

TRISTAN SHAFFER - REDIRECT BY MS. BLANCHETTE

1 to review the case?

2 A: And the reason is -- and I had thought that it's
3 generally sent to me. I don't think that it was sent to me.
4 It's at Appellate Defense right now. So I wasn't -- I wasn't
5 given -- you know, like any lawyer, I have a lot going on. If
6 it's not right in front of me at the time, I might not -- I
7 didn't have a chance to review it or I didn't look over it. I
8 probably could have called up Appellate Defense and asked them
9 to -- if I could review it, but I don't think that I actually
10 had the transcript at my office.

11 MS. BLANCHETTE: Your Honor, I have no further questions.

12 MR. HUNTER: Nothing further, Your Honor.

13 THE COURT: Sir, you may step down. Call your next
14 witness.

15 MS. BLANCHETTE: Your Honor, I would call Gary Bostick to
16 the stand.

17 THE COURT: All right.

18 (WHEREUPON, there was a pause in the proceedings until
19 the witness entered the courtroom.)

20 THE CLERK: Please step up to the witness stand -- the
21 witness box and place your left hand on the Bible and raise
22 your right hand. Do you swear to tell the truth, the whole
23 truth, and nothing but the truth, so help you God?

24 MR. BOSTICK: Yes, ma'am.

25 THE CLERK: Okay. Please take your seat and state your
26

GARY BOSTICK - DIRECT BY MS. BLANCHETTE

1 name for the record.

2 MR. BOSTICK: All right. Gary Bostick.

3 GARY BOSTICK, being first duly
4 sworn, testifies as follows:

5 DIRECT EXAMINATION

6 BY MS. BLANCHETTE:

7 Q: Mr. Bostick, where are you currently located?

8 A: Marion County Prison Farm.

9 Q: Okay. I'm sorry? Marion County Prison Farm; is that
10 correct?

11 A: Yes, ma'am.

12 Q: Okay. And you're there serving a sentence on a
13 conviction out of Florence County; is that correct?

14 A: Yes, ma'am.

15 Q: And how much time are you serving?

16 A: Ten years.

17 Q: And what are you serving time for? What were the
18 convictions that you have?

19 A: Simple assault and a distribution of crack cocaine.

20 Q: Okay. And are you also serving time for an assault and
21 battery of a high and aggravated nature?

22 A: I wasn't supposed to be.

23 Q: Okay.

24 A: But they got it on my record, but I wasn't supposed to
25 be.

GARY BOSTICK - DIRECT BY MS. BLANCHETTE

1 Q: Okay. So if you check your SCDC record, those are the
2 three charges that you're currently serving time on?

3 A: Uh-huh.

4 Q: Okay. And was that the result of a plea or a trial?

5 A: A plea.

6 Q: All right. And who was your attorney when you pled to
7 those charges?

8 A: Well, I had Johnny Etheridge and Scott Suggs.

9 Q: Okay. And what charges did Mr. Etheridge represent you
10 on?

11 A: The -- I had an assault and battery before and I got
12 probation for it.

13 Q: Okay.

14 A: And I think that's what it was that came back, but he
15 represented me on the distribution and the simple assault.

16 Q: Okay. And does it sound accurate that you entered a plea
17 to those charges in August of 2010?

18 A: That sounds correct.

19 Q: Okay. And --

20 MS. BLANCHETTE: I apologize, Your Honor. The pollen has
21 gotten into my throat.

22 THE COURT: That's all right.

23 BY MS. BLANCHETTE:

24 Q: We are here today about a murder that occurred on
25 September 5th of 2008, and throughout the transcript that is

GARY BOSTICK - DIRECT BY MS. BLANCHETTE

1 part of the record in this case, the State alleges that a Gary
2 Bostick hired Gregory Daniels to commit the murder. Do you
3 know Gregory Daniels?

4 A: Yes. Yes, ma'am.

5 Q: Have you reviewed the transcript? Were you surprised to
6 see that being in this transcript of this case?

7 A: Very.

8 Q: Did anyone ever contact you about the murder of Corey
9 Byrd in September of 2008?

10 A: No, ma'am.

11 Q: Okay. Did anyone ever contact your attorney to see if
12 they could meet with you about that case?

13 A: Yes, ma'am.

14 Q: Okay. And did you, in fact, meet with anybody from law
15 enforcement regarding the case?

16 A: Yes, ma'am. It was -- I think it was right before the
17 trial. My lawyer called me and said that Mr. Compton and I
18 guess his associate wanted to talk to me; so I went up there
19 and talked to them.

20 Q: Okay. And what did you talk to them about?

21 A: It was about the case. Well, they asked --

22 Q: And when you say the case --

23 A: Well, they asked me if I was -- if I knew him, how well
24 did I know him. What else? If I had anything to do with it,
25 did I pay him, and, you know, this and that.

GARY BOSTICK - DIRECT BY MS. BLANCHETTE

1 Q: So they asked you about the murder of Corey Byrd; is that
2 correct?

3 A: Right.

4 Q: And they asked you about your association with Gregory
5 Daniels?

6 A: Yes, ma'am.

7 Q: And where did that occur again?

8 A: Up here.

9 Q: Up at the courthouse?

10 A: Yes, ma'am. No, in the -- well, they had an office. I
11 forgot which floor it was on, but one of the offices in the
12 complex.

13 Q: Did Jack Lawson or anyone from the Public Defender's
14 Office ever come and attempt to meet with you or, as far as
15 you knew, want to meet with you through your attorney?

16 A: No, ma'am.

17 Q: If Jack Lawson or an investigator, someone from the
18 Public Defender's Office wanted to speak with you on behalf of
19 Gregory Daniels, would you have been willing to do that?

20 A: Yes, ma'am.

21 Q: And would -- just going back to your meeting with
22 Investigator Compton, did you tell him that you were involved
23 in these -- in this case --

24 A: No..

25 Q: -- and did the actions that he said?

GARY BOSTICK - DIRECT BY MS. BLANCHETTE

1 A: No, ma'am. I told him I wasn't involved with it.

2 Q: Okay. Did you ever give a written statement to that
3 extent?

4 A: No, ma'am.

5 Q: Now, no one ever contacted you from the Public Defender's
6 Office prior to trial, but did you ever receive a subpoena or
7 any notice that you needed to be at the trial in April of
8 2010?

9 A: No, ma'am.

10 Q: I have provided you a copy of the transcript and you read
11 through it. Were you surprised that you weren't called at the
12 trial?

13 A: You said was I -- say that again?

14 Q: You've read through the transcript and see how often your
15 name is mentioned. Were you surprised that neither side
16 called you as a witness at the trial?

17 A: Kind of, yeah. I was kind of surprised because I mean I
18 was mentioned so much. I mean, you know, but nobody said
19 anything. So --

20 Q: Okay. And at the end of the trial in closing arguments,
21 Jack Lawson actually says that no one ever spoke to Gary
22 Bostick. Is that true? Did someone actually speak to you
23 about this case?

24 A: Well, the detectives did and that was it. You know, they
25 called me in for questioning.

GARY BOSTICK - DIRECT BY MS. BLANCHETTE

1 Q: Now, Mr. Bostick, I just want to kind of go over how I
2 got in contact with you. Do you recall when I wrote you a
3 letter and asked if I could meet with you?

4 A: Yes, ma'am.

5 Q: And we, in fact, met last year in -- let me just make
6 sure I have the right date here. We met in September of last
7 year and Private Investigator Pete Skidmore was present at the
8 meeting; is that correct?

9 A: Yes, ma'am.

10 Q: And as a result of that meeting, you signed a four-point
11 affidavit?

12 A: Yes, ma'am.

13 Q: Okay.

14 MS. BLANCHETTE: Your Honor, may I approach the witness?

15 THE COURT: Yeah.

16 BY MS. BLANCHETTE:

17 Q: Mr. Bostick, this affidavit has your signature on it that
18 was notarized by Peter Skidmore. Do you recognize that as the
19 affidavit that you signed on that day?

20 A: Yes, ma'am.

21 MS. BLANCHETTE: And, Your Honor, this affidavit was
22 attached to our amendment, but if Your Honor doesn't mind, I'd
23 just like to read over it for the record and have him affirm
24 it.

25 THE COURT: Any objection?

GARY BOSTICK - DIRECT BY MS. BLANCHETTE

1 MS. HUNTER: No, Your Honor. It's been filed; it's part
2 of the record.

3 THE COURT: All right. Go ahead.

4 BY MS. BLANCHETTE:

5 Q: Mr. Bostick, this affidavit says that you affirm that you
6 were interviewed by law enforcement regarding the murder of
7 Corey L. Byrd on September 5th, 2008. I affirm that I was not
8 contacted by Jack Lawson, Esquire, or anyone on behalf of
9 Gregory D. Daniels prior to the trial held on April 12th
10 through 16th, 2010, nor was I transported as a witness to the
11 Florence County Courthouse. I affirm that I'm willing to
12 testify to the above information.

13 Do you affirm to that here today?

14 A: Yes, ma'am.

15 Q: Now, Mr. Bostick, the -- you are serving time for assault
16 and battery of a high and aggravated nature; is that correct?

17 A: As far as the computer go, yes.

18 Q: Okay.

19 A: But, I'm -- I got -- see, this is the thing. Like, I
20 originally got sentenced to distribution, and the assault
21 charge was dropped. It was dropped down because of -- well,
22 really -- well, the guy -- he knew that I didn't assault, but
23 they dropped it down to simple assault. That's what I
24 originally got sentenced for, but this assault and battery of
25 a high and aggravated nature, huh-uh, no.

GARY BOSTICK - DIRECT BY MS. BLANCHETTE

1 Q: Did you -- are you serving any time for a case involving
2 Corey Byrd?

3 A: No.

4 Q: Okay.

5 A: Not that I know of.

6 Q: Did you have any prior cases where Corey Byrd was the
7 victim?

8 A: Uh-huh.

9 Q: Okay. And --

10 THE COURT: Is that a yes?

11 A: Yes, ma'am.

12 THE COURT: Thank you.

13 A: Yes, ma'am.

14 THE COURT: Go ahead. I'm sorry Ms. Blanchette.

15 MS. BLANCHETTE: Thank you, Your Honor.

16 BY MS. BLANCHETTE:

17 Q: So you did have a prior case with Corey Byrd as the
18 victim; is that correct?

19 A: Yes, ma'am.

20 Q: And what was the nature of that case? What was the
21 charge?

22 A: Assault and battery of a high and aggravated nature.

23 Q: Okay.

24 MS. BLANCHETTE: Your Honor, if I could beg the Court's
25 indulgence one moment? Your Honor, I have no further

GARY BOSTICK - CROSS BY MR. HUNTER

1 questions of this witness.

2 THE COURT: All right. Mr. Hunter?

3 MR. HUNTER: Briefly, Your Honor.

4 CROSS EXAMINATION

5 BY MR. HUNTER:

6 Q: Now, Mr. Bostick, you say you were represented by Mr.
7 Etheridge on your assault and battery?

8 A: Yes, sir.

9 Q: Okay. And who represented you on your ABHAN?

10 A: Scott Suggs.

11 Q: Scott Suggs? Okay.

12 A: No, no, no, no. You said my ABHAN?

13 Q: Yeah, your ABHAN.

14 A: Mr. Etheridge.

15 Q: Okay. Now prior to your -- did you plead to all these
16 charges or did you have trials?

17 A: I pled to all of them.

18 Q: Okay. Now, prior to your pleas, did you ever speak with
19 law enforcement?

20 A: No. What you mean?

21 Q: Well, did law enforcement ever interview you about the
22 ABHAN or the assault and battery?

23 A: No.

24 Q: Or the distribution?

25 A: Huh-uh.

GARY BOSTICK - CROSS BY MR. HUNTER

1 Q: You never spoke with them about that?

2 A: Huh-uh.

3 THE COURT: I need a verbal response, please, sir.

4 A: Oh. No, sir.

5 THE COURT: Thank you.

6 BY MR. HUNTER:

7 Q: So the only time you've ever spoken with law enforcement
8 is in regards to Corey Byrd's murder?

9 A: Yes, sir.

10 Q: Okay. Do you remember the date or do you remember the
11 year that they spoke to you about that?

12 A: I want to say it was 2010.

13 Q: Now, were you in custody at that time?

14 A: No, sir.

15 Q: Okay. Now, you say you're serving your ABHAN in relation
16 to a -- Corey Byrd was part of that case; is that right?

17 A: No, sir. I mean I -- I had probation for that charge.

18 Q: Okay.

19 A: I caught a year of probation for that.

20 Q: What was the -- what happened in that case?

21 A: What do you mean?

22 Q: Well, what I mean -- you testified -- all right. Why did
23 you plead guilty to ABHAN? What did you do?

24 A: Well, it was alleged that I shot at him.

25 Q: It was alleged --

GARY BOSTICK - CROSS BY MR. HUNTER

1 A: -- that I shot him.

2 Q: Okay. But you did plead guilty to it?

3 A: I pled to ABHAN.

4 Q: Okay. So you admitted that you shot him?

5 A: No. I didn't admit that I shot him.

6 Q: Okay.

7 A: I mean a ABHAN is -- well, from my understanding an ABHAN
8 is -- I'm not pleading guilty to it, but I'm just pleading it
9 today just to get it on out of my way, but I'm not --

10 Q: Okay.

11 A: -- saying that I'm guilty of it.

12 Q: So you're serving time for allegedly shooting Corey Byrd,
13 but you're testifying here today that you would have wanted to
14 testify in Mr. Daniels' case about the murder of Mr. Byrd?

15 A: No, no, no, no. I'm serving time for a distribution of
16 crack cocaine.

17 Q: Okay. But you've also got the ABHAN showing up too?

18 A: Right.

19 Q: Okay.

20 MR. HUNTER: No further questions, Your Honor. Thank
21 you, Mr. Bostick.

22 THE COURT: Ms. Blanchette?

23 MS. BLANCHETTE: Very briefly, Your Honor.

24 REDIRECT EXAMINATION

25 BY MS. BLANCHETTE:

GARY BOSTICK - REDIRECT BY MS. BLANCHETTE

1 Q: Mr. Bostick, were you ever charged in relation to the
2 murder of Corey Byrd?

3 A: No, ma'am.

4 MS. BLANCHETTE: Your Honor, if I could beg the Court's
5 indulgence one moment.

6 THE COURT: Yes.

7 BY MS. BLANCHETTE:

8 Q: And, Mr. Bostick, just for the record, you were appointed
9 an attorney when we were in court last in October by Judge
10 Dickson to be here today to advise you and to protect your
11 interests; is that correct?

12 A: Yes, ma'am.

13 Q: And that attorney is Jonathan Waller?

14 A: Yes, ma'am.

15 Q: And you had the opportunity to speak with him today
16 before you took the stand?

17 A: Yes, ma'am.

18 Q: And I've made you no promises or anything in connection
19 with your testimony today?

20 A: No, ma'am.

21 MS. BLANCHETTE: Your Honor, I have no further questions.

22 THE COURT: Mr. Hunter?

23 MR. HUNTER: Nothing further, Your Honor.

24 THE COURT: And for the record, Mr. Waller's in the
25 courtroom here today while Ms. Blanchette placed that

JOHN R. ETHERIDGE JR. - DIRECT BY MS. BLANCHETTE

1 statement or those questions -- posed those questions to Mr.
2 Bostick on the record.

3 All right. Sir, you may step down. Thank you.

4 MS. BLANCHETTE: Your Honor, I would call Johnny
5 Etheridge to the stand.

6 THE COURT: All right.

7 MS. BLANCHETTE: And, Your Honor, if I may, I know that
8 Mr. Bostick was transported here today under my subpoena. I'd
9 just ask that he be released from that subpoena unless anyone
10 has an objection to that?

11 THE COURT: Any objection, Mr. Hunter?

12 MR. HUNTER: No, Your Honor.

13 THE COURT: So released. He's free to go. Thank you.

14 THE CLERK: Do you swear or affirm that the testimony you
15 are about to give will be the truth, the whole truth, and
16 nothing but the truth, so help you God?

17 MR. ETHERIDGE: Yes, ma'am.

18 THE CLERK: Please take your seat and state your name for
19 the record.

20 MR. ETHERIDGE: John R. Etheridge Jr.

21 JOHN R. ETHERIDGE JR., being
22 first duly sworn, testifies as follows:

23 DIRECT EXAMINATION

24 BY MS. BLANCHETTE:

25 Q: Mr. Etheridge, how are you currently employed?

- 1 A: I'm a lawyer.
- 2 Q: Okay. How long have you been a lawyer?
- 3 A: Thirty-five. Thirty-five years.
- 4 Q: And where do you practice law primarily? In what county?
- 5 A: Primarily Florence.
- 6 Q: Okay. And you had the opportunity to hear Gary Bostick's
- 7 testimony this morning.
- 8 A: I could barely hear it, but yes, I could hear some of it.
- 9 Yes, ma'am.
- 10 Q: Do you recall representing him on the charges that he is
- 11 currently serving time on?
- 12 A: Yes, ma'am.
- 13 Q: Okay. And just going back to that time period in 2010,
- 14 do you recall being contacted by Florence County law
- 15 enforcement asking to set up a meeting with Gary Bostick?
- 16 A: Yes, I did.
- 17 Q: Okay. And what was your response to that request?
- 18 A: My response was that I would like for him to talk to them
- 19 with no strings on their part, no strings on my part, and I
- 20 have a real good relationship with law enforcement; so I did
- 21 not require him -- me to be present.
- 22 Q: So you were not actually at the meeting, but you arranged
- 23 for the meeting to take place?
- 24 A: Yes, ma'am.
- 25 Q: Okay. And your client was currently out on bond; so you

1 had to contact him and coordinate for him to go talk to law
2 enforcement?

3 A: Yes, ma'am. I think that -- my recollection, I gave them
4 his phone numbers and cell numbers and they arranged it.

5 Q: Okay. And as far as you know, did that meeting occur?

6 A: Yes, ma'am.

7 Q: And you said you know law enforcement well so you didn't
8 need to be present. What was your understanding they wanted
9 to speak with him about that day?

10 A: I don't recall specifically, but it was about a violent
11 crime. But I don't know that I was told Mr. Daniels' name or
12 anything like that.

13 Q: Were you aware of whether or not it was in connection
14 with the charges that you were representing him on, the drug
15 charges and the assault charges, or was it related to another
16 crime?

17 A: It was related to another crime.

18 Q: Okay.

19 MS. BLANCHETTE: Your Honor, if I could beg the Court's
20 indulgence one moment.

21 THE COURT: All right.

22 MS. BLANCHETTE: Your Honor, I have no further questions
23 of this witness.

24 THE COURT: Mr. Hunter?

25 MR. HUNTER: Just very briefly, Your Honor.

CROSS-EXAMINATION

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BY MR. HUNTER:

Q: So, Mr. Etheridge, all you know is that the interview, the alleged interview, was just in relation to a violent crime; correct?

A: That's correct.

Q: Okay. You don't know that it was in relation to Mr. Byrd's murder?

A: I assume it was based on what I've heard today, but at that time, I did not know, sir.

Q: Okay. And if such a meeting did take place, you were not present?

A: I was not.

Q: Okay. Did you ever speak to Mr. Bostick afterwards about how the meeting went?

A: I don't recall.

Q: Okay. Do you know for a fact that the meeting did take place?

A: Yes, sir.

Q: Okay.

A: I mean I know that I was told it took place by Mr. Bostick.

Q: Okay. But Mr. Bostick is the only one that told you that?

A: Yes.

JOHN R. ETHERIDGE JR. - CROSS BY MR. HUNTER

1 Q: Who in law enforcement would you have spoken to about
2 that meeting?

3 A: I do not remember.

4 Q: Okay.

5 MR. HUNTER: No further questions. Thank you.

6 THE COURT: Ms. Blanchette?

7 MS. BLANCHETTE: Nothing further, Your Honor.

8 THE COURT: Sir, you may step down. Thank you.

9 THE WITNESS: Thank you, Judge. Can I be excused?

10 THE COURT: Any objection to him being excused?

11 MS. BLANCHETTE: I do not, Your Honor.

12 MR. HUNTER: No objection.

13 THE COURT: Yes, sir, you may.

14 THE WITNESS: Thank you, Judge.

15 MS. BLANCHETTE: Your Honor, I have one more brief
16 witness, but I do not need to call him at this time if you
17 wanted to break at this point to take care of the other
18 matter. Those were the witnesses I had planned to call
19 briefly.

20 THE COURT: All right. Mr. Hunter, is that all right?

21 MR. HUNTER: It's fine with me, Your Honor.

22 THE COURT: Okay.

23 MR. HUNTER: Can we take about a five-minute recess?

24 THE COURT: Yes. If you'll do that and get Mr. Prescott
25 in here.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 MR. HUNTER: Yes, sir.

2 THE COURT: And take Mr. --

3 THE DEPUTY: He is talking with his attorney right now.

4 THE COURT: All right.

5 (WHEREUPON, there was a break in the proceedings from
6 10:11 a.m. until 11:19 a.m.)

7 THE COURT: All right. Ms. Blanchette, you ready to
8 proceed -- to continue?

9 MS. BLANCHETTE: Thank you, Your Honor. I would call
10 Gregory Daniels to the stand.

11 THE COURT: All right.

12 THE CLERK: Please place your left hand on the Bible and
13 raise your right hand as much as possible. Do you swear or
14 affirm that the testimony you are about to give will be the
15 truth, the whole truth, and nothing but the truth, so help you
16 God?

17 THE APPLICANT: Yes, ma'am.

18 THE CLERK: Please take your seat and state your name for
19 the record.

20 THE APPLICANT: Gregory Daniels.

21 GREGORY DANIELS, being first
22 duly sworn, testifies as follows:

23 DIRECT EXAMINATION

24 BY MS. BLANCHETTE:

25 Q: Mr. Daniels, where are you currently being housed?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

- 1 A: In the South Carolina Department of Corrections.
- 2 Q: Okay. And what institution are you at?
- 3 A: Lee Correctional.
- 4 Q: Okay. And you proceeded to trial in April of 2010; is
- 5 that correct?
- 6 A: Yes, ma'am.
- 7 Q: And was that here at the Florence County Courthouse?
- 8 A: Yes, ma'am.
- 9 Q: And what judge were you in front of?
- 10 A: Judge Thomas Russo.
- 11 Q: Who represented you at that trial?
- 12 A: Jack -- Jack -- Jack Lawson Jr.
- 13 Q: Okay. Was there another attorney assisting him at your
- 14 trial?
- 15 A: Grayson Smith.
- 16 Q: Okay. And following that trial, you were convicted on a
- 17 murder charge and a weapons charge?
- 18 A: Yes, ma'am.
- 19 Q: What sentence are you currently serving?
- 20 A: A natural life sentence.
- 21 Q: Did you have an appeal after you received your life
- 22 sentence?
- 23 A: Yes, ma'am.
- 24 Q: Okay. And who handled that appeal for you?
- 25 A: Tristan Shaffer.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Okay. And you've already heard Mr. Shaffer's testimony
2 today. You are making three allegations regarding his
3 ineffectiveness; is that correct?

4 A: Yes, ma'am.

5 Q: Okay. Now, following your direct appeal, you filed a PCR
6 application in Florence County?

7 A: Yes, ma'am.

8 Q: And that is docketed at 2013-CP-21-280, and that was
9 filed February 1st of 2013?

10 Q: Yes, ma'am.

11 Q: And based upon that application and the amendment that
12 was filed on your behalf on September 22nd, 2014, you are
13 making numerous allegations of ineffective assistance of
14 counsel; is that correct?

15 A: Yes, ma'am.

16 Q: Now, Mr. Daniels, what is the relief that you're asking
17 this Court for?

18 A: I'm asking that the Court vacate the sentence.

19 Q: Okay. And do you want a new trial?

20 A: If the Court sees so, yes, ma'am.

21 Q: Okay. And I have explained to you, Mr. Daniels, that by
22 asking for that relief, that means you're asking the Court to
23 set aside your conviction and put you in the position that you
24 were prior to being convicted. So that means you could
25 potentially face a new trial. There could be some risk

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 involved in that. Do you understand that and do you still
2 want to go forward today?

3 A: Yes, ma'am.

4 Q: Okay. Now, Mr. Daniels, what I'm going to do is take you
5 through each of the allegations that are on your amendment.

6 MS. BLANCHETTE: And, Your Honor, I will jump out of
7 order a little bit, but I'll try to make sure that it's clear
8 which issue that I'm dealing with as we go through them.

9 THE COURT: All right.

10 BY MS. BLANCHETTE:

11 Q: Now, in this case, you were arrested, and then did you
12 make bond or did you remain in the county jail?

13 A: I remained in the county jail, ma'am.

14 Q: Okay. And just let's explain a little bit. When you got
15 arrested, did you actually get arrested on a different charge?

16 A: Yes, ma'am. I was --

17 Q: Explain what happened with that?

18 A: I was riding my moped and got pulled over by some
19 narcotics agents and was arrested with -- was being detained
20 at that time for reckless driving and simple possession of
21 marijuana.

22 Q: Okay. And then after that, were you arrested on this
23 charge?

24 A: No, ma'am. I was -- it was my understanding that I was
25 being taken to Effingham, but the transport officer brought me

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 here to the City-County Complex. He never told me the reason
2 for doing it, but my understanding was maybe they was going to
3 give me some tickets and let me pay the tickets and go. But
4 as I asked what was going on, they told me that I was being
5 taken to the 4th floor -- I believe that's where their offices
6 are -- to be questioned about a murder that had occurred.

7 Q: And you were questioned and then you were ultimately
8 served on September 11th of 2008 with an arrest warrant for
9 burglary in this case?

10 A: Yes, ma'am.

11 Q: Were you able to retain an attorney or were you appointed
12 an attorney to assist you with the murder case?

13 A: I was appointed an attorney.

14 Q: And who were you appointed?

15 A: Mr. Jack Lawson.

16 Q: Prior to your trial -- so from the incident date or your
17 arrest in September in 2008 until the trial in 2010, do you
18 know approximately how many times you met with Mr. Lawson?

19 A: I could say -- when he came out to the detention center,
20 it was never to see me. I had to watch him talk to other
21 clients and request to speak with him after he finished
22 talking to the other clients.

23 Q: Okay. So you would --

24 A: And he was --

25 Q: I'm sorry. Go ahead.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: And he would -- sometimes he would tell me he didn't have
2 time and sometimes he would listen to what I had to say, but
3 as far as an interview with him, as far as me and him, there
4 was only a couple, maybe two or three, and then before I went
5 to trial, he showed up that weekend before trial.

6 I got a call actually on the phone at the detention
7 center saying that your lawyer wanted to speak with you. He
8 stated that we're going to trial Monday. I will be up there
9 tomorrow to go over things with you with the case and discuss
10 things with you with the case. I will see you tomorrow. And
11 that's when I actually had an actual interview with him
12 discussing the case.

13 Q: And that would be the Saturday before you went to trial
14 on Monday?

15 A: Yes, ma'am.

16 Q: Then did you have further communication with him that
17 Sunday?

18 A: Yes, ma'am. He called and he said is there anything else
19 that I need, that you feel you need to go over with me or, if
20 not, there's no need for me to come and speak with you. I'll
21 just see you on Monday morning.

22 Q: Okay. At any time, did he convey to you that there was a
23 plea offer on the table?

24 A: Yes, ma'am.

25 Q: And what was that plea offer?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: The first plea offer was from the Solicitor's Office or I
2 believe it was Mr. Edgar Clements. That was from zero to
3 thirty, dismiss the gun charge. The second plea offer that I
4 was given was from -- handed down from another solicitor,
5 Patricia Parr -- I think Singleton-Parr, and that -- the first
6 plea offer, she was unable to offer a plea. The second plea
7 offer she offered was voluntary manslaughter, twenty years.
8 Then there was another plea from Mr. Jepertinger, which was
9 seventeen years, voluntary manslaughter. That was within two
10 days of me coming to trial.

11 Q: And obviously you didn't accept that offer. Why didn't
12 you accept that offer?

13 A: I didn't accept the offer because I didn't commit the
14 crime and I don't believe in someone being charged or being
15 convicted of something that they didn't do.

16 Q: Now, on the State's opening on page 83, they say that
17 there is no physical evidence in this case and there is no
18 eyewitnesses. So did you have the opportunity to go over with
19 Mr. Jack Lawson what the evidence was going to be that the
20 State planned to use against you?

21 A: At the time, I wrote several requests to the Public
22 Defender's Office, tried to get Mr. Lawson on the phone
23 several times, but was unable to do so. Like I said, my only
24 communication between me and Mr. Lawson was through trying to
25 talk to him when he comes out to visit other clients. And

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 during the time or whenever I would ask him is this all that I
2 have in discovery evidence that you disclose to me? Is this
3 everything? Is this the statements, any evidence? Are there
4 any new evidence, anything? Do you have anything else? He
5 told me no, there is nothing. They're not giving me nothing.
6 This is all they have.

7 Q: And he did provide you with some Rule 5 or discovery
8 documents; is that correct?

9 A: Yes. He supplied me with a Rule 5 discovery from Mr.
10 Edgar Clements at the beginning of the case, and then when Ms.
11 Patricia Parr took over the case, she supplied me with a
12 little more discovery, and that was basically all the
13 discovery evidence I've seen.

14 Q: Okay. And as we go through each of your issues today,
15 we're going to talk about pertinent pieces of discovery that
16 you either didn't see or didn't review. But as part of my PCR
17 representation, did you request that I get a complete copy of
18 your file from Mr. Lawson?

19 A: Yes, I did.

20 Q: And since Mr. Lawson is now deceased, did -- do you
21 recall me going to the Public Defender's Office and obtaining
22 a copy of that complete file for you?

23 A: Yes, I do.

24 Q: And did I provide you with that copy at Lee Correctional
25 Institution?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: Yes, you did.

2 Q: Have I also come to Lee Correctional on twice -- on two
3 different occasions, gone over all the audio and video that
4 was provided to me by the Public Defender's Office?

5 A: Yes, you have.

6 Q: Prior to my review of what was provided to me as Mr.
7 Lawson's file, had you seen everything that was in that file?

8 A: No, ma'am, I hadn't.

9 Q: Can you give an estimate as to how much of it you had
10 seen?

11 A: Basically, the incident reports is all that I saw out of
12 that file.

13 Q: So did you have an opportunity to go over all the
14 statements with him of the testifying witnesses?

15 A: No, ma'am, I didn't.

16 Q: Did you review any of the audio, video or pictures with
17 him?

18 A: No, ma'am, he didn't.

19 Q: Okay. Do you know if he hired a private investigator in
20 this case?

21 A: All I know that it was appointed -- did I -- you -- can
22 you repeat -- can you repeat the question?

23 Q: Did you have any personal knowledge of a private
24 investigator? Did you meet with one or see reports or
25 anything like that?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: All I know that he said at trial that a Mr. Ronald Wright
2 -- White or Wright, that's all that -- that's his private --
3 that was his private investigator. That's -- that's all I
4 could see.

5 Q: Was one called at your trial?

6 A: They called -- they called Mr. Ronald Wright I believe,
7 and when he was getting ready to testify as to what he would
8 testify to, they stopped him.

