

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

Honorable L. Casey Manning, Circuit Court Judge

LOUIS SANDERS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-000591

APPENDIX

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1 time until they separate at the scene of the
2 accident. I mean, so he has a sufficient opportunity
3 in the club, in the parking lot, in his car at the
4 intersection where he let's him out and then again at
5 the scene of the shooting. It's sort of a continuous
6 series of events there and he's with the guy the
7 whole time or in close proximity with the guy the
8 whole time. So I think the opportunity is there to
9 identify him.

10 Degree of attention, sort of up in the air. I
11 mean, I can't say he paid any more attention to him
12 than anybody else face-to-face with somebody else
13 that they meet in a club and go through a series of
14 events. I mean, that's not clear. There are two
15 shootings involved, and certainly I would think that
16 two gunshots, three gunshots, I would think that
17 calls attention for a witness to look at where the
18 gunshot comes from.

19 He didn't offer a description probably because
20 of his invocation. And although he says, as to
21 factor number four he clearly says that's the guy
22 when he's questioned and shown the line-up. And I
23 don't think the time between the crime and the
24 confrontation or the identification is that
25 significant in terms of all the case law. I mean,

1 that's not an extraordinary amount of time.

2 So, as I say, if I have to go solely on the Neil
3 v. Biggers factors, I think it is probably credible
4 testimony. I am only concerned about this
5 suggestively, if there's such a word, of the fact
6 that the witness sees the picture on television and
7 then a short period of time -- who knows how long --
8 walks in the police station and says, oh, yeah,
9 that's the guy because I saw him on TV last night.
10 That's not exactly what happened but that's what
11 could have happened.

12 So, you're obviously pointing to something
13 that's shouldn't -- so you got the answer.

14 **MS. SHIPLEY:** Yeah, we found the answer. State
15 v. Drayton, 293 South Carolina 417. Identification
16 based on media representations is admissible because
17 the State is not responsible for the alleged taint.

18 **THE COURT:** Well, I think that's sort of where I
19 raised the issue, raised the question.

20 **MS. SHIPLEY:** Well, this case says allow the
21 identification in.

22 **THE COURT:** I'll read it. I'll read it.

23 **MS. SHIPLEY:** Even despite the fact that the
24 witness saw the defendant on television after his
25 arrest, the identification was still permissible,

1 admissible because that did not involve any state
2 action.

3 **THE COURT:** All right. I'll look at that and
4 I'll look at anything else the defense has to offer,
5 and we'll take it up first thing in the morning.

6 **MR. O'NEIL:** Thank you, Your Honor. Your Honor,
7 what time tomorrow?

8 **THE COURT:** 9:30. Well, let's reconvene at 9
9 and get this issue resolved and then the jury is
10 coming at 9:30. So, 9:00. Oh. Hold it, counsel.
11 Let me see you a minute before you leave.

12 (Whereupon, a bench conference is had)

13 (Whereupon, the proceedings are concluded for
14 the day, to be reconvened tomorrow morning)

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Wednesday, July 30, 2008

(WHEREUPON, State's Exhibit No. 54 is marked for identification.)

(WHEREUPON, State's Exhibit No. 55 is marked for identification.)

(WHEREUPON, State's Exhibit No. 56 is marked for identification.)

(WHEREUPON, State's Exhibit No. 57 is marked for identification.)

(WHEREUPON, State's Exhibit No. 58 is marked for identification.)

THE COURT: Approach the bench, counsel, please.

(Whereupon, a bench conference is had)

THE COURT: Was this cert?

MS. MCDUFFIE: Cert was denied, Your Honor.

THE COURT: Denied in this case?

MS. MCDUFFIE: Yes, Your Honor.

(Pause)

THE COURT: The Court has reviewed State v. Drayton and State v. Tisdale on the issue of, concerning the issue of the out-of-court identification process that leads to an in-court identification.

What's the State's position with regard to the defendant's motion to exclude the in-court

1 identification based on the fact that the
2 out-of-court identification is tainted; therefore,
3 the in-court identification should not be allowed?

4 **MS. SHIPLEY:** Your Honor, according to State v.
5 Tisdale which is cited at 338 SC 607, on page 5 it
6 goes on to say: "Because police were not involved in
7 the media identification in the case, the trial judge
8 did not err in allowing the teller's identification
9 testimony."

10 In Tisdale, as we discussed at the bench, there
11 are three tellers at a bank during a bank robbery.
12 Each teller gave different accounts of their
13 opportunity to view and each testified in an in
14 camera hearing about the five factors that the court
15 is to use in determining its admissibility in the
16 reliability of the identification.

17 They all testified that although they had been
18 exposed to media coverage of the arrest of the
19 defendant and that in one account a television news
20 report showed the defendant who was the bank robber,
21 Tisdale, on TV; at a post arrest bond hearing, the
22 other witnesses, there were two other tellers, saw a
23 mug shot of Tisdale from the previous arrest and that
24 photograph was in the newspaper.

25 Because the police had no involvement in the

1 media release of that information the court held that
2 the whole purpose of Neal vs. Biggers is to deter the
3 police from using inappropriate means of showing
4 photos.

5 Also I'll bring to the Court's attention that in
6 Tisdale, if you read footnote 3 on page 7, in that
7 case it was a show-up photograph rather than a
8 suggestive photographic line-up. In this case we
9 have six pictures that were presented to Mr. Justin
10 Green and he did not hesitate when he pointed out
11 picture number 3 which is the photo of this
12 defendant, Mr. Green -- excuse me. Mr. Sanders.

13 According to State v. Tisdale: "Reliability is
14 the lynchpin in determining the admissibility of
15 identification testimony. The purpose of a strike
16 rule barring evidence of unnecessarily suggestive
17 confrontations would be to deter the police from
18 using a less reliable procedure or a more reliable
19 when one may be available. Therefore, the impetus
20 behind" --

21 **THE COURT:** Impetus.

22 **MS. SHIPLEY:** -- "it is going to be an exclusion
23 of police deterrence. Although the reliability of an
24 identification may be affected by media
25 identification, no police deterrence would be

1 achieved by excluding evidence where there has been
2 no government involvement. Therefore, he hold that
3 Neal vs. Biggers' analysis is inapplicable where
4 there is a non-governmental identification source."

5 And this media coverage in this case was
6 non-governmental, Your Honor. As was presented
7 during the testimony of Investigator McRae, anybody
8 can get on the Alvin S. Glenn Detention Center
9 website and pull photos and put those up without any
10 release from anything dealing with law enforcement.

11 And also Investigator McRae testified that no
12 BOLO's were put out for this man's arrest. In fact,
13 they purposefully didn't send out media releases on
14 him because they didn't want to tip him off that he
15 had been identified as the shooter, and anything that
16 the media does after an arrest is out of the control
17 of the investigators or law enforcement, period.

18 I believe that the five factors, Your Honor,
19 that you heard Justin Green testify to yesterday,
20 that those factors are significant and substantial
21 for the Court to use in determining under the
22 totality of circumstances whether or not the
23 identification is reliable.

24 You heard from Mr. Green that he had an
25 opportunity to view the defendant inside of H&J pub

1 for about 15 or 20 minutes as they sat at a table
2 about five feet away from everybody and each other
3 and that he had no difficulty seeing his face.

4 **THE COURT:** I recall the facts.

5 **MS. SHIPLEY:** These witnesses in Tisdale that
6 were allowed to identify the robber, the bank robber,
7 they had like 30 seconds to view the suspect during
8 the robbery. So I believe we have established enough
9 evidence to admit the identification.

10 **THE COURT:** Let me hear the defense. Mr.
11 O'Neil.

12 **MR. O'NEIL:** I'm not going to rehash the five
13 factors. I think Your Honor is fully aware of my
14 arguments on those yesterday, and I think those five
15 factors are not as strongly favorable as the State
16 would have you believe. And of course it's the
17 State's burden.

18 But as this relates to the suggestivity of --
19 the unduly suggestivity of the line-up done by the
20 police, Your Honor, I think Tisdale is directly on
21 point. I think what I think is most important about
22 Tisdale, actually I think Mr. Sanders is probably in
23 a stronger position than the individual was, because
24 as Ms. Shipley actually stated, the witnesses in
25 Tisdale saw a mugshot of the defendant from a

1 previous arrest. The witness in Mr. Sanders' case
2 actually saw the same exact mugshot on TV that was
3 actually in the line-up, Your Honor.

4 And I think Ms. Shipley actually spoke about --
5 and if we look at Tisdale, I think one of the most
6 important things in there is that the court in that
7 case said it was uncontested the media
8 identifications in this case were suggestive. So the
9 court came to the conclusion that those line-ups were
10 suggestive. The only question at this point is
11 whether or not, the issue here is whether or not the
12 police were the source of that suggestiveness and
13 whether or not they used a remedy afforded to Biggers
14 was applicable in that case, Your Honor.

15 And I think what they did was look at the
16 purpose behind the strict rule in Biggers. And it
17 says that -- quoting Tisdale, it said: "The strict
18 rule barring evidence of unnecessary suggestivity in
19 confrontations will be to deter the police from using
20 a less reliable procedure where a more reliable one
21 may be available."

22 Your Honor, I think that is directly on point
23 here. The police in Mr. Sanders' case used the less
24 reliable procedure. They showed him the same ID, the
25 same picture that was shown on the media. The

1 justification behind this is directly on point here.
2 If you want to deter police from using a less
3 reliable procedure, you would suppress this
4 identification because the police could just as
5 easily have got a different picture than was shown on
6 the media and shown that to the witness in this case,
7 Your Honor.

8 I think my whole argument, Your Honor, is that
9 it's not the media's posting the picture of Mr.
10 Sanders on TV that makes it unduly suggestive; it's
11 the police affirmative action of putting the same --
12 showing Mr. Green the same picture that was on the
13 media that becomes unduly suggestive activity. And
14 that is police activity, the police showing him the
15 same picture that was on the media, Your Honor.

16 I think Investigator McRae testified himself he
17 saw that very -- he saw Mr. Sanders -- he saw the
18 media representation of Mr. Sanders on TV, Your
19 Honor. I think him having that knowledge gives
20 him --

21 **THE COURT:** McRae said that?

22 **MR. O'NEIL:** McRae said he saw the renditions of
23 Mr. Sanders on TV. I think gives him the
24 responsibility at that point to make sure, to ensure
25 that the witness is not shown the same picture that

1 was on TV, Your Honor. That makes it unduly
2 suggestive, their failure to make sure that Mr. Green
3 was not shown the same picture that was on the media.

4 I think I asked Investigator McRae whether or
5 not he asked the witness whether or not he had seen
6 any accounts of Mr. Sanders on TV. He said he failed
7 to ask him that, Your Honor. And that failure I
8 think produces a less reliable identification
9 procedure that's available to the State, Your Honor.
10 They could have asked him whether or not he saw the
11 media renditions and made sure that he didn't see the
12 same picture in the photo line-up, Your Honor.

13 **THE COURT:** All right. Well, I think Tisdale is
14 a more suggestive procedure perhaps than this. So I
15 may disagree with you, Mr. O'Neil, on that point. In
16 Tisdale these media representations were I believe
17 the next day or the day after the actual robbery.

18 Of course armed robbery of a bank is a different
19 situation than seeing somebody in a bar. And
20 certainly there was that heightened -- I believe,
21 generally speaking, in those types of cases, those
22 are heightened awareness cases just because that's
23 the way bank tellers are trained to be critically
24 observant when they go through something like that.