9 Q: Okay. So no private investigator was actually used to
10 testify on your behalf?

11 A: No, ma'am.

12 Q: As far as you know, did Mr. Lawson or anyone go out to
13 the scene?

14 A: I -- no, ma'am. I cannot say they did.

15 Q: Okay. And did you have all of the documents that you
16 would have needed to ask him to go do specific things on your
17 behalf?

18 A: No, ma'am, I did not. But I -- due to reading the
19 incidents, supplemental reports and the police incident
20 report, I had requested that he go out there and look at the
21 scene. And because I -- I'm from the neighborhood and I know
22 the neighborhood fairly good and I -- there was some things
23 that I wanted him to look at that they were saying, and I
24 don't think he did it.

25 Q: Okay. And we'll get into that in more detail. We don't

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 want to be redundant, so we'll save that, but specifically,

2 Gary Bostick testified today?

3 A: Yes, ma'am.

4 Q: What, if anything, did you ask Mr. Lawson to do regarding
5 Mr. Bostick?

6 A: I asked him to -- first of all, I asked him to call him
7 as a witness on my behalf. Secondly, I asked him to go see
8 Mr. Bostick and see if these allegations that the State have
9 against me about him paying me to murder the victim are true.

10 Q: And in your appellate decision -- and I know that you
11 have reviewed it -- it actually names Gary Bostick as the
12 person that hired you; is that correct?

13 A: Yes, ma'am.

14 Q: And that was the State's -- one of their theories in this
15 case?

16 A: Yes, ma'am.

17 Q: As far as you know, did Mr. Lawson ever contact Gary
18 Bostick?

19 A: No, ma'am.

20 Q: And did he call him as a witness at your case?

21 A: No, ma'am.

22 Q: And --

23 MS. BLANCHETTE: Your Honor, would you mind? I have a
24 copy of the transcript that I've made for the witnesses.

25 Could I provide that to him?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 THE COURT: Uh-huh.

2 MS. BLANCHETTE: Okay.

3 BY MS. BLANCHETTE:

4 Q: If you could turn to page 598 in the transcript?

5 A: That was 98?

6 Q: 598, line 22.

7 A: Okay.

8 Q: Read lines 22 through 25 for us, if you don't mind.

9 A: It does not stand the test of critical judgment. Bostick
10 supposedly paid someone to hit someone. He is never
11 interviewed. He is never accused. He is never confronted.

12 Q: Now, this is Mr. Lawson's closing argument to the jury.
13 And he -- he can't be with us today; so we have his words
14 here. And it appears that it's his understanding and he's
15 arguing to the jury that he was never interviewed, never
16 accused. No one ever confronted him?

17 A: Yes, ma'am.

18 Q: Did you ask me to look into that as part of your PCR
19 preparation?

20 A: Yes, ma'am, I did.

21 Q: And what did you ask me to do regarding that?

22 A: I asked you to do the same thing that I asked Mr. Lawson
23 to do. Go out and see if you could find Mr. Bostick and ask
24 Mr. Bostick do he know of these allegations.

25 Q: And I didn't count the number of times that Gary

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Bostick's name or G.A., they refer to him, is in the
2 transcript, but was it a concern to you that it appeared that
3 no one had ever talked to him or interviewed him?

4 A: Yes, ma'am.

5 Q: Did you expect to see some type of police report
6 regarding Gary Bostick?

7 A: Yes, ma'am.

8 MS. BLANCHETTE: Your Honor, may I approach the witness?

9 THE COURT: Yes.

10 BY MS. BLANCHETTE:

11 Q: I'm going to show you what's been pre-marked as
12 Applicant's Number 1 for identification purposes. Can you
13 please identify that for the record, please?

14 A: This is the incident report supplemental done by Chief
15 Compton.

16 Q: Okay.

17 MS. BLANCHETTE: Your Honor, would you like a copy at
18 this time or after it's admitted?

19 THE COURT: Depending on whether or not I admit it?

20 MS. BLANCHETTE: Correct.

21 THE COURT: I'll look at it. Any objection, Mr. Hunter?

22 MR. HUNTER: No, Your Honor. Mr. Compton's here to
23 testify.

24 MS. BLANCHETTE: Well, Your Honor, I will at this time --
25 if you want me to go ahead and move it in, then I'll move this

1 in as Applicant's Number 1.

2 THE COURT: Any objection to that, Mr. Hunter, to it
3 being moved in?

4 MR. HUNTER: No, Your Honor.

5 MS. BLANCHETTE: Okay.

6 THE COURT: Without objection, Applicant's Number 1
7 admitted.

8 (WHEREUPON, Applicant's Exhibit Number 1, an incident
9 report, was admitted into evidence.)

10 BY MS. BLANCHETTE:

11 Q: Now, if you could turn to page 6 of this report? And
12 you're very familiar with this report; is that correct?

13 A: Yes, ma'am.

14 Q: Okay. And is this one of the documents you did receive
15 prior to your trial?

16 A: Yes, ma'am.

17 Q: Okay. On page 6, it details how there was -- law
18 enforcement received a call with a tip regarding a Reginald
19 Coleman that gave them this information about Bostick. What
20 was your understanding from this report how they got that
21 information on Mr. Bostick?

22 A: It was a rumor from Mr. Reginald Coleman. He was in the
23 detention center at the time that the incident occurred. And
24 he gives -- as he states down here on -- he states that rumor
25 had it that a Gary Bostick and his brother, a/k/a Little Body,

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 had hired someone to kill Corey Byrd. He said he could not go
2 specifically into details about the situation, but he had
3 heard this from another inmate, a Shantay Shentrell Davis --

4 Q: Uh-huh.

5 A: -- who have may have heard it from someone else -- who
6 may have heard it from someone else.

7 Q: And this report ends on page 7 with that information that
8 Vontrez Shantay Davis is at the Florence County Detention
9 Center. On this report or anything else that we have been
10 provided in this supposedly complete copy of Jack Lawson's
11 file, have you seen any reports or investigation regarding
12 Vontrez Shantay Davis?

13 A: No, ma'am.

14 Q: Was he called as a witness at your case -- at your trial?

15 A: No, ma'am.

16 Q: Was Reginald Coleman called as a witness?

17 A: No, ma'am.

18 Q: Have you ever seen a report where they then went further
19 and talked to Gary Bostick?

20 A: No, ma'am.

21 Q: Was anything ever turned over to you prior to your trial
22 or as part of the complete file that we received from the
23 Public Defender's Office indicating that there was a meeting
24 with Gary Bostick?

25 A: No, ma'am.

1 Q: Did you question your counsel as to why that wasn't
2 further looked into?

3 A: Yes, ma'am.

4 Q: And what, if anything, was his response regarding that?

5 A: His response was they told him nothing, he has nothing on
6 him, and he just basically left it where it was at.

7 Q: Okay. Now, you are alleging today that your attorney
8 should have utilized Gary Bostick?

9 A: Yes.

10 Q: We are later going to call Andrew Williams. Are you also
11 alleging that your attorney should have utilized him?

12 A: Yes, ma'am.

13 Q: Please explain why?

14 A: Because Andrew Williams is my uncle and he's the person
15 who purchased the rental car, and there was testimony from a
16 witness that I left the motel room and left my uncle there at
17 the time.

18 Q: Now, specifically Nyrena Goodman, who is she?

19 A: She was my girlfriend at the time.

20 Q: And she testified for the State?

21 A: Yes, she did.

22 Q: And on pages 391 through 393 and 407 through 410, she
23 testifies about the morning after the murder being at a hotel
24 room with you, and she specifically references the fact that
25 your uncle, Andrew, was there?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: Yes.

2 Q: And that is Andrew Williams; is that correct?

3 A: Yes, ma'am.

4 Q: Did you want your attorney to call him or talk to him?

5 A: Yes, ma'am.

6 Q: Do you know why he didn't?

7 A: No, ma'am.

8 Q: Okay. Now, throughout the course of this hearing we're

9 going to go over some items that we would deem exculpatory

10 evidence. There's a number of other things you wanted your

11 attorney to look into, but those -- are those primarily the

12 two witnesses that you would have wanted him to call?

13 A: Yes, ma'am.

14 Q: Okay. Now, I made reference to the fact that the State

15 proceeded on one theory and we talked about -- a little bit

16 about that, a murder for hire. Did it appear from the trial

17 and from the transcript that there was also another theory

18 that they were going forward on in your case?

19 A: Yes, ma'am.

20 Q: And what was the second theory as you -- as you saw it?

21 A: Argument at the cook-out.

22 Q: Now, were you confused as to which was their theory?

23 A: Yes, ma'am.

24 Q: Did you bring that up to Mr. Lawson?

25 A: Yes, I did.

1 Q: Okay. And what happened as a result of you bringing that
2 up to him?

3 A: Nothing. He -- he -- he didn't object as I asked, but he
4 did nothing. Nothing. Nothing happened. Nothing happened.

5 Q: And just so we're clear for the record today and for the
6 judge, what did you think the problem was? Why was it a
7 problem that there seemed to be these two theories?

8 A: The problem was, I -- the way I felt was if they felt
9 that the argument at the cook-out wasn't enough and the
10 inconsistent statements that were coming from the testimony of
11 their witnesses, if the argument at the cook-out was not
12 enough, then they would use the murder for hire as another
13 theory to confuse the jury into a guilty verdict.

14 Q: But did they ever make it clear -- let me rephrase my
15 question. Was it your understanding that they were kind of
16 alleging you had two different motives?

17 A: Yes.

18 Q: And at any time were you clear which one you were
19 supposed to be defending against?

20 A: No, ma'am.

21 Q: Okay. Now, were you called as a witness at your trial?

22 A: No, ma'am.

23 Q: Okay. If you could look at page 542 of the transcript?

24 On line 12 on page 542, Mr. Lawson has been asked if you were
25 going to be called as a witness and he indicates that you all

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 were still trying to make a final decision.

2 A: Yes, ma'am.

3 Q: So, for lack of better words, up until at game time, that
4 was the decision you all hadn't made?

5 A: Yes, ma'am.

6 Q: Why is that?

7 A: Because he never discussed with me whether I wanted to
8 testify or not during the trial until it came up, until it was
9 time to make the decision, and he told me that it was best
10 that I not testify because the burden is not on me to prove my
11 innocence, but on the State to prove me guilty beyond a
12 reasonable doubt.

13 Q: Would you have wanted to testify?

14 A: Had I known that certain evidence was coming in, yes, I
15 would have wanted to testify.

16 Q: Did he prepare you to testify?

17 A: No, he didn't.

18 Q: Now, we're going to talk in detail in just a moment about
19 letters that came in. They were State's Exhibit 19, letters
20 that were exchanged between you and Nyrena Goodman when you
21 were in the detention center.

22 A: Uh-huh.

23 Q: You've heard Tristan Shaffer testify today and we've
24 pointed out that in the appellate decision Chief Justice Toal
25 actually quotes those letters.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: Uh-huh.

2 Q: Would you have wanted to take the stand specifically
3 regarding those letters and, if so, what would you have wanted
4 to explain regarding the letters?

5 A: Yes, ma'am. I would have wanted to take the stand
6 because there's only one version and the jury only hears the
7 State's version of what the letters meant. So it would have
8 been only right for them to hear my versions of what I meant
9 of what I was writing in the letters.

10 Q: Now, you have alleged in your amendment that your
11 attorney was ineffective for failing to advise you of the
12 State's intention to utilize those letters as evidence,
13 failure to utilize the complete letters to put the text into
14 context, and to prepare and utilize you to testify about those
15 letters. Let me show you here what was marked at trial as
16 State's Exhibit 19 and have you look over and identify those
17 for the record.

18 A: Letters written from me to Nyrena Goodman.

19 Q: Okay. And those -- or the redacted ones are actually
20 introduced at your trial; is that correct?

21 A: Yes, ma'am.

22 Q: And Mr. Daniels, as part of my PCR representation, I
23 provided you a complete copy of every exhibit that was
24 introduced at your trial, but for a map that was too large; is
25 that correct?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: Yes, ma'am.

2 Q: Okay.

3 MS. BLANCHETTE: Your Honor, at this time I would move
4 this -- these letters that were previously marked at trial, as
5 State's Exhibit 19 in as Applicant's Number 2.

6 THE COURT: Any objection?

7 MR. HUNTER: No, Your Honor, so long as they were all
8 admitted at the trial.

9 (WHEREUPON, Applicant's Exhibit Number 2, letters, was
10 admitted into evidence.)

11 BY MS. BLANCHETTE:

12 Q: Mr. Daniels, could you turn to page 327 of the transcript
13 you have in front of you, please?

14 MR. HUNTER: What was the page number?

15 MS. BLANCHETTE: 327.

16 BY MS. BLANCHETTE:

17 Q: And on pages 327 through 328 -- and I'll just briefly
18 summarize and the record will reflect what is proper. Your
19 attorney explained what he anticipated the State's plan was
20 for utilizing these letters. And that he had had these
21 letters because -- under subpoena. Did he ever provide those
22 letters to you or explain what he knew the State's plan to be
23 for these letters?

24 A: No, ma'am. I didn't see these letters until they were
25 brought up in the trial.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Now, if you flip over to page 365, there begins a motion
2 by your attorney to keep the letters out, and that goes
3 through page 369. He's arguing, attempting to keep these
4 letters from being admitted.

5 A: Uh-huh.

6 Q: And then ultimately on page 384 through 385, he allows in
7 the redacted letters over your attorney's objection?

8 A: Uh-huh.

9 Q: Was -- the argument that he made that these letters
10 should not be admitted, was that raised on your appeal?

11 A: No, ma'am.

12 Q: Are you alleging today that it should have been raised?

13 A: Yes, ma'am.

14 Q: Were you ever given the opportunity to discuss your
15 appeal with Tristan Shaffer and point out any issues that you
16 thought should be raised?

17 A: No, ma'am.

18 Q: Now, the judge allowed in the redacted letters, like I
19 said, and they were actually introduced on page 395 during the
20 testimony of your then-girlfriend, Nyrena Goodman. And, Mr.
21 Daniels, I understand you're cuffed; so if you need more time
22 to flip, please let me know. Was she asked any questions
23 about the letters or did they just simply introduce them
24 through her?

25 A: They just introduced them through her.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Who was the person that actually went through the letters
2 and gave pretty much a narrative explanation of the letters?

3 A: The prosecution.

4 Q: Okay. And on page 501 through 506, who did the State go
5 through the letters with? Which witness did they have testify
6 about the contents of the letters?

7 MS. BLANCHETTE: And, Your Honor, I'll rephrase my
8 question. It was just a poor question.

9 BY MS. BLANCHETTE:

10 Q: When Investigator Compton was on the stand, on page 501
11 through 506, did they go through the letters and ask him
12 questions about the letters?

13 A: Yes, ma'am.

14 Q: Did you have a problem with that and why?

15 A: Yes, ma'am.

16 Q: What was -- what was wrong with that as far as you, you
17 know, were thinking at trial?

18 A: Why wouldn't they let Nyrena go through the letters?
19 What's the reason for the investigator going through the
20 letters and not Nyrena going through the letters?

21 Q: And at the bottom of page 501, your attorney actually
22 objects to the commentary that Investigator Compton is giving,
23 but Investigator Compton is allowed to continue to testify
24 about the contents?

25 A: Uh-huh.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Would you have wanted your attorney to ask Nyrena some
2 questions about the contents of the letters?

3 A: Yes.

4 Q: Now, you had indicated that you wanted to testify to
5 address the letters?

6 A: Yes.

7 Q: Why?

8 A: Because, like I said, there's only one version that went
9 before the jury. That's what the State presents as their
10 meaning as to what I was saying in the letters. Now, by me
11 getting on the stand and explaining to the jury and the Court
12 what I'm saying in these letters and what's the meaning of
13 these letters, then you have the person who wrote the letters
14 and what their meaning of the letters is, not just an
15 assumption coming from the State.

16 Q: And whatever the State presented regarding the letters
17 was then accepted and actually quoted by the Supreme Court; is
18 that correct?

19 A: Yes.

20 Q: And in the closing argument -- I'm sorry. In the opening
21 on 563 and in the closing argument -- in the opening and in
22 the closing argument on 563, they quoted these letters? The
23 State did?

24 A: Yes.

25 Q: So to you did these letters seem pretty important at your

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 trial?

2 A: As to the State's case, yes, ma'am.

3 Q: And your attorney never reviewed those with you prior to
4 trial?

5 A: No, ma'am.

6 Q: In the letters, the phrase "someone told me" shows up.

7 A: Yeah.

8 Q: Is that one of the phrases that you would have wanted to
9 explain?

10 A: Yes, ma'am.

11 Q: And what would you have wanted to explain about it?

12 A: The reason that I said someone told me was because I was
13 going on what someone was advising me that was incarcerated at
14 the time at the Florence Detention Center on behalf of
15 advising her.

16 Q: And the State played it or alleged that you were trying
17 to help her set up an alibi and have her help you cover your
18 tracks?

19 A: Yes.

20 Q: What was actually your mission or your goal in writing
21 these letters to her?

22 A: My mission of writing it -- what I was trying to refer to
23 her was -- you can't tell them nothing that you don't know
24 nothing about. Don't get yourself caught up in something that
25 you know nothing about. I can't tell them nothing I don't

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 know nothing about. So don't give yourself a conspiracy or
2 whatever other charge behind them threatening you or telling
3 you that you could be locked up or whatever. That's all I was
4 telling her.

5 Q: Were you trying to cover your tracks and set up an alibi
6 with her?

7 A: There's no reason to cover up no tracks.

8 Q: And why is that?

9 A: Because I did not commit the crime.

10 Q: Now, she testified as a witness for the State. Did you
11 have the opportunity to review her statement, her audio
12 statement or the transcript of it, prior to your trial?

13 A: No, ma'am.

14 Q: As part of the file that I requested or received from the
15 Public Defender's Office, did we get a copy of the audio and
16 the transcript?

17 A: Yes.

18 Q: Okay.

19 MS. BLANCHETTE: Your Honor, at this time I would like to
20 play the audio. What I have done is we have several audio
21 files that I've put on one disk. All those were received from
22 the Public Defender's Office. I'm not sure what the State's
23 position is on that at this point, but I would like to play
24 the audio of Nyrena at this time and then allow my client to
25 testify regarding it.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 MR. HUNTER: Your Honor, the State would object. We'd
2 stipulate the authenticity because it was in Mr. Lawson's
3 file, but we object on the grounds of hearsay. Ms. Goodman is
4 not here to testify to what she said in her statement. I
5 don't know that Mr. Daniels giving some sort of commentary to
6 what she said is really relevant here.

7 THE COURT: And what are your intentions again, Ms.
8 Blanchette?

9 MS. BLANCHETTE: And I probably should have stated that
10 first, Your Honor. I just wasn't sure if the State was
11 objecting or not.

12 My intention is to play it. He's alleging that he wanted
13 his attorney to have played this and gone over it with him so
14 that they could have prepared for trial based upon this
15 information. He's saying he never heard the audio or reviewed
16 the statement. So this just goes to ineffective assistance of
17 counsel as to preparation and then utilization of this at the
18 trial.

19 I'm not introducing it for the truth of the matter
20 asserted as far as specifically what Ms. Goodman states on
21 this. It really just goes to the preparation aspect in his
22 allegation that counsel failed to go over the letters and the
23 statement of this witness with him.

24 THE COURT: Mr. Hunter?

25 MR. HUNTER: Mr. Daniels has already testified that he

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 didn't hear the statement. And the State's position is that
2 anything on the statement by Ms. Goodman is hearsay.

3 THE COURT: Well, no, she said she's not introducing it
4 for the truth of the matter asserted, but for purposes of
5 ineffectiveness to address the issues as to why he would have
6 wanted to testify concerning her statement; is that right?

7 MS. BLANCHETTE: Right. And also to the issue of
8 ineffective assistance of counsel as far as preparation and
9 investigation. We have the burden and I can't just say
10 counsel should have investigated, should have prepared. I
11 have to show what he should have done.

12 MR. HUNTER: But, Your Honor -- sorry, I didn't mean to
13 interrupt you.

14 MS. BLANCHETTE: So I think to meet our burden there's a
15 line of cases that say I actually have to introduce the
16 evidence that we would have wanted him to either prepare,
17 investigate or utilize.

18 MR. HUNTER: And Your Honor, in order to show prejudice,
19 she'll have to show that the statements contained -- the
20 statements by Ms. Goodman would have somehow changed the
21 outcome of the trial and that -- and those statements are
22 hearsay. We don't have Ms. Goodman hear to testify about it.
23 And so it --

24 THE COURT: Well, maybe I'm misunderstanding. Certainly,
25 I understand your argument here. However --

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 MR. HUNTER: Your Honor, if I may?

2 THE COURT: Yeah.

3 MR. HUNTER: In order to show prejudice of content, the
4 statement is going to have to be analyzed, and that content is
5 hearsay. That's --

6 THE COURT: Well, I'm not going be -- if I listen to
7 them, I'm not analyzing the content of those for the truth of
8 the matter. I'm going to hear what he has to say, not -- I'm
9 not going to allow him to speculate as to what she was
10 inferring or what she meant through the statement, but as to
11 how he may have testified I guess to shed some contrary light,
12 so to speak, on that testimony. Over your objection, I'm
13 going to allow it.

14 Well, let me ask this question. How long are the videos
15 or the audios?

16 MS. BLANCHETTE: And, Your Honor, what I was going to
17 say, this audio actually -- the total I think I have about
18 forty minutes of audios today, but this audio we would just --
19 it actually doesn't need to be heard in court as far the
20 contents. If Your Honor would like to review it later, I have
21 a copy of every audio for you. This is one that we actually
22 do not have to play in court if we wanted to save a couple of
23 moments. The others I would like to play in the courtroom.

24 THE COURT: Well, let me stand down for just a minute.
25 Let me talk to both of y'all in chambers.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 (WHEREUPON, there was a break in the proceedings from
2 11:54 a.m. until 12:32 p.m.)

3 THE COURT: All right. We have had some discussion back
4 in chambers pertaining to these audios, myself, Ms.
5 Blanchette, and Mr. Hunter. Mr. Hunter objected to the
6 introduction of the audios initially I guess on the ground of
7 hearsay. Is that right, Mr. Hunter?

8 MR. HUNTER: Yes, Your Honor.

9 THE COURT: Ms. Blanchette indicates that she is not
10 offering these audios to prove the truth of the matter
11 asserted. However, let me ask this question of you, Ms.
12 Blanchette. If you introduce the audios, are you not asking
13 the Court to assume the truth of the matter for purposes of
14 him testifying as to how he would have contradicted such
15 testimony? So, in essence, aren't you kind of --

16 MS. BLANCHETTE: It's such a fine line, Your Honor,
17 because, one, you know we are not in a trial. So that's why
18 I'm not --

19 THE COURT: Right.

20 MS. BLANCHETTE: -- calling Ms. Goodman and impeaching
21 her here with the -- you know, because I'm not trying to go
22 after it as you typically would in a trial.

23 THE COURT: Right.

24 MS. BLANCHETTE: But we are stuck with kind of the same
25 rules of evidence in PCR as you would be at the trial.

1 THE COURT: Right.

2 MS. BLANCHETTE: My sole intent in -- and I think maybe
3 it would be good too if I speak about each item differently.
4 In Nyrena Goodman's audio, is to ask him if he had reviewed
5 that with counsel and, if he had had the opportunity to do
6 that, what he would have pointed out in it to counsel to help
7 them strategize and prepare for the hearing.

8 Since Mr. Lawson is deceased, I can't ask, you know, what
9 would you have done with this. I don't intend to impeach Ms.
10 Goodman or, you know, show that type of thing. It just simply
11 goes to they failed to go over this and what he would have
12 wanted to point out to his attorney and how he thinks his
13 attorney could have utilized it at the trial. I'm not going
14 so far --

15 THE COURT: Well, then that --

16 MS. BLANCHETTE: -- as to --

17 THE COURT: That kind of goes to my question to you in
18 chambers is to -- then what is the purpose of introducing them
19 if that's only your -- if that's all your intention is? You
20 understand what I'm saying? If that's all your intention is,
21 then there is no reason whatsoever to introduce these audios
22 in this PCR hearing, and that's what -- again, that's what I
23 posed to you in --

24 MS. BLANCHETTE: Uh-huh.

25 THE COURT: You know, Mr. Daniels, you heard the audios.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Your lawyer didn't go over them with you. At least that's --
2 that's -- I believe that's your -- or his assertion. It was
3 indicated in chambers that it was about eight hours of audios;
4 is that right?

5 MS. BLANCHETTE: Ultimately, the full CD that I received,
6 yes.

7 THE COURT: Okay. And I believe you indicated, if not
8 out here, you did so in chambers, that those audios were not
9 gone over with Mr. Daniels?

10 MS. BLANCHETTE: Correct, Your Honor.

11 THE COURT: That had Mr. Lawson gone over those audios
12 with Mr. Daniels, he would have wanted to testify and would
13 have wanted to testify in whatever way he's going to testify
14 in an effort or to contradict those statements, so to speak;
15 correct?

16 MS. BLANCHETTE: Generally, yes.

17 THE COURT: Or at least create a factual issue for the
18 jury therein; right?

19 MS. BLANCHETTE: Correct.

20 THE COURT: Okay. My question is -- and I haven't read
21 the 600-some -- 637-page transcript at this point, but were
22 those audios ever played during the course of the trial? Was
23 Ms. Goodman put on the stand during the course of the trial
24 and was she ever questioned about those audios?

25 MS. BLANCHETTE: She was not. She was not impeached with

1 the audio.

2 THE COURT: Well, I mean --

3 MR. HUNTER: She did testify.

4 THE COURT: She may have testified consistently with
5 them. I don't know. I haven't read the transcript --

6 MS. BLANCHETTE: But she --

7 THE COURT: -- at this point. Hold on a minute.

8 MS. BLANCHETTE: I'm sorry, Your Honor.

9 THE COURT: I haven't read the transcript at this point,
10 and there are rules of evidence applicable as to extrinsic
11 evidence pertaining to prior statements.

12 MS. BLANCHETTE: Uh-huh.

13 THE COURT: And that's what I'm kind of going into now.

14 MS. BLANCHETTE: Your Honor, just to be fair and easier,
15 if I looked a little confused, it's just because each of these
16 is different. So I'll first speak to Nyrena Goodman's audio.
17 That's --

18 THE COURT: Okay.

19 MS. BLANCHETTE: -- what I had planned to introduce at
20 this time. Very limited purpose. Very small testimony on
21 that.

22 THE COURT: Well, let me ask this --

23 MS. BLANCHETTE: And then if we could take each one as
24 they come up in the course of the case, then I may be able to
25 better explain instead of making kind of a full ruling and me

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 responding. That's why I was just looking a little confused,
2 because each of them are just a little bit different and the
3 purpose in us introducing each one is just a little different.

4 THE COURT: Well -- and I understand, but under ordinary
5 circumstances in a trial -- and I understand Mr. Lawson is not
6 here, unfortunately.

7 MS. BLANCHETTE: Uh-huh.

8 THE COURT: Ms. Goodman takes the stand, having given
9 these prior statements to law enforcement, her testimony --
10 and I'm just giving an example here because I don't know. Her
11 testimony is inconsistent with those statements. Mr. Lawson
12 certainly would be in a position and given an opportunity to
13 cross-examine her as to the inconsistency of those statements,
14 prior statements, which would certainly go to ineffectiveness,
15 you know, or a ground of ineffectiveness, so to speak.

16 MS. BLANCHETTE: And, Your Honor, that isn't our issue
17 here. Mr. Daniels was merely going to testify that he had
18 concerns that she had been scared and intimidated. That he
19 knows her voice, he's listened to the audio, and she sounds
20 scared and intimidated. That's as far as I was going to go
21 with Nyrena Goodman's audio.

22 THE COURT: Well, I mean --

23 MS. BLANCHETTE: So that's why I thought it would be good
24 if we take them each at a time because that was my limited
25 purpose for this audio. So each of them are different and I

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 wasn't going as far as impeachment and all of that with this
2 audio whatsoever. It was a very limited purpose for having
3 him reference this audio.

4 THE COURT: Mr. Hunter?

5 MR. HUNTER: Judge, I think that bolsters my hearsay
6 argument even further if she -- I mean if she's introducing it
7 so that Mr. Daniels can testify that he thought Ms. Goodman
8 was scared.

9 THE COURT: Well, I'm not going to let him speculate as
10 to what he believes or how he believes she sounded. I think
11 that's purely speculation on his part.

12 MS. BLANCHETTE: But, Your Honor, what if he would have
13 conveyed that to Mr. Lawson as part of the preparation? I
14 think that -- in a PCR, I think that is relevant because --

15 THE COURT: Well, he can testify -- I'll let -- go ahead,
16 I'm sorry.

17 MS. BLANCHETTE: No. I was just going to say that's all
18 I planned. I wasn't going to have him say she is scared or
19 nervous. It was I would have told my counsel that, and then I
20 was going to ask him what discussion would you have had
21 regarding that. I think it's pertinent. As I said in
22 chambers, I'm limiting this to the preparation and
23 investigation because he's saying his -- his attorney didn't
24 go over it with him, here's why I wanted him to go over it
25 with me. That's all I intend to go into.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 THE COURT: Anything else, Mr. Hunter?

2 MR. HUNTER: No, I think I've covered it. I mean I think
3 anybody would sound nervous and intimidated being interviewed
4 by the police in a murder case.

5 THE COURT: Well, if she can lay the foundation as to --
6 without -- without playing the audios, of him knowing her,
7 that he thought she sounded scared or nervous, so to speak, I
8 mean I'll allow that.

9 MS. BLANCHETTE: Okay.

10 THE COURT: Okay. But I do not for purposes of this
11 hearing believe that it is necessary to introduce all of these
12 audios.

13 MS. BLANCHETTE: Your Honor, may I mark them just for
14 identification purposes so we have them if we need them in the
15 future for the record?

16 THE COURT: Any objection to that?

17 MR. HUNTER: Your Honor, as I understand, if they're
18 marked for identification, then they will be become part of
19 the record in the case. No, I don't have an objection to them
20 being marked.

21 THE COURT: All right. I'll allow you to do that.

22 MS. BLANCHETTE: All right. Thank you, Your Honor. Your
23 Honor, would you like me to continue with questioning?

24 THE COURT: Yeah, go ahead.

25 MS. BLANCHETTE: Okay. Thank you, Your Honor.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 BY MS. BLANCHETTE:

2 Q: Mr. Daniels, when we left off, we had been talking about
3 the letters and your girlfriend, Nyrena Goodman. Did you have
4 a chance to review her recorded statement that was transcribed
5 prior to your trial?

6 A: No, ma'am.

7 Q: Have you had the opportunity to review that as part of
8 your preparation for your PCR hearing?

9 A: Yes.

10 Q: Okay.

11 MS. BLANCHETTE: And, Your Honor, at this time, I would
12 mark the audio of Nyrena Goodman for identification purposes
13 only as Applicant's Number 21-A, since we have multiple items
14 on this CD.

15 THE COURT: All right.

16 (WHEREUPON, Applicant's Exhibit Number 21-A, the audio
17 recording of the statement of Nyrena Goodman, was marked
18 for identification only.)