25 So perhaps the court -- and this is the procurum

1 of the Court of Appeals, although apparently cert was
2 denied -- looked at the out-of-court suggestivity or
3 the suggestivity based on the news reports in a
4 different light than we are faced with here just
5 because of the fact that it was a bank robbery and
6 the fact that the trial judge probably felt the
7 strength of the identification overruled or was more
8 significant than the out-of-court suggestivity.

9 Nevertheless, these cases cited suggest that
10 perhaps in some cases that a Neil -- that media
11 identifications are not akin to law enforcement
12 identifications. Here we've got sort of a flash
13 between the two. Because of what you point out, that
14 they used a media -- the media photograph in the
15 line-up, in the photo line-up.

16 However, based on the testimony, as I indicated
17 to you yesterday, I feel the Neil factors were
18 satisfied or would be satisfied except for this
19 issue. And you may be right. Maybe the use of a
20 media photo in the photo line-up creates a government
21 action that leads to the unreliability of the
22 identification.

23 I feel, however, that the -- I hate to use the
24 term -- but the totality of the circumstances makes
25 me feel that that witness's identification of the

1 defendant is reliable and I'm going to admit his
2 testimony. I'm going to allow him to do an in-court
3 identification based on that.

4 Now, I think the jury is here, and I need to
5 talk to this juror as I indicated to you yesterday.
6 The juror sent a note. Does everybody recall that?

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

8 **MR. O'NEIL:** Yes, Your Honor.

9 **THE COURT:** Is it satisfactory if the Court does
10 that in camera, or do you want her in here?

11 **MR. O'NEIL:** That's satisfactory to the defense,
12 Your Honor.

13 **MS. SHIPLEY:** In camera, whatever you would like
14 to do, Your Honor.

15 **THE COURT:** In other words, me do it, or do you
16 want her in here?

17 **MS. SHIPLEY:** I don't have a problem with you
18 doing it alone, Your Honor.

19 **THE COURT:** All right. I just will inquire as
20 to the extent of her knowledge and relationship. And
21 if she says she feels that she can't be fair and
22 impartial, then we'll just excuse her. All right.
23 I'll report back. Stand at ease for a few minutes,
24 please.

25 (Whereupon, a break is taken)

1 (WHEREUPON, Court's Exhibit No. 3 is marked for
2 identification.)

3 **THE COURT:** All right, counsel. I have had an
4 in camera interview with juror number 182. Juror
5 number 182 is the alternate. She indicates that the
6 witness, Greg Shaw, is a friend of her husband's.
7 She has no contact with him. Apparently her husband
8 went to school with him. They are not close personal
9 friends. They're not social friends. They're not
10 church related friends. They're not business
11 friends.

12 She says it would not interfere with her ability
13 to give both the State and the defendant a fair and
14 impartial trial, and I see no reason to remove her as
15 a juror. Mark that. Jenny, mark that.

16 (WHEREUPON, Court's Exhibit No. 4 is marked for
17 identification.)

18 **THE COURT:** The State ready to proceed?

19 **MS. SHIPLEY:** Your Honor, I believe Ms. Everhart
20 had an issue with the transcript of the phone call
21 I'm going to introduce where the defendant places a
22 phone call to the mother of his child, Lashonda
23 Downing. And I have gone over the conversation,
24 played it for the defense along with our transcript
25 of what it says because some parts are inaudible,

1 just hard to make out, and she wanted to bring that
2 to your attention.

3 **THE COURT:** Ms. Everhart.

4 **MS. EVERHART:** Thank you, Your Honor. Your
5 Honor, we wanted to make an objection to this for the
6 record before the jury came in here. Your Honor, we
7 would make an objection based on Rule 402 that this
8 would not be relevant to go to whether or not Mr.
9 Sanders was involved with the murder.

10 Your Honor, if the Court were to deem that it
11 were relevant, we would argue 403, that it would be
12 prejudicial. This phone call obviously took place
13 while he was incarcerated and it would be very
14 apparent that this was during a pretrial
15 incarceration. Also there is some colorful language
16 used in the phone call, and the jury might be
17 prejudiced against our client based on his use of the
18 language.

19 **THE COURT:** All right. Let me read it. And
20 this is a call from the Detention Center post arrest
21 on this charge?

22 **MR. O'NEIL:** Yes, Your Honor.

23 **MS. SHIPLEY:** Yes, sir.

24 **THE COURT:** I've got it. Somebody put it up
25 here. All right. Ms. Shipley, what's the relevance?

1 **MS. SHIPLEY:** The relevance is this, Your Honor.
2 When the defendant -- and this will come in later in
3 the trial -- when the defendant is arrested on June
4 the 12th, 2007 -- and I believe you recall this from
5 the pre-trial hearing, Jackson vs. Denno -- he tells
6 investigators that he was at Lashonda Downing's
7 house. He used her as an alibi and provided them
8 with her name and number.

9 **THE COURT:** Okay.

10 **MS. SHIPLEY:** At that point, Your Honor, this is
11 extremely relevant and probative to show that he is
12 calling his own alibi witness instructing her not to
13 talk to the police. And that goes to his guilt, Your
14 Honor. It is extremely probative versus prejudicial.
15 It is extremely relevant, showing his guilty state of
16 mind.

17 Any comments made by the parties in this phone
18 conversation using vulgarity, one is used by
19 Ms. Downing, and the other one is a GD term by the
20 defendant. They had no objection when a witness of
21 ours said that the defendant said the F word.

22 Also he is telling her that he didn't give the
23 police her phone number. And that is a lie. The
24 police got the phone number from Mr. Sanders. And so
25 I just -- that is extremely relevant to this case,

1 Your Honor.

2 **THE COURT:** Well, let's talk about that first.
3 Relevant evidence means evidence having tendency to
4 make the existence of any fact that is of consequence
5 to the action more probable or less probable than it
6 would have been without the evidence. Now, what's
7 that got to do with the murder case?

8 **MS. SHIPLEY:** Your Honor, when he is arrested
9 for murdering Israel Cannon --

10 **THE COURT:** I know that.

11 **MS. SHIPLEY:** -- he tells the police he was gone
12 from the scene and that he was at his baby's mama's
13 house, Lashonda Downing, when the murder took place
14 on Westbridge Road. And at that point, Your Honor,
15 she is interviewed. She's reluctant to cooperate
16 with the police.

17 **THE COURT:** Wait a minute. When does he say he
18 was at her house?

19 **MS. SHIPLEY:** After the shots were fired from
20 the H&J club he said he goes to her house and that
21 he's with her. He gets a ride with Twan.

22 **THE COURT:** That's not in the record, is it?

23 **MS. SHIPLEY:** I'm sorry?

24 **THE COURT:** That's not in the record at this
25 point, is it?

1 **MS. SHIPLEY:** Yes, it is. It was in the Jackson
2 -- well, in the Jackson v. Denno; yes, sir. But we
3 do intend to call Investigator McRae. Typically,
4 Your Honor, the State calls the lead investigator --

5 **THE COURT:** I know that.

6 **MS. SHIPLEY:** -- towards the end of the case.
7 And it's going to come in. Out of scheduling
8 matters, we had to call Ms. Downing out of order. It
9 would be no different from establishing or laying the
10 foundation --

11 **THE COURT:** You say then that it goes to the
12 alibi issue. Is that correct?

13 **MS. SHIPLEY:** Correct.

14 **THE COURT:** Now, if that is the case, then it
15 becomes probative as well as relevant, if that's what
16 this is intended to show.

17 **MS. SHIPLEY:** Yes, sir. Eventually Investigator
18 McRae is going to testify that when he questions the
19 defendant after he is arrested for murdering Israel
20 Duane Cannon, he tells them he got a ride by a guy
21 named Twan and that Twan dropped him off at Lashonda
22 Downing's house after the shots were fired at the H&J
23 club.

24 **THE COURT:** So during --

25 **MS. SHIPLEY:** Yes, sir. During the shooting at

1 Westbridge Road, Your Honor, he was at Lashonda
2 Downing's house.

3 **THE COURT:** All right. I understand.

4 **MS. SHIPLEY:** Yes, sir.

5 **MS. EVERHART:** Your Honor, we would also add
6 this is burden shifting. There is absolutely nothing
7 in the statement where he is saying don't tell them I
8 was involved with this murder. This is a woman who
9 is the mother of his child. He cares about her.
10 There could be any other number of reasons why he
11 does not want her to get caught up in this mess. And
12 for that reason, Your Honor --

13 **THE COURT:** Well, he doesn't say that.

14 **MS. EVERHART:** No, he doesn't say that.

15 **THE COURT:** She says that. "I don't want to get
16 caught up in this mess." Right?

17 **MS. EVERHART:** Yes. She says that, Your Honor.
18 But there is nothing in regard to his intent in this
19 document.

20 **THE COURT:** Say that again?

21 **MS. EVERHART:** In regard to his intent, his
22 reasoning behind not wanting her to get involved with
23 this, to speak to the police.

24 **THE COURT:** Well, he's already involved. If
25 what the solicitor says, he's already involved her by

1 saying that's his alibi. Is that --

2 **MS. EVERHART:** My understanding is --

3 **THE COURT:** You know, remember, I haven't been
4 living with this case as long as you have. But from
5 a factual standpoint, if he tells police that he was
6 not there and he was at this lady's house, then all
7 of a sudden he has involved her.

8 **MS. EVERHART:** My understanding is he tells the
9 police that he got a ride with someone and then
10 ultimately ended up at this lady's house. Since he
11 is saying he was not at the shooting, he would not
12 have known what time that shooting took place. I
13 don't know if he was in a car with Twan during this
14 time or if he was in this woman's house at that time.

15 **THE COURT:** -- Well, there is not much relevant
16 about it except when he says, "Don't talk to him,
17 period." And I assume that's referring to a law
18 enforcement officer.

19 **MS. SHIPLEY:** Yes, sir.

20 **THE COURT:** "Don't talk to him, period. Don't
21 talk to him. You heard me? You don't even have to
22 talk to them." If that's an attempt to cover up his
23 alibi or to reinforce his alibi --

24 **MR. O'NEIL:** Your Honor, I guess --

25 **THE COURT:** -- doesn't it become relevant?

1 **MR. O'NEIL:** -- our position at that point is
2 it's burden shifting. He doesn't have the burden to
3 put up his alibi witness. If they want this for the
4 inference that he's trying -- he named Lashonda as
5 his alibi witness and now he doesn't want his alibi
6 witness to testify, he doesn't have to have his alibi
7 witness to testify.

8 There is no responsibility on his part for his
9 alibi witness to come in because he doesn't have to
10 put any evidence in. If they want it for that
11 inference, that's burden shifting, Your Honor. That
12 makes it seem like he has some affirmative duty to
13 have his alibi witness come in here and testify,
14 which he doesn't.

15 **MS. SHIPLEY:** Your Honor, it shows that he's
16 lying to the police when he says that he's at
17 Lashonda Downing's house and gives them her name and
18 phone number. It shows that he is lying to them when
19 questioned about his whereabouts of the murder of
20 Israel Cannon.

21 **MS. EVERHART:** Your Honor.

22 **MS. SHIPLEY:** It's extremely probative to put
23 him at the scene.

24 **MR. O'NEIL:** This conversation doesn't show
25 that. This conversation just states that he's --

1 **THE COURT:** It doesn't put him at the scene.

2 **MS. SHIPLEY:** Well, it shows that he wasn't at
3 Lashonda Downing's house.

4 **MS. EVERHART:** No. The statement --

5 **MS. SHIPLEY:** And that's he telling her to not
6 talk to them now.

7 **THE COURT:** It doesn't say that either.

8 **MS. SHIPLEY:** Well, he's telling her not to talk
9 to them.

10 **THE COURT:** Right.

11 **MR. O'NEIL:** And that's his Constitutional right
12 to not put forth any evidence.

13 **THE COURT:** What's the motion? This is a Motion
14 in Limine?

15 **MR. O'NEIL:** --Yes, Your Honor.

16 **MS. EVERHART:** Yes, Your Honor.

17 **THE COURT:** When do you --

18 **MS. SHIPLEY:** This is my next witness, Your
19 Honor. She recognizes her own voice and the voice of
20 the defendant. She'll lay down the foundation.

21 **THE COURT:** Who is the next witness?

22 **MS. SHIPLEY:** Lashonda Downing, the woman who is
23 on this conversation, having the conversation with
24 him.

25 **THE COURT:** Why do you need a phone conversation

1 if you're going to call her as a witness?

2 **MS. SHIPLEY:** Because we have a recording of the
3 conversation that he placed to her from the jail
4 telling her not to talk to the police.

5 **THE COURT:** I didn't ask you if you had it. I
6 said why do you need it if you're going to call her
7 as a witness? As a live witness, she can testify.

8 **MS. SHIPLEY:** Because it corroborates her, Your
9 Honor.

10 **MR. O'NEIL:** I think the actual term is bolster.

11 **THE COURT:** Yeah.

12 **MS. SHIPLEY:** They're going to challenge her
13 credibility. At least we'll have it on tape that it
14 took place.

15 **THE COURT:** Well, let's see what happens. Let's
16 see what happens. You're going to call her as a
17 witness, let her to testify to this, and then play
18 the tape to bolster her testimony.

19 **MS. SHIPLEY:** No, sir. I wasn't going to have
20 her testify about the conversation. I was going to
21 play the conversation and ask her if that's the
22 conversation.

23 **THE COURT:** Why can't you ask her what he told
24 her?

25 **MS. SHIPLEY:** Because, Your Honor, any time

1 there is a witness -- for instance, let's think of
2 the tape as a photograph. If it corroborates the
3 witness, it's admissible if it's probative. And it's
4 clearly probative. And it outweighs the prejudicial
5 effect. He's not saying he killed anybody in this
6 conversation. How is this prejudicial to this
7 defendant?

8 **THE COURT:** "Did he call you and tell you not to
9 talk to him?" She says, "Yes."

10 **MS. SHIPLEY:** And then we would like play the
11 tape to corroborate that. Otherwise, they're going
12 to go --

13 **THE COURT:** That's a prior consistent statement.

14 **MS. SHIPLEY:** Yes.

15 **THE COURT:** That is a prior consistent statement
16 that has not -- I mean, it has to meet certain
17 requirements before -- you can't play -- offer prior
18 consistent statements to bolster a witness's
19 testimony. You can't do that. You go look at 801.

20 **MS. SHIPLEY:** What about corroboration, Your
21 Honor?

22 **THE COURT:** What about corroboration?

23 **MS. SHIPLEY:** It's corroborates this witness.
24 We're to trying to bolster her. We're just trying to
25 show that --

1 **THE COURT:** It's the same thing. It's the same
2 thing. You can only use a prior consistent statement
3 if it's offered to rebut an express or implied charge
4 against the declarant of some sort of recent
5 fabrication of an improper influence or motive. It's
6 not an identification issue and it's not a criminal
7 sexual conduct case. That's the only time you can
8 use a prior consistent statement of a witness because
9 it becomes bolstering.

10 You ready for the jury? I'm going to grant your
11 Motion in Limine.

12 **MS. EVERHART:** Thank you, Your Honor.

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

14 **MS. SHIPLEY:** Yes, sir. We're ready for the
15 jury.

16 **THE COURT:** Bring the jury.

17 (Jury in at 10:13 a.m.)

18 **THE BAILIFF:** The jury is seated, Your Honor.

19 **THE COURT:** Well, we had an accident on the back
20 row. What you got there, Mr. Crumpton?

21 **THE BAILIFF:** Their cellphones I'm having to
22 keep up with.

23 **THE COURT:** Cellphones. I hope they don't go
24 off all at one time.

25 **MR. O'NEIL:** Your Honor, may we approach?

1 **THE COURT:** Sure.

2 (Whereupon, a bench conference is had)

3 **THE COURT:** Good morning, ladies and gentlemen.
4 I apologize for the delay, but we have been in here
5 since about 9:00 trying to straighten out some things
6 so the trial will go more smoothly. I hope you
7 understand that that's sometimes the source of the
8 delay.

9 Everybody comfortable? People are putting on
10 jackets like it's wintertime. But, see, it sort of
11 doesn't get to me because I've got this wool dress on
12 and I get overheated sometimes. But anyway, we're
13 ready to continue with the trial. Solicitor, call
14 your next witness.

15 **MS. SHIPLEY:** Your Honor, at this time the State
16 calls Lashonda Downing.

17 LASHONDA DOWNING, after being duly sworn,
18 testifies as follows:

19 **THE CLERK:** Please have a seat. State your full
20 name for the record.

21 DIRECT EXAMINATION

22 **BY MS. SHIPLEY**

23 **Q** Ms. Downing, can you tell the jury where you are
24 from?

25 **A** I'm from the Winslow Subdivision.

1 **COURT REPORTER:** I can't hear her. What did you
2 say, ma'am?

3 **Q** Let's put that up to your mouth. Okay?

4 **A** From Winslow.

5 **Q** Winslow Subdivision? Is that in Columbia?

6 **A** Yes.

7 **Q** How do you get there? What's a big road near your
8 subdivision?

9 **A** Clemson Road.

10 **Q** Clemson Road?

11 **A** Mm-hmm (affirmative).

12 **Q** And where exactly do you live in the Winslow
13 Subdivision? What's your address?

14 **A** ■ Green Rose Road.

15 **Q** Okay. And how did you get that house?

16 **A** Through Housing.

17 **Q** Housing Authority?

18 **A** Mm-hmm (affirmative).

19 **Q** And they helped you get a house?

20 **A** Yes.

21 **Q** Who lives with you?

22 **A** Me and my three kids.

23 **Q** How old are your children?

24 **A** Two, five and twelve.

25 **Q** Two, five and twelve? And do you know the defendant,

1 Louis Sanders?

2 A Yes.

3 Q And how do you know him?

4 A He is the father of my two-year-old.

5 Q The two-year-old? And is her name Ariana?

6 A Yes.

7 Q Sanders?

8 A Yes.

9 Q Can you tell the jury a little bit about where you
10 work?

11 A I work at The Sunshine House with kids.

12 Q And is that a daycare center?

13 A Yes.

14 Q How long have you lived at the house in Winslow
15 Subdivision on Green Rose Road?

16 A A year and a couple of months.

17 Q Were you living there back in June of 2007?

18 A Yes.

19 Q And were you a new resident there?

20 A Yeah.

21 Q Can you tell the jury if you remember anyone coming
22 to your house in the early morning hours of June 3rd,
23 2007?

24 A Yes.

25 Q And approximately what time was it?

1 **A** I don't know what time it was.

2 **Q** Was it light or dark out?

3 **A** I don't know.

4 **Q** You don't remember?

5 **A** No.

6 **Q** Who showed up at your house?

7 **A** Louis and Garry.

8 **Q** Garry? And how do you know Garry?

9 **A** He is friends. He has been around when I've been
10 with Louis before.

11 **Q** And so you know Garry?

12 **A** Yes.

13 **Q** Do you know if Garry has ever been to your house
14 before?

15 **A** Not this house.

16 **Q** Not this one?

17 **A** No.

18 **Q** When they showed up, tell the jury what you were
19 doing when they showed up?

20 **A** I was asleep and I heard somebody bamming on the door
21 and the doorbell ringing. I wasn't going to move but
22 I -- me my kids were asleep and I didn't want them to
23 wake up. So I went to the door.

24 **Q** And when you got to the door who did you see?

25 **A** Louis and Garry.

- 1 Q And what happened when you opened the door?
- 2 A We got into an argument because they were making --
- 3 come to my house ringing the doorbell and stuff and
- 4 my kids were asleep.
- 5 Q And so were you mad at them for coming so late?
- 6 A Yes.
- 7 Q And what happened next?
- 8 A We got in an argument.
- 9 Q And who is "we"? Who are you talking about when you
- 10 say "we got in an argument"?
- 11 A Me and Louis got in an argument. Then he pulled a
- 12 gun on me.
- 13 Q And do you remember where in the house you were when
- 14 he pulled a gun at you?
- 15 A I was in my bathroom.
- 16 Q In your bathroom. Do you know where Garry was at
- 17 that time?
- 18 A He was around there laying on our floor.
- 19 Q Did he do anything, or could he see that going on?
- 20 A He couldn't see but he heard me.
- 21 Q He heard you. What did you say when the gun was
- 22 pulled out on you?
- 23 A I don't know.
- 24 Q You don't remember?
- 25 A (Shakes head negatively).

1 Q Okay. What happened? Did the children -- where were
2 the children at this time?

3 A They were asleep but they had wakened up I guess
4 because they heard me screaming. They had woke up.

5 Q Okay. Did they come to you, or did you go to them?

6 A They came. They met me outside of the bathroom.

7 Q They came to you. And did they see Mr. Sanders with
8 a gun?

9 A Yes.

10 Q And what did they do when they saw him with the gun?

11 A They started crying.

12 Q Were you able to diffuse the situation, Ms. Downing?

13 A Yes.

14 Q And did you have an opportunity to place a phone
15 call?

16 A Yes. I called my mom.

17 Q And what's your mom's name?

18 A Maria.

19 Q And what's her last name?

20 A Jackson.

21 Q Okay. When you called Ms. Jackson, your mom, why did
22 you call her?

23 A Because I thought he was going to hurt me.

24 Q Can you describe how his demeanor was like?

25 A He was -- he was out of it. He wasn't himself.

1 Q Okay. And at that point when you called your mom,
2 did she come over?

3 A Yes.

4 Q And how long do you think it took her to get there?

5 A Not long.

6 Q Does she live very far away?

7 A Maybe about 15, 20 minutes away.

8 Q When she showed up, can you tell the jury what
9 happened then?

10 A At first he didn't want me to open the door. And
11 eventually I told him if he wanted me I would stay
12 but just let my kids go. And so eventually he let me
13 open the door. And then my mom tried to get them to
14 leave and she said if they needed a ride she could
15 take them home or wherever they wanted to go. And so
16 they didn't want to leave. And eventually he went in
17 the bathroom and we left and we went to the pay phone
18 to call his mom and they came up.

19 Q Okay. Do you remember whether or not the children
20 told your mother that they had seen him with a gun?

21 A They told her that when we not in the car.

22 MS. EVERHART: Objection, Your Honor.

23 A That he had a gun.

24 THE COURT: Ma'am.

25 MS. EVERHART: I said objection. It's leading.

1 **THE COURT:** Trying to get through it.

2 **Q** I'll rephrase it, Your Honor. What, if anything, did
3 your children report to your mother about what Mr.
4 Sanders had in his possession?