19 BY MS. BLANCHETTE:

20 Q: Mr. Daniels, you listened to the audio; is that correct?

21 A: Yes, I have.

22 Q: If you had been afforded the opportunity to review that
23 audio with your attorney, would you have been -- would you
24 have wanted to do that?

25 A: Yes, I would have.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Now, listening to audio with myself at Lee Correctional
2 Institution, were you able to recognize the voice of Nyrena
3 Goodman?

4 A: Yes.

5 Q: And how is it that you are familiar with her voice?

6 A: She was my girlfriend.

7 Q: Okay. And how long had she been your girlfriend?

8 A: About five years.

9 Q: Okay. Now, when you listened to that audio, were there
10 any takeaways or anything that you noticed on that audio that
11 you would have wanted to discuss with Mr. Lawson, if you were
12 given the opportunity to do so?

13 A: Yes. I noticed that when she was giving her statement
14 that, under certain questions that she was asked, she would
15 answer the question and then it would be rephrased and asked
16 again in a different form as to for her to give the answer
17 that they want to hear, not the answer that she wants to give,
18 but the answer that they want to hear.

19 Q: And that's something --

20 MR. HUNTER: Your Honor, I have to object to that.
21 That's speculative.

22 THE COURT: I'm going to sustain the objection on that.

23 MR. HUNTER: And I'd move to strike as well, Your Honor.

24 THE COURT: Ms. Blanchette?

25 MS. BLANCHETTE: Your Honor, as far as it being

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 speculative, I don't know how it's speculative because he's
2 saying what he thought once he heard the audio and what he
3 would have told his attorney. So I'm not asking him what was
4 done; I'm asking him what was your thoughts on this and what
5 would you have told your attorney if you were sitting a room
6 listening to them like you did with me. I don't see how
7 that's speculation on his part as to what he thought.

8 THE COURT: Mr. Hunter, let me hear from you again.

9 MR. HUNTER: Your Honor, I object that it's speculative
10 because I believe Mr. Daniels' testimony was to the effect
11 that certain questions would be rephrased so that Ms. Goodman
12 would give certain answers, and I think that's speculation.

13 THE COURT: Well, his opinion as to why they were
14 rephrased may be speculation, but his testimony that they were
15 rephrased is not speculation. Make sense?

16 MS. BLANCHETTE: Fair enough.

17 THE COURT: All right. Go ahead.

18 MS. BLANCHETTE: Your Honor, just to be clear for the
19 record, was that struck? I'm sorry.

20 THE COURT: No, I didn't strike it.

21 MS. BLANCHETTE: Okay.

22 THE COURT: It's out. I've heard it.

23 MS. BLANCHETTE: Okay.

24 THE COURT: Move on, please.

25 MS. BLANCHETTE: Okay. I will gladly, Your Honor.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 BY MS. BLANCHETTE:

2 Q: Now, you had the opportunity to review the transcript
3 also; is that correct?

4 A: Yes, ma'am.

5 Q: Okay.

6 MS. BLANCHETTE: Your Honor, may I approach the witness?

7 THE COURT: Yes.

8 BY MS. BLANCHETTE:

9 Q: And I'll show you what's been marked for identification
10 purposes as Applicant's Number 3. Is that the transcript that
11 you reviewed of Nyrena Goodman's statement?

12 A: Yes, ma'am.

13 Q: And that was received from myself as part of the Public
14 Defender's file that we received; is that correct?

15 A: Yes, ma'am.

16 MS. BLANCHETTE: Your Honor, at this time I'd move
17 Applicant's Number 3 into evidence.

18 THE COURT: Any objection?

19 MR. HUNTER: What was it, Tricia?

20 MS. BLANCHETTE: Nyrena Goodman's --

21 THE COURT: The transcript of her statement.

22 MR. HUNTER: The transcript of her statement?

23 MS. BLANCHETTE: Yes.

24 MR. HUNTER: Yes, Your Honor, I -- I do move or I do
25 object to this under hearsay for the same -- the same reasons

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 I believe the audio is inadmissible because Ms. Goodman is not
2 here to speak to the contents of her statement.

3 THE COURT: Ms. Blanchette, anything further?

4 MS. BLANCHETTE: Your Honor, I intend to introduce this
5 to go over with him his review of it, what he would have asked
6 counsel to do or questioned counsel on because of it. I don't
7 intend to go into anything as far as the truth of the matter
8 asserted, just as far as preparation and investigation.

9 THE COURT: I'm going to allow you to question him
10 pertaining as it relates to this transcript, and I'll make a
11 decision at the conclusion as the whether or not I'm going to
12 admit it into evidence.

13 BY MS. BLANCHETTE:

14 Q: Mr. Daniels, you reviewed the transcript; is that
15 correct?

16 A: Yes, ma'am.

17 Q: Is that something you had the opportunity to do with Mr.
18 Lawson prior to trial?

19 A: No, ma'am.

20 Q: And Ms. Goodman was one of the State's witnesses; is that
21 correct?

22 A: Yes, ma'am.

23 Q: Is there anything regarding this transcript that you
24 would have wanted to point out to Mr. Lawson? And that can
25 also be as it relates to having the transcript and seeing the

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 audio or hearing the audio.

2 A: As to the attire -- the last meeting -- the last time
3 seeing me, the attire that I had on that night. As to the
4 question from the investigator as to me mentioning about a
5 guy, a dude at the party, and as to the context of the nights
6 or us checking into the motel room, as of her context of me
7 leaving the motel room and leaving my uncle there with her.

8 Q: And, Mr. Daniels, you've already said you wanted to
9 testify. Is this one of the things that you would have wanted
10 to review prior to testifying and then testify in response to?

11 A: Yes, ma'am.

12 Q: So you would have wanted to review this transcript and
13 the audio of her statement, knowing that she was going to be
14 one of the State's witnesses, and be prepared to testify about
15 that; is that correct?

16 A: Yes, ma'am.

17 MS. BLANCHETTE: Your Honor, at this time, I would again
18 move to admit Applicant's Number 3, the statement of Nyrena
19 Goodman.

20 MR. HUNTER: I just renew my objection, same grounds.

21 THE COURT: I'm going to take it under advisement at this
22 point. I'm not going rule on whether or not I'm going to let
23 it in.

24 MS. BLANCHETTE: Okay, Your Honor, I just didn't know.
25 When you state that, do you want me to move it in again or

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 we'll just leave those under advisement?

2 THE COURT: Just leave that under advisement right now.

3 MS. BLANCHETTE: Okay.

4 BY MS. BLANCHETTE:

5 Q: Now, if you could turn --

6 THE COURT: Hold on a minute, Ms. Blanchette.

7 MS. BLANCHETTE: Yes. I'm sorry.

8 (WHEREUPON, there was a pause in the proceedings.)

9 THE COURT: Go ahead, Ms. Blanchette.

10 MS. BLANCHETTE: Thank you, Your Honor.

11 BY MS. BLANCHETTE:

12 Q: Now, you briefly mentioned that there was testimony from
13 Ms. Goodman about when you came in and out of the hotel; is
14 that correct?

15 A: Yes, ma'am.

16 Q: Okay. And that also showed up in the transcript of her
17 statement and in her actual audio statement?

18 A: Yes, ma'am.

19 Q: Okay. At trial, did the State introduce a document
20 showing the keycard swipes from the motel room?

21 A: Yes, ma'am.

22 Q: Okay. And let me hand you what has been previously
23 marked for identification as Applicant's Number 5.

24 MS. BLANCHETTE: And just for the record, I'm skipping
25 over Number 4 at this point.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 BY MS. BLANCHETTE:

2 Q: And do you see, Mr. Daniels, on there where that was
3 marked as an exhibit at trial?

4 A: Yes, ma'am.

5 Q: And what number was that?

6 A: 18.

7 Q: Okay.

8 MS. BLANCHETTE: Your Honor, at this time I would move
9 Applicant's Number 5 into the record.

10 THE COURT: Any objection?

11 MR. HUNTER: No, Your Honor.

12 (WHEREUPON, Applicant's Exhibit Number 5, record of key
13 card swipes, was admitted into evidence.)

14 BY MS. BLANCHETTE:

15 Q: Now, Mr. Daniels, this list of times for keycard swipes
16 -- and those were also gone over at trial. Now, if you could
17 turn to page 355 of the transcript? There's the testimony of
18 James Presnell. And who is James Presnell?

19 A: He was supposedly the person who checked us in that
20 night.

21 Q: And he testifies in the middle of the page there on page
22 355 that the check-in time was at what time in the morning, on
23 line 13?

24 A: Give me a second. 5:34 a.m.

25 Q: Okay. And does he say that she was alone or that she was

1 with someone?

2 A: I don't correctly remember, but I do remember only seeing
3 one person.

4 Q: Okay. And I've handed you what was State's Exhibit 18.
5 Did your attorney ask Nyrena any questions about these card
6 swipes?

7 A: No, ma'am, he didn't.

8 Q: Okay. What questions would you have wanted him to ask
9 regarding this exhibit that was introduced at trial?

10 A: For one, how many cards were issued at the time of check-
11 in, and I will not go into her testimony, but the first card
12 swipe is 6:02. So that would be the time entering into the
13 room. I would have liked to -- for him to ask him if we
14 checked in at 5:34 a.m., why is it showing that? If we went
15 straight to the room, why is it showing that at 6:02 was the
16 first swipe? Because you have to swipe the card to go in the
17 room.

18 Q: And that question wasn't asked of James Presnell or of
19 Nyrena Goodman; is that correct?

20 A: No, ma'am.

21 Q: Okay. Now, I'm going to go through some of her testimony
22 with you. Do you have a copy of the transcript there is front
23 of you? Could you turn to page 390? First, were you present
24 with Nyrena when she checked in?

25 A: Yes, ma'am, I was.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Okay. Explain that to us, please. Tell us about that.

2 A: When we arrived at the room, we both got out of the van.
3 She went to the window. I lit a cigarette and was standing by
4 the window. When she rang the bell, the person was not there
5 at the desk at the time, but a couple of minutes later one
6 person came to the window and said hold up, I got to go get
7 the other person. He went and got the other person, and
8 that's when the other person came and she began doing the
9 paperwork.

10 Q: Okay. And then you all entered the room after that or
11 what happened after that?

12 A: No, we didn't go straight to the room. We went to get
13 snacks and ice, and then we went to the room.

14 Q: Okay. And you would have wanted to testify regarding
15 that at your trial?

16 A: Yes, ma'am.

17 Q: Okay. Now, on page 390, she explains that you all
18 checked in and that the check-in process took a minute or two,
19 and that you then left the motel room and she went to sleep.

20 A: Yes, ma'am.

21 Q: What would you want to testify to regarding that?

22 A: As to her saying she went to sleep and we checked in and
23 I left, I never left. When I -- when I did leave, I didn't
24 leave the premises. I left to go eat breakfast, which is
25 something that I normally do when we go to the motel room.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Okay. And so you would have wanted to explain that at
2 your trial?

3 A: Yes, ma'am.

4 Q: Okay. And then on page 391, she says that she was alone
5 in the motel room and your uncle came to the motel room. What
6 would you have wanted to discuss with your attorney or testify
7 regarding that?

8 A: That when my uncle came to the motel room, that I was
9 there in the presence with my uncle.

10 Q: Then on page 392 -- if you could turn to page 392? She
11 talks about how long you were gone and then you returned, and
12 that you had returned with a rental car. What would you have
13 wanted to discuss with your attorney or testify regarding her
14 testimony on page 392?

15 A: As far as her testimony, as far her falling asleep, her
16 waking up, and stating that I was not there for a while. The
17 only thing I wanted my attorney to do was state the fact that
18 me and my uncle left there together and returned together with
19 the rental car. I never left my uncle in the room alone.

20 Q: Okay. On page 393, line 17 -- but I'm sorry. That's the
21 wrong line. On page 20, they ask her about a cell phone
22 number. And then through 394 she explains that you had gotten
23 a new number and your reasoning for getting a new number.
24 What would you have wanted to discuss with your attorney
25 and/or testify regarding that?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: As far as line number 22, her cell phone number was as
2 stated in the transcript, 6 -- 843-617-9271, but on the
3 transcribed page, that print out from the State, her cell
4 phone number was 843-617-1270.

5 Q: So that's a different number than the records that were
6 utilized?

7 A: Yes.

8 Q: Is that correct?

9 A: Yes.

10 Q: Okay. Now, on page 394 though where she starts
11 explaining about you getting a new phone number?

12 A: Now, I had been talking with her about my phone taking my
13 minutes, and I was going to get a new -- what you call a SIM
14 card at the time. I'd been discussing this with her for maybe
15 a week and a half or so. So what I've done is -- all I've
16 done is change the SIM card and just kept the number due to
17 the problems of the old SIM card just eating up minutes with
18 me not using the phone.

19 Q: And without your testimony, the jury was just told what
20 she said as to why you got a new cell phone number?

21 A: Yes.

22 Q: Is that correct?

23 A: Yes.

24 Q: And do you agree with what she said?

25 A: No.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Okay. And then finally then regarding Ms. Goodman, if
2 you could turn to page 407 and just review her testimony
3 there? If you had the chance to review her statement and her
4 audio and kind of had an idea what she was going to testify
5 to, what would you have wanted to discuss with your attorney
6 as to her testimony here and what would you have wanted to
7 testify to?

8 A: Her testimony is I texted her and told her that my uncle
9 was on the way. I was already there when my uncle arrived.
10 Myself and my uncle left together to go get a rental car.
11 She's saying it was around 11:30 or something like that. She
12 don't really remember, but as I recall, there's a receipt from
13 the rental car that states the time that the rental car was
14 received, but I never left my uncle at the room with her. I
15 was there with him the whole time.

16 Q: Okay. After the testimony of Nyrena Goodman, did you and
17 your attorney discuss testifying in response to what she said?

18 A: No, ma'am, we did not.

19 Q: Okay. And would you have wanted to do that?

20 A: Yes, ma'am.

21 Q: Mr. Daniels, one of your allegations deals with a lot of
22 issues, the letters, testimony of Nyrena Goodman. Is there
23 anything else regarding Nyrena Goodman that you would like to
24 explain to the Court today?

25 A: No, ma'am.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Okay. Now, let me move on to your statement. Okay?

2 There was a *Jackson v. Denno* hearing held at the beginning of
3 your trial. Did your attorney talk with you about testifying
4 at that *Jackson v. Denno* hearing?

5 A: No, ma'am, he did not.

6 Q: Did he explain to you that you could testify at the
7 *Jackson v. Denno* hearing and then not testify actually at the
8 trial?

9 A: No, ma'am, he did not.

10 Q: Did he review the statements with you that were the
11 subject of the *Jackson v. Denno* hearing prior to the trial?

12 A: No, ma'am, he did not.

13 Q: Did he play the audio with you of your statement prior to
14 the trial?

15 A: No, ma'am, he did not.

16 Q: Okay. And you were incarcerated; so he would have had to
17 make arrangements to play that for you; is that correct?

18 A: Yes, ma'am.

19 Q: Okay.

20 MS. BLANCHETTE: Your Honor, at this time I would move --
21 well, let me --

22 BY MS. BLANCHETTE:

23 Q: Mr. Daniels, can you identify this for the record,
24 please?

25 A: My statement to Investigator Compton.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Okay. And what is the exhibit number marked on that from
2 the trial?

3 A: Exhibit 3.

4 Q: Okay.

5 MS. BLANCHETTE: Your Honor, at this time I would move
6 the Applicant's transcript of his statement in as Applicant's
7 Number 6.

8 MR. HUNTER: No objection, Your Honor.

9 MS. BLANCHETTE: I would also move the audio recording of
10 Mr. Daniels' statement -- and it's listed as the recorded
11 statement from Gregory Daniels -- as Applicant's Number 21-B.

12 THE COURT: Any objection?

13 MR. HUNTER: No, Your Honor. I would ask that Mr. -- I
14 think Mr. Daniels should have to listen to it before he can
15 identify it as his statement. But I --

16 THE COURT: Provided he can identify it as his statement,
17 it will be so admitted without objection.

18 MS. BLANCHETTE: Your Honor, would you like for me to
19 play a snippet of it and have him identify that?

20 THE COURT: Yes, that's fine.

21 MS. BLANCHETTE: Okay.

22 (WHEREUPON, the recording is played in open court.)

23 BY MS. BLANCHETTE:

24 Q: And, Mr. Daniels, can you identify that as your voice?

25 A: Yes, ma'am, it is.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 MS. BLANCHETTE: Your Honor, at this time I'd move it in
2 as Applicant's Number 21-B.

3 THE COURT: Any objection?

4 MR. HUNTER: No, sir.

5 THE COURT: Without objection, so admitted.

6 (WHEREUPON, Applicant's Exhibit Number 6, transcript of
7 statement of applicant, and Applicant's Exhibit Number
8 21-B, audio recording of statement of applicant, were
9 admitted into evidence.)

10 THE COURT: We're going to stop at this point. It's
11 after one o'clock and I've got court personnel and staff that
12 probably want to eat lunch, as well as you all. 2:15. Sir,
13 you are not allowed to discuss your testimony over our lunch
14 break. Okay? We'll stand down.

15 (WHEREUPON, there was a break in the proceedings from
16 1:02 p.m. until 2:20 p.m.)

17 THE COURT: All right. Ms. Blanchette, are you ready to
18 continue?

19 MS. BLANCHETTE: I am, Your Honor.

20 THE COURT: All right. And you -- Mr. Hunter, are you
21 ready to proceed?

22 MR. HUNTER: Yes, Your Honor.

23 THE COURT: All right. You may continue, ma'am.

24 BY MS. BLANCHETTE:

25 Q: Mr. Daniels, before the break we had introduced a copy of

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 the transcript of your statement as long as -- as well as the
2 audio recording of your statement. If you could turn to page
3 53 of the transcript? That's when the *Jackson v. Denno*
4 hearing was being conducted.

5 There, Investigator Compton admitted that he -- you were
6 there. You were meeting with them as a result of unrelated
7 charges, but in response to the questions, he indicates he did
8 intend to get a murder warrant on you, but you weren't aware
9 of it. When you began speaking with Investigator Compton,
10 what was your understanding as to why you were present there
11 with law enforcement?

12 A: As to my understanding, it was to give him my
13 recollection of what happened at the cook-out.

14 Q: Okay. At any time in the -- he admits in the transcript
15 once, if not twice, that you weren't advised that they wanted
16 to speak with you about a murder. What charges had you been
17 picked up on?

18 A: Reckless driving and simple possession of marijuana.

19 Q: Okay. And as you were on your way to be transported to
20 the detention center, that's when you came back and spoke with
21 law enforcement; is that correct?

22 A: Yes, ma'am.

23 Q: Okay. Now, the audio recording has been admitted, as
24 well as your statement. You attempted to make it clear to
25 Investigator Compton that you only wanted to talk about the

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 cook-out; is that correct?

2 A: Yes, ma'am. I stated to Investigator Compton that I
3 don't know nothing about a murder, but I will tell him the
4 occurrence of events that took place at the cook-out while I
5 was there.

6 Q: Did you voluntarily speak with him about the cook-out?

7 A: Yes.

8 Q: Did you have any knowledge that you were a murder suspect
9 at that time?

10 A: No, ma'am.

11 Q: If you had knowledge that you were a murder suspect,
12 would you have voluntarily spoken with him about the Corey
13 Byrd murder case?

14 A: No, ma'am.

15 Q: Would you have gotten an attorney if you would have been
16 advised as to the true intention of speaking with you that
17 day?

18 A: Yes, ma'am.

19 Q: Did Jack Lawson ever call you at the *Jackson v. Denno*
20 hearing to tell those things to the Court before ruling
21 whether or not your statement was admissible?

22 A: No, ma'am.

23 Q: Now, Investigator Compton was the one who recounted your
24 statement essentially at the *Denno* hearing and at trial. Were
25 any of the things that you said to him taken out of context?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: As to what he was saying and what he said I said to him,
2 yes, it was.

3 Q: Okay. What would you have wanted to explain about your
4 statement at both the *Jackson v. Denno* or during the -- during
5 the trial?

6 A: The things that I would have wanted to explain as far as
7 my statement-wise was that I was never advised that I was a
8 suspect in the case, for one, and number two was that I told
9 him that I wanted to -- I would speak with him about the cook-
10 out.

11 Q: And from not -- since you didn't take the stand, do you
12 think that came across clearly that your intent was just to
13 speak about this cook-out?

14 A: No, sir -- no, ma'am.

15 Q: Okay. Now, on page 54, lines 9 through 14, and in the
16 audio and in the transcript, it's noted that the first part of
17 the interview was not recorded, specifically, the reading of
18 your rights. What else happened besides the reading of your
19 rights on the part that's not recorded?

20 A: The part that's not recorded, that's when I advised him
21 that I would only want to talk about the occurrence of events
22 at the cook-out. I know nothing about before that. My cell
23 phone -- he answered my cell phone.

24 Q: Okay. And on the audio, you had a chance to actually
25 hear that finally where the cell phone rings; is that correct?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: Yes, ma'am.

2 Q: Okay. And he's asked about that at the trial. If you
3 could turn to page 535 and look at line 17? He's asked there
4 did Gregory's cell phone ring during the interview that you
5 had with him, and he said, no, sir. And then he's questioned
6 again, you don't remember answering his phone, and he said I
7 did answer his phone, but it wasn't in the interview. And
8 then he says I answered his phone because I recognized the
9 number he was calling -- that was calling was Nyrena Goodman.
10 You've heard the audio in that you can hear the phone ringing;
11 is that correct?

12 A: Yes, ma'am.

13 Q: And Investigator Compton appears to answer the phone and
14 is that what you recall, him answering your phone during the
15 interview?

16 A: Yes, ma'am.

17 Q: Did you give him permission to answer your phone during
18 the interview?

19 A: No, ma'am.

20 Q: Do you have any idea how he would have known that it was
21 Nyrena Goodman calling?

22 A: No, ma'am.

23 Q: As he explains in the transcript?

24 A: No, ma'am.

25 Q: Was that something you were able to talk with your

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 attorney about prior to the trial?

2 A: Yes, ma'am.

3 Q: So you told him that; is that right? That Investigator
4 Compton had answered your phone during the interview?

5 A: Yes, ma'am.

6 Q: But the audio was never played where you actually hear
7 the phone ringing?

8 A: No, ma'am.

9 Q: Okay. Now, there was a second statement that you
10 allegedly gave. If you could turn to page 51, back to the
11 Jackson v. Denno hearing? And this statement was allegedly
12 made when Investigator Compton went to serve the search
13 warrants on you, and he details this statement beginning on
14 line 8 of page 51. He says on line 20 that you insisted that
15 you wanted to talk to him and then you gave a statement trying
16 to address some of the inconsistencies with the other
17 witnesses. Mr. Daniels, do you recall ever giving him a
18 second statement?

19 A: No, ma'am.

20 Q: You've had the opportunity to review everything we got
21 from Jack Lawson's file?

22 A: Yes, ma'am.

23 Q: Did you see any report that recounts that statement?

24 A: No, ma'am.

25 Q: Now, did your attorney ever talk with you about this

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 second statement that you allegedly made?

2 A: No, ma'am.

3 Q: Did he put you up at the *Jackson v. Denno* hearing to say
4 that you did not make that statement?

5 A: No, ma'am.

6 Q: And as a result, that statement was actually admitted at
7 trial and Investigator Compton was allowed to recount that
8 statement for the jury?

9 A: Yes, ma'am.

10 Q: Was what he said -- what he testified to that you
11 allegedly said, was that damaging to you?

12 A: Yes, ma'am.

13 Q: And that comes in on pages 485 through 488. Is there
14 anything specifically that you would like to point out
15 regarding that second statement?

16 A: Could you give me a second?

17 Q: Yes. It's 485 through 488.

18 A: Mr. Comp -- Mr. Compton states that I insisted on talking
19 to him during this time, which I -- I have no recollection of
20 ever asking to speak with him when he was serving the
21 warrants. Okay. He said he read me my memorandum [sic]
22 rights, which there is no need in reading me no memorandum
23 rights when you serving warrants. So I'm -- I'm not there --
24 you're not there to talk to me; so why would you want to read
25 me memorandum rights?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 He's stating that I made several verbal statements
2 referred -- and he said to refer back to the report about the
3 Country Hearth Inn and that I knew the victim, that I heard of
4 the victim. He said that I admitted that I was arguing with
5 the victim several times during the cook-out, which I never
6 admitted to, and there's a statement about how'd I get to the
7 motel room, that my uncle took me there. I never stated that.
8 There was nothing that I stated to him. There's just --
9 basically, my problem with these -- this testimony from Mr.
10 Compton is I never gave this testimony to him, Judge.

11 Q: It -- I'm sorry. I misspoke earlier. In Investigator
12 Compton's report on page 5, this interview is detailed, but
13 that is not something that your attorney told you about?

14 A: No, ma'am.

15 Q: So you did not have notice that this was going to be
16 utilized against you at your trial?

17 A: No, ma'am.

18 Q: Okay. If you would have known that these statements were
19 going to be utilized against you at your trial and be admitted
20 as they were, would you have wanted to prepare to take the
21 stand at your trial?

22 A: Yes, ma'am.

23 Q: And we've gone over the statements. I think you've
24 explained some reasons and things that you would have wanted
25 to testify about. Is there any further reason regarding the

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 statements that would have caused you to testify at trial?

2 A: Other than Mr. Compton's proclaiming in his testimony
3 that I'm a liar due to inconsistencies of my statement,
4 there's no other.

5 Q: Did your attorney discuss with you, hey, do you want to
6 take the stand to speak up for yourself and to claim that
7 you're not a liar and explain these events? Did you guys even
8 have that discussion?

9 A: No, ma'am.

10 Q: Now, let's turn to the search warrant and the records
11 from the search warrant in this case. Did your attorney
12 discuss with you the search warrant or the phone records prior
13 to trial?

14 A: No, ma'am.

15 MS. BLANCHETTE: Your Honor, may I approach the witness?

16 THE COURT: Yes.

17 BY MS. BLANCHETTE:

18 Q: Mr. Daniels, I'm going to show you something previously
19 marked as Applicant's Number 7. Can you please identify that
20 for the record?

21 A: It's a copy of the search warrant for my phone.

22 Q: And can you just flip through that and -- how many pages
23 is that total?

24 A: Four pages.

25 Q: Okay.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 MS. BLANCHETTE: Your Honor, at this time I would move
2 this copy of the search warrant done by Officer Tim Compton on
3 4/9 of 2010 as Applicant's Number 7.

4 MR. HUNTER: No objection.

5 THE COURT: Without objection, so admitted.

6 (WHEREUPON, Applicant's Exhibit Number 7, a search
7 warrant, was admitted into evidence.)

8 BY MS. BLANCHETTE:

9 Q: Now, on that search warrant it indicates that it was left
10 with Jack Lawson. Did you ever see a copy of this search
11 warrant in return?

12 A: No, ma'am.

13 Q: Could you turn to page 30 -- or 326 of your transcript,
14 please? At that point in your trial, the State is attempting
15 to introduce pictures they've taken of the screen shots of
16 your phone. And the motion goes through page 333, but at one
17 point Jack Lawson explains that he's not objecting to the
18 phone itself, just its contents, and then asks if he's covered
19 on his objection because he had some concerns that he hadn't
20 made the full objection. Did he -- as far as you could tell
21 in reading the transcript and being present at your trial, did
22 he ever object to the actual search warrant of the phone
23 itself and then the records being obtained?

24 A: No, ma'am.

25 Q: Okay.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 THE COURT: What page were you referring to, Ms.
2 Blanchette?

3 MS. BLANCHETTE: The entire motion is 326 through 333,
4 and then I gave a pinpoint cite for 331 through 332.

5 THE COURT: Okay. Thank you.

6 BY MS. BLANCHETTE:

7 Q: Now, the phone was seized when?

8 A: On the day of my arrest for the simple possession and
9 reckless driving.

10 Q: And the date on the search warrant is what? On the front
11 of the search warrant there?

12 A: April 9th of 2010.

13 Q: Okay. So the phone was actually seized from you on
14 September 10th?

15 A: September the 10th.

16 Q: Is that correct?

17 A: Yes, ma'am.

18 Q: Okay. And then the search warrant was done for the
19 contents of your phone on April 9th of 2010, and it actually
20 references in the search warrant that it's already in the
21 possession of law enforcement at the time?

22 A: Yes, ma'am.

23 Q: Okay. Now, on the return it states that there were
24 photos put on a disk of your phone and, like I said before,
25 that was left with Jack Lawson. Did you ever see any of the

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 documents that were listed on the return in this search
2 warrant?

3 A: No, ma'am, I did not.

4 Q: Or items of evidence?

5 A: No, ma'am, I did not.

6 Q: Now, at your trial what were essentially your phone
7 records used for? What appeared to be State's purpose in
8 using your phone records?

9 A: Their phone -- the purpose of the phone records, as I
10 took it, was to show that I was not in the room or that I had
11 conversations with my girlfriend at the time, Nyrena Goodman,
12 between the times that I was supposed to be in the room.

13 Q: Okay. And it -- specifically on page 350, there were
14 they trying to show some screen shots that would connect you
15 to Gary Bostick?

16 A: Yes, ma'am.

17 Q: Okay. Now, on page 350, if you look at lines 18 through
18 20, there it is admitted that the screen shot photo -- it's
19 the .JPG file -- is dated October 2nd of 2006. So Mr. Lawson
20 elicited that information, but what further did you want him
21 to go into or explain to the jury regarding when that photo
22 was taken?

23 A: That the photo was just an attachment and the time that
24 this occurred was 2008 -- I believe 2008, and the time frame
25 of this picture is two years before the crime even happened.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Why are they even arguing about a picture screen shot?

2 What was it?

3 A: It was a picture of money laid out on a bed.

4 Q: Okay. And so the State was trying to argue that Gary

5 Bostick paid you to do a hit and in your phone you have a

6 picture of money connected to Gary Bostick's phone number; is

7 that correct?

8 A: Yes, ma'am.

9 Q: Was that your reasoning in having a picture of money next

10 to Gary Bostick's name in your phone?

11 A: No, ma'am.

12 Q: Would you like to explain what you would have explained

13 to the jury?

14 A: My reason for -- it was just a screen saver that I used

15 in my phone for calls. That's all, a screen saver, just a

16 screen saver. You use a screen saver. You attach it to a

17 number. When the person calls, just as well as a ring tone.

18 When they call, that picture shows up and it identifies the

19 person that calls.

20 Q: And most importantly, that was attached years before he

21 allegedly paid you to commit this murder?

22 A: Yes, ma'am.

23 Q: Okay. Now, on page 493, I believe it's Investigator

24 Compton goes through that the phone records show that you

25 called Gary Bostick forty-one times at or around the time of

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 this murder. What are you alleging that Mr. Lawson failed to
2 go into regarding the calls between yourself and Gary Bostick?

3 A: The calls between myself and Gary Bostick -- just he was
4 someone that I spoke with on a regular basis, on a daily
5 basis. He was a friend of mine. Just as well as other people
6 in my phone that they used are friends of mine, who I
7 associate with on a daily basis.

8 So there's no -- some of the calls were not even
9 answered. Some of the calls are one second, two-second calls
10 in duration time. So there was no answer. There was no -- no
11 answer. They're just looking at the phone calls, how many
12 times the calls to him, calls to me.