5 **A** They told her -- they told my mom he had a gun.

6 **Q** And what was her demeanor like? Can you describe
7 what was going on with your children?

8 **A** They were still upset.

9 **Q** Okay. When you left with your mom, do you remember
10 if Mr. Sanders followed you out the door to the car?

11 **A** Yeah. He ran out the door. Him and Garry ran out
12 the door.

13 **Q** Were you and your mom able to get away?

14 **A** Yes.

15 **Q** And where did you drive to?

16 **A** We went to the Circle K.

17 **Q** Do you remember which Circle K you went to?

18 **A** Clemson and Hard Scrabble.

19 **Q** Clemson and Hard Scrabble?

20 **A** (Nods head affirmatively).

21 **Q** Why did you go there?

22 **A** Because his mom getting him out of my house.

23 **Q** So did you call his mom? Who called Mr. Sanders'
24 mom?

25 **A** I don't remember. Me or my mom. I don't remember.

1 Q Okay. And did she agree to come get him?

2 A Not at first.

3 Q What did you have to tell her in order to get her to
4 come get him?

5 A My mom had -- my mom had had -- I was talking to her
6 and then my mom got the phone and they were arguing
7 or whatever. And then she told her he had a gun and
8 she needed to come get him.

9 MS. EVERHART: Objection. Hearsay.

10 Q Was your mother upset at this time?

11 A Yes.

12 MS. SHIPLEY: Excited utterance.

13 THE COURT: All right. Go ahead.

14 Q During this time are you and your mother both upset?

15 A Yes.

16 Q And after your mom tells his mother that he has a
17 gun, what does his mother agree to do?

18 A She comes and gets him.

19 Q Did you ever go back to your house that morning?

20 A No.

21 Q Do you remember if it was nighttime or dark or
22 daytime when you were on that cellphone?

23 A It was daytime.

24 Q Where did you go from there?

25 A I went to my mom's house.

1 Q And how long did you stay at your mom's house?

2 A I stayed there for about two weeks.

3 Q Two weeks?

4 A (Nods head affirmatively).

5 Q Did you stay there until Mr. Sanders got arrested?

6 A No. I didn't know where he was.

7 Q Okay. At any time did you have a phone number of --
8 was your number back in June of 2007 -- beg the
9 Court's indulgence -- [REDACTED]

10 A Yes.

11 Q Was that your phone number back then?

12 A Yes.

13 Q That's no longer your phone number now though, right?

14 A Correct.

15 Q When you finally decided it was -- when you went home
16 and you decided to return to your home, did you do
17 anything to make sure, to clear the house for your
18 children?

19 A Yes. I wanted to make sure the gun wasn't in my
20 house.

21 Q And where did you look to make sure that gun wasn't
22 in your house?

23 A Everywhere I could think of.

24 Q Like where?

25 A My attic and corners in the bathroom, indoor

1 appliances.

2 Q Could you find it anywhere?

3 A No.

4 Q Why were you trying to make sure it wasn't in your
5 house?

6 A I didn't want to be responsible for it being there.

7 Q Okay. And again, what age are your children?

8 A Two, five and twelve.

9 Q Okay. Were you concerned that they might find it?

10 A No. I just didn't want it there.

11 Q Okay. When Mr. Sanders was trying to talk to you at
12 your house, did he ever mention the word "alibi" to
13 you?

14 A No.

15 Q Did he ever try to talk to you outside of the
16 presence of Garry Green?

17 A He tried to talk to me a couple of times. I was just
18 trying to get away from him.

19 Q So you don't know what he was trying to talk to you
20 about?

21 A No.

22 Q Do you remember whether or not you were at home and
23 received a phone call from Mr. Sanders?

24 A Yeah.

25 Q And what did Mr. Sanders ask you on that, in that

1 conversation?

2 A I don't know what he asked, but I know I asked him
3 why did he give those people my information and my
4 name.

5 Q And is that because you didn't want to get involved?

6 A Yes.

7 Q And do you remember what he responded to you?

8 A He said don't talk to them.

9 Q He told you not to talk to them?

10 A Mm-hmm (affirmative).

11 Q Do you know who he was referring to?

12 A I guess whoever I was talking about.

13 Q Was that -- now, when the people called you, you said
14 earlier in your testimony you asked him why he gave
15 people my name and number. What people?

16 A I meant the investigator --

17 Q Okay.

18 A -- that called me.

19 Q So the police. The police? The investigators?

20 A That one guy had called.

21 Q Okay. And what did he tell you to do if the police
22 called you?

23 A He said not to talk to them.

24 Q Is that the last time -- on June 3rd, 2007, is that
25 the last time you saw Mr. Sanders?

1 **A** Yes.

2 **Q** Do you see him in the courtroom today?

3 **A** Yes.

4 **Q** And, Ms. Downing, I'm going to ask you to please
5 identify him for this jury?

6 **A** He is over there with the blue shirt on.

7 **MS. SHIPLEY:** Your Honor, let the record reflect
8 that she's identified Mr. Sanders.

9 **THE COURT:** The record will so reflect the
10 witness identified the defendant.

11 **MS. SHIPLEY:** No further questions.

12 **THE COURT:** Cross examination.

13 **MS. EVERHART:** Thank you, Your Honor.

14 CROSS EXAMINATION

15 **BY MS. EVERHART**

16 **Q** Hi, Mrs. Downing.

17 **A** Hello.

18 **Q** I'm just going to ask you a few questions. Okay?
19 You've testified today that on the night Louis came
20 over to your house with Mr. Green that he had a gun
21 with him?

22 **A** Yeah.

23 **Q** And you have three kids I believe?

24 **A** Yes.

25 **Q** One of them is two years old?

- 1 **A** Yes.
- 2 **Q** And that would be Mr. Sanders' child?
- 3 **A** Yes.
- 4 **Q** And you said he pulled the gun out around the
5 children?
- 6 **A** Yes. .
- 7 **Q** Did you call the police that night and report that?
- 8 **A** No.
- 9 **Q** I believe you did talk to an investigator on the 13th
10 of June. Is that correct?
- 11 **A** I don't remember. I don't know.
- 12 **Q** But you did talk to an investigator?
- 13 **A** I did talk to somebody briefly.
- 14 **Q** And did you tell that investigator Mr. Sanders had a
15 gun that night?
- 16 **A** I don't remember what I told him.
- 17 **Q** And Mr. Sanders was arrested in the middle of June,
18 correct?
- 19 **A** I guess. I don't know.
- 20 **Q** At any time since he has been incarcerated, did you
21 go file a police report?
- 22 **A** No.
- 23 **Q** Beg the Court's indulgence one moment. That night
24 when he and Garry came over to your house, did you
25 see if they came in a car?

1 **A** No.

2 **Q** So you didn't see if anyone dropped them off?

3 **A** No.

4 **Q** You didn't see if they even came together?

5 **A** I don't know. I just know they came up. They were
6 at my front door. I didn't look out the door to see
7 who else was out there because I was mad and fussing.
8 So I just saw them two at my door.

9 **Q** And what did Mr. Sanders' hair look like that
10 evening?

11 **A** I don't know.

12 **MS. EVERHART:** No further questions, for this
13 witness.

14 **THE COURT:** Anything further?

15 **MS. SHIPLEY:** No, Your Honor. Please excuse the
16 witness.

17 **THE COURT:** You may come down, ma'am. Thank you
18 very much for coming. You're free to go.

19 **MR. O'NEIL:** Your Honor, may we approach?

20 **THE COURT:** Certainly. The witness be excused.

21 **MR. O'NEIL:** Sure.

22 **MS. EVERHART:** Yes, Your Honor.

23 **THE COURT:** Without objection.

24 (Whereupon, a bench conference is had)

25 **MS. SHIPLEY:** The State calls Maria Jackson.

1 MARIA JACKSON, after being duly sworn, testifies
2 as follows:

3 **THE CLERK:** Please have a seat. State your full
4 name for the record.

5 **MR. O'NEIL:** Your Honor, could she have a moment
6 to get something?

7 **THE COURT:** The solicitor's witness?

8 **WITNESS:** Maria Jackson.

9 DIRECT EXAMINATION

10 **BY MS. SHIPLEY**

11 **Q** Ms. Jackson, do you need some water?

12 **THE COURT:** There's water right behind her.

13 **Q** Ms. Jackson, are you related to Lashonda Downing?

14 **A** Yes, ma'am.

15 **Q** And how are you related to her?

16 **A** I'm her mother.

17 **Q** Okay. And does she have children?

18 **A** Yes, ma'am.

19 **Q** And so you're a grandmother?

20 **A** Yes, ma'am.

21 **Q** I'm going to bring your attention to the morning,
22 early hours of June 3rd, 2007. Okay?

23 **A** Yes, ma'am.

24 **Q** Tell this jury what you were doing in the early
25 morning hours?

1 **A** I received a phone call from my daughter she telling
2 me to come.

3 **Q** Do you remember what time it was?

4 **A** No.

5 **Q** Do you remember what time the phone call was?

6 **A** It was still dark.

7 **Q** Still dark?

8 **A** So I don't remember exactly what time.

9 **Q** Okay. What was her demeanor like on the other end of
10 that phone call?

11 **A** She was crying and she was upset.

12 **Q** Okay. And what did she tell you?

13 **A** She told me --

14 **MR. O'NEIL:** Your Honor, --

15 **A** -- to come over there.

16 **MR. O'NEIL:** -- bolstering.

17 **THE COURT:** What?

18 **MR. O'NEIL:** Bolstering.

19 **MS. SHIPLEY:** Excited utterance, Your Honor.

20 **THE COURT:** That's not the objection. You need
21 to object on hearsay. I'm going to overrule it. Go
22 ahead.

23 **Q** Please continue, ma'am.

24 **A** She told me to come over there because Louis was over
25 there acting crazy. And I was like, "What?" Because

1 at first I thought they was over there just arguing
2 and fighting. And she said, "No, mom. Come on over
3 here." So I went over there. And when I got over
4 there --

5 Q Did you have to bang on the door to get in?

6 A It took me about ten minutes before they even let me
7 in. I stood there and I banged and I banged and I
8 yelled and I yelled. They wouldn't open the door.
9 So after, I got scared then because I didn't know
10 what was going on inside the house. And when I got
11 in there, Louis was pulling Lashonda back and forth,
12 back and forth. And this other guy named Garry, he
13 was just standing there. My grandkids was up there
14 screaming and yelling and I'm trying to calm them
15 down.

16 So when I finally got them calmed down I told
17 Louis, I said, "Louis, I don't know what's going on
18 but you need to leave." He never would answer me.
19 And I told him, I said, "If you all need to go
20 anywhere or whatever, I'll take you wherever you've
21 got to go." They still wouldn't answer me. So I --
22 so then by that time he went down the hall, he gave
23 me a cold look. And I told my kids --

24 Q Do you know where --

25 A -- my grandson, and I told them, "let's go." So we

1 finally got out of the house. Oh. And when we got
2 in the car, my kids all said he had a gun. So I
3 backed up out of the driveway and I just took off.
4 So we went to call Louis' mama. She wanted to argue
5 with me on the phone. And I told her, "Look, your
6 son has a gun. He had my daughter in the house and
7 you need to come get him." So we hung up the phone,
8 and that was it. And I just took her to my house.

9 Q How long did she stay with you at your house?

10 A She stayed with me for about three weeks.

11 Q Did you ever return to the house?

12 A Me and my husband, we went back and we checked on the
13 house. And when we got back that next day we seen
14 the door was kicked in. And I don't know how the
15 door was gotten kicked in.

16 Q So you don't know who did that?

17 A No, ma'am.

18 Q Okay. When you were pulling out in the car and your
19 children and your daughter told you that he had a
20 gun, do you remember if he followed you guys out of
21 the house?

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

23 Q Okay. Did you ever see the gun?

24 A No, ma'am.

25 Q Were your grandchildren upset?

1 **A** Yeah. They were pretty upset. And they kept talking
2 about that gun, talking about that gun. And I was
3 trying to calm them down after we got to my house.
4 And that's all they talked about for about a week.
5 They kept talking about the gun. And I was just
6 trying to say just you all just get it out your mind,
7 it's over with now. But they wouldn't let it go.

8 **Q** You testified earlier that when he was walking down
9 the hallway he gave you a cold look. Do you know
10 what direction he was heading to?

11 **A** He was going down the hall. We were standing in the
12 living room and he went just -- her living room is
13 spaced out and then there's a hall to go down towards
14 her room and the kids' room, the bathroom. So I
15 don't know which way he went when he went down that
16 hall.

17 **Q** Okay. And how did you react when you saw him look at
18 you that way?

19 **A** That's when I told Shonda and them "let's go."

20 **Q** Ms. Jackson, do you see the father of your
21 grandchild, Ariana Sanders, in this courtroom today?

22 **A** Yes, ma'am.

23 **Q** Could you please identify him for this jury?

24 **A** Right there in the blue shirt.

25 **MS. SHIPLEY:** Your Honor, let the record reflect

1 she's identified Mr. Sanders.

2 **THE COURT:** Let the record reflect the witness
3 identified him.

4 **MS. SHIPLEY:** Your Honor, at this time the State
5 would seek judicial notice of the time of sunrise on
6 June the 3rd, 2007.

7 **THE COURT:** Let's allow cross examination first.

8 **MS. SHIPLEY:** Yes, sir. Cross examination.

9 **MR. O'NEIL:** Yes, Your Honor.

10 CROSS EXAMINATION

11 **BY MR. O'NEIL**

12 **Q** Good morning, Ms. Jackson.

13 **A** Good morning.

14 **Q** You need some water? You got you some water?

15 **A** Yes, sir.

16 **Q** Take your time. Get yourself together. Okay? Just
17 let me know when you're ready.

18 (Pause)

19 **A** Okay. Oh, Lord. Okay.

20 **Q** Ms. Jackson, you weren't at your daughter's house
21 when Louis got there, were you?

22 **A** No, sir.

23 **Q** And you didn't see how Louis got there, did you?

24 **A** No. No, sir.

25 **Q** And I think you said you called Louis' mother after

1 you left the house?

2 **A** Yes, sir.

3 **Q** But you didn't call law enforcement. You called his
4 mother?

5 **A** No. I called his mother.

6 **Q** How was Garry acting that morning?

7 **A** He was just standing there. He wouldn't budge. He
8 wouldn't try to help my daughter or anything.

9 **Q** Like you say, you offered to take Louis where he
10 needed to go?

11 **A** Yeah. Because I was trying to get him out that
12 house.

13 **Q** And you haven't had any contact with Louis since
14 then, have you?

15 **A** No, sir.

16 **MR. O'NEIL:** No further questions, Your Honor.

17 **THE COURT:** All right. Thank you very much.

18 All right, ma'am. You may come down. You're free to
19 go. Thank you very much. Next witness.

20 **MS. SHIPLEY:** Your Honor, at this time, could we
21 do the judicial notice of the time of sunrise?

22 **THE COURT:** Stipulate?

23 **MS. EVERHART:** Yes, Your Honor.

24 **THE COURT:** What's the stipulation?

25 **MS. SHIPLEY:** Okay. State's Exhibit 58, Your

1 Honor.

2 **THE COURT:** Just publish it.

3 (WHEREUPON, State's Exhibit No. 58 is admitted
4 into evidence.)

5 **MS. SHIPLEY:** Thank you, Your Honor. Sunday,
6 June the 3rd, 2007, according to the Department of
7 Natural Resources, sunrise was at 6:13 a.m.

8 **THE COURT:** Ladies and gentlemen, as I told you
9 at the beginning, that's evidence in this case. It's
10 a stipulation. That's the time of sunrise on that
11 particular day. Next witness.

12 **MS. MCDUFFIE:** The State calls Michelle Jackson.
13 MICHELLE JACKSON, after being duly sworn,
14 testifies as follows:

15 **THE CLERK:** Please have a seat. State your full
16 name for the record.

17 **WITNESS:** My name is Michelle Jackson.

18 DIRECT EXAMINATION

19 **BY MS. MCDUFFIE**

20 **Q** Good morning, Ms. Jackson.

21 **A** Good morning.

22 **Q** Ms. Jackson, was your name at one time Michelle
23 Wilson?

24 **A** No.

25 **Q** You've always been Michelle Jackson?

- 1 **A** Mm-hmm (affirmative).
- 2 **Q** Where do you currently reside?
- 3 **A** [REDACTED] William Harden Road.
- 4 **Q** How long have you lived at [REDACTED] William Harden Road?
- 5 **A** About eight years.
- 6 **Q** Who lives nextdoor to you at [REDACTED] William Harden Road?
- 7 **A** Garry Green.
- 8 **Q** And who else lives in that house with Garry Green?
- 9 **A** His mother and stepfather.
- 10 **Q** And how long have you known Garry Green?
- 11 **A** About 23 years.
- 12 **Q** And do you remember how you first met him?
- 13 **A** Well, my mother lives nextdoor to the house on the
- 14 other side. So when we first moved there he came
- 15 over and I was a little girl. But we became friends.
- 16 **Q** And do you also know Louis Sanders?
- 17 **A** I do.
- 18 **Q** And how do you know Louis Sanders?
- 19 **A** Just from coming around.
- 20 **Q** Louis Sanders would come to your house?
- 21 **A** See Garry and it all started there.
- 22 **Q** And how often would Mr. Sanders come to your home?
- 23 **A** Every now and then.
- 24 **Q** Would it usually be with Garry or would he come by
- 25 himself?

1 **A** Sometimes to see Garry. And we became good friends,
2 so he would just come by.

3 **Q** I want to bring your attention to the early morning
4 of June 3rd, 2007. Do you remember that day?

5 **A** I do.

6 **Q** Did the defendant and Garry come to your home?

7 **A** They did.

8 **Q** Do you remember what time they came to your home that
9 morning?

10 **A** I would say close to 7:00 in the morning.

11 **Q** So pretty early in the morning?

12 **A** Mm-hmm (affirmative).

13 **Q** Do you remember what you were doing?

14 **A** I was asleep.

15 **Q** And how did they get in your house?

16 **A** I opened the door and let them in.

17 **Q** You let him in?

18 **A** Mm-hmm (affirmative).

19 **Q** Do you remember how long they stayed at your house
20 that morning?

21 **A** Pretty much all day. Well, once I opened the door
22 for them, I got back in the bed. And I stayed up
23 kind of late that night, so I was kind of sluggish
24 that day. So I was pretty much in the bed all day.
25 But every time I got up to use the bathroom or

1 something, they were still there.

2 Q Do you remember the police showing up at [REDACTED] William
3 Harden Road at some point that day?

4 A When Garry's mother came and got him from my house,
5 there was just one Investigator out there.

6 Q And then did you see the police come and Garry get in
7 the car with the police?

8 A I thought it was the investigator.

9 Q It was an investigator that he left with. And was
10 Louis at your house when Garry left with the
11 investigator?

12 A Mm-hmm (affirmative).

13 Q Were you curious about what was going on?

14 A I was.

15 Q Trying to figure it out?

16 A Mm-hmm (affirmative).

17 Q Do you remember if people were looking through the
18 door or window trying to figure out what was going
19 on?

20 A No.

21 Q You don't remember?

22 A No.

23 Q And how did Louis leave your house that day?

24 A I'm not sure. He just left. He just left.

25 Q Were the police still outside when he left?

1 **A** No.

2 **MS. MCDUFFIE:** Nothing further, Your Honor.

3 **THE COURT:** Cross examination.

4 **MS. EVERHART:** Thank you, Your Honor.

5 CROSS EXAMINATION

6 **BY MS. EVERHART**

7 **Q** Hi.

8 **A** Hello.

9 **Q** You said that they arrived around 7:00 in the
10 morning?

11 **A** Mm-hmm (affirmative).

12 **Q** You'd been sleeping?

13 **A** Mm-hmm (affirmative).

14 **Q** Did you spend any time talking with them?

15 **A** No. I was -- I just left them up. I opened the door
16 and got back in the bed. And that was it.

17 **Q** You just went back to sleep and they just sort of
18 hung out?

19 **A** Mm-hmm (affirmative).

20 **Q** For a while?

21 **A** That was nothing out of the ordinary.

22 **Q** So they'd come over a good bit and hang out?

23 **A** Mm-hmm (affirmative).

24 **Q** And you felt comfortable letting them in and out?

25 **A** I did.

1 Q And I believe you said you weren't sure when Louis
2 Sanders left that day?

3 A I'm not.

4 Q Did you go back to bed or --

5 A No. I was nextdoor.

6 Q And did the police when they were over at the
7 nextdoor neighbor's house come to your door?

8 A No.

9 MS. EVERHART: Beg the Court's indulgence. No
10 further questions for this witness. Thank you.

11 THE COURT: Anything further?

12 MS. MCDUFFIE: Nothing further, Your Honor.

13 THE COURT: You may come down, ma'am. Thank you
14 very much for coming. Is this witness free he to go,
15 be excused?

16 MS. MCDUFFIE: Yes, Your Honor.

17 THE COURT: Without objection. Next witness.

18 MS. MCDUFFIE: The State calls Investigator Ray
19 Livingston.

20 RAY A. LIVINGSTON, after being duly sworn,
21 testifies as follows:

22 THE CLERK: Please have a seat. State your full
23 name for the record.

24 WITNESS: Ray A. Livingston.

25 DIRECT EXAMINATION

1 **BY MS. MCDUFFIE**

2 **Q** Good morning, Investigator Livingston.

3 **A** Good morning.

4 **Q** Investigator Livingston, where are you currently
5 employed?

6 **A** Richland County Sheriff's Department.

7 **Q** And what are your duties with the Richland County
8 Sheriff's Department?

9 **A** Crime scene investigator.

10 **Q** Please explain to the jury what a crime scene
11 investigator does?

12 **A** A crime scene investigator will go out and process
13 and collect evidence at a crime scene. That will be
14 photographing, measuring, taking crime scene
15 photographs, measuring the distance from evidence on
16 point, collecting that evidence and preserving that
17 evidence.

18 **Q** And what sort of training have you received in the
19 field of crime scene investigation?

20 **A** My training starts always at the South Carolina
21 Criminal Justice Academy dealing with crime scene
22 investigation, fingerprints, photographs. And I have
23 advanced training. I have been to the University of
24 Maryland in homicide investigation, University of
25 Maryland in robbery investigation, University of

1 Louisville dealing with their crime scene in homicide
2 investigations, as well as the University of Florida.
3 I'm a member of the I.A.I., International Association
4 of Identifications, as local and the national.