13 Q: And were they looking at the whole picture of -- how many
14 times do you think in total you've ever called Gary Bostick?
15 Was it more than forty-one?

16 A: Yes, ma'am.

17 Q: And did you call him at other times unrelated to the
18 dates of this murder?

19 A: Yes, ma'am.

20 Q: Okay. And none of that was brought up by Mr. Lawson?

21 A: No, ma'am.

22 Q: Okay.

23 MS. BLANCHETTE: Your Honor, may I approach the witness?

24 THE COURT: Yes, ma'am.

25 BY MS. BLANCHETTE:

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Mr. Daniels, I hate to be redundant, but did I provide
2 you a copy of Mr. Lawson's file as part of the preparation for
3 today's PCR hearing?

4 A: Yes, ma'am.

5 Q: And in that it had the Rule 5 or discovery documents; is
6 that correct?~

7 A: Yes, ma'am.

8 Q: And can you identify what you're holding right there?

9 A: A incident report supplemental from a C. Moreau.

10 Q: Okay. And is that a document you saw before your trial
11 or is that something you only saw after your trial?

12 A: I had it in my file.

13 Q: You did have that prior to --

14 A: Yes, ma'am.

15 Q: Okay.

16 MS. BLANCHETTE: Your Honor, at this time I would move
17 this investigative report in as Applicant's Number 8.

18 MR. HUNTER: No objection, Your Honor.

19 THE COURT: Without objection, Number 8 admitted.

20 (WHEREUPON, Applicant's Exhibit Number 8, an
21 investigative report, was admitted into evidence.)

22 BY MS. BLANCHETTE:

23 Q: If you could look at the bottom of that report, there's
24 an entry for September 10th of 2008, and there it says Sergeant
25 Compton brought me a Samsung cell phone and requested that I

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 take photographs of the phone, as well as photographs of an
2 orange moped that he had secured in the FPD basement. And
3 that's on September 10th of 2008.

4 Now, the search warrant that we've already introduced is
5 on 4/9 of 2010, and that is for your Samsung flip phone to
6 look for any evidence related to this murder. At any time
7 when Jack Lawson was making the objection to the screen shots
8 coming in, did he ever bring up the fact that there was a
9 police report that indicated that photographs had been taken
10 of your phone prior to the issuance of the search warrant?

11 A: No, ma'am.

12 Q: Did he ever make a motion to suppress any and all
13 evidence related to your phone based upon the information in
14 this report that they had given themselves access to your
15 phone before they obtained a search warrant?

16 A: No, ma'am.

17 Q: And when I say they, I meant to say law enforcement.

18 A: No, ma'am.

19 Q: Okay. Is that an issue you would have wanted him to
20 raise at your trial?

21 A: Yes, ma'am.

22 Q: Based upon being the defendant, being present at your
23 trial, reading the transcript, in your opinion, did it appear
24 as if the cell phone evidence was key in your case?

25 A: Yes, ma'am.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Did you ever have the opportunity to talk with Mr. Lawson
2 about these dates and that there was this entry that said the
3 pictures were taken of your phone before the issuance of a
4 search warrant?

5 A: I talked to him when they came at trial.

6 Q: Okay. And what did you talk with him about?

7 A: I -- that's how the actual question about the JPD -- JP -
8 - JPG and the actual date of the pictures being taken, that's
9 how that actually was brought up. I wrote it down on the pad
10 and asked him to ask the person testifying to pull that up on
11 the phone and give the date.

12 Q: Okay. And you knew they had your phone before the search
13 warrant; is that correct?

14 A: Yes, ma'am.

15 Q: Okay. Now, just a little bit more about the phone
16 records itself. On page 494 through 495, the State submits
17 that there's phone records to Andre that corroborate his story
18 about the time that you were at his home?

19 A: Uh-huh.

20 Q: Have you reviewed the phone records that were submitted
21 at trial?

22 A: Yes, I have.

23 Q: And have you been able to find the evidence of that phone
24 call?

25 A: No, I have not.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Is that an argument that Mr. Lawson made on your behalf?

2 A: No, ma'am.

3 Q: Now, Mr. Daniels --

4 MS. BLANCHETTE: Your Honor, may I approach?

5 THE COURT: Yes, ma'am.

6 BY MS. BLANCHETTE:

7 Q: I'm going to show you what has been marked as Applicant's
8 Number 9 and Applicant's Number 10. You reviewed all the
9 phone records that were available in Mr. Lawson's file and
10 that were admitted at trial; is that correct?

11 A: Yes, ma'am.

12 Q: And you went through those and picked out specific pages
13 that you wanted to discuss at your PCR hearing today?

14 A: Yes, ma'am.

15 Q: And are those, in fact, the pages that you pulled and
16 asked me to attempt to admit at your PCR hearing?

17 A: Yes, ma'am.

18 Q: And did you want to offer testimony about issues with
19 these phone records that your attorney failed to raise?

20 A: Yes, ma'am.

21 MS. BLANCHETTE: Your Honor, at this time I would move in
22 these phone records as Applicant's Number 9 and 10.

23 THE COURT: Any objection?

24 MR. HUNTER: No, Your Honor. As far as I understand it,
25 these were admitted as exhibits at trial.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 THE COURT: Okay.

2 MR. HUNTER: And this is just an abbreviated version of
3 that. So the State has no objection.

4 THE COURT: So admitted, without objection.

5 (WHEREUPON, Applicant's Exhibit Number 9 and Applicant's
6 Exhibit Number 10, phone records, were admitted into
7 evidence.)

8 BY MS. BLANCHETTE:

9 Q: Now, we already talked about the fact that you went
10 through the phone records. You couldn't find the specific
11 evidence of the call with Andre. You also went through these
12 phone records and was there some discrepancies with the
13 testimony that Nyrena Goodman gave regarding phone calls?

14 A: Yes.

15 Q: And could you explain that?

16 A: There were the -- Nyrena Goodman stated during her
17 testimony that her number is, as I recall, [REDACTED]-9371 or
18 something like that.

19 Q: And if you look at page 393, lines 20 through 22, that's
20 where she gives that, Mr. Daniels.

21 A: And on these printouts, they have her number being as
22 [REDACTED] 1270.

23 Q: And that was what was -- the records that were testified
24 to at trial were for 1270 number --

25 A: Yes.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: -- for Ms. Goodman?

2 A: Yes.

3 Q: Is that correct?

4 A: Yes, ma'am.

5 Q: And did Mr. Lawson ever raise that discrepancy?

6 A: No, ma'am.

7 Q: Okay. What further did you discover when you looked
8 through these documents?

9 A: I looked through these documents and I discovered that
10 there was several phone -- my phone was answered during the
11 time I was incarcerated at the Florence County Detention
12 Center. I was there on the 10th of September, and there's
13 calls to my voice mail and well beyond. On page number 24,
14 well beyond to my voice mail on the 12th. At the 10th when I
15 was being questioned, there's a phone call to number [REDACTED]
16 1271 that was answered for two minutes -- two minutes in
17 duration. Then there is calls to my voice mail at 7:42 p.m.,
18 which I didn't have the phone at the time.

19 I was no way of using the phone to call my voice mail, no
20 way of answering the phone without it in my possession. I'm
21 being detained at the Florence County Detention Center, and I
22 find that there -- like I've already said, there was no
23 testimony or no proven fact of the phone call that the
24 witness, Andre Bradley, states that I called him that morning
25 and told him about the situation of what happened, but there

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 is a phone call to Andre Bradley around 5:59 p.m. that
2 evening.

3 Q: And would that contradict his testimony?

4 A: Yes, it would.

5 Q: And how so?

6 A: He's stating that I was on the phone with him that
7 morning, called him after the murder and told him what
8 happened, the occurrence of events, how it happened, and that
9 I asked him to come pick me up.

10 Q: If you would have been given the opportunity to testify,
11 would you have wanted to utilize these records as part of your
12 testimony?

13 A: Yes, ma'am.

14 Q: Okay. Mr. Daniels, is there anything else regarding the
15 phone records that you would like to allege or explain to the
16 Court today?

17 A: No, ma'am.

18 Q: Could you turn to page 88 of the transcript, please?

19 A: That's 88?

20 Q: 88, yes.

21 A: Okay.

22 Q: Lines 4 through 22, I would call it Jack Lawson alludes
23 to the fact that there's a third-party guilt defense here,
24 that a third party committed this crime, not you. Did he ever
25 formally move to submit a third-party guilt defense?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: No, ma'am.

2 Q: Did he ever discuss with you a third-party guilt defense?

3 A: I have discussed it with him, but he never discussed it
4 with me and he never brought -- brought it -- brought the
5 issue up.

6 Q: What did you discuss with him regarding it?

7 A: I discussed with him and told him that there could have
8 been other parties involved, such as there was a threat. They
9 stated it was hearsay, which one of the witnesses observed at
10 the party that night, the host of the party and the victim,
11 they were talking about it. Someone passing around by in an
12 SUV, hanging out the window, cocking a gun, telling him he was
13 going to die tonight. Also, there's a --

14 Q: Well, let me -- let me show you some of the different
15 things that are in the file and we can go through those one at
16 a time. Prior to your trial, were you aware that the victim
17 was involved in another murder case here in Florence County?

18 A: Yes.

19 Q: What did you know about that?

20 A: I was advised that -- from one the victim's co-
21 defendant's as I was being detained in the maximum security
22 unit at the detention center that his co-defendant -- that was
23 his co-defendant and he had put a hit out on his co-defendant.

24 Q: Did you ever see any formal reports or documents
25 regarding the other murder case?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: Yes. No. Not -- not -- not until you reviewed the file,
2 but other than that, no, ma'am.

3 Q: Were you surprised to see once we obtained a copy of the
4 file that Mr. Lawson had an extensive amount of documents
5 regarding this other murder case in his file?

6 A: Yes, ma'am.

7 MS. BLANCHETTE: Your Honor, may I approach the witness?

8 THE COURT: Yes.

9 BY MS. BLANCHETTE:

10 Q: Mr. Daniels, I'm going to show you what has been marked
11 for identification purposes as Applicant's Number 11. Can you
12 identify that for the record, please?

13 A: Incident report supplemental done by Officer L. Davis.

14 Q: And what's the date on that? Does it give a date?

15 A: 1/30/2007.

16 Q: You've read through that report?

17 A: Yes, ma'am.

18 Q: And that was provided to us as part of Mr. Lawson's file?

19 A: Yes, ma'am.

20 Q: What information did you ascertain upon reading through
21 that?

22 A: That the victim in this case was a witness to this
23 murder.

24 Q: And you say victim. You mean Mr. Byrd was a witness?

25 A: Yes, ma'am.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: And in that report does it actually detail how he decided
2 to help law enforcement in that case and the information he
3 gave?

4 A: Yes, ma'am.

5 Q: And how long is that report?

6 A: Let's see. It's approximately six -- six pages long.

7 Q: Now, you brought up to Mr. Lawson that you had heard that
8 Corey Byrd was, for lack of better words, a snitch in another
9 case and a hit had been put on him, but did you have any
10 documentation, such as the six-page report, to go over with
11 Mr. Lawson?

12 A: No, ma'am, I did not.

13 Q: What was your response when you saw that in the file that
14 we were given?

15 A: That I never saw it and that this could have pointed
16 towards a third-party guilt, could have shown innocence.

17 Q: Is that something you would have wanted to discuss with
18 Mr. Lawson prior to your trial and --

19 A: Yes ma'am.

20 Q: -- have it been utilized as part of your defense?

21 A: Yes, ma'am.

22 MS. BLANCHETTE: Your Honor, at this time I would move
23 Applicant's Number 11 into evidence.

24 THE COURT: Any objection?

25 MR. HUNTER: Yes, Your Honor. The State would object to

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 this one. This was taken by Officer Davis and it was in an
2 unrelated case to Mr. Daniels' case. So it's hearsay and --
3 and irrelevant.

4 THE COURT: I'm going to sustain the objection.
5 Testimony is in the record as to what such document conveys
6 and how he would have wanted Mr. Lawson to raise potential
7 third-party guilt. I'm going to sustain the objection.

8 MS. BLANCHETTE: Your Honor, may I go further into the
9 document then since --

10 THE COURT: Yes.

11 MS. BLANCHETTE: -- it won't be in the record?

12 THE COURT: Go ahead.

13 MS. BLANCHETTE: If I could just beg the Court's
14 indulgence one moment.

15 BY MS. BLANCHETTE:

16 Q: Mr. Daniels, you have read through this report?

17 A: Yes, I have.

18 Q: And what it appears happens from this report is that Mr.
19 Byrd is interviewed by law enforcement, he gives a version of
20 events, but then is later --

21 MR. HUNTER: Your Honor, I'm going to object to --

22 THE COURT: Let her finish her question first. If you've
23 got an objection after she finishes her question, then I'll
24 hear from you. Go ahead, Ms. Blanchette.

25 BY MS. BLANCHETTE:

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: -- that is later corroborated by -- it appears they
2 continue to investigate based on the information that he gave
3 in the case?
4 A: Yes, ma'am.
5 Q: Based upon the information in this report, did Mr. Lawson
6 ever speak with you about the ramifications of Mr. Byrd being
7 involved in this case and potentially being an informant in
8 this case?
9 A: No, ma'am.
10 Q: In reading it and the information in here, do you think
11 this was relevant to your defense?
12 A: Yes, I do.
13 Q: How so?
14 A: Because it points out that Mr. Byrd -- I don't want to be
15 harsh when I say this. He was involved in other activities
16 that could have resulted in his death.
17 Q: And that issue was never raised to a judge or brought to
18 the jury's attention; is that correct?
19 A: No, ma'am.
20 MS. BLANCHETTE: Your Honor, if I could just beg the
21 Court's indulgence for just a moment?
22 THE COURT: Yes, ma'am.
23 BY MS. BLANCHETTE:
24 Q: In this report, does it give a number of names of
25 individuals that would have been aware of Mr. Byrd's admitted

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 involvement in this case and the fact that he spoke to law
2 enforcement?

3 A: Yes, ma'am.

4 Q: Were any of those witnesses utilized at your trial?

5 A: No, ma'am.

6 Q: Okay. Now, Bernard Cooper was one of the individuals
7 that was reported as being at the cook-out; is that correct?

8 A: Yes, ma'am.

9 Q: Did you know Bernard Cooper?

10 A: Yes, ma'am.

11 Q: Now, in the police reports it was indicated and in the
12 discovery that you had in your case that he had actually been
13 in a fight with the victim. What information did you have
14 regarding that?

15 A: All that I could say was that I did -- I was there when
16 the argument happened. I was there throughout that argument.
17 I did observe that argument.

18 Q: Were you aware of the fact that he had been given a
19 polygraph?

20 A: No, ma'am.

21 Q: Did your attorney ever discuss with you the results of
22 that polygraph?

23 A: No, ma'am.

24 Ms. Blanchette: Your Honor, may I approach the witness?

25 THE COURT: Yes.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 BY MS. BLANCHETTE:

2 Q: I'm going to show what's been marked as Applicant's
3 Number 12 for identification purposes. What does that appear
4 to be for the record?

5 A: A Florence Police Department polygraph report.

6 Q: Okay. And who is the person being given the polygraph?

7 A: Bernard Cooper.

8 Q: And what is the stated result on that?

9 A: Inconclusive.

10 Q: And who's the witness that had signed the bottom of that
11 report?

12 A: Examiner -- you want the examiner? Tim Compton. The
13 officer's signature is Tim Compton. Examiner? I can't -- I
14 can't see who it is.

15 Q: Okay. Were you shown that report prior to your trial?

16 A: No, ma'am.

17 Q: But you were aware that Bernard Cooper had been in a
18 fight with the victim at the cook-out?

19 A: Yes, ma'am.

20 Q: Were you aware that he had given a statement in this
21 case?

22 A: No, ma'am. I didn't see his statement. All I knew was
23 what he gave in the incident supplemental report.

24 Q: Okay.

25 MS. BLANCHETTE: Your Honor, may I approach the witness?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 THE COURT: Yes, ma'am.

2 BY MS. BLANCHETTE:

3 Q: I'm going to show what has been marked for identification
4 purposes as Applicant's Number 13. Can you identify what that
5 appears to be for the record?

6 A: A statement given by Bernard Cooper.

7 Q: And how did you go about getting that?

8 A: When I hired you.

9 Q: Okay. And was that part of the file that we received
10 from Mr. Lawson?

11 A: Yes, ma'am.

12 Q: You have reviewed that statement. Is there anything in
13 there that you would have wanted to go over with Mr. Lawson
14 and why?

15 A: Yes. The reason for wanting to go over this is because
16 of there was several witnesses that testified who stated that
17 I had several arguments with Mr. Byrd that night. Mr. Cooper
18 states that he never observed the argument between me and Mr.
19 Byrd, but observed Mr. Byrd arguing with basically everybody
20 at the cook-out.

21 Q: And Bernard Cooper actually wasn't called as a witness,
22 was he?

23 A: No, ma'am.

24 Q: Okay. But there are matters in both his statement and
25 the polygraph report that you would have wanted to discuss

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 with Mr. Lawson if you would have known those things were in
2 this file; is that correct?

3 A: Yes, ma'am.

4 MS. BLANCHETTE: Your Honor, at this time I would move to
5 admit these items for the limited purpose -- the fact that
6 they were in Mr. Lawson's file and he failed to review them
7 with Mr. Daniels.

8 MR. HUNTER: Your Honor, I have to same -- well, as to
9 the polygraph, I object because polygraphs are inadmissible in
10 court. It's also hearsay.

11 THE COURT: Address what she's argued as to the purpose
12 of the introduction of such exhibits.

13 MR. HUNTER: Sir?

14 THE COURT: For the limited purpose of what she has
15 indicated, address it from that standpoint.

16 MR. HUNTER: Okay. Your Honor, my position is that even
17 if they're admitted for a certain limited purpose, they are
18 still in the record and so I have to object to them based on
19 hearsay grounds.

20 THE COURT: Let me see the items, please. Where's Number
21 11? All right.

22 (WHEREUPON, there was a pause in the proceedings.)

23 THE COURT: All right. Each of these particular items of
24 evidence have been testified to by the defendant. That in the
25 State's -- excuse me. The State, from my recollection, would

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 consent as to the authenticity or the fact that they were
2 within Mr. Lawson's file; correct, Mr. Hunter?

3 MR. HUNTER: Yes, Your Honor.

4 THE COURT: The defendant has further testified as to the
5 content or the important content within each of those
6 documents. Furthermore, he has testified that which is of
7 importance in his case or would have been important to his
8 defense. That defense counsel did not review such documents
9 with him and how it would have been important and how he would
10 have testified to contradict, so to speak, those items, had
11 such been discussed with him prior to his trial.

12 Subject to the State's objections, the Court is not
13 allowing them into evidence.

14 MS. BLANCHETTE: Your Honor, may I very briefly just put
15 something on the record?

16 THE COURT: Yes, ma'am.

17 MS. BLANCHETTE: An additional argument that I --

18 THE COURT: Yes.

19 MS. BLANCHETTE: -- didn't get to think of before the
20 lunch break.

21 THE COURT: It's okay.

22 MS. BLANCHETTE: I would just like to put on the record
23 that it's my position that I'm not aware of any case law --
24 and this is more so in response to the hearsay argument --
25 that states that just because a document potentially would not

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 be admissible at trial or contains hearsay, that it's
2 inadmissible at a PCR proceeding. Because I'm just merely
3 just attempting to go into the fact that it was in his file
4 and available to be utilized in preparation for the defense.
5 It didn't have to be per se introduced at trial. So in my
6 opinion, it doesn't matter if it's hearsay or not.

7 THE COURT: Well --

8 MS. BLANCHETTE: It was in his file and it could have
9 been used and discussed with my client. So I just want to
10 make that clear on the hearsay point.

11 THE COURT: Certainly. And you would agree with me that
12 items -- the rules of evidence apply here?

13 MS. BLANCHETTE: They do.

14 THE COURT: Do you agree or disagree?

15 MS. BLANCHETTE: I agree with you and that puts --

16 THE COURT: Okay.

17 MS. BLANCHETTE: -- us in this weird position so --

18 THE COURT: Well --

19 MS. BLANCHETTE: -- I just want to be clear on my --

20 THE COURT: Well --

21 MS. BLANCHETTE: -- thoughts with that point.

22 THE COURT: Okay. The rules of evidence apply. These
23 documents in a trial are never admitted during the course of a
24 trial. The rules of evidence don't allow the admissibility of
25 them in a trial. And, therefore, I'm not allowing them in

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 because they aren't -- I mean, you have brought out in your
2 direct examination of him the pertinent parts of which are
3 important to your client and how it would have been effective
4 or ineffective on Mr. Lawson's part to not cover them. I've
5 allowed you to bring all of that out and there's been no
6 objection by the State as to that.

7 But just to allow the documents in their entirety to come
8 in when it just contains all of these other statements that
9 are not pertinent here, or that there's no testimony as to the
10 pertinency of all of it, I don't think would be proper under
11 the rules, but your objection is so noted for the record.
12 Okay?

13 MS. BLANCHETTE: Yes, Your Honor. I appreciate that. I
14 just felt that I hadn't specifically stated that on the
15 record. So --

16 THE COURT: And I want you to put on the record -- if I'm
17 wrong, then I want the record clear on it. But I don't think
18 I'm wrong on that. Okay?

19 MS. BLANCHETTE: Your Honor, I'm not saying you're wrong
20 by making this further comment, but I also want to make sure
21 the record's clear that under Rule 613 of the Rules of
22 Evidence, prior inconsistent statements of witnesses are
23 admissible. In that extent, they're not looking whether it's
24 hearsay or not.

25 And let me try to clarify what I'm saying here. In a PCR

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 setting, if we have a statement, say of Investigator Compton
2 or a witness that actually testified, and we're saying that
3 was in his file and he could have -- Mr. Lawson could have
4 used it to admit it under Rule 613, I don't think at that
5 point it matters if it would be hearsay or not because it
6 would come in under Rule 613.

7 THE COURT: Well, I'm -- I'm looking at Rule 613 right
8 here. Been looking at it. Okay? But even in that situation,
9 extrinsic evidence of such statements is not admissible,
10 unless it falls into certain categories.

11 MS. BLANCHETTE: Uh-huh.

12 THE COURT: Now, if there's an allegation that witnesses
13 testified inconsistently, that Mr. Lawson was ineffective for
14 not pointing out these inconsistencies, then extrinsic
15 evidence would have been admissible in that certain situation,
16 but there's no assertion here that these witnesses testified
17 inconsistent with any statements that were given here, and
18 that Mr. Lawson failed to address those inconsistencies, which
19 would certainly go to ineffectiveness, and that's the basis of
20 the Court's ruling at this point. When -- that plays into the
21 Court's ruling here.

22 MS. BLANCHETTE: It does, Your Honor.

23 THE COURT: Okay.

24 MS. BLANCHETTE: I think we both agree on that point. I
25 just felt that we had not put that on the record yet.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 THE COURT: Okay.

2 MS. BLANCHETTE: So I wanted to make sure I had addressed
3 Rule 613 on the record.

4 THE COURT: Yes, ma'am.

5 BY MS. BLANCHETTE:

6 Q: Now, Mr. Daniels, were you also aware of the fact that a
7 Brian Timmons was present at the cook-out?

8 A: Yes.

9 Q: Okay. And prior to your trial, did Mr. Lawson provide
10 you with a copy of the transcript of the audio interview of
11 Mr. Timmons?

12 A: No, ma'am.

13 Q: As part of the file I received that was Mr. Lawson's
14 file, did I provide you with a copy of Mr. Timmons's
15 statement?

16 A: Yes, ma'am.

17 Q: And I am going to hand you what's been previously marked
18 as Applicant's Number 14 for identification purposes only.
19 Did Mr. Timmons's testify?

20 A: No, ma'am.

21 Q: Upon review of the statement -- and take your time
22 because the statement will most likely not be in evidence. So
23 I want you to testify to everything regarding that statement
24 that you want in the record. What in that statement would you
25 have wanted to discuss with Mr. Lawson prior to your trial?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 And maybe to move things along, anywhere in that statement
2 does he admit to being involved with a fight with the victim?

3 A: Yes. No. He -- he -- he does not admit to being in a
4 fight with the victim. He states that he was in a fight with
5 someone else that night.

6 Q: Does he give a different story? Could you explain how
7 it's different regarding the argument at the cook-out that was
8 an essential part of your case?

9 A: His versions of what took place at the cook-out were the
10 altercation between him and someone happened about him
11 stealing something out of someone's yard. They started a
12 fight, and him and the guy fought and he went and got a gun.

13 Q: So in that statement he gives information about pulling a
14 gun at the cook-out?

15 A: Yes, he does.

16 Q: Did Mr. Lawson ever discuss that with you, that admission
17 that he made in that statement?

18 A: No, ma'am.

19 Q: Now, if you could turn to page 466 of your transcript
20 please, and look at lines 11 through 15? There, Investigator
21 Compton says that there was an argument between James Black
22 and Little B?

23 A: Uh-huh.

24 Q: And little B is Brian Timmons. And the victim broke it
25 up and was trying to make peace at the cook-out. How is the

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 version of that fight different in the statement that you have
2 there?

3 A: That fight had occurred before -- before Mr. Byrd had
4 arrived. He was going to get some liquor, beer, and some
5 charcoal and stuff for the cook-out, and in his statement it
6 states that -- in the testimony from Mr. Compton, it states
7 that the argument occurred and it was between Little B and
8 James Black, and the victim had broke them up or tried
9 basically to break them up.

10 Q: Was Invest -- who was the investigator that took that
11 statement?

12 A: Mr. Compton.

13 Q: Was he ever asked about that statement or the information
14 contained therein.

15 A: No, ma'am.

16 A: And in this portion of the transcript, he's going through
17 and talking about all his different leads, all the different
18 people that he talked to, and was he ever asked about his
19 conversation with Brian Timmons?

20 A: No, ma'am.

21 Q: Is that something you would have wanted Mr. Lawson to do
22 on your behalf?

23 A: Yes, ma'am.

24 MS. BLANCHETTE: Your Honor, at this time I'd move this
25 exhibit into evidence subject to the limitations I stated in

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 the previous exhibits.

2 THE COURT: Mr. Hunter?

3 MR. HUNTER: Same objections, Your Honor.

4 THE COURT: Objection sustained.

5 BY MS. BLANCHETTE:

6 Q: Is there anything else regarding Brian Timmons that would
7 you like to explain to the Court today?

8 A: No, ma'am.

9 Q: Okay.

10 THE COURT: What exhibit number is that, sir?

11 THE APPLICANT: 14.

12 THE COURT: Okay. Thank you.

13 MS. BLANCHETTE: Mr. Daniels -- and, Your Honor, may I
14 approach the witness?

15 THE COURT: Yes, ma'am.

16 BY MS. BLANCHETTE:

17 Q: I'm going to show you what's been previously marked as
18 Applicant's Exhibit Number 1, the investigative Report of Mr.
19 Compton. If you could turn to page 2 of that report?

20 THE COURT: What exhibit is that?

21 MS. BLANCHETTE: Number 1, Your Honor.

22 THE APPLICANT: 1.

23 THE COURT: Okay.

24 BY MS. BLANCHETTE:

25 Q: On page 2 of that report, is there information about the

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

- 1 victim, Robby, a guy in Woodmont, the week before for \$3,600?
- 2 A: Yes.
- 3 Q: Did you ever discuss that with Mr. Lawson prior to trial?
- 4 A: Yes.
- 5 Q: And what did you discuss with him about it?
- 6 A: I told him that there was a rumor. Well, in -- in -- in
- 7 the incident supplemental report, I told him to read that and
- 8 look at it and there stating that he had robbed a Slim for
- 9 \$3,600.00.
- 10 Q: Was Investigator Compton ever questioned about this
- 11 information he had received and put in his report?
- 12 A: No, ma'am.
- 13 Q: Also on page 2 of this report -- and I believe this is
- 14 more at the top of the report. In the section regarding
- 15 Tiesha, does it give information about a threat that was
- 16 given?
- 17 A: Yes, ma'am.
- 18 Q: To the victim?
- 19 A: Yes, ma'am.
- 20 Q: And what information did you learn from this report?
- 21 A: That there was a threat from Tiesha Brown's boyfriend's
- 22 father towards her and the victim about her cheating on his
- 23 son.
- 24 Q: And where was Tiesha Brown living at the time of this
- 25 case?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: At the Fludd residence on Marlboro Street.

2 Q: And she explains in her testimony that she had been
3 dating the Fludd son or one of the Fludd boys; is that
4 correct?

5 A: Yes, ma'am.

6 Q: But at the time of this incident throughout the trial,
7 she calls Corey Byrd her boyfriend; is that correct?

8 A: Yes, ma'am.

9 Q: Okay. Now, did you bring that issue up and that there
10 was information about this threat from Mr. Fludd? Did you
11 bring that up to Mr. Lawson?

12 A: Yes, I did.

13 Q: And did he attempt to bring that up at your trial?

14 A: No, he didn't. He didn't. Yes, he did. Yes, he did.

15 Q: Okay.

16 A: Yes, he did.

17 Q: Could you turn to page 113 of the transcript? There, Mr.
18 Lawson was asking questions about this dating relationship
19 with the Fludd boy and the victim. And at the top of page
20 113, he attempts to ask if Brittany's father, who'd be Mr.
21 Fludd -- did he find out that you were seeing him, and the
22 State objects. There was a bench conference held. Did he
23 ever go any further into that?

24 A: No, sir. No, ma'am, he did not.

25 Q: Did he ever ask Investigator Compton or Brittany Fludd

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 about this alleged threat?

2 A: No, ma'am, he did not.

3 Q: Now, previously you talked about the fact that you had
4 seen in the reports and heard on the audio that there was
5 information about this truck driving by and threatening Corey
6 Byrd. What did you know about that prior to trial?

7 A: I had read it in the supplement report and I brought it
8 to Mr. Lawson's attention.

9 Q: Okay. And that would be Applicant's Number 1 that you're
10 referring to; is that correct?

11 A: Yes, ma'am.

12 Q: Now, if you could look on page 1, about half way through
13 the page?

14 MS. BLANCHETTE: Your Honor, if I could just beg the
15 Court's indulgence one second?

16 THE COURT: Yes, ma'am.

17 MS. BLANCHETTE: Let me rephrase my question.

18 BY MS. BLANCHETTE:

19 Q: I'm going to show you what has been previously marked as
20 Applicant's Number 15 for identification purposes and you also
21 have Applicant's Number 1 that's already admitted there in
22 front of you. Did you have a copy of Applicant's Number 15
23 prior to your trial?

24 A: Yes.

25 Q: Okay. And in that report and in the report that's been

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 marked as Applicant's Number 1, does it recount information
2 about a green SUV driving by and making threats at the victim?

3 A: Yes.

4 Q: Okay. First, if you could go to the investigative report
5 that's already been marked as Applicant's Number 1? And if
6 you could begin reading half way through line 2 there, where
7 it says he stated the victim was at a party?

8 A: He stated the victim was at a party earlier in the night
9 at 307. He stated the victim's girlfriend had told them a
10 black male in a green SUV was driving around the cook-out,
11 hanging out the window, yelling at the victim, saying you
12 going to die tonight, and was cocking a gun.

13 Q: So that's essentially in the first four lines of this
14 report?

15 A: Yes, ma'am.

16 Q: Okay. Then if you could look at the second report that I
17 gave you there, and if you could turn -- if you could just
18 look at that report there? And is very similar information
19 contained in this report?

20 A: Yes, ma'am.

21 Q: Now, you brought this up to Mr. Lawson prior to your
22 trial; is that correct?

23 A: Yes, ma'am.

24 Q: And it specifically says a green SUV?

25 A: Yes, ma'am.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Now, at trial, Mr. Lawson attempted to ask three
2 witnesses about this. He asked Shavonne Gass a question on
3 two -- page 275, line 7, if she had any information about
4 this, and what did she say?

5 A: No.

6 Q: On page 185, line 23, he asked Gabriel Peterson if he
7 knew anything about this, and what does Gabriel Peterson say?

8 A: Repeat the page number, please, ma'am?

9 Q: Page 185, line 23.

10 A: No.

11 Q: And then on page 515, line 10, he says to Investigator
12 Compton, did you find in your investigation information about
13 someone riding in an SUV, a green SUV, that was hanging out
14 the window with a gun yelling at the victim you die today?
15 And what did Investigator Compton say?

16 A: I was told that, but based on my investigation I never
17 found anybody who could corroborate what that was actually
18 occurred. Nobody could corroborate that.

19 Q: And he asked him a further question and he essentially
20 says it couldn't be corroborated. So regarding this threat
21 that appears in two police reports, that's all the jury heard
22 about it; is that correct?

23 A: Yes, ma'am.

24 Q: Is that a defense you actually wanted him to pursue on
25 your behalf?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: Yes, ma'am.

2 Q: Now, did you have the chance to listen to the 9-1-1 call
3 prior to the trial?

4 A: No, ma'am.

5 Q: Did you have the opportunity to hear that with myself at
6 Lee Correctional?

7 A: Yes, ma'am.

8 Q: Would you have wanted to listen to the 9-1-1 call prior
9 to your trial with Mr. Lawson?

10 A: Yes, ma'am.

11 MS. BLANCHETTE: Your Honor, at this time I would like to
12 play the 9-1-1 call and admit it into evidence as Applicant's
13 Number 21-C.

14 MR. HUNTER: No objection.

15 THE COURT: All right. Without objection.

16 (WHEREUPON, Applicant's Exhibit Number 21-C, an audio
17 recording of a 9-1-1 call, was admitted into evidence.)

18 MS. BLANCHETTE: I apologize, Your Honor. It just
19 automatically opened up at the last part.

20 (Whereupon, Applicant's Exhibit Number 21-C, the 9-1-1
21 call, was played in open court, after which the
22 proceedings resumed as follows.)

23 BY MS. BLANCHETTE:

24 Q: Mr. Daniels, you didn't hear that 9-1-1 call prior to
25 your trial?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: No, ma'am.

2 Q: And Tiesha Brown -- did she testify?

3 A: Yes.

4 Q: For the State?

5 A: Yes.

6 Q: And what information contained in the 9-1-1 call would
7 you have wanted to discuss with Mr. Lawson prior to trial and
8 ask him to utilize as part of your defense?

9 A: The phone call, the 9-1-1 phone call, she -- I overheard
10 her say that he was not -- he was in a car with somebody. She
11 overheard him talking to somebody. He was not walking.

12 Also, the fact that she said that -- that she saw -- she
13 heard -- overheard -- she was on the phone with him. She was
14 walking down the street and she heard -- she had just got off
15 the phone with him. She heard a gunshot. Somebody shot him.
16 And that she's -- her testimony -- in her testimony, she
17 stated that she saw somebody and then the impairment that it
18 was dark. It was dark and I'm just -- I wanted him to just go
19 further with -- compare that -- her testimony or her statement
20 to the investigator -- well, to the police officer on the 9-1-
21 1 phone call was she was giving them to her testimony. Based
22 on those two, it shows inconsistencies.

23 Q: And was that ever brought up? Was she asked any
24 questions about the 9-1-1 call?

25 A: No, ma'am.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Was she asked about the information she gives that he was
2 in a vehicle with some boys?

3 A: Yes, ma'am.

4 Q: And did the State, specifically through Investigator
5 Compton's testimony, explain that he had gotten out of that
6 vehicle to go get a car charger and that's why he was on foot?

7 A: Yes, ma'am.

8 Q: Did you have a question about that explanation that he
9 had gotten out of the vehicle to go get a car charger?

10 A: Yes, ma'am.

11 Q: What is that?

12 A: The question I have is, if he got out of the vehicle to
13 go retrieve a phone charger or whatever, there was never
14 nothing into evidence of what was found on him as far as a
15 phone charger. They never mentioned a phone charger being
16 found.

17 Q: Now, if you could go back to Investigator Compton's
18 report, there in the supplemental report, and look at page 2?
19 It gives information that Tiesha and the victim's sister,
20 Erica, go back to the scene. I'm sorry. They leave the scene
21 and go back to Shavonne Gass's house, where the cook-out had
22 been. And when they get there, they see a green SUV that had
23 been driven by Ryan Evans, and he appears as if he's going to
24 run. And, in fact, does the report explain that she accused
25 Ryan Evans of being the one that killed Corey Byrd?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: Yes.

2 Q: Was that ever brought out at your trial?

3 A: No.

4 Q: Does it also explain in that same report that Tiesha had
5 seen a green SUV parked beside the body when she first saw it,
6 and she saw the person out that she later identified to be
7 Ryan Evans?

8 A: Yes.

9 Q: And he asked her if she had called law enforcement?

10 A: Yes.

11 Q: Now, did your attorney ever specifically get into that
12 with Tiesha, ask her any questions about seeing Ryan Evans
13 next to the body?

14 A: He -- no.

15 Q: If you could turn to page 472 of the transcript, please?
16 When this issue comes up during Investigator Compton's
17 testimony, he's asked on line 3 -- let me ask you. It was
18 also your understanding when you spoke to Tiesha Brown that
19 when the vehicle that Evans was in -- that the body was
20 already sprawled out on the ground?

21 Yes, sir.

22 Was that your understanding from reading the report and
23 as far as timing from which you would have seen the body and
24 seen the vehicle of Ryan Evans?

25 A: Yes.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: And let me ask you it this way. Based upon reviewing the
2 9-1-1, the investigator's statements, and all the information
3 that you have, would it have been possible for Corey Byrd to
4 already have been shot and sprawled out on the ground here as
5 it says?

6 MR. HUNTER: Your Honor, I'm going to object to the
7 speculation here.

8 THE COURT: Finish your question, please.

9 MS. BLANCHETTE: Thank you, Your Honor.

10 BY MS. BLANCHETTE:

11 Q: Here he said he was already sprawled out on the ground.
12 Do you see that anywhere in the reports or on that audio?

13 A: No, ma'am.

14 Q: Okay. Is that something that essentially your attorney
15 let go or did he question Mr. Compton on that?

16 A: He just let it go.

17 Q: Mr. Daniels, did you also have the opportunity as part of
18 our preparation for your PCR to listen to two audio files that
19 were marked as coming from the officer at the scene?

20 A: Yes.

21 Q: And in reviewing those, did you have the opportunity to
22 hear that officer interact with Tiesha Brown?

23 A: Yes.

24 Q: And on those recordings, did you gain additional
25 information regarding the events that Tiesha Brown witnessed?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: Yes.

2 Q: Did you have the opportunity to review those audios with
3 your attorney prior to trial?

4 A: No, ma'am.

5 Q: And Tiesha Brown testified; is that correct?

6 A: Yes, ma'am.

7 Q: Did your attorney ever attempt to ask her about those
8 statements she gave on the audio and ask her about potential
9 inconsistencies with what she was saying at trial?

10 A: No, ma'am.

11 Q: What additional information did you gain from listening
12 to that audio file?

13 A: Additional information that I gained from the audio file
14 was that he was not walking; he was in the car. That she was
15 calling his phone and he wasn't answering, and that they were
16 supposed to go to the store and get some cigarettes or
17 something. And she was at the mailbox when she heard the
18 gunshot. Then she said she was in middle of road, and then
19 she said she walked down the street with Tiesha -- I mean with
20 Brittany.

21 Q: In the audio that you heard, it's been reported as being
22 immediately at the scene. You hear his family arrive. You
23 hear them grieving the loss of their son. So this is her
24 immediate information that she gave to law enforcement; is
25 that correct?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: Yes.

2 Q: And in hearing that and then reviewing her testimony,
3 because we don't have a statement from her, is it consistent?

4 A: No, it's not.

5 Q: Did your attorney utilize that prior statement of Tiesha
6 Brown as part of your defense?

7 A: No, he did not.

8 Q: Would you have wanted him to?

9 A: Yes, I would.

10 Q: Now, in your case, the State makes it very clear as to a
11 specific time when she heard the shot. Then she walks down
12 the street, she sees the body, and that's supposedly when the
13 body is already sprawled out and she sees Mr. Evans next to
14 the body. Was she ever really questioned about the timing of
15 all those events and how Mr. Evans' vehicle could have been
16 there, but yet not been involved with the shooting that she
17 had just heard?

18 A: No, ma'am.

19 (WHEREUPON, a beeping noise is heard in the back of the
20 courtroom.)

21 THE COURT: It's that fire alarm back there. It's a
22 battery notification of a low battery. Please call downstairs
23 and see if we can't get somebody up here to change that
24 battery.

25 THE CLERK: Okay.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 MS. BLANCHETTE: I thought it was a beeping if you went
2 too long that you'd start beeping.

3 THE COURT: I've got a button up here, Ms. Blanchette, I
4 keep hitting for you.

5 MS. BLANCHETTE: They have those at the Supreme Court
6 where it starts beeping at you when they want you to leave.

7 THE COURT: No. That's exactly what that's got to be,
8 that fire alarm back there. Smoke detector. Excuse me.

9 MS. BLANCHETTE: Your Honor, at this time I would like to
10 play the audio recording that we received as part of Mr.
11 Lawson's file that we've been discussing. I would mark it for
12 identification purposes as Applicant's 21-D. And just to be
13 clear for the record, I'm going to read what it was marked on
14 the file that I received.

15 THE COURT: Mr. Hunter?

16 MR. HUNTER: Your Honor, I object on the same grounds. I
17 think it's hearsay. The officers aren't here to testify about
18 it. The people from the state -- on the audio aren't here to
19 testify about it. Mr. Daniels has already testified as to
20 what he disagrees with from it or has issues with.

21 MS. BLANCHETTE: And Your Honor, for the record, it is
22 marked on the CD that I received as DWB0017 and DWB0018.

23 THE COURT: Can I see -- can I see the video -- audio for
24 a minute?

25 MS. BLANCHETTE: Yes, sir.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 THE COURT: How long is it?

2 MS. BLANCHETTE: It is fifteen minutes, but I cut it down
3 to approximately -- I think six minutes is what I planned to
4 play.

5 THE COURT: All right.

6 MS. BLANCHETTE: Do you want me to play it?

7 THE COURT: I'm going to listen to it. I want to hear
8 it.

9 MS. BLANCHETTE: Okay.

10 THE COURT: Over the State's objection.

11 MS. BLANCHETTE: Your Honor, if I could just grab my
12 notes, so I can cut it and make it as short as possible?

13 THE COURT: All right.

14 (WHEREUPON, Applicant's Exhibit Number 21-D, the audio,
15 is played in open court and was then stopped. NOT
16 TRANSCRIBED HEREIN.)

17 MS. BLANCHETTE: And, Your Honor, I have thirty seconds
18 at the end of this.

19 (WHEREUPON, Applicant's Exhibit Number 21-D resumed
20 playing and was then stopped. NOT TRANSCRIBED HEREIN.)

21 BY MS. BLANCHETTE:

22 Q: Mr. Daniels, upon hearing that audio, what was your
23 reaction to the fact that you never heard that prior to your
24 trial?

25 A: That it was very important evidence that I would have

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 wanted the jury to hear.

2 Q: And we have a burden to establish today. So why is this
3 important?

4 A: Because it could have pointed towards my innocence.

5 Q: How so?

6 A: By listening to Tiesha's testimony and what she observed
7 earlier that day and her stating that she heard Corey Byrd and
8 the host of the party talking about the SUV riding around
9 telling him he's going to die tonight. Also, due to the --
10 the -- what you heard on the CD and her testimony about a guy
11 at the scene, the truck she saw, and also due to her saying
12 that she saw somebody and then she states that it was a set-
13 up. He was in the car. But throughout the trial, they stated
14 that he was walking.

15 Q: Now, specifically on page 524, Investigator Compton is
16 being asked about the people that were still at the cook-out
17 when the victim left. In lines 8 through 16, he says the
18 following:

19 Ryan Evans was by himself when he pulled up. Gabriel
20 Peterson wanted a ride. He was there to actually pick up Mr.
21 White and go to a boot-legger's house, but Mr. White decided
22 that he didn't want to go because he had his girlfriend there.
23 He had his girlfriend there and he didn't want to leave her,
24 and Mr. Byrd asked Mr. Evans if he could catch a ride down the
25 street and he was going to get in the car and then he realizes

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 he left his phone charger in the house.

2 Does the audio refute Investigator Compton's testimony
3 regarding the events that occurred when Mr. Byrd left the
4 cook-out shortly before his death?

5 A: Yes.

6 Q: Were you ever given the opportunity to discuss that with
7 your attorney and utilize that as part of your defense?

8 A: No, ma'am.

9 Q: Now, in listening to the audio, does it appear to you
10 that Ms. Brown in a short period of time hears the shot and
11 then sees the SUV by the body?

12 A: Yes.

13 Q: Now, based upon her account there, does it also seem that
14 this person that they alleged at trial was you walking down
15 the street away from the body would have been seen by the
16 person in the green SUV?

17 A: Yes.

18 Q: And you're very familiar with this area; is that correct?

19 A: Yes, ma'am.

20 Q: Why are you so familiar with this area?

21 A: I was born and raised in the north Florence -- in north
22 Florence.

23 Q: Okay. And you're familiar with where she's saying she
24 was standing and when she heard the shot and where the body
25 was located?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: Yes, ma'am.

2 Q: Okay. Now, as part of your preparation for your PCR, you
3 hired a private investigator; is that correct?

4 A: Yes, ma'am.

5 Q: And we've had him go out to the scene. Well, I'm sorry.
6 We've had him review all of the evidence, listen to the
7 audios, go out to the scene and look at that, and compare that
8 with the details that were given. Is that something you would
9 have wanted your attorney to do prior to the trial?

10 A: Yes, ma'am.

11 Q: He also went out to the scene and he walked the route
12 that the State allegedly says the victim took before his
13 death. Is that something you would have wanted your attorney
14 to do prior to the trial?

15 A: Yes, ma'am.

16 Q: So you would have wanted your attorney to use the
17 evidence that was available in his file, along with the
18 private investigator, to question the theory that the State
19 was presenting of the facts that led up to Mr. Byrd's death;
20 is that correct?

21 A: Yes, ma'am.

22 Q: Would you have wanted your attorney to ask the judge to
23 have the jury go out to the scene, which is just about two
24 minutes from here?

25 A: Yes, ma'am.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: And why would you have wanted the jury out at the scene?

2 A: To give them an actual -- even though they couldn't see
3 it during the darkness of the hours, to give them an actual
4 look at from -- view of what she states she saw and from where
5 she saw it at. And they could actually see that -- that
6 impairment of the view of from where she says she saw it. And
7 from where she says she was standing, you can't see that far
8 down the -- down the street.

9 Q: And to substantiate that point, you hired a private
10 investigator to go out and essentially recreate where she said
11 she was and then where the victim's body was located?

12 A: Yes, ma'am.

13 Q: Okay. Now on page 518, line 23, Investigator Compton is
14 asked about the statements that he obtained by Mr. Lawson, and
15 he says I got statements of the people at the cook-out. I
16 recorded their statements, Ms. Brown, Ms. Fludd, and Shavonne,
17 and even your client. To this day, have you ever seen a
18 recorded statement of Tiesha Brown?

19 A: No, ma'am.

20 Q: From her trial testimony, did it appear that your
21 attorney was utilizing any form of evidence to impeach Ms.
22 Brown?

23 A: No, ma'am.

24 Q: Now, I will give some transcript notes -- or cites and
25 then I'm going to ask you a question. Tiesha testified about

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 seeing a man -- we heard that in the audio as well -- on pages
2 99 through 101, 108, 119, and 124. What is it that you wanted
3 your attorney to bring out at trial regarding her testimony
4 about this man that she saw?

5 A: She never said that she saw myself. She never identified
6 me as the person that she saw. There's plenty of people
7 around here that wears dark attire. My main thing was she
8 never said it was me.

9 Q: And is the corner of Dargan and Marlboro a very lit-up
10 place that time of night?

11 A: No.

12 Q: And -- I'm sorry. That's actually that time of morning?

13 A: Yes.

14 Q: Now, specifically on pages 99 through 101, she goes
15 through what she saw and from where. She states where she was
16 when she heard the shot, where she walked, when she first saw
17 the body. Is that consistent with the audio that we just
18 listened to?

19 A: No, ma'am.

20 Q: Did Mr. Lawson bring that out?

21 A: No, ma'am.

22 Q: Now, she -- on page 95, lines 20 through 23, she
23 testifies that it took fifteen to twenty minutes to make that
24 walk, which is the time frame that the State was saying that
25 he been walking. Was that ever questioned by your attorney?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

- 1 A: No, ma'am.
- 2 Q: If you could look at page 97, lines 7 through 11, lines
3 [sic] 116 -- and lines 116, lines 3 through 9?
- 4 A: Page 116?
- 5 Q: Yeah. Did you look at 97, 7 through 11?
- 6 A: Yes.
- 7 Q: And let me -- I'll just ask you a question there to make
8 this easier. And that's 97. If I said 197, I apologize. On
9 97, lines 7 through 11, how does she indicate the victim is
10 supposed to meet her -- Ms. -- Ms. Brown?
- 11 A: After I got home, he called me -- my phone and asked why
12 did I leave the cook-out. I told him because Brittany had to
13 go to school the next morning. He asked me did I want to come
14 back. I said yeah, and then he said he would meet me walking.
- 15 Q: Okay. And then if you could turn to page 116, lines 5
16 through 9? Does she actually say he got a ride?
- 17 A: Yes. I started to meet him at -- I started to go back to
18 the party. You didn't let me tell that part, but he told me
19 to turn around because he was going to get a ride, and
20 probably five minutes after that he said he was on his way.
- 21 Q: And that was consistent with what the audio said, but at
22 trial the theory put forth was that he was walking; is that
23 correct?
- 24 A: Yes, ma'am.
- 25 Q: Okay. If you could turn to page 99, lines 21 through 25?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Where does she say she was at when she heard the gunshot?

2 A: I was at my house on the porch.

3 Q: Now, if you could look at Investigator Compton's report,
4 page 1. Do you still have that in front of you? And about
5 half way through the page it says she stated her and her
6 friend, Brittany, started walking up Marlboro Street towards
7 North Dargan Street when she heard a gunshot and she looked
8 and saw a dark-figured man. So in Compton's report, where is
9 she saying that she was when she heard the gunshot?

10 A: Her and her friend, Brittany, were walking up Marlboro
11 Street towards Dargan Street.

12 Q: So did your attorney ever ask her about that
13 inconsistency or ask Brittany Fludd if she was with her when
14 she heard the gunshot?

15 A: No, ma'am.

16 Q: If you could look at page 101, lines 9 through 4? I
17 think you've already testified that you don't agree with what
18 she was saying she could see from the location she was at; is
19 that correct?

20 A: Yes, ma'am.

21 Q: And then if you could look at page 100, on lines 6, 15,
22 and 23? She says that she sees a figure in dark clothing,
23 once when she was at the mailbox and then when she was
24 walking. Is it ever clear when she sees this figure?

25 A: No, ma'am.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: And did your attorney question her on that?

2 A: No, ma'am.

3 Q: And if you could go back to Compton's report on page 1?
4 She states that she'd walked towards Tiger Mart and she walked
5 into the intersection, when she looked back and observed a
6 body lying on the ground just north of Marlboro Street. She
7 stated she started towards the body when a Ryan subject drove
8 up in a green SUV and got out and bent over looking at the
9 body, and then he saw her and said what are you doing? Did
10 you see anything and she said, no, no. And then he asked her,
11 did you call the police? He then drove off. Is she asked
12 about that specific information that's contained in
13 Investigator Compton's report when she's saying she sees this
14 dark figure that they claim to be you?

15 A: Yes.

16 Q: Is she asked about the SUV being there and how she saw
17 the person at the same time or any of the kind of intricacies
18 of how that happened?

19 A: Yes.

20 Q: Mr. Lawson does ask her about that?

21 A: No, no, no.

22 Q: Okay.

23 A: Thought you was talking about --

24 Q: Are you alleging today that he should have asked her
25 about that?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: Yes.

2 Q: Okay. And finally regarding Ms. Tiesha, if you could
3 turn to page 119? On lines 20 through 25, she starts to
4 waver. It says it could have been blue jeans; it could have
5 been dark clothing. So Mr. Lawson does go into the fact that
6 she can't give a complete description of this individual?

7 A: Yes.

8 Q: Is Ryan Evans ever asked if he can -- if he saw this
9 individual that she supposedly sees at the same time she sees
10 him out of the vehicle?

11 A: Yes.

12 Q: And does he give a consistent description and information
13 as Tiesha?

14 A: He states he doesn't see -- he didn't see anyone.

15 Q: Okay. So he does not see the person that Tiesha sees at
16 the same time she sees him out of the vehicle?

17 A: No, ma'am.

18 Q: All right. If you can turn to Brittany Fludd's
19 testimony? Who is Brittany Fludd in this case?

20 A: The boyfriend's sister of Tiesha.

21 Q: Okay. And that's where Tiesha Brown was staying?

22 A: Yes.

23 Q: And it was Brittany Fludd's home from where Tiesha
24 recounts these events happening?

25 A: Yes.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Okay. Now, on page 129, line 7, and 143, lines 1 through
2 7, Brittany talks about the reason that they left and who she
3 was hanging out with at the party. Was that inconsistent with
4 what Tiesha stated?

5 A: Yes.

6 Q: Okay. And did your attorney bring that out?

7 A: No.

8 Q: Now, on page 136 through 137, she says they left a couple
9 of minutes after three?

10 A: Yes.

11 Q: Tiesha gave a much vaguer time on page 128 of between
12 three and four. Did your attorney ever work down to nail down
13 that time so he could work out the timeline of these events?

14 A: No.

15 Q: Let's turn to Shavonne Gass. She was another one of the
16 State's witnesses; is that correct?

17 A: Yes, ma'am.

18 Q: And does she testify -- I'm sorry. And did she give a
19 statement prior to trial?

20 A: Yes, ma'am.

21 Q: Did you have the opportunity to review that statement?

22 A: No, ma'am.

23 Q: Did she also take a polygraph report, as you're now
24 aware, prior to trial?

25 A: Yes, ma'am.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Did you have the opportunity to review that polygraph
2 report?

3 A: Now, I have.

4 Q: I'm going to show you what's been pre-marked as
5 Applicant's Number 4. Could you identify what that appears to
6 be for the record?

7 A: A statement from Shavonne Gass given to Investigator
8 Compton.

9 Q: Okay.

10 A: No. Detective Brown. I'm sorry.

11 Q: Okay. And then I'm going to hand you Applicant's Number
12 16. Can you identify what that appears to be for the record?

13 A: The polygraph test of Shavonne Gass.

14 Q: Okay. If you could just hold on to those for a moment?
15 What was the result on the polygraph examination?

16 A: Deception indicated.

17 Q: Did Mr. Lawson discuss that with you?

18 A: No, he didn't.

19 Q: Would you have wanted him to?

20 A: Yes, I would have.

21 Q: Why?

22 A: Because this would have shown that this witness'
23 credibility is -- it gives me cred -- questions about her
24 credibility as far as her -- what she gave statements to
25 detectives.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Now, as far as her testimony, she testifies that she was
2 on the phone with the victim when he was shot; is that
3 correct?

4 A: Yes.

5 Q: She also testifies that Tiesha kept calling Corey's phone
6 over and over again. If you could turn to page 2 of Compton's
7 report there? What inconsistencies do you see between the
8 report and the account that Tiesha kept calling Corey over and
9 over again?

10 A: She stated that her and the victim laid in her bed with
11 her just talking and she stated that Tiesha kept calling and
12 he stated he had to go. She stated that Corey left walking at
13 close to five.

14 Q: And was that information your attorney brought out at
15 trial?

16 A: No.

17 Q: Would you have wanted him to as part of your defense?

18 A: Yes.

19 Q: And why?

20 A: Because of it states he left and they had already -- she
21 stated that she had already talked with him and he was on his
22 way. Then she states that she kept calling his phone and
23 wasn't getting an answer, when he's supposed to have been on
24 his way, but Shavonne states that she kept calling his phone
25 and he was still with Shavonne.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Did you know prior to trial that the State was going to
2 allege that Shavonne was on the phone with the victim when he
3 was killed?

4 A: No, ma'am.

5 Q: So you didn't have notice that the State was going to
6 elicit testimony from her as to the final statement that the
7 victim allegedly made?

8 A: No, ma'am.

9 Q: Now, if you could turn --

10 THE COURT: All right. We're going to stop for a minute.
11 I need to step down for a minute. All right. Sir, you can
12 step down if you need to, but you can't discuss your
13 testimony. We'll stand down for just a minute.

14 (WHEREUPON, there was a break in the proceedings from
15 4:02 p.m. until 4:12 p.m.)

16 MS. BLANCHETTE: I have two more sections that will
17 probably take me about fifteen minutes, Your Honor.

18 THE COURT: All right. We're going to stop at the
19 conclusion of your direct today. There's no way we're going
20 to finish this today.

21 MS. BLANCHETTE: Yes, Your Honor, and I apologize. When
22 we were in front of Judge Dickson on the State's continuance
23 in October, I made it clear that my case would take a full day
24 because I didn't want to put us in this position, and he
25 ordered that it be set for a full day. So I'm just --

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 THE COURT: Well, I mean it is what it is, but I
2 understand. There's no way we're going to finish it today.
3 How many more witnesses do you have?

4 MS. BLANCHETTE: I just have Mr. Skidmore, and he's
5 actually here from Rock Hill, so if there'd be any way that we
6 could get him in.

7 THE COURT: I'm sorry, I mean I have somewhere that I was
8 supposed to be at four o'clock.

9 MS. BLANCHETTE: Okay. And then I have -- and I
10 apologize, Your Honor. That's why I actually -- last term
11 when it was in October, I didn't need to be here, but I came
12 to put it on the record so that it could be scheduled
13 accordingly because I didn't want to run into this situation
14 with this case.

15 THE COURT: Well, and I think Mr. Jepertinger has got a
16 trial that's supposed to start tomorrow. Isn't that right?

17 MR. JEPERTINGER: We picked the jury already and
18 testimony starts at 9:30.

19 THE COURT: I mean -- okay. It is what it is.

20 MS. BLANCHETTE: Your Honor, in my amendment even I put
21 that my case would be six hours was my estimate for my case.
22 I still don't know what the State plans to present, but --

23 THE COURT: Well, I don't either.

24 MS. BLANCHETTE: I've always conveyed the length of this
25 case to be, you know, true to what is going on today.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 THE COURT: Mr. Hunter?

2 MR. HUNTER: Your Honor, I apologize for putting up Mr.
3 Waller's case earlier.

4 THE COURT: Well, that took what? Thirty minutes?

5 MR. HUNTER: Yes, sir.

6 THE COURT: I mean --

7 MR. HUNTER: I didn't want to make Mr. Grayson and Mr.
8 Smith have to come twice from Columbia during this week; so I
9 went ahead and put it on there. But I -- you know, we can
10 continue whenever Your Honor lets us do it.

11 THE COURT: Is he being -- Mr. Daniels -- is he being
12 housed out at Effingham right now? Where did you come from
13 today, Mr. Daniels?

14 THE APPLICANT: Effingham.

15 THE COURT: How long have you been there?

16 THE APPLICANT: I got there yesterday.

17 THE COURT: How long did the order require that he stay
18 there? I mean is it some kind of -- under some kind of order
19 that he --

20 MR. HUNTER: I would imagine that they're probably
21 planning to send him back tonight or tomorrow morning.

22 MR. THOMAS: Your Honor, the way -- if I may.

23 THE COURT: You may.

24 MR. THOMAS: The way that works is that SCDC --

25 THE COURT: What's your name, sir?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 MR. THOMAS: I'm sorry. Josh Thomas for the State. SCDC
2 normally will -- they'll send them back. But if you do just a
3 brief little order saying that he needs to be held, they're
4 happy with that. That usually covers all their bases.

5 THE COURT: Mr. Jepertinger, how long you going to be in
6 trial on this other case?

7 MR. JEPERTINGER: A day and a half.

8 THE COURT: Anybody trying that with you?

9 MR. JEPERTINGER: No, sir.

10 THE COURT: I didn't think so, but I thought I'd ask.
11 Well, let's finish with him right now and we'll see where we
12 are.

13 MS. BLANCHETTE: Your Honor, if I may, very --

14 THE COURT: Hold on a minute.

15 MR. JEPERTINGER: May we be excused if they're not going
16 to get to us?

17 THE COURT: Yeah. I mean, they're not going to get to
18 you today.

19 MR. JEPERTINGER: Thank you, Judge.

20 THE COURT: And I'll let you know where we go from this
21 afternoon.

22 MR. GRAYSON: Your Honor, may it please the Court, the
23 same goes for me?

24 THE COURT: Yeah.

25 MR. GRAYSON: Appreciate it.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 MS. BLANCHETTE: Your Honor, if I may very briefly? One
2 other thing that Judge Dickson ordered was that I was supposed
3 to pick the date of this hearing. He ruled that from the
4 bench; so I don't think the State would disagree to that. I
5 agreed to default to whatever day was best for his witnesses,
6 but I do have an obligation Thursday afternoon. I'd
7 originally told the State I was unavailable I believe Thursday
8 and Friday, but Thursday afternoon is an obligation that I do
9 have, and I just wanted to make sure the Court was aware that
10 I was supposed to pick the day, which I've never been told
11 before, but I defaulted to what was best for everyone else.
12 So Thursday afternoon, if there's any way that I could be
13 spared from having to be here, I'd greatly appreciate that.

14 THE COURT: Mr. Hunter?

15 MR. HUNTER: I can be here whenever you need me, Judge.
16 I'll be here the rest of the week. I don't know if you want
17 to -- if we can't fit it in this week, if you want to finish
18 it out of term one day, if that would be easier for everyone
19 when there's no general sessions going on.

20 THE COURT: Let's finish today and then I'll consider --
21 consider that. Go ahead, Ms. Blanchette.

22 MS. BLANCHETTE: Thank you, Your Honor.

23 BY MS. BLANCHETTE:

24 Q: Before the break, I'm not sure if I asked you to turn to
25 page 258. There on line 10, Shavonne is asked: can you tell

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 the jury the last thing that Corey Byrd told you? As a result
2 of that question is an approximately ten-page motion hearing
3 regarding whether that testimony is going to be admissible
4 despite the hearsay rule as a result of a present sense
5 impression. The phone call and the testimony that she
6 ultimately is allowed to give is in the incident report of
7 Investigator Compton, but is it something that your attorney
8 discussed with you prior to the trial?