5 Q And how long have you been a crime scene
6 investigator?

7 A Since 2000.

8 Q And before that what did you do?

9 A I was a line officer. I was a deputy on the road.

10 Q Were you working on the early morning hours of June
11 3rd, 2007?

12 A Yes, ma'am.

13 Q And did you have the occasion to go to the 300 block
14 of Westbridge Road?

15 A Yes, ma'am.

16 Q And why were you called out there?

17 A The officers called me out, said they had a shooting
18 and they had a victim that was laying in the middle
19 of the road.

20 Q What time did you arrive on Westbridge Road?

21 A The time that I have is about 5:10 in the morning.

22 Q When you arrive at a crime scene, in an ideal world,
23 what's the first thing you like to do?

24 A The first thing I like to do is to meet with the
25 officer. Once I meet with the officer who was also

1- the point of contact officer, I meet with him, he
2 will relate to me what he's seen when he got on the
3 scene. I would observe the scene. I do what we call
4 a walk around. Before I do anything else I walk
5 around the crime scene there. I would walk around
6 the crime scene along with the officer and he will
7 point out certain items to me. Once that is done
8 then I go back, we do the paperwork and then first
9 thing start marking our evidence and then
10 photographing our evidence.

11 Q When you met with the officer, what he tells you, you
12 don't know whether that's true or not. That's just
13 what he's heard?

14 A Yes, ma'am.

15 Q And so you have no way of knowing whether or not what
16 he tells is you correct?

17 A No, ma'am.

18 Q You do an independent analysis and investigation to
19 check all the evidence you can?

20 A Yes, ma'am.

21 Q And when you arrived at Westbridge Road, what is the
22 first thing that you did in this case?

23 A The first thing I did was met with the officer. He
24 explained to me what he had. We walked around the
25 crime scene, and then I came back and I got the

1 paperwork straight. Then I started photographing.

2 Q And when you arrived at the crime scene, was it
3 secured?

4 A It was secured.

5 Q Please tell the jury what that means?

6 A It was secured with yellow tape. And a lot of you
7 see yellow tape on most of the CSI programs that you
8 watch on TV. We have the same thing to occur. It
9 means no one can enter into that crime scene area,
10 keep it sterile until I get there. And that is to
11 make sure that no evidence has been tampered with.

12 Q And the crime scene was secured when you arrived?

13 A Yes, ma'am.

14 Q And the first thing you all did was to photograph the
15 crime scene?

16 A Yes, ma'am.

17 Q Why do you photograph first?

18 A We photograph everything the way it is so nothing has
19 been disturbed so we can go back. We can go back and
20 place evidence where we need to place the evidence
21 markers.

22 Q So you place markers next to the evidence that you
23 find?

24 A Yes.

25 Q Why do you do that?

1 **A** To point out where the evidence is located and to
2 point out how many, how much evidence was there.

3 **Q** And so first you photograph the crime scene. Then
4 you place your evidence markers?

5 **A** Yes, ma'am.

6 **Q** Do you then photograph it with the evidence markers
7 in place?

8 **A** Yes, ma'am.

9 **Q** And why do you do that?

10 **A** Again, to make sure that we have an accurate account
11 of where the evidence was located.

12 **Q** I'm going to show you State's Exhibits 17, 18, 19,
13 20, 24, 25, 27, 28, 29, 30, 31, 33, 34, 35 and 36 and
14 ask you if you recognize those, and will they aid in
15 your testimony?

16 **A** Yes, ma'am.

17 **MS. MCDUFFIE:** Your Honor, at this time we would
18 move State's Exhibits 17, 18, 19, 20, 24, 25, 27, 28,
19 29, 30, 31, 33, 34, 35 and 36 into evidence.

20 **MR. O'NEIL:** Your Honor, State's 30 would be
21 subject to our previous objection.

22 **THE COURT:** All right. Just you and counsel
23 approach the bench.

24 (Whereupon, a bench conference is had)

25 **THE COURT:** All right. The photographs are

1 admissible subject to the defendant's objection as to
2 photograph No. 30.

3 **MS. MCDUFFIE:** Your Honor, the State would move
4 the other ones in evidence. We would move the rest
5 of the --

6 **THE COURT:** Yes. They're admissible without
7 objection.

8 (WHEREUPON, State's Exhibit No. 17 is admitted
9 into evidence.)

10 (WHEREUPON, State's Exhibit No. 18 is admitted
11 into evidence.)

12 (WHEREUPON, State's Exhibit No. 19 is admitted
13 into evidence.)

14 (WHEREUPON, State's Exhibit No. 20 is admitted
15 into evidence.)

16 (WHEREUPON, State's Exhibit No. 24 is admitted
17 into evidence.)

18 (WHEREUPON, State's Exhibit No. 25 is admitted
19 into evidence.)

20 (WHEREUPON, State's Exhibit No. 27 is admitted
21 into evidence.)

22 (WHEREUPON, State's Exhibit No. 28 is admitted
23 into evidence.)

24 (WHEREUPON, State's Exhibit No. 29 is admitted
25 into evidence.)

1 (WHEREUPON, State's Exhibit No. 30 is admitted
2 into evidence.)

3 (WHEREUPON, State's Exhibit No. 31 is admitted
4 into evidence.)

5 (WHEREUPON, State's Exhibit No. 34 is admitted
6 into evidence.)

7 (WHEREUPON, State's Exhibit No. 35 is admitted
8 into evidence.)

9 (WHEREUPON, State's Exhibit No. 36 is admitted
10 into evidence.)

11 Q Investigator Livingston, when you arrived on the
12 scene, were there any vehicles within the crime scene
13 tape?

14 A Yes, ma'am. There was a white Yukon I believe it
15 was.

16 Q A white Chevy Tahoe?

17 A Yes, ma'am.

18 Q And was the car running when you arrived?

19 A Yes, ma'am.

20 Q And what were the weather conditions that day?

21 A Raining. It was raining very hard that morning.

22 Q I show you State's Exhibits 27 and 28. If you could
23 hold those up and tell the jury what is pictured in
24 those. And call out the number as you describe it,
25 please.

1 **A** This is State's Exhibit 28. This is the back of the
2 vehicle as it was parked. State's Exhibit 27, that
3 is the side of the vehicle.

4 **THE COURT:** He can come down if he wants to.

5 **Q** And are the vehicle's headlights on or off in that
6 photo?

7 **A** I believe they're on in this photograph. The
8 photographs, both are on.

9 **Q** And what is the vehicle resting against?

10 **A** A fence. And I think the fence is resting against a
11 small tree.

12 **Q** Were there any other vehicles within the crime scene
13 area?

14 **A** No, ma'am.

15 **Q** What did you then do after you photographed the area?

16 **A** I photographed the area. Once I photographed it, I
17 went around and did a re-check and collected the
18 evidence, the evidence meaning the shell casings when
19 waiting for the coroners to get to the location
20 there.

21 **Q** So you first collected the shell casings while
22 waiting for the coroner?

23 **A** Yes, ma'am.

24 **Q** Was the victim's body at the scene when you arrived?

25 **A** Yes, ma'am.

1 Q Did you photograph the victim's body?

2 A Yes, ma'am.

3 Q Please describe for the jury what's in State's
4 Exhibit 30?

5 A That's the way we found the victim laying out in the
6 roadway.

7 Q And what does that appear that's coming out of the
8 victim's pocket?

9 A That's money.

10 Q And this is how you found the victim when you
11 arrived?

12 A Yes, ma'am.

13 Q So you looked for shell casings while you waited on
14 the Coroner's Office to come remove the body?

15 A Yes, ma'am.

16 Q And did you find shell casings at the scene?

17 A Yes, ma'am.

18 Q I'm going to show you one more picture, State's 31.
19 Can you tell the jury what's in this picture?

20 A That's a wound on the victim's leg.

21 Q Is there drops of blood there?

22 A With drops of blood; yes, ma'am.

23 Q And also a scar?

24 A Yes, ma'am.

25 Q And then you looked for shell casings while you

1 waited for the Coroner's office?

2 **A** Yes, ma'am.

3 **Q** How many shell casings did you find on Westbridge

4 Road?

5 **A** Three.

6 **Q** Can you check your notes and confirm that for me,

7 please? Just on Westbridge Road.

8 **A** One 9-millimeter shell casing in the roadway near the

9 victim, one 9-millimeter shell casing on roadway

10 again near the victim, and one casing in the parking

11 lot of H&J's.

12 **Q** So the third one was at the H&J pub?

13 **A** Yes, ma'am.

14 **Q** So you just found two at the scene?

15 **A** Mm-hmm (affirmative).

16 **Q** Can you tell the jury what's in State's Exhibit 29?

17 **A** That's one of the shell casings at the scene.

18 **Q** And you marked that with evidence marker 1?

19 **A** Yes, ma'am.

20 **Q** And State's 25?

21 **A** That's the second one.

22 **Q** And marked with a marker 2?

23 **A** Marker 2.

24 **Q** And tell the jury what's in State's 24?

25 **A** Those are the two markers as to where I found the

1 overall picture. One is here. The other one is down
2 in this location where I found the shell casings.

3 Q Did you also take measurements of where the body was
4 and the shell casings were?

5 A Yes, ma'am.

6 Q And did you make a diagram of those drawings?

7 A Yes, ma'am.

8 Q I'm going to show you State's Exhibit 57. Is this a
9 fair and accurate depiction?

10 A Yes, ma'am.

11 Q And would it aid in your testimony?

12 A Yes, ma'am.

13 Q And is this to scale?

14 A Oh, no, ma'am. It's not to scale.

15 Q Not at all to scale?

16 A No, ma'am.

17 Q Are the measurements on it correct though?

18 A Yes, ma'am.

19 MS. SHIPLEY: The State would offer Exhibit 57
20 into evidence.

21 MR. O'NEIL: It is stipulated it is not to
22 scale?

23 MS. MCDUFFIE: He said that already.

24 MR. O'NEIL: No objection.

25 THE COURT: Without objection.

1 (WHEREUPON, State's Exhibit No. 57 is admitted
2 into evidence.)

3 Q I hand you this pointer so you can refer to the
4 diagram. Show the jury where the shell casings you
5 found were located?

6 A The shell casing 1 was located here. Shell casing 1
7 is located here.

8 Q And what's the object next to the vehicle, the black
9 object?

10 A Right here?

11 Q Yes.

12 A That's a small tree.

13 Q What is the vehicle resting against?

14 A A fence which is right here.

15 Q And the house in front of that is what address?

16 A 300 Westbridge.

17 Q I'm going to show you what's been marked as State's
18 Exhibit 54. Do you recognize this?

19 A Yes, ma'am.

20 Q And is it in the same condition as when you collected
21 it?

22 A Yes, ma'am, it is.

23 MS. MCDUFFIE: Your Honor, the State would offer
24 54 I believe without --

25 THE COURT: Without objection.

1 (WHEREUPON, State's Exhibit No. 54 is admitted
2 into evidence.)

3 Q Investigator Livingston, can you tell the jury what
4 is contained in State's Exhibit 54?

5 A There are two 9-millimeter shell casings. What we do
6 is put them in the package and label them 1 and 2.
7 We seal the package there, then initial on the back
8 with evidence tape. If the package is ever opened,
9 it wouldn't be opened from this end; it would be
10 opened from the other end there, and it would be
11 examined.