9 A: No, ma'am.

10 Q: And ultimately, what is she allowed to testify to?

11 A: Her actual conversation with Corey Byrd.

12 Q: And what was that?

13 A: That -- that he was calling just to see was it her
14 number, and her testimony was that they stayed on the phone
15 for a while and Corey stated that the guy from the party that
16 I was arguing with is behind me. Do you want to talk to him?
17 And then later stated that the M-n-F'er that was arguing with
18 me at the party is behind me. Then it was later stated that
19 the guy that I was arguing with at the cook-out is behind me.

20 Q: And in her testimony, who did she explain that she
21 understood Corey's comment about that guy to be? Who did she
22 say that person was?

23 A: Myself.

24 Q: Okay. And that information was then given to the jury?
25 She testified to that in front of the jury?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: Yes, ma'am.

2 Q: Was that issue an argument that Mr. Lawson made that that
3 should not be admissible? Was that raised on appeal?

4 A: No. It was not raised on appeal.

5 Q: And are you alleging today it should have been raised on
6 appeal?

7 A: Yes.

8 Q: Okay. Let me ask you some questions about Gabriel
9 Peterson. He testified for the State; is that correct?

10 A: Yes, ma'am.

11 Q: And he was in the vehicle with Clifton Ryan Evans that
12 the victim allegedly got in and got out of; is that correct?

13 A: Yes, ma'am.

14 Q: Okay. And I apologize. I was -- I missed one thing
15 regarding Shavonne Gass. It was put into the record on page
16 321 that the phone call she had with him was for fourteen
17 minutes and thirteen seconds until about 5:09 a.m. Was it
18 ever questioned as to what she was talking with him about for
19 fifteen minutes after he had just left her house?

20 A: No, ma'am.

21 Q: Was that a question that you would have wanted your
22 attorney to ask?

23 A: Yes.

24 Q: Why?

25 A: I would have liked to know why -- what was the

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 conversation, why were you on the phone with him, and as to
2 Tiesha's statement on -- given to investigators about it was a
3 set-up. And as far as him and Shavonne Gass being together
4 earlier that day, and the incident with the person riding
5 around in the car with the gun hanging out the window telling
6 him he's going to die tonight.

7 Also, Shavonne states that the phone went dead. He
8 states -- she states that he tells her that someone is
9 following behind him and the phone goes dead. She never calls
10 the police. She sees that he's -- they saying it's present
11 sense impression, but she never calls the police to state what
12 her -- what -- what's going on, that she feels something is
13 going on.

14 Q: And is she ever questioned about -- she's questioned
15 about that last statement that he supposedly makes, but is she
16 ever questioned about why she's the last person that sees him
17 when she -- when he leaves her house, and then she's
18 essentially with him on the phone for the fifteen minutes
19 leading up to his death?

20 A: No.

21 Q: Okay. Now turning to Gabriel Peterson, did you have a
22 chance to review his statement with your attorney prior to
23 trial?

24 A: No, ma'am.

25 Q: Okay.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 MS. BLANCHETTE: And, Your Honor, just to make sure we
2 have a clear record, I'm not absolutely certain that I
3 attempted to move Applicant's Number 16, which was the
4 polygraph of Shavonne Gass, and Applicant's Number 4, which is
5 the statement of Shavonne Gass, into evidence, for the limited
6 purpose on 16 for the fact that it was in his attorney's file
7 and they didn't go over it. For Number 4, that she did
8 testify at trial and it could have been used under Rule 613
9 and in preparation for trial.

10 MR. HUNTER: Your Honor, I have the same objection.

11 THE COURT: Pursuant to the Court's ruling as to other
12 exhibits, the Court's ruling remains the same. Objection
13 sustained, but so noted for the record.

14 BY MS. BLANCHETTE:

15 Q: Mr. Daniels, I'm going to hand you what's been marked as
16 Applicant's Number 17, and what does that appear to be for the
17 record?

18 A: Statement given from Gabriel Peterson to Investigator
19 Compton.

20 Q: Okay. And that statement -- was that reviewed with you
21 prior to trial?

22 A: No, it wasn't.

23 Q: And did we receive that as part of the file that you got
24 from Mr. Lawson's office?

25 A: Yes.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: Okay. If you could turn to page 176 and look at lines 9
2 through 13? There he says that you were present when they
3 were about ready to leave. So he places you at the scene
4 essentially when the victim is getting ready to leave Shavonne
5 Gass. Was that information anywhere in his statement?

6 A: No, ma'am.

7 Q: And was he asked about that not being in his statement?

8 A: No, ma'am.

9 Q: Was that information incriminating to you?

10 A: Yes, ma'am.

11 Q: Why so?

12 A: Because it shows what the State come in as a theory of
13 lie in wait to prove malice.

14 Q: And did Mr. Lawson address that at all in your trial?

15 A: No, ma'am.

16 Q: On page 178, he testifies that you had on all black at
17 the cook-out. Was that in his statement?

18 A: No, ma'am.

19 Q: On page 179, if you look at lines 18 through 23, he
20 explains that he sat outside this boot-legger's house with
21 Ryan Evans for fifteen to twenty minutes, which essentially
22 puts Ryan Evans outside of the window of being able to commit
23 this murder. Is that information in his statement?

24 A: He states that he was dropped off and he went inside. He
25 didn't stay outside; he went in the house.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: So his statement is different from his testimony?

2 A: Yes, ma'am.

3 Q: Did Mr. Lawson question him about that?

4 A: No, ma'am.

5 Q: Why would that have mattered in your case?

6 A: Because it shows that his -- his credibility -- the
7 question is his credibility. My question was as to his
8 credibility as to he gives one statement to officers, then he
9 says -- during his testimony he says another thing.

10 Q: And his statement wouldn't have fallen within the window
11 of time that the State alleged at trial; is that right?

12 A: No, ma'am.

13 Q: For him and Mr. Evans that night?

14 A: No, ma'am.

15 Q: On page 180, lines 8 through 9, he's asked about how long
16 it would take to walk the distance in question, and he says
17 five, maybe ten minutes. Was that properly emphasized by your
18 attorney at trial?

19 A: No, ma'am.

20 Q: And is that a shorter time than the fifteen minutes that
21 Corey was supposedly on the phone with Shavonne Gass walking
22 that distance?

23 A: Yes, ma'am.

24 Q: Now turning -- oh. And I'm sorry.

25 MS. BLANCHETTE: Your Honor, at this time I would move

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Applicant's Number 17 into evidence for the purposes of
2 showing it was in the attorney's file, he didn't review it,
3 and how it could have been utilized as a prior inconsistent
4 statement at trial.

5 THE COURT: Mr. Hunter?

6 MR. HUNTER: Same objection, Your Honor.

7 THE COURT: Same ruling.

8 BY MS. BLANCHETTE:

9 Q: Now, we've mentioned Clifton Ryan Evans' name a couple of
10 times throughout the course of the day. He actually testified
11 for the State; is that correct?

12 A: Yes, ma'am.

13 Q: And we've already referenced on page 471 through 472
14 where Investigator Compton explains why he ruled him out as a
15 suspect. On page 575 in the State's closing argument on line
16 6, the State goes as far as to say that Ryan Evans didn't have
17 a reason to come in here and tell a lie. I submit to you he
18 told the truth. Does it appear to you there that the State is
19 attempting to bolster the credibility of Mr. Evans?

20 A: Yes, ma'am.

21 Q: Did your attorney object?

22 A: No, ma'am.

23 Q: Now, when Mr. Shaffer was on the stand, he talked about
24 the fact that there was a jailhouse snitch, and who was the
25 person that he was referencing that testified at your trial?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: Andre Bradley.

2 Q: How was it that you knew Andre Bradley?

3 A: He was a friend of mine, an associate of mine I used to
4 be with on a day-to-day basis.

5 Q: During the course of your trial, did Mr. Lawson ask you
6 any questions about Andre Bradley?

7 A: It came up probably the third day in trial. He asked me
8 did I -- he showed me two names on the witness list, asked me
9 did I know these two people. At that time, it didn't come to
10 me, and he told me to think about it and go back through the
11 paperwork and see if you know these people. And the next
12 morning when I was brought to court, I told him. I said yes,
13 is that Lucky that they're talking about? Andre Bradley, is
14 that Lucky? He said yeah, that's who it is. And I didn't
15 know Jasmine's last name at the time, but he told me that
16 that's his girlfriend.

17 Q: And I'm going to hand you what's been marked as
18 Applicant's Number 18 and Applicant's 19. Can you identify
19 Applicant's Number 18 for the record?

20 A: Statements from Andre Bradley given to Investigator
21 Clark.

22 Q: Okay. And then if you could identify Applicant's Number
23 19 for the record?

24 A: Statements from Jasmine Barrett given to Lieutenant
25 Compton.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: And those two statements that I provided to you as part
2 of what I received from Mr. Lawson's office, had you seen
3 those prior to trial or knew what they potentially could
4 testify to?

5 A: No, ma'am.

6 Q: If you would have seen those statements prior to trial --
7 and you can talk about them separately -- how would that have
8 impacted your discussions and preparation with Mr. Lawson?

9 A: It would have also have made -- made me come to the
10 decision that I would have to testify in order to put up a
11 defense.

12 Q: Now, the issue on page 372, if you could turn there
13 please? There, the issue arises as to whether or not the
14 State has a plea deal with Andre Bradley in connection to his
15 testimony, and your attorney, Mr. Lawson, makes the motion,
16 saying I understand this guy is an informant. I don't have
17 any copy of a plea agreement. I should be provided that. And
18 the discussion goes back and forth, and essentially the
19 solicitor, Mr. Jepertinger, says he doesn't have a plea deal,
20 there's nothing that we're aware of. Do you recall that
21 happening at your trial?

22 A: Yes, ma'am.

23 Q: Okay. Specifically on page 373 through 374, the
24 solicitor states he doesn't even know who his attorney is,
25 there's no deal, and they have never talked to him; is that

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 correct?

2 A: Yes.

3 Q: So based upon that statement that you have in front of
4 you, does it appear as if someone has talked to him?

5 A: Yes.

6 Q: And what's the date on that statement?

7 A: February the 8th of 2010.

8 Q: Okay. And you went to trial on April 12th through 16th of
9 2010?

10 A: Yes, ma'am.

11 Q: Okay. Then on page 375, if you could turn there? And as
12 part of this discussion, Investigator Compton is brought into
13 it to be asked what he knows about this witness, what he knows
14 about a plea deal, and on page 37 -- or 75, the judge gives a
15 pretty stiff warning that any plea deals and information needs
16 to be over -- turned over immediately to your attorney; is
17 that correct?

18 A: Yes, ma'am.

19 Q: And if you could turn over to page 376, that's where the
20 judge gives his warning. In response, what does Investigator
21 Compton say on line 11?

22 A: I haven't lied or done anything.

23 Q: Now at this point, they're saying they haven't talked to
24 him, there's no plea deal. What happens before court resumes?
25 What were you and your attorney provided?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: A proffer agreement.

2 Q: And I'm going to hand you what's been marked as
3 Applicant's Number 20. Is this the proffer agreement that you
4 and your attorney were provided at the -- pretty much the end
5 of your trial?

6 A: I never saw the proffer agreement.

7 Q: Okay. But is it stamped up there on a date that it was
8 received by the Public Defender's Office?

9 A: Yes, ma'am.

10 Q: And what's the date on that?

11 A: April 14th, 2010.

12 Q: And then it's noted in the transcript that a proffer
13 agreement -- an agreement had been reached with Mr. Bradley
14 and that was turned over to your attorney. So that was not
15 the information that had previously been given to the Court by
16 the solicitor or Investigator Compton; is that correct?

17 A: No, ma'am.

18 MS. BLANCHETTE: Your Honor, at this time I would
19 introduce -- move to introduce this as the proffer as
20 Applicant's Number 20.

21 MR. HUNTER: No objection.

22 THE COURT: Without objection, so admitted.

23 MS. BLANCHETTE: Your Honor, I have a copy for you.

24 THE COURT: Okay. Thank you.

25 (WHEREUPON, Applicant's Exhibit Number 20, the proffer

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 agreement, was admitted into evidence.)

2 BY MS. BLANCHETTE:

3 Q: And on his cross-examination on page 442, he actually
4 explains that he had met with the federal prosecutor and had
5 executed this proffer agreement; is that correct?

6 A: Yes, ma'am.

7 Q: And what's the date on the proffer agreement?

8 A: April the 14th of 2010.

9 Q: No, I'm sorry --

10 A: Oh, you're talking about --

11 Q: -- the date that he --

12 A: Oh, January the 20th of 2010.

13 Q: So that was several months before your trial?

14 A: Yes, ma'am.

15 Q: And that was not turned over to your attorney and when he
16 asked for one, he was initially told there wasn't such a thing
17 nor had Andre Bradley been talked to?

18 A: Yes, ma'am.

19 Q: Did -- at that point, did your attorney move for a
20 mistrial or any type of remedy on your behalf regarding the
21 conduct by the State?

22 A: No, ma'am.

23 Q: Okay. And just briefly, I want to ask you about Andre
24 and Jasmine's statements that you have in front of you there.

25 In Andre's testimony -- Andre's testimony on page 427, line 18

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 to 428, he's allowed to give an opinion as to why you murdered
2 Mr. Byrd. Did your attorney object to that?

3 A: No, ma'am.

4 Q: And on page 430 through 431, he gives testimony, and is
5 that the testimony that you have previously indicated as not
6 consistent with the phone records?

7 A: Yes, ma'am.

8 Q: And on page 431, lines 10 through 17, he explains --
9 well, just briefly tell us what he said about as far as you
10 being at his house and when that occurred?

11 A: During that time after we played a couple of hands, then
12 I turned the TV on or whatever, turned it to the movies. Did
13 y'all do that? Yes. Did the news come right on? Yeah, it
14 came on a couple of minutes after, but it came on.

15 A: And he had actually -- in Investigator Compton's report,
16 it says that the news turned on; is that correct?

17 A: Yes, ma'am.

18 Q: And why did that matter? What was important about the
19 news coming on?

20 A: I guess he -- from what he was saying is that we sat down
21 to watch the -- the playing of the murder.

22 Q: So you all saw the murder on the news supposedly?

23 A: Yes, ma'am.

24 Q: And then he says that you essentially gave him a
25 confession; is that correct?

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 A: Yes, ma'am.

2 Q: Did that happen, Mr. Daniels?

3 A: No, ma'am.

4 Q: Would you have wanted to testify to refute Mr. Bradley's
5 testimony?

6 A: Yes, ma'am.

7 Q: And specifically, is there anything else you would have
8 wanted to refute to?

9 A: As to the phone calls, as to the -- our daily activities,
10 as to the payment, as to admitting it, period. Ever speaking
11 about this, period, to him.

12 Q: Now, his wife, Jasmine, also testified and gave a
13 statement. On page 451, she indicates that the children were
14 there. Is there something further you wanted him to ask about
15 the children?

16 A: Yes.

17 Q: And what was that?

18 A: How many of her kids are from Andre Bradley.

19 Q: And why would that have mattered in the grand scheme of
20 things?

21 A: Because your boyfriend or fiancé is facing federal time
22 and you want to do whatever you can to help him out because
23 that is the father of your kids.

24 Q: And he didn't go into that potential bias with her?

25 A: No, ma'am.

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Q: On page 458, she is recounting how Andre told her about
2 this confession that you made and she refers to it as "it".
3 And the last question your attorney asked her is how did you
4 figure out what "it" was, and she says Andre told me. Did you
5 want your attorney to go further with that line of questioning
6 or just leave it as they were talking about an "it".

7 A: No. I wanted him to go in further as to what "it" was.
8 What did Andre tell you about "it"? What "it" was.

9 Q: Is there anything else regarding Andre Bradley and
10 Jasmine Barrett?

11 A: No, ma'am.

12 Q: That you would like to testify about today?

13 A: No, ma'am.

14 Q: Okay. I know you're not an expert in the area of
15 appeals, but you are also alleging today and would like for
16 the Court to consider that your attorney was ineffective in
17 his preservation of the argument that was presented on appeal;
18 is that correct?

19 A: Yes, ma'am.

20 MS. BLANCHETTE: Your Honor, if I could beg the Court's
21 indulgence on moment, please?

22 THE COURT: All right.

23 BY MS. BLANCHETTE:

24 Q: Mr. Daniels, we have prepared at length for this case. I
25 know that it has been a long day, but I want to make sure that

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 there's not anything that I failed to ask you, there's nothing
2 further that you'd like to testify to to support your
3 allegations.

4 A: Going back -- referring back to Andre Bradley's
5 statements given to Detective Clark, he also given -- had
6 given statements to Detective -- I mean Investigator Compton
7 also that contradict what he says to Detective Clark.

8 Q: Okay. And how so?

9 A: Beginning with the phone conversation between us on that
10 morning that he said has taken place, but there's no phone
11 records to prove. He tells Investigator Clark that I called
12 and told him how I did it, what I had on when I did it, and
13 that I was on a bicycle, and he tells Investigator Compton
14 that -- he explains to Investigator Compton how I got into an
15 argument with the guy over a card game and that I called the
16 guy -- called the -- called Corey on his phone and told Corey
17 where to meet me at.

18 And as far as Jasmine's testimony, she states that she
19 was -- through her testimony, she states that she was in and
20 out, that she did not -- actually that she was not there
21 watching the news, but then she comes back in her statement
22 and says that she was watching the news, watching movies and
23 the news to her statement to Compton.

24 MS. BLANCHETTE: And, Your Honor, at this time I would
25 move Applicant's Number 18, which is the statement of Andre

GREGORY DANIELS - DIRECT BY MS. BLANCHETTE

1 Bradley and Applicant's Number 19 into the record for the
2 purposes of the fact they weren't reviewed with Mr. Daniels
3 and for the inconsistencies that were just pointed out by Mr.
4 Daniels.

5 MR. HUNTER: Same objection, Your Honor.

6 THE COURT: Same ruling.

7 BY MS. BLANCHETTE:

8 Q: Mr. Daniels, is there anything further that I have failed
9 to ask you that you would like for the Court to consider in
10 support of your PCR application?

11 A: No, ma'am.

12 MS. BLANCHETTE: Your Honor, I have no further questions.

13 THE COURT: All right. We will resume Friday morning on
14 this matter at nine o'clock.

15 MS. BLANCHETTE: Your Honor, may I ask a brief question?

16 THE COURT: Yes.

17 MS. BLANCHETTE: Prior to today, I haven't received
18 anything from the State that they plan to use in response as
19 far as exhibits and things of that nature. I would submit
20 it's slightly prejudicial but completely understandable that
21 we have to break because now the State has essentially heard
22 my case and has several days to prepare to respond. I would
23 just ask that I be given notice as soon as possible of any,
24 you know, documents or exhibits or things they may plan to
25 submit in response.

1 THE COURT: All right. Did -- Mr. Hunter?

2 MR. HUNTER: Judge, I've got twenty other cases between
3 now and then to work on, so I probably won't touch this again
4 until Friday morning. If we -- if we -- anything I planned on
5 using should already be -- if Ms. Blanchette has a full copy
6 of Mr. Lawson's file, she should have anything I plan on
7 using. I did get -- and I'll go ahead and give you a copy of
8 this today -- a copy of this from Lieutenant Compton, and just
9 for the record, if you'd like to know what it is?

10 THE COURT: Yeah.

11 MR. HUNTER: It's a -- it's just a letter that Mr.
12 Etheridge wrote to -- wrote to Lieutenant Compton regarding
13 Gary Bostick's testimony earlier, about him being interviewed
14 by the police and saying that he was being interviewed in
15 relation to an ABWIK charge. So if we introduce -- use that
16 to refute that he was being interviewed in relation to this
17 murder, we'll be introducing that through Mr. Compton.

18 THE COURT: All right.

19 MS. BLANCHETTE: Just to expedite matters, if they could
20 -- Mr. Lawson's file is huge. If he could maybe identify for
21 me the items he plans so I don't have to, you know, do
22 objections and lengthen things. If I know the specific items
23 ahead of time, I think it could expedite matters.

24 MR. HUNTER: I mean I don't -- I honestly don't -- I've
25 got a letter here that was written by Mr. Daniels to Judge

1 Nettles that I think Mr. Daniels can probably authenticate.
2 That's the only other thing. I showed that to Ms. Blanchette
3 earlier. I don't think there's anything else I have.

4 THE COURT: Okay.

5 MS. BLANCHETTE: I was just trying to expedite matters,
6 Your Honor. I appreciate that.

7 THE COURT: All right. Friday at nine o'clock on this
8 case.

9 Now, with regards to the other matters that are on the
10 calendar for Friday, I'll let you decide what you want to do
11 on that. If I need to sign an order to make sure he's
12 retained here --

13 MR. HUNTER: Okay.

14 THE COURT: -- then get me an order.

15 MR. HUNTER: Yes, sir.

16 THE COURT: Are they taking him back -- where were y'all
17 taking him today?

18 THE DETENTION OFFICER: He's coming back to Effingham,
19 and SCDC is either going to get him today or tomorrow, but
20 I'll tell them he's got to stay.

21 THE COURT: All right. Y'all have any contact
22 information on -- where did you come from? Lee County?

23 THE APPLICANT: Yes, ma'am. Yes, sir.

24 THE COURT: I mean I don't want them to have to come over
25 here to find out that information, if that makes sense. That

1 just --

2 THE DETENTION OFFICER: I can see if there -- I can call
3 them because they were already at the jail dropping the other
4 ones off. I could call them and check and see if they're
5 still there because they've got another one to pick up too.

6 MR. THOMAS: And, Your Honor, I can call SCDC real quick.
7 I have Lisa Miller's contact and see if she needs anything for
8 them to keep him. Usually it's the county that needs an
9 order. SCDC usually is fine.

10 THE COURT: Whatever y'all need, let me know. All right.

11 MS. BLANCHETTE: Am I allowed to speak with my client or
12 is he still considered on the stand between now and Friday?

13 THE COURT: He's still considered on the stand.

14 MS. BLANCHETTE: Okay. I just didn't want to get a phone
15 call or anything of that nature and there be a problem.

16 THE COURT: You can't discuss your testimony. Okay, Mr.
17 Daniels?

18 MS. BLANCHETTE: Thank you, Your Honor. I appreciate
19 that.

20 THE COURT: All right.

21 (WHEREUPON, the proceedings adjourned for the day at 4:42
22 p.m.)

23 APRIL 17, 2015

24 (WHEREUPON, the proceedings resumed at 9:17 a.m.)

25 THE COURT: I think Ms. Blanchette had finished her

GREGORY DANIELS - CROSS BY MR. HUNTER

1 direct examination of Mr. Daniels; is that correct?

2 THE APPLICANT: Yes, sir.

3 MS. BLANCHETTE: That is, Your Honor.

4 THE COURT: All right. Is the State ready to proceed?

5 MR. HUNTER: Yes, Your Honor.

6 THE COURT: All right. I will -- Mr. Daniels, I'll
7 remind you that you are still under oath. All right?

8 THE APPLICANT: Yes, sir.

9 THE COURT: Mr. Hunter?

10 MR. HUNTER: May it please the Court?

11 THE COURT: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. HUNTER:

14 Q: All right. Mr. Daniels, good morning.

15 A: Good morning.

16 Q: Now, I believe you testified the other day that Mr.
17 Lawson came and visited you the weekend before trial?

18 A: Yes, sir.

19 Q: Okay. And he had asked you if you needed him to do
20 anything for you?

21 A: He asked me -- he told me that he -- that we were going
22 to trial and he was coming to see me on Saturday. That he
23 would be there on Saturday morning. He came and visited me on
24 that Saturday morning. We went over what he was going to go
25 over during the process of the trial, and I asked him was

GREGORY DANIELS - CROSS BY MR. HUNTER

1 there anything new from the State. He said no, I have
2 nothing. All I have is what I've given you. They have not
3 given me anything else, and that was it.

4 Q: Okay. So you didn't tell him you had any concerns at
5 that point?

6 A: No, sir.

7 Q: Okay. And I believe you testified that you were offered
8 a plea deal, but you turned it down and you wanted to go to
9 trial?

10 A: Yes, sir.

11 Q: Okay. Now, on -- I guess it was Tuesday, you testified
12 that you didn't get into a fight with Corey Byrd at the cook-
13 out; is that correct?

14 A: No, I didn't.

15 Q: Okay. But didn't Gabriel Peterson and James Black
16 testify at your trial that you tried to get Corey Byrd to go
17 out in the street and fight you?

18 A: That was their statement, but if you read the other
19 statement that I didn't see that was in my file, you will see
20 that they quoted that all they ever observed was an argument
21 between me and him.

22 Q: Okay. But that what's they testified at trial?

23 A: That's what they what they testified at trial, yes, sir.

24 Q: Okay. And they both testified you were dressed in all
25 black?

GREGORY DANIELS - CROSS BY MR. HUNTER

1 A: Yes, sir.

2 Q: Okay. And Shavonne Gass did testify that the guy that --
3 let me rephrase that. Shavonne Gass did testify that when she
4 was on the phone with Corey Byrd, he said that the guy that he
5 was arguing with at the cook-out was behind him?

6 A: She also said two other versions of their last
7 conversation, sir.

8 Q: Okay. But that's what she testified to at trial?

9 A: She also testified to two other different conversations
10 at trial. That's what --

11 Q: But she testified to that conversation as well; correct?

12 A: Yes, sir.

13 Q: Okay. And then Tiesha Brown also testified that she saw
14 a person dressed all in black immediately after Corey Byrd was
15 shot; right?

16 A: That's what she stated, yes, sir, and then she --

17 Q: That what she testified to at the trial?

18 A: -- also testified that she didn't get a good look.

19 Q: Now, you testified that you wanted Mr. Lawson to call
20 Gary Bostick as a witness; correct?

21 A: Yes, sir.

22 Q: Okay. Even though Andre Bradley testified that you told
23 him Bostick paid you to kill Corey Byrd?

24 A: Yes, sir.

25 Q: You still wanted Gary Bostick to testify?

GREGORY DANIELS - CROSS BY MR. HUNTER

1 A: Yes, sir.

2 Q: Okay. And don't the phone records show that you did call
3 Gary Bostick a number of times on the night of the murder?

4 A: The phones records had showed that I had communicated
5 with Gary Bostick numerous of times, which the phone records
6 that they don't have before that would show that I've
7 communicated with him several times before that.

8 Q: Okay. And then the phones records that you entered into
9 evidence the other day, they don't begin until approximately
10 twelve hours after Mr. Byrd was shot; is that correct?

11 A: Yes, sir.

12 Q: Okay. Now, you testified that on the day Mr. Byrd was
13 murdered you changed your phone number from 617-5339 to 617-
14 0731?

15 A: Did I testify that?

16 Q: Well, did -- okay. Did you change your -- did you change
17 your phone number that day?

18 A: Yes, I did change my cell phone number.

19 Q: Okay. Is the first number I said the number you
20 originally had?

21 A: What was that number?

22 Q: [REDACTED] 5339.

23 A: Yes, sir.

24 Q: Okay. And is the number you changed it to [REDACTED] 0731?

25 A: Yes, sir.

GREGORY DANIELS - CROSS BY MR. HUNTER

1 Q: Okay. Now, why did you change your phone number that
2 day?

3 A: The reason -- I've been supposed to change my phone
4 number. As you could see throughout the phone calls that I've
5 been calling customer service several time because my phone --
6 my phone chip -- my SIM card was eating up my minutes and I
7 was having to call them to replace my minutes. So I just went
8 and bought another SIM card and just kept the number that was
9 on the SIM card.

10 Q: Okay. Now, when you spoke with police, did you tell them
11 that a taxi took you to the hotel?

12 A: Yes, I did.

13 Q: Okay. And in the letter that's already in evidence dated
14 October 10th, 2008, that you sent to Ms. Goodman, you said that
15 an old guy in a taxi van took you to the hotel; right?

16 A: Yes, sir.

17 Q: Okay. But didn't Gary Bostick drive you to the hotel?

18 A: Yes, sir.

19 Q: Okay. Well, why did you tell the police you went in a
20 taxi if Gary Bostick took you to the hotel?

21 A: My reason for telling the police that I went to the hotel
22 in a taxi was because throughout the streets of hearing what's
23 going on, they said that Gary had supposed to had hired me to
24 kill Corey Byrd.

25 Q: Okay. So you didn't want the police to think you were

GREGORY DANIELS - CROSS BY MR. HUNTER

1 with Gary?

2 A: Yes, sir.

3 Q: Okay. All right. Did you testify that you got your
4 discovery approximately sometime in 2009?

5 A: Yes, sir.

6 Q: Okay. But didn't you write Ms. Goodman a letter on
7 October 15th, 2008?

8 A: Uh --

9 Q: And -- well, I haven't finished my question yet. In that
10 letter, did you tell her all I need is for you to say I was
11 with you at the time they said this happened? I told you that
12 when we went to the room. And then you further say they ain't
13 got no gun, no bloody clothes, no shells, nothing?

14 MS. BLANCHETTE: Your Honor, if I may just request that
15 he be provided a copy of the exhibit that he's referring to.

16 MR. HUNTER: Certainly.

17 MS. BLANCHETTE: Just so we're completely accurate.

18 MR. HUNTER: May I approach, Your Honor.

19 THE COURT: Yes.

20 MR. HUNTER: I've got it highlighted in here for you, Mr.
21 Daniels.

22 BY MR. HUNTER:

23 Q: Now, if you didn't get your discovery until 2009, how did
24 you know that the State didn't have anything against you?

25 A: Your question is how did I know?

GREGORY DANIELS - CROSS BY MR. HUNTER

1 Q: Yes.

2 A: Because there was someone in the jailhouse who was on the
3 street at the time who was informing me of what was going on
4 with the case.

5 Q: So he was in the jailhouse and he was on the street?

6 A: He was out on the street and he came -- he was arrested
7 in the detention center at the time. He was from the same
8 neighborhood. He knew Corey Byrd. He knew about Corey Byrd,
9 his history of robbing people, his history of robbing people,
10 his history of a past case he was in, and he was advising me
11 of what was going on on the streets. And he advised me that
12 all you need is to tell your girlfriend and give your lawyer a
13 statement.

14 Q: Okay. I believe Ms. Goodman testified that once y'all
15 got to the hotel, you left at some point because she woke up
16 and you weren't there; is that correct?

17 A: Yes, sir.

18 Q: Okay. But in your statement to police, didn't you tell
19 them that you laid down until it was check-out time?

20 A: Yes, that's what I told them.

21 Q: Okay.

22 A: Yes, sir.

23 Q: So it's your contention you never left the hotel?

24 A: I never left the hotel. I went to eat breakfast.

25 Q: Okay. Now, on Tuesday you testified that your uncle was

GREGORY DANIELS - CROSS BY MR. HUNTER

1 at the hotel; right?

2 A: Yes.

3 Q: Okay. But you never mentioned that in your statement to
4 the police?

5 A: When they asked me about my uncle, I told them that my
6 uncle showed up and I left the room to go get a rental car.