12 Q And when after you collected those shell casings,
13 what did you then do with them?

14 A Put them in the evidence, placed them in evidence.
15 They're placed into evidence so the firearms
16 inspector can check them and then reinspect them.

17 Q Can you open that package and show the jury the shell
18 casings that you collected?

19 A Again, once they go in these two envelopes, they're
20 again sealed before they're put in the envelope.
21 That's the shell casing, both of them. Or just one.

22 Q That's fine. You can just put them back in the
23 package. And were you there when the Coroner's
24 Office removed the victim's body?

25 A Yes, ma'am.

1 Q And then did you have the opportunity to photograph
2 the scene after the victim's body was removed?

3 A Yes, ma'am.

4 Q I show you what's been marked as State's Exhibit 34.
5 Can you tell the jury what this is?

6 A That's again the location of the shell casings and
7 where the victim was laying at when we got there.

8 Q And what's on the ground there?

9 A Blood and my markers there.

10 Q And again in State's 33?

11 A The victim's vehicle, the marker and the blood where
12 the victim was laying.

13 Q I know it's a little grainy, but State's 36?

14 A The person, the house in the rear, the marker and
15 where the victim was laying.

16 Q Did you collect any other evidence at the scene that
17 day at Westbridge Road?

18 A Just those there, the shell casings.

19 Q And did you then have a chance to go to the H&J club
20 on Hard Scrabble Road?

21 A Yes, ma'am.

22 Q And why was that?

23 A Well, we heard there had been a shooting there also
24 earlier. We went up there. One of the investigators
25 was there and had already found a shell casing and a

1 projectile there.

2 Q So another investigator was already on the scene when
3 you arrived?

4 A Yes, ma'am.

5 Q Do you remember who that investigator was?

6 A Davis.

7 Q Investigator Morris Davis?

8 A Yes, ma'am.

9 Q And had he moved the shell casing, touched them or
10 tampered with them in any way before your arrival?

11 A No, ma'am.

12 Q And were you able to photograph those shell casings?

13 A Yes, ma'am.

14 Q I show you what's already been admitted as State's 17
15 and 18. Can you tell the jury what's in photo 18?

16 A That's the shell casing in front of H&J.

17 Q This is the third sidewalk you found?

18 A Yes, ma'am.

19 Q And this was in front of the phone booth at the H&J
20 club?

21 A Right.

22 Q I'm going to show you State's 17. Can you tell the
23 what's in State's 17?

24 A That was the projectile, the round that was found
25 next to it there.

1 Q So this is an unfired round?

2 A Unfired round. Yes, ma'am.

3 Q And in State's 19, can you tell the jury what's
4 depicted in that picture?

5 A The location of where both rounds were located and my
6 markers there.

7 Q So this would be number 3 that would be which round?

8 A That would be the shell casing.

9 Q And number 4 would be the --

10 A Unfired round.

11 Q And in State's Exhibit No. 20?

12 A Again, the overall picture of the phone booth there
13 and where our evidence was located.

14 Q Right near the phone booth?

15 A Yes, ma'am.

16 Q I show you what's been marked as State's Exhibit 55.
17 Do you recognize this, and is it in the same
18 condition as when you found them?

19 A Yes, ma'am.

20 MS. MCDUFFIE: Your Honor, the State would offer
21 Exhibit 55 into evidence.

22 MR. O'NEIL: No objection, Your Honor.

23 THE COURT: Without objection.

24 (WHEREUPON, State's Exhibit No. 55 is admitted
25 into evidence.)

1 Q Investigator Livingston, can you tell the jury what's
2 in State's Exhibit 55?

3 A One is the 9-millimeter shell casing. The other is
4 the 9-millimeter cartridge that was unfired.

5 Q The shell casing and the fired cartridge from the H&J
6 Club?

7 A Yes, ma'am.

8 Q What did you do with those after you collected them?

9 A Submitted them in evidence for firearms inspection.

10 Q Beg the Court's indulgence.

11 (WHEREUPON, State's Exhibit No. 59 is marked for
12 identification.)

13 Q Investigator Livingston, I'm going to show you what's
14 been marked as State's Exhibit No. 59. Do you
15 recognize this document?

16 A Yes, ma'am.

17 MS. MCDUFFIE: Your Honor, the State would offer
18 Exhibit 59 into evidence.

19 MR. O'NEIL: Your Honor, no objection to 59, but
20 we don't waive any chain of custody issues.

21 THE COURT: All right.

22 (WHEREUPON, State's Exhibit No. 59 is admitted
23 into evidence.)

24 Q Investigator Livingston, can you please tell the jury
25 what State's Exhibit 59 is?

1 **A** It's the chain of custody form of the 9-millimeter
2 casing and the cartridge being sent to Stan Richards
3 over to David Collins who is one of our firearms
4 inspectors.

5 **Q** And who is Stan Richards?

6 **A** He's our sergeant, my supervisor.

7 **Q** He's your supervisor of crime scene investigations?

8 **A** Yes, ma'am.

9 **Q** And this shows that you gave the three shell casings
10 and the one unfired cartridge to him?

11 **A** To him.

12 **THE COURT:** What's the number of that one?

13 **MS. MCDUFFIE:** It's No. 59, Your Honor. No
14 further questions, Your Honor.

15 **THE COURT:** Cross examination.

16 **MR. O'NEIL:** Thank you, Your Honor.

17 CROSS EXAMINATION

18 **BY MR. O'NEIL**

19 **Q** Investigator Livingston, as the investigator, you're
20 not the first on the scene, are you?

21 **A** No. No, I wasn't. This morning I wasn't the first
22 one on the scene.

23 **Q** You have what are called line deputies. Those people
24 are first on the scene?

25 **A** Yes, sir.

1 Q And one of those line deputies I think was a Corporal
2 Payne at this time?

3 A Yes, sir.

4 Q And he briefed you about all the information he had
5 gathered before you arrived?

6 A Right.

7 Q And those briefings are important to you as an
8 investigator?

9 A Yeah. They're important as far as the crime scene
10 goes, as to what's in the crime scene and what to
11 look for in the crime scene, to further -- you know,
12 to help me out there.

13 Q It gives you a starting point to figure out --

14 A Yes.

15 Q -- what you're looking for, what may be important,
16 what may not be important?

17 A That's correct.

18 Q And he advised you that the victim I think had been
19 pulled out of his car?

20 MS. MCDUFFIE: Objection, Your Honor, as to
21 hearsay.

22 MR. O'NEIL: Your Honor, it goes to his
23 investigation.

24 THE COURT: Go ahead.

25 A Okay.

1 Q He advised you somebody had been pulled out of the
2 car?

3 A No. He advised me that the individual had gotten out
4 of the car. Now, we'd gotten two conflicting reports
5 that morning. One said the victim was pulled out and
6 one said he got out of the car and a fight --

7 Q Who told you he had been pulled out of the car?

8 A Now, he told me pulled out of the car. But then we
9 were getting conflicting from the witnesses around
10 the area.

11 Q When you say he, who is he?

12 A Payne.

13 Q So my first question was Investigator Payne advised
14 you --

15 A Right.

16 Q -- that the victim had been pulled out the car?

17 A Right.

18 Q You said no.

19 A Did I say no?

20 Q Yeah.

21 A No, no. He advised us that he was pulled out of the
22 car. Then we got another that conflicted with the
23 report that said that the victim had gotten out of
24 the car.

25 Q Do you know where Payne got the information that he

1 had been pulled out of the car from?

2 **A** He said it, I guess talking with some witnesses
3 around there in the area.

4 **Q** So some witnesses told you that the victim had been
5 pulled out of his car?

6 **A** Told Payne.

7 **Q** Told him?

8 **A** Right.

9 **Q** That he had gotten into a verbal altercation with
10 maybe two or three subjects?

11 **MS. MCDUFFIE:** Your Honor, I object to the
12 hearsay.

13 **THE COURT:** Well, there's a lot of hearsay
14 involved in police investigations. He needs to ask
15 what he determined as a result of his investigation,
16 not what somebody else said.

17 **MS. MCDUFFIE:** Thank you, Your Honor.

18 **Q** You had information that the victim had been in an
19 altercation with two or three people, correct?

20 **A** That's correct.

21 **Q** Maybe pulled out of his car?

22 **A** Correct.

23 **Q** Now, based on that, did you fingerprint the driver's
24 side door of the Tahoe?

25 **A** Not that night we didn't. It was raining. It was

1 raining fairly hard there.

2 Q So that's a no?

3 A Not in the rain you won't. You won't fingerprint.

4 Q You didn't fingerprint, didn't get any DNA?

5 A Not in the rain, sir. Not there at that point, no.

6 Q My question is not whether or not you could -- you
7 feel like you could get specific there in the
8 neighborhood, whether or not you actually did it.
9 Did you try to fingerprint the car?

10 A Not there at that point, sir. It was raining.

11 Q Did you try to fingerprint the victim's clothing or
12 get any DNA from the victim's clothing?

13 A Not at that point, sir.

14 Q Okay. Now, you didn't find any firearms in this
15 location, did you?

16 A No, sir.

17 Q I think you found two shell casings?

18 A Yes, sir. Correct, sir.

19 Q And these two shell casings were both two different
20 brands?

21 A You would have to talk with the firearms person in
22 reference to that.

23 Q You don't know what type of brand they were?

24 A No.

25 Q Just aware of two shell casings? Did you write on

1 your report what type of brand they were?

2 **A** No. I didn't.

3 **Q** Now, you said that when you arrived the scene was
4 secured, correct?

5 **A** Yes, sir.

6 **Q** Now, did Corporal Payne advise you that a subject
7 vehicle had already pulled off prior to you getting
8 to the location?

9 **A** Yeah. It was gone.

10 **Q** So on your diagram here, there would have been the
11 subject vehicle here before you got there?

12 **A** The person who did the shooting?

13 **Q** The vehicle who did the shooting.

14 **A** Yeah. That would have been it.

15 **Q** The vehicle that was involved in the shooting would
16 have been there?

17 **A** Right.

18 **Q** And you don't know where that was located on your
19 diagram?

20 **A** No.

21 **Q** So this diagram can't depict where the Volvo would
22 have been?

23 **A** No.

24 **Q** For that purposes, this diagram can't project where
25 the Tahoe would have been during the shooting, does

1 it?

2 **A** The Tahoe was right here. That's why I always put
3 not to scale.

4 **Q** But the Tahoe was there when you arrived, correct?

5 **A** Right.

6 **Q** But you don't know whether the Tahoe was there, where
7 the Tahoe was at when the victim was shot?

8 **A** No.

9 **Q** It could have --

10 **A** When I got to the scene, that's where the Tahoe was
11 located at.

12 **Q** Because the Tahoe had been moved as well prior to you
13 getting there?

14 **A** I don't know. The Tahoe, that's where the Tahoe was
15 when I got there.

16 **Q** But you don't know where the Tahoe was before you got
17 there?

18 **A** Before I got there, no.

19 **Q** And was the Tahoe still running when you got there?

20 **A** Yes.

21 **Q** Was the driver's side door open when you got there?

22 **A** The driver's side door was cracked. Yes, sir.

23 **Q** Correct. And I think you say you found two shell
24 casings? That's correct.

25 **A** Yes, sir.