7 Q: Okay. But, Mr. Daniels, in your statement of September
8 10th, 2008 --

9 MR. HUNTER: Which is already in evidence, Your Honor.

10 THE COURT: What item number is it in evidence? Do you
11 know?

12 MR. HUNTER: I --

13 THE COURT: Ms. Blanchette?

14 MS. BLANCHETTE: Here is a list, Your Honor.

15 THE COURT: I just want to make sure the record is clear.

16 MR. HUNTER: Yes, Your Honor. Can Mr. Daniels review it
17 while --

18 THE COURT: Let me see that. Let me see it. Is it --

19 THE COURT REPORTER: 6.

20 THE COURT: All right, 6. The court reporter informs me
21 it's Number 6.

22 MS. BLANCHETTE: And Your Honor, I have a list that I can
23 leave here for both counsel to refer to, if needed.

24 THE COURT: Okay.

25 MS. BLANCHETTE: I had a copy made for me last week --I

GREGORY DANIELS - CROSS BY MR. HUNTER

1 mean last Tuesday.

2 MR. HUNTER: I appreciate it. Thank you.

3 THE COURT: All right. Thank you.

4 BY MR. HUNTER:

5 Q: Mr. Daniels, would you like to review your statement or
6 would you agree with me that nowhere in that statement do you
7 mention your uncle being at the hotel?

8 A: Let me see the statement.

9 (WHEREUPON, there was a pause in the proceedings.)

10 Q: Have you had a chance to review it?

11 A: Yes, I have.

12 Q: Do you see any mention of your uncle in there?

13 A: No, sir, not in that part of the statement, but it could
14 have been on the part that wasn't recorded.

15 Q: Okay. Now, Mr. Daniels, on Tuesday you testified that
16 you didn't know what the witnesses were going to say against
17 you --

18 A: Yes.

19 W: -- before you went to trial?

20 A: Yes, sir.

21 Q: Okay. But didn't you write Jack Lawson a letter on
22 September 1st, 2009, going into great detail about all the
23 evidence against you? Would you like to review it?

24 A: Yes, sir.

25 THE COURT: Has that been marked yet?

GREGORY DANIELS - CROSS BY MR. HUNTER

1 MR. HUNTER: It has. It's been pre-marked.

2 THE COURT: Have you seen it?

3 MS. BLANCHETTE: Your Honor, my only objection is this --
4 it's a very bad copy. The Attorney General provided me a copy
5 this morning that I couldn't even read. There were just a
6 couple of lines on it that I could make out. From the file I
7 obtained from Mr. Lawson, I was just able to piece together I
8 believe every page that he has there. If Mr. Daniels
9 testifies to it, I don't see a reason that it needs to be in
10 evidence since it's such a bad copy. I just have concerns
11 about the part you can't read.

12 THE COURT: Do you have a better copy?

13 MS. BLANCHETTE: This better copy that I found is still
14 -- still some sentences can't be read on it. I believe it was
15 written in pencil and on yellow legal pad from my review of
16 the file. I may be wrong. I don't know if both of those
17 components were present, but it was just -- when I got it from
18 the Public Defender's office, it was a bad copy.

19 THE COURT: All right.

20 MR. HUNTER: Your Honor, may I first ask Mr. Daniels if
21 he --

22 THE COURT: Yes, go ahead.

23 MR. HUNTER: -- can identify it?

24 BY MR. HUNTER:

25 Q: Can you identify this letter, Mr. Daniels?

GREGORY DANIELS - CROSS BY MR. HUNTER

1 A: Yes. It's a letter written from me to Mr. Lawson.

2 Q: Okay. And would you read the date on that letter?

3 A: 9/1/09.

4 Q: Okay. Now, in that letter you went into a good bit of
5 detail about the evidence against you, didn't you?

6 A: Yes, I did.

7 Q: Okay.

8 MR. HUNTER: Your Honor, the State would move to admit
9 this into evidence as State's Number 1.

10 THE APPLICANT: Now, may I -- I know I'm not supposed to
11 ask any questions, Your Honor, but I --

12 THE COURT: Hold on just a second. Okay? I'll give you
13 just a chance to talk in just in a minute. Okay?

14 THE APPLICANT: Okay.

15 THE COURT: Any objection, Ms. Blanchette?

16 MS. BLANCHETTE: I would just like some further
17 questioning as to if this is the complete letter because the
18 pages that I've pulled, it appears to be a two-page letter and
19 then there's a number of undated -- I would say attachments,
20 for lack of better words. So I'm not sure if the documents
21 following the two-page letter would also fall under the same
22 page.

23 THE COURT: Well, I'll let you ask him that on redirect.

24 MS. BLANCHETTE: Okay.

25 THE COURT: If it's not cleared on this. Okay?

GREGORY DANIELS - CROSS BY MR. HUNTER

1 MS. BLANCHETTE: Okay. Thank you, Your Honor.

2 THE COURT: Any objection to it being admitted?

3 MS. BLANCHETTE: No, Your Honor, just besides the quality
4 of the exhibit. That was my only concern.

5 THE COURT: Well, I mean, I'm looking at it and from --

6 MS. BLANCHETTE: I think that's a much better copy than
7 what I was handed this morning.

8 THE COURT: Do you want to look at it?

9 MS. BLANCHETTE: I've flipped through it, I think it's --
10 this is the one that I had seen that just --

11 THE COURT: Yeah.

12 MS. BLANCHETTE: -- I was concerned about the Court
13 having.

14 THE COURT: Your copy is not good. That copy, I think,
15 is very legible.

16 MS. BLANCHETTE: Okay.

17 MR. HUNTER: And, Your Honor, Ms. Blanchette has had a
18 copy of Mr. Lawson's file. So she's had it.

19 THE COURT: Okay. Without objection, State's Exhibit
20 Number 1 admitted into evidence.

21 (WHEREUPON, State's Exhibit Number 1, a letter, was
22 admitted into evidence.)

23 BY MR. HUNTER:

24 Q: All right. Now, let's move on. I believe on Tuesday you
25 testified that Andre Bradley was your friend and you talked

GREGORY DANIELS - CROSS BY MR. HUNTER

1 with him almost daily?

2 A: Can we hold on just a second?

3 THE APPLICANT: Your Honor?

4 THE COURT: I told you a minute ago, before I looked at
5 that letter, that I'd give you an opportunity to further
6 explain if you so needed to. Now, having said that, it is not
7 your place to ask Mr. Hunter questions. He gets to ask the
8 questions and you get to answer them.

9 THE APPLICANT: Yes, sir.

10 THE COURT: Now, if you want to answer a question that he
11 poses to you and further explain it, you have -- I'll give you
12 every right and you have every right to further explain.

13 Okay?

14 THE APPLICANT: Yes, sir.

15 THE COURT: So I'll recognize you to continue if you have
16 any further explanation pursuant to questioning by Mr. Hunter.

17 Okay?

18 THE APPLICANT: Yes, sir.

19 THE COURT: Go ahead.

20 BY MR. HUNTER:

21 A: As far as the exhibit you just admitted into evidence,
22 now, when I wrote that letter to Mr. Lawson, I had a discovery
23 that was sent from the Solicitor's Office from Mr. Ed
24 Clements. He was the first prosecutor on the case. And if
25 you've been through the files, you would see that I was sent

GREGORY DANIELS - CROSS BY MR. HUNTER

1 discovery from Mr. Ed Clements, Ms. Patricia Parr, and then
2 whatever was handed over to Mr. John Jepertinger.

3 Q: So, it's -- it's fair to say that you knew what a lot of
4 the evidence against you was?

5 A: All I knew what was what came down to me in discovery. I
6 didn't know what they handed over to Mr. Lawson.

7 Q: Okay. Fair enough. Now, I'm going to move on from that
8 letter. The other day -- I'm going to repeat my other
9 question. The other day you testified Andre Bradley was your
10 friend; correct?

11 A: Yes.

12 Q: And y'all talked a good bit?

13 A: Yes.

14 Q: Okay. So he wasn't a jailhouse snitch, was he?

15 A: I can't speak on that. I don't know where he -- what he
16 was at the jailhouse. I can't speak on what he was, but all I
17 know is he says he has -- I told him that months before it
18 happened, years before he came to trial, all of sudden he's in
19 trouble looking at twenty to life. Now, all of sudden he
20 knows this information that he supposedly have heard from me.

21 Q: So it's your contention that his testimony was not the
22 truth?

23 A: Yes, sir.

24 Q: And that you did not go to his house that day?

25 A: Go to his house when?

GREGORY DANIELS - CROSS BY MR. HUNTER

1 Q: You did not go to his house the day after Corey Byrd was
2 murdered?

3 A: Yeah. I went to his house that day, but I didn't talk to
4 him about no murder.

5 Q: Okay. So you did go there that day?

6 A: Yes, I did.

7 Q: Okay. Was Jasmine Barrett there?

8 A: Yes, she was.

9 Q: Okay. What did y'all talk about?

10 A: We didn't talk about nothing. We sat down, played a game
11 of dominoes. He said he wanted to turn the TV on to watch
12 movies. He was cooking. We played dominoes. We had
13 something to eat, and I left.

14 Q: Okay. So his testimony that when the news came on about
15 Corey Byrd's murder and you said that you did that, that his
16 testimony was not the truth?

17 A: No, it was not.

18 Q: Okay. Now, I believe on Tuesday you testified that if
19 you knew the State was going to introduce the letters from Ms.
20 Goodman and the testimony from Andre, that you would have
21 wanted to testify --

22 A: Yes.

23 Q: -- to explain them?

24 A: Yes.

25 Q: Okay. But wasn't all of that already in evidence by the

GREGORY DANIELS - CROSS BY MR. HUNTER

1 time Judge Russo asked you if you wanted to testify?

2 A: No, sir.

3 Q: It wasn't?

4 A: Not to my recollection.

5 Q: You don't recall the State resting their case and then
6 Judge Russo asking if Mr. Lawson had gone over your right to
7 testify?

8 A: Oh, yes, sir. Yes, sir.

9 Q: Okay. And then --

10 A: Yes, sir.

11 Q: And then Judge Russo went through your right to testify
12 and asked you if you wanted to?

13 A: Yes, sir.

14 Q: Okay. And you didn't want to testify?

15 A: As of my lawyer's -- as my lawyer's advisement not to
16 testify, that's why I didn't testify.

17 Q: Okay. So Mr. Lawson advised you that it was in your best
18 interest not to testify?

19 A: Yes, sir.

20 Q: But you did want to testify?

21 A: Have I -- had I known that those evidence were coming in
22 as evidence, had I known about those evidence, which from
23 reviewing what -- the dates that he received that he had ample
24 enough time to let me know that they were coming in as
25 evidence, because it's stamped the Public Defender's Office

GREGORY DANIELS - CROSS BY MR. HUNTER

1 received those letter on March 25th of 2010. I didn't even
2 know they had the letters.

3 Q: Okay.

4 A: Until that day in court.

5 Q: But that day, you didn't say, wait, Mr. Lawson, all that
6 stuff, that's not true. I need to testify and tell my side of
7 the story?

8 A: I talked to him about it. Yes, I did.

9 Q: Okay.

10 A: And he still advised me that it's best that you don't
11 testify because they don't have nothing. They're just
12 letters.

13 Q: Okay. And Mr. Lawson did object to those letters, didn't
14 he?

15 A: Yes, he did.

16 Q: Okay. And just so it's clear, he did ask you if you
17 wanted to testify?

18 A: Who? Mr. Lawson?

19 Q: Mr. Lawson.

20 A: We discussed it and he said --

21 Q: Okay.

22 A: He advised me that it was best that I do not testify.

23 Q: Okay.

24 A: It's not on me to prove my innocence, but on the State to
25 prove me guilty beyond a reasonable doubt.

GREGORY DANIELS - CROSS BY MR. HUNTER

1 Q: Okay. Fair enough. I believe you testified on Tuesday
2 that when you spoke with Lieutenant Compton, he Mirandized
3 you; correct? He read you your Miranda rights?

4 A: Yes, he did.

5 Q: Okay. So you knew your statement could be used against
6 you?

7 A: Well, yes.

8 Q: Okay. Now, I've just a few more questions and we'll be
9 done.

10 A: You're done with that question?

11 Q: Yes. We're done with that question.

12 A: Okay.

13 Q: Let's talk about the scene of -- the scene of Corey's
14 Byrd's murder. I believe you testified on Tuesday that Jack
15 never went out there and looked at it; right?

16 A: Yes, sir.

17 Q: How do you know he never went out there and looked at it?

18 A: Because I asked him to go look at it and I asked him to
19 have his investigator go look at it and he told me he hadn't
20 gotten to that part. I called him several times about going
21 out there and looking at the crime scene, and he never
22 returned my phone calls. I wrote several requests to him from
23 the detention center; he never gave me a response.

24 Q: Bu, he never told you he didn't go out there?

25 A: He never told me that? You assume that. I didn't tell

GREGORY DANIELS - CROSS BY MR. HUNTER

1 you he didn't tell me. He never -- he said that his
2 investigator didn't get to that part. And when we got to
3 trial, it was never mentioned.

4 Q: Okay. At trial did you say, Mr. Lawson, did y'all ever
5 go out and look at the scene?

6 A: I asked him when he came in that Saturday to see me.

7 Q: Okay. Well, you know, he -- remember he said he would do
8 anything you asked him to do that weekend. Did you say, well,
9 Mr. Lawson, how about going on Sunday and going out to the
10 scene?

11 A: Well, I talked to him that Saturday about it and he said
12 he would get his investigators to do so.

13 Q: Okay. Now, I believe you testified that you're familiar
14 with the scene because you grew up in the neighborhood; right?

15 A: Yes, sir.

16 Q: Okay. Had you ever been in Tiesha Brown's house?

17 A: No, sir.

18 Q: Okay. So you've never been in her front yard?

19 A: No, sir.

20 Q: Okay. So you've never been in her front yard at night?

21 A: I never been in her front yard, period.

22 Q: Okay. Now, have you spent a lot of time on that street
23 when it's nighttime?

24 A: I mean --

25 Q: Walking around?

GREGORY DANIELS - CROSS BY MR. HUNTER

1 A: No, sir. But I've been in that neighborhood quite a few
2 times.

3 Q: Okay. So it's fair to say you've spent a fair amount of
4 time in that area?

5 A: Yes, sir.

6 Q: Okay. But you haven't been back since the night Corey
7 Byrd was shot?

8 A: I wasn't there the night Corey Byrd was shot.

9 Q: Okay. Fair enough.

10 MR. HUNTER: That's all the questions I have. Thank you,
11 Your Honor, and thank you, Mr. Daniels.

12 THE COURT: Hold on just a minute.

13 MS. BLANCHETTE: Okay.

14 THE COURT: All right. Go ahead, Ms. Blanchette,
15 redirect.

16 MS. BLANCHETTE: Thank you, Your Honor.

17 REDIRECT EXAMINATION

18 BY MS. BLANCHETTE:

19 Q: Mr. Daniels, you were asked questions about a fight with
20 the victim. Would you have wanted to have testified to refute
21 the testimony that you were fighting with the victim that
22 night?

23 A: Yes, ma'am.

24 Q: Now, as far as what we received as a complete copy of Mr.
25 Lawson's file, as far as anything that you received as the

GREGORY DANIELS - REDIRECT BY MS. BLANCHETTE

1 discovery -- and we'll get into that a little bit more in a
2 minute -- did anyone ever speak with Gary Bostick as far as
3 you know about these phone calls the State was asking you
4 about?

5 A: No. No, ma'am.

6 Q: Now, the State asked you why you told law enforcement
7 that you went in a taxi instead of implicating yourself with
8 Gary Bostick. Is there any other reason why you did not want
9 to give them more information about Gary Bostick?

10 A: Yes. Because me and Gary Bostick -- we were dealing on
11 other activities that had nothing to do with this case.

12 Q: And were those legal activities?

13 A: No, ma'am.

14 Q: Okay. So you did not want to open the door to other
15 potentially illegal activities and connect yourself with Gary
16 Bostick with those; is that correct?

17 A: Yes, ma'am.

18 Q: Now, the State asked you and introduced this letter that
19 you wrote Mr. Lawson dated September 1st, 2009.

20 MS. BLANCHETTE: Your Honor, may I approach the witness?

21 THE COURT: Yes, ma'am.

22 BY MS. BLANCHETTE:

23 Q: Mr. Daniels, we didn't have notice that the State
24 intended to use this even though it was provided to us as part
25 of Mr. Lawson's file. I want you to just take a couple

1 moments to review it and could you please answer whether all
2 of the documents in there were sent with the letter, the first
3 couple of pages dated September 1st, 2009? If that would have
4 all been one package that went to Mr. Lawson?

5 (WHEREUPON, there was a pause in the proceedings.)

6 Q: Were all those documents -- as far as you can recall,
7 would those have been sent to Mr. Lawson in September 2009?

8 A: Yes, ma'am.

9 Q: Okay. Now, let me ask you a little bit about that. You
10 used the term discovery. You said you'd received your
11 discovery. And you've already testified on direct to all the
12 things you haven't seen, so I'm not going to go back through
13 every of those, but did you ever have the chance to review the
14 audio recordings?

15 A: No, ma'am.

16 Q: And since then, have you had a chance to review all of
17 the audio recordings that were taken by law enforcement in
18 this case?

19 A: Yes, ma'am.

20 Q: And those are some of the things that you had not
21 received; is that correct?

22 A: Yes, ma'am.

23 Q: Did you ever receive the report that we attempted to
24 introduce -- and just one second here -- as Applicant's Number
25 11, regarding another murder case that Corey Byrd was involved

GREGORY DANIELS - REDIRECT BY MS. BLANCHETTE

1 in? Had you seen that report --

2 A: No, ma'am.

3 Q: -- prior to your trial?

4 A: No, ma'am.

5 Q: Now, basically, you had seen Investigator Compton's
6 report; is that correct?

7 A: Yes, ma'am.

8 Q: And is that where you drew the majority of the
9 information on which you wrote this letter to your attorney?

10 A: Yes, ma'am.

11 Q: And does this letter demonstrate your repeated attempts
12 to get in touch with your attorney to get him working on
13 matters in your case that you thought were important?

14 A: Yes, ma'am.

15 Q: On April 12th, 2010, when you proceeded to trial, had Mr.
16 Lawson answered the questions that were in that letter that
17 you wrote in September?

18 A: No, ma'am.

19 Q: When you proceeded to trial on April 12th, 2010, did you
20 have an understanding of the evidence against you and were you
21 properly prepared to take the stand to refute that evidence?

22 A: No, ma'am.

23 Q: When the judge asked you if you were going to testify and
24 your attorney responded that you were all still trying to
25 decide, was that sufficient time to make a decision and get

1 prepared to testify?

2 A: No, ma'am.

3 Q: Now, the State asked you a couple of questions about your
4 uncle, Andrew. His name actually was brought up by Nyrena
5 Goodman; is that correct?

6 A: Yes, ma'am.

7 Q: And she told law enforcement that he had been at the --
8 that your uncle had been at the hotel with you all?

9 A: Yes, ma'am.

10 Q: And actually on page 486 of your transcript, Investigator
11 Compton references Andrew. So they knew who he was; is that
12 correct?

13 A: Yes, ma'am.

14 Q: Since the State got into the question of discovery, I
15 just wanted to ask you one more brief question. All the
16 documents that we've attempted to introduce at this PCR
17 proceeding, would you have wanted to review all of those in
18 detail and discussed those with your attorney prior to
19 proceeding with your trial?

20 A: Yes, ma'am.

21 Q: And as a result of not reviewing those and being able to
22 have discussions with your attorney, were you properly
23 prepared to proceed with your trial?

24 A: No, ma'am.

25 MS. BLANCHETTE: Your Honor, if I could beg the Court's

26

ANDREW WILLIAMS - DIRECT BY MS. BLANCHETTE

1 indulgence for just one moment.

2 THE COURT: All right.

3 Ms. BLANCHETTE: Your Honor, I have no further questions
4 of this witness.

5 THE COURT: Any further recross?

6 MR. HUNTER: No, Your Honor.

7 THE COURT: Sir, you may step down. Call your next
8 witness, please.

9 MS. BLANCHETTE: Your Honor, I call Andrew Williams to
10 the stand.

11 THE CLERK: Please step up to the witness box and place
12 your left hand on the Bible and raise your right hand, please.
13 Do you swear or affirm that the testimony you are about to
14 give will be the truth, the whole truth, and nothing but the
15 truth, so help you God?

16 THE WITNESS: I do.

17 THE CLERK: Please take your seat and state your name for
18 the record.

19 THE WITNESS: Andrew Williams.

20 ANDREW WILLIAMS, being first duly
21 sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. BLANCHETTE:

24 Q: And, Mr. Williams, where do you currently reside?

25 A: 610 West Marion Street, Florence, South Carolina.

ANDREW WILLIAMS - DIRECT BY MS. BLANCHETTE

1 Q: Okay. And how is it that you know Gregory Daniels seated
2 -- sat here beside me today?

3 A: That's my nephew.

4 Q: Okay. Now, I want to take you back to September 2008.
5 You've heard testimony today and were you present at the
6 trial? First, let me ask you that.

7 A: No, ma'am.

8 Q: Okay. You've heard testimony today and I've met with you
9 and my investigator met with you and talked with you about the
10 fact that there was testimony from Nyrena Goodman that you
11 came to the hotel on that day and you were there with her for
12 a long period of time before Mr. Daniels showed up. And that
13 you were involved in their comings and goings that day and
14 that you assisted him in getting a rental car. Do you recall
15 ever being present in the hotel room alone with Nyrena
16 Goodman?

17 A: No, ma'am.

18 Q: Who was with you whenever you were in the hotel room that
19 day?

20 A: Gregory.

21 Q: Okay. And do you recall going with him to get a rental
22 car?

23 A: I do.

24 Q: Okay. And do you know why you all were going to get that
25 rental car?

ANDREW WILLIAMS - DIRECT BY MS. BLANCHETTE

1 A: Yes. So he could have transportation to get back and
2 forth and around where he needed to go.

3 Q: Okay. And was there something going on with Nyrena's
4 family that day that you were aware of as to why they needed a
5 car?

6 A: No.

7 Q: Okay. And how long have you known Gregory?

8 A: Ever since he was a baby.

9 Q: Do you see -- did -- had you -- up until this point, had
10 you seen him on a regular basis?

11 A: Yes, ma'am.

12 Q: Do you know him well?

13 A: Yes, ma'am.

14 Q: Did that day anything seem to be out of the ordinary to
15 you as far as your interactions with him?

16 A: No, ma'am.

17 Q: Okay. Do you think that you would have been able to tell
18 if he had possibly committed a murder just hours before seeing
19 you and was attempting to cover that up?

20 A: Yes, ma'am.

21 MR. HUNTER: Objection, Your Honor. I think that calls
22 for a lot of speculation.

23 THE COURT: I mean it seems -- it certainly calls for
24 speculation.

25 MS. BLANCHETTE: My only response, Your Honor, is I think

ANDREW WILLIAMS - DIRECT BY MS. BLANCHETTE

1 that is something that law enforcement would have asked him or
2 Mr. Lawson may have asked him; so that's why I was asking him.

3 THE COURT: I mean, you can ask him some questions I
4 think as to his observations of him and et cetera, et cetera,
5 but to draw that conclusion from -- to jump from A to Z on
6 that issue, which is the ultimate issue of what he got
7 convicted on here, I mean that calls for a lot of speculation.
8 If you want to lay the ground work as to --

9 MS. BLANCHETTE: I'll be happy to try another route, Your
10 Honor.

11 THE COURT: All right.

12 MS. BLANCHETTE: To save us all time.

13 THE COURT: I mean just to simply say for him to conclude
14 that is a huge leap to say the least, but go ahead.

15 MS. BLANCHETTE: Thank you, Your Honor.

16 THE COURT: But I'm going to sustain that objection.

17 BY MS. BLANCHETTE:

18 Q: Did law enforcement ever contact you or attempt to
19 interview you?

20 A: No, they didn't.

21 Q: Did Mr. Lawson ever contact you or attempt to interview
22 you?

23 A: No.

24 Q: Now, from what you know of Gregory, do you think that you
25 could have explained to them how he appeared that day and

ANDREW WILLIAMS - DIRECT BY MS. BLANCHETTE

1 answered any questions they had about that?

2 A: Well, that's possible. Okay. All right. Here I am the
3 first time in this courtroom. Okay. Could anyone take any
4 kind of assumption on who I am, what I might be, or what I'm
5 capable of doing, you know?

6 Q: Okay. Well, I'll keep my questions simple then for you.
7 I think that's what you're asking. So just to recap, law
8 enforcement never spoke to you and Mr. Lawson never spoke to
9 you?

10 A: No, they didn't.

11 Q: Okay. Do you feel that you could have had information to
12 tell them about that day if they asked you questions?

13 A: Well, if they would have asked me questions, the only
14 thing I could do was tell them what happened.

15 Q: Okay. Okay. If you had been given a subpoena to testify
16 about that day, would you have been willing to come and
17 testify in court?

18 A: Quite definitely.

19 Q: Okay. Did you ever receive a subpoena to testify?

20 A: Yes. This time, from you.

21 Q: Okay.

22 MS. BLANCHETTE: Your Honor, if I could beg the Court's
23 indulgence one moment.

24 BY MS. BLANCHETTE:

25 Q: And I just want to make sure I cover my bases. An

ANDREW WILLIAMS - DIRECT BY MS. BLANCHETTE

1 investigator from Mr. Lawson never tried to talk to you, did
2 they?

3 A: No, they didn't.

4 Q: Okay. And you would have responded and been willing to
5 talk to anyone on behalf of Gregory Daniels?

6 A: Yes, ma'am.

7 Q: Okay.

8 MS. BLANCHETTE: Your Honor, I have no further questions.

9 THE COURT: All right. Cross?

10 MR. HUNTER: Just briefly, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. HUNTER:

13 Q: Good morning, Mr. Williams.

14 A: Good morning.

15 Q: Is it fair to say you love your nephew?

16 A: Yes, it is fair to say.

17 Q: Okay. So you don't want him to spend the rest of his
18 life in jail?

19 A: I wouldn't wish that for you.

20 Q: Okay. I appreciate that, Mr. Williams. Did you ever
21 contact the police and tell them you wanted to give them a
22 statement about what happened that day?

23 A: Well, like this -- okay. All right. I never knew
24 anything on possible statements that was going on in the
25 matter of him being convicted of being a murderer or a murder

26

ANDREW WILLIAMS - CROSS BY MR. HUNTER

1 suspect. Other than that, I would have volunteered.

2 Q: So you didn't know he was being held in jail awaiting a
3 trial for murder?

4 A: No.

5 Q: Okay. And, Mr. Williams, in 2008 did you have a
6 conviction for a fraudulent check charge?

7 THE WITNESS: May I approach the bench? I want to ask
8 the bench something.

9 THE COURT: Answer the question, please, sir.

10 BY MR. HUNTER:

11 A: Am I on trial?

12 Q: Mr. Williams, did you have a conviction for a fraudulent
13 check in 2008?

14 A: No, I did not.

15 Q: You did not?

16 A: I sure didn't.

17 Q: So you don't have on your criminal record --

18 A: No.

19 Q: -- a 2008 conviction for --

20 A: No.

21 Q: -- fraudulent check?

22 A: No, sir.

23 Q: Okay.

24 MR. HUNTER: No further questions. Thank you, Mr.
25 Williams.

ANDREW WILLIAMS - REDIRECT BY MS. BLANCHETTE

1 THE WITNESS: Can I ask you a question?

2 THE COURT: No, sir.

3 MR. HUNTER: No, sir.

4 THE COURT: No, sir, you cannot. The lawyers get to ask
5 questions; you got to answer them. All right. Ms.
6 Blanchette, any further redirect?

7 REDIRECT EXAMINATION

8 BY MS. BLANCHETTE:

9 Q: Mr. Williams, would your testimony have changed from 2008
10 to today? Would you have said the same thing back in 2008?

11 A: I sure would have.

12 MS. BLANCHETTE: Your Honor, I have no further questions.

13 THE COURT: Any further recross?

14 MR. HUNTER: No, Your Honor.

15 THE COURT: Sir, you may step down. All right. I'm
16 going to stand down just a minute.

17 (WHEREUPON, there was a break in the proceedings from
18 9:55 a.m. until 10:01 a.m.)

19 THE COURT: Now, before we go any further, I want to
20 address an issue real quick and it's to both attorneys. That
21 I am -- as we go forward here, and what was and was not
22 disclosed to the other as what was going to be used or
23 introduced in this trial, without arguments of counsel to this
24 Court on the introduction of such, simply statements about
25 them are improper -- improper.

1 My question -- and the statute -- the act specifically
2 says that all rules and statutes applicable in civil
3 proceedings are available to each party, which my reading of
4 that is if you want to serve interrogatories, requests to
5 produce, et cetera, on each other requesting identification of
6 whatever documents are to be utilized or intended to be
7 introduced, et cetera, you have those rights. You have the
8 right under the rules to do that, but for comments about that
9 you're not put on notice of it, and documents were provided to
10 each other, mutually exchanged, are improper and I'm not going
11 to allow it in here. Are we clear on that?

12 MS. BLANCHETTE: Yes, Your Honor.

13 THE COURT: All right. Call your next witness, please.

14 MS. BLANCHETTE: Your Honor, I would call Pete Skidmore
15 to the stand.

16 THE CLERK: Please place your left hand on the Bible and
17 raise your right hand. Do you swear or affirm that the
18 testimony you are about to give will be the truth, the whole
19 truth, and nothing but the truth, so help you God?

20 THE WITNESS: I do.

21 THE CLERK: Please take your seat and state your name for
22 the record.

23 THE WITNESS: Peter Gordon Skidmore.

24 PETE SKIDMORE, being
25 first duly sworn, testified as follows:

DIRECT EXAMINATION

1
2 BY MS. BLANCHETTE:

3 Q: Mr. Skidmore, how are you currently employed?

4 A: I'm a licensed private investigator.

5 Q: And how long have you been in the area of private
6 investigation?

7 A: A little less than twenty-two years.

8 Q: Okay. And in those twenty-two years, what type of cases
9 have you handled?

10 A: Trials with murder mostly, murder, PCR hearings,
11 domestic, divorce cases.

12 Q: Have you handled or been requested to assist attorneys
13 with approximately how many murder cases in the state of South
14 Carolina?

15 A: I'd say it's probably in excess of a hundred.

16 THE COURT: Hold on a second. For the record, I -- and I
17 just -- full disclosure. Mr. Skidmore -- I believe I retained
18 Mr. Skidmore in a murder case that I defended here in Florence
19 County years ago, State versus David Gore. Do you recall
20 that?

21 MR. SKIDMORE: I believe so, Your Honor.

22 THE COURT: Myself, John Delgado defended this
23 individual, David Gore, and I am 99.9 percent sure that I
24 retained Mr. -- me and Mr. Delgado retained the services of
25 Mr. Skidmore to aid and assist us in the investigation in our

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 representation of that defendant in that case. Does that
2 sound right to you?

3 MR. SKIDMORE: Yes, it does, sir.

4 THE COURT: Okay. Any problems from the State on that?

5 MR. HUNTER: No, Your Honor. We'll stipulate to his
6 qualifications.

7 THE COURT: Okay. I just wanted -- for full disclosure,
8 I --

9 THE WITNESS: Thank you.

10 THE COURT: -- wanted to make sure. I knew when I sat
11 here and looked at him when he was here Tuesday, heard that
12 name, I know him, I know him, I know him, I know him, and when
13 he took the stand, it came back to me at that point, but I
14 just wanted to let you all know that. Okay.

15 MS. BLANCHETTE: Thank you, Your Honor, and I was just
16 attempting to lay the proper foundation.

17 THE COURT: I understand. Well, I'm certainly familiar
18 with his qualifications or I'd have never hired him at the
19 time, but the State has stipulated to it.

20 MS. BLANCHETTE: I will move on then.

21 THE COURT: You put on the record whatever you believe is
22 necessary, you know, to lay that ground work so the record is
23 clear on that. Go ahead, Ms. Blanchette.

24 MS. BLANCHETTE: Okay. Thank you, Your Honor, I
25 appreciate it.

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 THE COURT: Yes, ma'am.

2 BY MS. BLANCHETTE:

3 Q: Mr. Skidmore, how is it that you got involved with this
4 PCR case of Gregory Daniels?

5 A: You contacted me and asked me if I would get involved and
6 review some documents.

7 Q: Okay. And did I provide you with everything that I was
8 provided out of as Mr. Lawson's file from the Public
9 Defender's Office?

10 A: Yes.

11 MS. BLANCHETTE: Your Honor, and if I just may, I really
12 don't want to, in any way, go against your ruling that you
13 just made and reminder you made to us all. Is it okay that I
14 still reference how I got the file? I was just doing that
15 because he is deceased -- Mr. Lawson.

16 THE COURT: Absolutely.

17 MS. BLANCHETTE: Okay.

18 THE COURT: You can do that.

19 MS. BLANCHETTE: I just didn't know if that fell into
20 what you were cautioning us against. I wanted to be careful.

21 THE COURT: That's fine on that.

22 MS. BLANCHETTE: Okay. I've just never had a deceased
23 attorney before, so I want to be careful. I wasn't trying to
24 say anything improper about obtaining it.

25 THE COURT: No.

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 BY MS. BLANCHETTE:

2 Q: So I was provided a copy of Mr. Lawson's file and you had
3 a chance to review all that; is that correct?

4 A: Yes.

5 Q: You also had a chance to review the trial transcript in
6 this case?

7 A: Yes.

8 Q: And then I was provided a CD that had audio files on it.
9 Were you able to review all of those?

10 A: Yes.

11 Q: And once you'd reviewed all of those, what was the first
12 thing you told me that you needed to do in this case?

13 A: Go out to the scene.

14 Q: And why was that?

15 A: To get familiar with the scene. And when there were
16 statements about people seeing other people or vehicles, I
17 wanted to get an idea of what it was because I did not see any
18 photographs or video in Mr. Lawson's file that would refer
19 back to the scene where I could visually see what was going
20 on.

21 Q: Okay. And specifically, I just want to ask you about the
22 items you saw in relation to what Tiesha Brown had told law
23 enforcement and how that played into your investigation in
24 this case. You had a chance to review Investigator Compton's
25 report that has been admitted as Applicant's Exhibit 1; is

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 that correct?

2 A: That's correct.

3 Q: And in that report, she states -- she stated -- and I'm
4 reading from the report. Her and her friend, Brittany,
5 started walking up Marlboro Street towards North Dargan Street
6 when she heard a gunshot, and she looked and saw a dark-
7 figured man with dark clothing walk from North Dargan Street
8 onto Marlboro towards Commander Street. She stated she walked
9 towards the Tiger Mart and she walked through the intersection
10 when she looked back and observed a body lying on the road
11 just north of Marlboro Street. She stated she started towards
12 the body when a Ryan subject drove up in a green SUV and got
13 out and bent over, looking at the body, and then he saw her
14 and said, what are you doing here. Now, you reviewed that; is
15 that correct?

16 A: That's correct.

17 Q: And then you also reviewed a second report that we marked
18 for identification as Applicant's Number 15. And in that
19 report it states --

20 MS. BLANCHETTE: And if I can just beg the Court's
21 indulgence one moment.

22 BY MS. BLANCHETTE:

23 Q: It states -- reading on the second page, she stated that
24 she called his cell phone several times to see where he was at
25 and could not get an answer. She stated that she decided to

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 walk to the stop sign to see if he had made it there yet. She
2 stated that, as she walked outside, she heard one gunshot.
3 She said -- she stated that she looked down the street and
4 observed a tall black male wearing all dark clothing step
5 around the corner off of North Dargan Street and onto West
6 Marlboro Street heading west towards Commander Street.

7 She stated that she walked to the intersection, observed
8 a body lying on the ground face down with an open cell phone
9 next to him. She stated that she observed a dark green Chevy
10 Tahoe or GMC Yukon with tinted windows and large chrome rims
11 parked beside the body. And then she goes into her
12 interaction with the male.

13 And then in her testimony on page 99, when she's asked,
14 at the bottom of the page on line 21, all right, and where
15 were you at when you heard the gunshot? She said I was at my
16 house sitting at the porch.

17 Question: Okay. And at Brittany Fludd and her parent's
18 house? Sitting on the porch.

19 Did you see inconsistencies with the two reports that we
20 had and her testimony?

21 A: Yes.

22 Q: And what did you bring to my attention regarding those
23 inconsistencies?

24 A: That, having been out to the scene, it would be almost
25 virtually impossible, even in daylight, to have seen anything

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 at the corner of Marlboro and Dargan.

2 Q: Okay. And in those three instances, she's actually
3 giving us three different places that she was at when she
4 heard this gunshot and how she proceeded to then see the body;
5 is that correct?

6 A: Right, very inconsistent.

7 Q: Now, after I'd actually given you the reports and the
8 transcript, then I gave you the audio to listen to,
9 specifically, the 9-1-1 call and then the belt feed from
10 Officer Ussery, if I'm saying that correct. Did you then
11 again find a different version of information that she gave?

12 A: Yes.

13 Q: And as an investigator, were you ever able to pinpoint
14 exactly where Ms. Brown -- from her versions, where she was
15 when she would have heard this gunshot?

16 A: No.

17 Q: So as a result, did you go out to the scene and look at
18 it from all the different places she said that she was?

19 A: Yes.

20 Q: Now, you've reviewed the transcript. Is that something
21 that you would have advised the attorney that you were working
22 for to bring out during the murder -- or during the trial of
23 this murder case?

24 A: If I was the investigator, I would have had the attorney
25 go out to the scene and even speak to him and encourage him to

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 see if the Court would allow the jury to have gone out to the
2 scene.

3 Q: Why do you think that it is important for the jury to go
4 out to the scene?

5 A: Even in daylight, as I said earlier, from her porch or
6 even out by the mailbox, you cannot see up by the corner of
7 Marlboro and Dargan.

8 Q: Okay. And would you have encouraged him to do more than
9 just have them go out there in broad daylight? Is there --
10 was there something specifically you would have wanted him to
11 request of the Judge?

12 A: Yes. It's dark out there as well, and this may have been
13 a stretch to have gone out there at five o'clock in the
14 morning or at night to see how dark it was and even how much
15 more difficult it would have been to see somebody,
16 particularly in dark clothing, from that. You just cannot
17 from her house or mailbox in daylight see the corner of
18 Marlboro and Dargan.

19 Q: Okay. And, Mr. Skidmore, did I provide you the pictures
20 that we received as part of Mr. Lawson's file?

21 A: Yes.

22 Q: And were there specifically some pictures that you
23 utilized in helping you examine the scene and looking into the
24 scene?

25 A: Yes.

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 Q: Okay.

2 MS. BLANCHETTE: Your Honor, may I approach the witness?

3 THE COURT: Yes.

4 BY MS. BLANCHETTE:

5 Q: Now, there were numerous pictures that we received; is
6 that correct, Mr. Skidmore?

7 A: Yes.

8 Q: And what you did is you went through and picked the ones
9 that you felt best represented the scene and helped in your
10 testimony today?

11 A: Yes.

12 Q: Could you please identify these three pictures for the
13 Court?

14 A: The first picture is a house at the corner of Marlboro
15 and Dargan and a -- what appears to be a body with a cone
16 covered up going back down Dargan Street, and there's a pole,
17 a power pole with a number on it, as a reference point for me
18 when I went back out to the scene.

19 Q: Okay. And what does the second picture depict?

20 A: It is, there again, the corner of Dargan and Marlboro.

21 THE COURT: Hold on a minute. Hold on a minute, Mr.
22 Skidmore.

23 THE WITNESS: Yes.

24 THE COURT: Are you going to introduce these into
25 evidence?

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 MS. BLANCHETTE: I had planned to, Your Honor.

2 THE COURT: All right. Are they -- has the State seen
3 them?

4 MR. HUNTER: Your Honor, I have seen them.

5 THE COURT: All right. You got any objection to them?

6 MS. BLANCHETTE: No, Your Honor. They were part of Mr.
7 Lawson's file.

8 THE COURT: All right. Now to go further, I want them
9 marked so the record's clear on what he's looking at. Okay?
10 Madam Court Reporter, if you'll mark them, and you can have
11 them marked certainly for identification purposes at this
12 point until you decide to move them in, but I want them marked
13 so the record's clear what he's looking at as he's talking
14 about these pictures. Okay?

15 MS. BLANCHETTE: Yes, Your Honor. Would you like them
16 marked as three separate exhibits?

17 THE COURT: How many you going to introduce?

18 MS. BLANCHETTE: There's just three, so I didn't know if
19 you wanted them kept as one packet to make it quicker.

20 THE COURT: It doesn't matter. Whatever's easiest on my
21 court reporter. If it's only three, just do them as three
22 separate ones. If there were a multitude of them, it might be
23 1-A, B, C, D, E, F, G. Still have to --

24 MS. BLANCHETTE: Not a multitude.

25 THE COURT: Okay.

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 (WHEREUPON, the exhibits were marked as Applicant's
2 Exhibits Number 22, 23, and 24.)

3 MS. BLANCHETTE: And this is just a copy if Your Honor
4 would like to see what we're referring to.

5 THE COURT: Okay.

6 BY MS. BLANCHETTE:

7 Q: All right. Mr. Skidmore, I believe we're back on the
8 record. What has been marked for identification purposes as
9 Applicant's number 22, can you just describe that for the
10 record?

11 A: Yes. It's at the corner of Marlboro and Dargan, and
12 there's a body with a orange cone going back down Dargan and
13 there's a pole with a number that I used for my reference
14 point when I went out to the scene.

15 MS. BLANCHETTE: Your Honor, at this time, I'd move
16 Applicant's Number 22 into the record.

17 THE COURT: Any objection?

18 MR. HUNTER: No objection.

19 THE COURT: Without objection, so admitted.

20 (WHEREUPON, Applicant's Exhibit Number 22, a photograph,
21 was admitted into evidence.)

22 BY MS. BLANCHETTE:

23 Q: Mr. Skidmore, could you please identify what's been pre-
24 marked as Applicant's Number 23 please for the record?

25 A: Yes. That is a picture of the corner of Dargan and

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 Marlboro, a little bit clearer as far as the intersection with
2 the police tape marked off and the corner of a house and the
3 body with the cone and covered up.

4 MS. BLANCHETTE: Your Honor, at this time, I'd move
5 Applicant's Number 23 into the record.

6 THE COURT: Any objection?

7 MR. HUNTER: No, Your Honor.

8 THE COURT: Without objection, so admitted.

9 (WHEREUPON, Applicant's Exhibit Number 23, a photograph,
10 was admitted into evidence.)

11 BY MS. BLANCHETTE:

12 Q: And, Mr. Skidmore, could you just describe for the record
13 what's been marked as Applicant's Number 24, please?

14 A: Yes. It's a shot going back up Dargan toward Marlboro,
15 Marlboro being on the left and the house on the left, and a
16 picture of the body covered with a cone.

17 Q: And Mr. Skidmore, after reviewing --

18 MS. BLANCHETTE: Oh, Your Honor, I apologize. I move
19 Applicant's Number 24 into the record.

20 MR. HUNTER: No objection, Your Honor.

21 THE COURT: Without objection, 24 admitted into evidence.

22 (WHEREUPON, Applicant's Exhibit Number 24, a photograph,
23 was admitted into evidence.)

24 BY MS. BLANCHETTE:

25 Q: Mr. Skidmore, after reviewing the pictures and the file

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 that was provided to us, did you also ask me to review a copy
2 of the map that was introduced as evidence at trial?

3 A: Yes. You and I went to the Clerk of Court and we looked
4 at the map that was introduced.

5 MS. BLANCHETTE: Your Honor, I understand we don't have a
6 jury, but this is very hard to see. I don't mind holding it
7 here for Your Honor and Mr. Skidmore coming around if that's
8 okay with Your Honor.

9 THE COURT: What was it marked as an exhibit?

10 MS. BLANCHETTE: It was previously marked as State's
11 Exhibit Number 4.

12 THE COURT: Okay.

13 MS. BLANCHETTE: But I just didn't know what was the
14 easiest way. It's really hard to see.

15 THE COURT REPORTER: It's not marked yet.

16 MS. BLANCHETTE: Right. I was just asking kind of how
17 you wanted to handle viewing it and having him testify about
18 it.

19 THE COURT: I mean I can see it okay.

20 MS. BLANCHETTE: Is it okay if I hold it here and he
21 comes around?

22 THE COURT: That's fine.

23 MS. BLANCHETTE: Okay.

24 THE COURT: And if you want to get up, Mr. Hunter, so you
25 can see what they're talking about.

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 MS. BLANCHETTE: We played this out while you were out of
2 the courtroom.

3 THE COURT: I mean if you want to -- I don't know if you
4 want to tack it to that board. Is it easier to hold on to
5 that?

6 MS. BLANCHETTE: I don't mind holding it. It's going to
7 be very brief.

8 BY MS. BLANCHETTE:

9 Q: Mr. Skidmore, is this the map that you reviewed in the
10 Clerk of Court's Office?

11 A: Yes.

12 MS. BLANCHETTE: Your Honor, at this time, I would move
13 this map that's previously been marked as State's Exhibit 4 as
14 Applicant's Number 25.

15 THE COURT: Any objection?

16 MR. HUNTER: No objection, Your Honor.

17 THE COURT: Without objection, 25 admitted.

18 (WHEREUPON, Applicant's Exhibit Number 25, a map, was
19 admitted into evidence.)

20 MS. BLANCHETTE: And, Your Honor, is it okay if Mr.
21 Skidmore comes around?

22 THE COURT: Yes, ma'am.

23 MS. BLANCHETTE: Okay.

24 BY MS. BLANCHETTE:

25 Q: Mr. Skidmore, when we went to the Clerk's Office, what

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 was the first thing you did with this map?

2 A: Pulled it out and just got a reference point of where
3 Dargan and Marlboro were.

4 Q: Okay. And you were able to find those on the map and
5 were you able to find the house that was located in those
6 pictures?

7 A: Yes. Right in this area right here.

8 Q: Okay. And were you able to locate approximately where
9 the house was on Liberty Street where this cook-out was held?

10 A: Yes. Let's see. It's --

11 Q: It's [REDACTED].

12 A: Yeah. It's back down right here I believe on this
13 corner.

14 Q: So were you able to determine possible paths that Corey
15 Byrd had walked, as the State alleged, from the cook-out to
16 that corner where he was ultimately killed? The paths that he
17 could have taken?

18 A: Well, there's paths of least resistance, obviously, and
19 then there are a bunch of side streets. So not accurately
20 being able to tell exactly what path or what he would have
21 taken.

22 Q: Okay. And you went out to the scene though and attempted
23 to take some of those routes that he could have taken?

24 A: Yes, I did.

25 Q: Is that correct?

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 A: Yes.

2 Q: And what were some of the routes that you took?

3 A: Well, like I said, the most -- least resistant was coming
4 down to Dargan and going up Dargan to Marlboro.

5 Q: Okay. And approximately how long did it take you driving
6 to do that path?

7 A: Just a couple of minutes.

8 Q: Okay. And did you also go out and walk it?

9 A: I did.

10 Q: And how long did it take you to walk it?

11 A: Approximately eight minutes.

12 Q: Okay. And I asked you to walk it because there was
13 testimony that he'd been on the phone with Shavonne Gass for
14 fifteen minutes; is that correct?

15 A: That's correct.

16 Q: Now, is there anything else you'd like to tell us about
17 the scene using this map while I'm holding it up here for the
18 Court?

19 A: No. Because really this map doesn't truly depict where
20 somebody would really be able to see and get a true idea of
21 what is going on out there.

22 Q: Okay. Then I will put it down, if I may. Mr. Skidmore,
23 if you'd been working on this case with a defense attorney and
24 you had been given notice that this was the map that the State
25 intended to introduce at trial to depict the scene, what would

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 you have told defense counsel about that -- about your
2 thoughts on that?

3 A: It's really -- I mean, it's an accurate, but it's not
4 truly accurate where twelve people could get a good sense of
5 what it is that you're looking at versus taking video or
6 photographs or, better yet, having them go out to the scene.

7 Q: Okay. And, Mr. Skidmore, you did take a video while you
8 were out at the scene; is that correct?

9 A: I did.

10 Q: And you provided a copy of that to myself?

11 A: I did.

12 Q: And pursuant to a discovery order, you provided a copy of
13 that to the Attorney General's Office?

14 A: I provided it to you and you did.

15 Q: Correct. Thank you.

16 MS. BLANCHETTE: Your Honor, at this time, I would pre-
17 mark this for identification purposes as Applicant's Number
18 26, I believe.

19 THE COURT: All right.

20 MS. BLANCHETTE: I believe I need to play it for Mr.
21 Skidmore to authenticate it.

22 THE COURT: Correct.

23 MS. BLANCHETTE: I'm not sure if the State has any
24 objection at this time.

25 THE COURT: Any objection, Mr. Hunter?

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 MR. HUNTER: No, Your Honor. I've seen it.

2 THE COURT: All right. Without objection.

3 MS. BLANCHETTE: Okay.

4 THE COURT: You got enough -- you need an extension cord?

5 MS. BLANCHETTE: No, I have enough battery, Your Honor.

6 THE COURT: Okay.

7 MS. BLANCHETTE: Would you like for me to play it up here

8 and again have him come explain it to you so that --

9 THE COURT: You can put it right there on the edge of
10 that --

11 MS. BLANCHETTE: Okay.

12 THE COURT: -- podium.

13 MS. BLANCHETTE: And that'll work.

14 BY MS. BLANCHETTE:

15 Q: And Mr. Skidmore, can you see that okay?

16 A: I can.

17 Q: And explain what is being shown? Okay. And there isn't
18 volume; is that correct, Mr. Skidmore?

19 A: I hope not.

20 Q: Okay. I'll mute it.

21 (WHEREUPON, the video was played in open court. NO

22 SOUND/NOT TRANSCRIBED HEREIN.)

23 BY MS. BLANCHETTE:

24 Q: And, Mr. Skidmore, if you just don't mind describing what
25 we are seeing here on the video?

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 A: That's her house or where she resided at the time. This
2 is looking down. That's the next block. It's not actually
3 Dargan there. And that's looking down the road toward Dargan
4 and you -- you can't see Dargan.

5 Q: Okay.

6 A: And that's her front porch. And the house sits back off
7 of Marlboro. It's not right on the road.

8 Q: And what is it that you see here there? Is that the
9 corner of Dargan and Marlboro?

10 A: No. That's the first intersection before you get to
11 Dargan.

12 Q: And what are you doing here?

13 A: I'm walking back out to the mailbox to shoot back down
14 Marlboro toward Dargan Street. And there again, you know, you
15 cannot --

16 Q: So the first intersection we're seeing there is not the
17 corner where this murder occurred; is that correct?

18 A: No, it's not.

19 Q: Mr. Skidmore, is that the complete video that you had
20 taken at the scene?

21 A: Yes.

22 MS. BLANCHETTE: Your Honor, at this time, I would move
23 this in as Applicant's Number 26.

24 MR. HUNTER: No objection, Your Honor.

25 THE COURT: Without objection, 26 is admitted into

1 evidence.

2 MS. BLANCHETTE: Your Honor, would you like a copy?

3 THE COURT: I don't need one. I'm fine. Thank you
4 though.

5 (WHEREUPON, Applicant's Exhibit Number 26, a video, was
6 admitted into evidence.)

7 BY MS. BLANCHETTE:

8 Q: Mr. Skidmore, from the video did you also create several
9 still shots for us to have as a reference today?

10 A: I did.

11 Q: Okay.

12 MS. BLANCHETTE: Your Honor, I'll pre-mark these for
13 identification purposes.

14 (WHEREUPON, there was a pause in the proceedings.)

15 BY MS. BLANCHETTE:

16 Q: Mr. Skidmore, I'm going to hand you what has been pre-
17 marked as Applicant's Number 27. Can you please describe that
18 for the record?

19 A: That is Tiesha's house.

20 Q: Okay.

21 MS. BLANCHETTE: Your Honor, at this time, I'd move
22 Applicant's Number 27 into the record.

23 THE COURT: Any objection?

24 MR. HUNTER: No, Your Honor.

25 THE COURT: So admitted.

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 (WHEREUPON, Applicant's Exhibit Number 27, a photograph,
2 was admitted into evidence.)

3 BY MS. BLANCHETTE:

4 Q: Mr. Skidmore, I'm going to hand you what has been marked
5 as Applicant's Number 28. Can you please describe that for
6 the record?

7 A: Yes. That is the corner of Marlboro and Dargan going
8 back up the street.

9 MS. BLANCHETTE: Your Honor, at this time, I'd move this
10 picture as Applicant's Number 28 into the record.

11 MR. HUNTER: No objection.

12 THE COURT: Without objection.

13 (WHEREUPON, Applicant's Exhibit Number 28, a photograph,
14 was admitted into evidence.)

15 BY MS. BLANCHETTE:

16 Q: Mr. Skidmore, I'm going to hand you what has been pre-
17 marked as Applicant's Number 29. Can you identify that for
18 the record, please?

19 A: Yes. That's out by the mailbox, looking back down
20 Marlboro toward Dargan.

21 Q: Okay.

22 MS. BLANCHETTE: Your Honor, at this time, I'd move
23 Applicant's Number 29 into the record.

24 MR. HUNTER: No objection.

25 THE COURT: Without objection, so admitted.

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 (WHEREUPON, Applicant's Exhibit Number 29, a photograph,
2 was admitted into evidence.)

3 BY MS. BLANCHETTE:

4 Q: And, Mr. Skidmore, can you describe Applicant's Number 30
5 for the record, please?

6 A: Yes. That's another shot looking down Marlboro toward
7 Dargan, and that's the first intersection there.

8 Q: Okay.

9 MS. BLANCHETTE: Your Honor, at this time, I would move
10 Applicant's Number 30 into the record.

11 MR. HUNTER: No objection.

12 THE COURT: Without objection, so admitted.

13 (WHEREUPON, Applicant's Exhibit Number 30, a photograph,
14 was admitted into evidence.)

15 BY MS. BLANCHETTE:

16 Q: Mr. Skidmore, we may have already established this, but
17 if you would have been contacted, you would have been willing
18 to work on this case back in 2009; is that correct?

19 A: Yes.

20 Q: And after going out to the scene, looking at the map
21 exhibit, going over the discovery, what would have been the
22 information that you would have provided to defense counsel
23 or, you know, strategy you would have encouraged him to take?

24 A: Well, as I said, first going out himself to see the scene
25 and just getting familiar with it. And then seeing where you

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 could not have possibly seen anyone from that point of view
2 down at Dargan and Marlboro. Based on her account of at one
3 point coming out of the house, the other account, being at the
4 mailbox, and then we're not sure how far up the road she was
5 in another account. So I thought that -- I think that would
6 be very good for the jury to understand and really be hammered
7 home.

8 Q: Now, another component of the information that Tiesha
9 gave is that she saw a vehicle upon seeing the body?

10 A: Yes.

11 Q: You're familiar with the scene, and you have read her
12 accounts. At trial, Investigator Compton testifies that the
13 driver of that vehicle, Clifton Ryan Evans, was ruled out as a
14 suspect because the body had already been sprawled out. What
15 was your findings regarding that information?

16 A: Well, if you listen to the audio, the 9-1-1 call, it's
17 apparent that it's a short period of time from the time that
18 she starts walking up and sees the vehicle and hears the shot.
19 It's within seconds I mean, you know, no more than probably a
20 minute and a half, and that's an estimate on my part. But she
21 sees the vehicle and someone get out of the truck fairly
22 shortly after she hears the shot and then calls 9-1-1.

23 Q: And there was only one shot in this case; is that
24 correct?

25 A: Well, that's what she said.

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 Q: Okay. And you have been out there and you've seen how
2 the streets are configured. Based upon the information she
3 gave law enforcement about when she saw the vehicle and where
4 the vehicle was located, what was your determination as to
5 where the vehicle would have had to be coming from?

6 A: Probably somewhere right up around Commander or off the
7 main road there onto Marlboro or Dargan.

8 Q: Would the vehicle have to have been coming in a direction
9 -- and is there any impediment there, such as railroad tracks
10 or a dead end? Would it had to be coming in a direction where
11 it potentially would have seen the person that shot the
12 victim?

13 A: Very possibly, yes.

14 Q: Why so?

15 A: Well, based on what she said, the person on foot was
16 going back up toward Commander, which is another block up, and
17 that's about the area if you were looking back toward Marlboro
18 and you could see Dargan as well, you would be coming off the
19 main road or right around that Commander area in order to have
20 seen the body.

21 Q: And she never says she sees the vehicle such as coming
22 off of Irby into that neighborhood. She says she sees the
23 vehicle upon seeing the body?

24 A: That's correct.

25 Q: Is that correct?

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 A: Uh-huh.

2 Q: Okay. Is there anything else regarding that portion or
3 that information that was contained in discovery that you
4 would have discussed with trial counsel?

5 A: I just would have pushed the issue with the SUV and the
6 gentleman in the SUV that actually got out and then apparently
7 also questioned her about whether she was calling law
8 enforcement, and then left the scene.

9 Q: Okay. And it's also contained in the reports that Tiesha
10 went back to Shavonne Gass's house and essentially accused Mr.
11 Ryan Evans of being the killer in this case; is that correct?

12 A: Yes. And I believe that was recorded by a field officer
13 as well.

14 Q: Okay. And was that information, as far as you can see,
15 utilized at trial?

16 A: Not that I could see.

17 Q: Okay. Would you have been willing to go speak with
18 Andrew Williams on behalf of trial counsel in this case?

19 A: Absolutely.

20 Q: And did you do that as preparation for the PCR?

21 A: I did.

22 Q: And did you get him under subpoena to be here today?

23 A: I did.

24 MS. BLANCHETTE: Your Honor, if I could beg the Court's
25 indulgence one moment?

1 THE COURT: All right.

2 BY MS. BLANCHETTE:

3 Q: Mr. Skidmore, I just want to make sure that I, you know,
4 have fairly gone over what you did in preparation for today.
5 Is there anything else that you did, as far as your
6 investigation for the PCR, that you would have assisted trial
7 counsel with in preparation for trial?

8 A: There were -- there are probably things that I would have
9 done in preparation for a trial versus the PCR, because there
10 were numerous witnesses that you could have gone out and
11 interviewed, and I would have done that.

12 Q: You would have -- you would have interviewed witnesses
13 that were called by the State; is that correct?

14 A: Yes. And possibly potentially even witnesses that were
15 not called by the State.

16 Q: Okay. And that would have been if you were working on it
17 back in 2008?

18 A: Preparing for trial, yes.

19 Q: Okay.

20 MS. BLANCHETTE: Your Honor, I have no further questions
21 of this witness.

22 THE COURT: Cross-examination?

23 MR. HUNTER: Briefly, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. HUNTER:

PETE SKIDMORE - CROSS BY MR. HUNTER

1 Q: Good morning, Mr. Skidmore.

2 A: How are you?

3 Q: All right. How are you?

4 A: Good. Thank you.

5 Q: Approximately how many times do you -- do you think you
6 visited the scene?

7 A: Probably three.

8 Q: Okay. Did you ever visit at night?

9 A: I did not.

10 Q: And the murder took place in September 2008; correct?

11 A: Yes.

12 Q: Okay. And am I correct in assuming you didn't visit the
13 scene until 2014?

14 A: That's correct.

15 Q: Okay. And you don't know for a fact that Mr. Lawson or
16 someone from his office didn't go out there and look at the
17 scene, do you?

18 A: No, I don't.

19 Q: Okay. And you don't know for a fact which route Corey
20 Byrd took when he was walking that night?

21 A: No, sir.

22 Q: Okay. And in your video you -- it shows shooting from --
23 from the mailbox, it shoots -- it shows the first
24 intersection?

25 A: Yes, sir.

PETE SKIDMORE - CROSS BY MR. HUNTER

1 Q: And -- and then you zoom in for a minute?

2 A: That's correct.

3 Q: To a second stop sign farther down. Is that the
4 intersection where the murder took place?

5 A: That's the second inter -- yes, that is the second. My
6 zoom is very powerful. You can't -- I mean you can't see that
7 intersection just with your eyes.

8 Q: Okay.

9 A: It's like having binoculars.

10 Q: Okay. And again, obviously, you weren't there the night
11 of the shooting?

12 A: No, sir.

13 Q: You don't know for a fact that the driver of the vehicle
14 would have seen the shooter?

15 A: No, sir.

16 Q: Okay. So since you weren't there the night of the
17 shooting, you can't say anything for sure with regard to what
18 happened that night?

19 A: No.

20 Q: Okay.

21 MR. HUNTER: That's all I have. Thank you, Mr. Skidmore.

22 THE COURT: Anything further?

23 MS. BLANCHETTE: Very briefly, Your Honor.

24 REDIRECT EXAMINATION

25 BY MS. BLANCHETTE:

PETE SKIDMORE - REDIRECT BY MS. BLANCHETTE

1 Q: Mr. Skidmore, I just want to clarify that the context of
2 your testimony today is issues that you would have raised to
3 defense counsel so that he could be able to look into those
4 further and question witnesses with that information at trial;
5 is that correct?

6 A: Absolutely.

7 MS. BLANCHETTE: Your Honor, I have no further questions
8 of this witness.

9 THE COURT: Anything further?

10 MR. HUNTER: No, Your Honor.

11 THE COURT: Sir, you may step down. Thank you.

12 MR. SKIDMORE: Thank you.

13 THE COURT: Mr. Skidmore, let me ask you this. Did you
14 talk with the Public Defender's investigator to see what, in
15 fact, he did in this case?

16 MR. SKIDMORE: No, sir, I did not.

17 THE COURT: Okay. Thank you. All right. Ms.
18 Blanchette, call your next witness.

19 MS. BLANCHETTE: Your Honor, I have no further witnesses.

20 THE COURT: Okay.

21 MS. BLANCHETTE: I didn't know if this is the appropriate
22 time to renew my request to admit the exhibits. I think I can
23 go into that in the State's case.

24 THE COURT: You can renew it.

25 MS. BLANCHETTE: Thank you, Your Honor, appreciate it.