1 Q You don't know whether anybody picked up any shell
2 casings before you got there?

3 A No.

4 Q And I think you didn't do any trajectory analysis
5 with any of these bullets or anything?

6 A No.

7 Q You said it was -- was it still dark or was it light
8 by the time you got there?

9 A No. It was still dark. But it got light. As we,
10 you know, went into the investigation, it got --

11 Q And you didn't personally talk to any witnesses, did
12 you?

13 A No, I didn't.

14 Q You just collected the information from the scene?

15 A Right.

16 MR. O'NEIL: Beg the Court's indulgence, Your
17 Honor. No further questions.

18 REDIRECT EXAMINATION

19 BY MS. MCDUFFIE

20 Q Investigator Livingston, I want to draw your
21 attention to page 2 of your checklist. Was the Chevy
22 Tahoe towed to the Richland County Sheriff's
23 Department for processing?

24 A It was.

25 Q Typically when you process a vehicle, what is done?

1 **A** What is done with the vehicle when we take it to the
2 processing center, since it was raining that night,
3 we put it inside and let it dry. Once it has dried
4 off -- we don't take a cloth to it, we let it air
5 dry. Once it's dried off, then the vehicle is
6 processed. Processed means processed for gunshot
7 residue or fingerprints if we're able to get any and
8 any other evidence that was in the vehicle.

9 **Q** And this vehicle was taken to Richland County to be
10 processed?

11 **A** Yes, ma'am.

12 **Q** And if you would look where it talks about the
13 victim's clothes on page 2 of your report.

14 **A** Which report do you have?

15 **Q** I'm sorry. Your checklist, page 2 of that.

16 **A** Okay.

17 **Q** Were the clothes taken of the victim at the autopsy?

18 **A** At the autopsy.

19 **Q** And were those clothes processed for DNA?

20 **A** No.

21 **Q** And why not?

22 **A** The reason, because we had the blood that we needed.
23 We got it from the autopsy and with the blood that I
24 collected, you know, from the clothes, you know, just
25 to match it up to that.

1 Q Was it also raining that night?

2 A It was raining.

3 Q Could this destroy any potential evidence that could
4 be found on the clothing?

5 A Yes, it would.

6 Q Typically, are you able to lift fingerprints off of
7 clothing?

8 A No, ma'am.

9 MS. MCDUFFIE: No further questions.

10 THE COURT: You may come down. The witness be
11 excused?

12 MS. SHIPLEY: Please, Your Honor.

13 MR. O'NEIL: No objection from the defense.

14 MS. SHIPLEY: The State calls Justin Green.

15 JUSTIN C. GREEN, after being duly sworn,
16 testifies as follows:

17 THE CLERK: Please have a seat. State your full
18 name for the record.

19 WITNESS: Justin Chadwick Green.

20 DIRECT EXAMINATION

21 BY MS. SHIPLEY

22 Q Mr. Green, can you tell this jury where you were born
23 and raised?

24 A Columbia, South Carolina.

25 Q Where did you go to high school?

1 **A** Richland Northeast.

2 **Q** And how about college?

3 **A** North Carolina A&T.

4 **Q** What kind of work were you doing back in June of
5 2007?

6 **A** Working as a customer service representative for
7 Wachovia Bank.

8 **Q** How long had you worked for them?

9 **A** Just over a year.

10 **Q** Had you ever been in any criminal trouble in your
11 life?

12 **A** No, ma'am.

13 **Q** Never been arrested?

14 **A** No, ma'am.

15 **Q** On June 3rd, 2007, tell this jury where you were?

16 **A** Well, I began that night at Queenstown Bistro and
17 while at Queenstown Bistro I got a phone call from my
18 brother.

19 **Q** And who is your brother?

20 **A** Garry Green.

21 **Q** Okay.

22 **A** And his birthday was just a few days prior. So, you
23 know, I let him know that if I had a chance I would
24 see him, you know, since he was going to be out. So
25 later on in the night I made my way to the H&J club,

1 the pub, and met up with him there.

2 Q Okay. Tell the jury what happened when you got
3 there?

4 A I got there and saw that my brother was there. I
5 greeted him and, you know, after a minute or so I was
6 introduced to a friend of his. I was introduced to a
7 guy or introduced to someone named Scooter.

8 Q Scooter?

9 A Yes, ma'am.

10 Q When you were in the club, can you tell the jury
11 where it was that you were introduced to Scooter?

12 A We sat down at a table and at that time I was
13 introduced to Scooter.

14 Q Okay. I am going to walk over to you and you tell me
15 to stop when I get as close as you were to Scooter
16 when you were introduced to him. Okay?

17 A Stop.

18 Q Okay. In your approximation, how many feet are
19 between you and me at this time?

20 A Two feet.

21 Q Two feet. Is that the approximate distance you were
22 from Scooter when you were introduced?

23 A Yes, ma'am.

24 Q Could you please describe for the jury the lighting
25 conditions?

1 **A** It is a club; so, you know, not as bright as this
2 courtroom here, but you are still able to, you know,
3 see someone sitting next to you or maybe even at
4 another table.

5 **Q** Okay. Did you have any trouble seeing the face of
6 Scooter?

7 **A** No, ma'am.

8 **Q** And how long do you believe you were at that table
9 with Scott and Garry?

10 **A** 15 or 20 minutes.

11 **Q** What made you all leave that night?

12 **A** The club was closing, so we began to make our way out
13 of the club.

14 **Q** Do you recall whether or not the lights came on and
15 the club closed?

16 **A** They did.

17 **Q** And were you able to get another look at Scooter at
18 that time?

19 **A** No, ma'am.

20 **Q** Why is that?

21 **A** We were just walking out of the club, so I can't even
22 say where he was in relation to me, you know, walking
23 out of the club.

24 **Q** Okay. Tell this jury where it is that you walked to
25 when you got out of the club? And I'm just going to

1 put a diagram up to assist with your testimony. The
2 way -- Mr. Green, can you tell the jury, how old are
3 you?

4 A 26.

5 Q And how much older is Garry than you?

6 A Ten years. And my car would have been parked up
7 here.

8 Q Okay. Here is a pointer. So you can just sit down
9 and point it to them.

10 A My car was parked right about here. So I made my way
11 outside the club and, you know, kind of stood in
12 front of my car.

13 Q Where was Garry at this time?

14 A With me standing by the car.

15 Q All right. And what kind of car was it?

16 A A Volvo, 850 Volvo.

17 Q What color is it?

18 A Black.

19 Q Is that your car?

20 A Yes, ma'am.

21 Q Now, do you recall seeing Scooter anywhere around
22 there?

23 A No, ma'am.

24 Q Describe for the jury if you had any conversations
25 with another group at that time?

1 **A** There was another group consisting of three females
2 and a male, two black females, a white female and a
3 black male.

4 **Q** Okay. And describe the demeanor of one of the black
5 females that night?

6 **A** She, you know, had been -- you know, had a -- you
7 know, it seemed as if she had had a good night as far
8 as celebrating was concerned. She --

9 **Q** Did she appear intoxicated?

10 **A** Yes. Yes.

11 **Q** Did you and that woman have words?

12 **A** We did.

13 **Q** All right. Describe for the jury how you perceived
14 this conversation with this woman?

15 **A** It was a teasing of sorts as far as the car that I
16 was driving. And so --

17 **Q** So she directed comments about your car to you?

18 **A** Yes, ma'am.

19 **Q** All right. When she is making comments to you, did
20 you get upset with her?

21 **A** No, ma'am.

22 **Q** Do you recall whether your brother had to tell you to
23 get in the car?

24 **A** Yes, ma'am.

25 **Q** Okay. Tell the jury what happened when your brother

1 told you to get in the car?

2 A Well, I just opened the door to my car and I turned
3 the ignition on the car, you know, so it was running.

4 Q Okay. And at that point what happened next?

5 A Well, we're standing by the car and he's still
6 talking to the female. And I guess maybe after a few
7 minutes there is a gunshot.

8 Q How many gunshots did you hear?

9 A Just one.

10 Q Just one?

11 A Yes, ma'am.

12 Q And do you recall what direction you heard the shot
13 coming from?

14 A I was near the road.

15 Q Okay. And you were where at that time?

16 A Here.

17 Q Okay. Tell the jury what happened next after the
18 gunshot?

19 A Shortly after the gunshot, you know, me and my
20 brother, my brother was like, "Hey, let's go ahead
21 and get out of here." So we get into the car and
22 Scooter jumps into the car --

23 Q Okay.

24 A -- also.

25 Q And did you -- were you able to get a good look at

1 Scooter when he got into your car?

2 A No, ma'am.

3 Q Is that the same individual that you were introduced
4 to inside the pub?

5 A Yes, ma'am.

6 Q So you knew who was getting into your car?

7 A Yes, ma'am.

8 Q Were you aware at that time whether or not Scooter
9 was the one that fired the shot?

10 A Once the shot was fired, I did see his hand raised in
11 the air. I was not able to make out what was in his
12 hand but, you know, kind of assumed that that's who
13 it would have been.

14 Q And let me ask you this. Did you see where -- if
15 anybody was around him when he fired the shot?

16 A I saw a few figures and I did see someone crouched to
17 the ground.

18 Q And so you saw someone crouched to the ground. What
19 happened next? What were other people in the parking
20 lot doing at this time after the shot was fired?

21 A I can't -- I can't say. You know, my attention was
22 directed to the area where the shot came for just a
23 second.

24 Q After that, when Scooter got into the back of the
25 car, where did you guys drive off to?

1 **A** I was going to go ahead and take my brother home. So
2 I left the parking lot from here and made a right.

3 **Q** Onto Hard Scrabble Road?

4 **A** Onto Hard Scrabble Road.

5 **Q** Okay. Bear with me one second, please. Are you
6 familiar with this general area, sir?

7 **A** Yes, ma'am.

8 **Q** And just to orient you on this map, if the H&J pub is
9 here, tell the jury, you just said that you took a
10 right onto Hard Scrabble Road. Where did you drive
11 to next?

12 **A** I made a right onto Hard Scrabble Road and came to a
13 stop light which is Hard Scrabble and Sloan Road.

14 **Q** Sloan?

15 **A** Made a right onto Sloan and traveled I guess maybe a
16 half a mile to Flora Drive.

17 **Q** Flora. And just to -- Flora is right here on this
18 map, State's No. 46?

19 **A** That's the Sloan Road and there to Flora.

20 **Q** Okay.

21 **A** Okay.

22 **Q** And when you got to Flora, tell this jury what, if
23 anything, you noticed while you were driving?

24 **A** After traveling down Flora drive for, you know, some
25 distance, you know, I saw a white Tahoe truck behind

1 us which is a car I remember being parked in the
2 parking lot of the pub. So I began to think that,
3 you know, it was someone from the club. And because
4 of the time of night that it was, you know, I just
5 found it odd that that same car would be coming in
6 the same direction that we would be.

7 Q Was there a lot of traffic on the roads at the time?

8 A No, ma'am; not at all.

9 Q Okay. Now, what did you do as a result of noticing
10 the white Chevy Tahoe following you?

11 A It did alarm me. So to kind of give myself that
12 maybe we were being followed, I turned onto Chadwell.
13 I made a right onto Chadwell Street which runs into
14 Charleswood Drive and then made my way to a stop sign
15 at the corner of Charleswood and Westbridge Road.

16 Q Okay. And I'm showing you State's No. 43. Now, do
17 you see the intersection of Charleswood and
18 Woodbridge (sic)?

19 A Yes.

20 Q Westbridge. I'm sorry.

21 A Yes, ma'am.

22 Q Okay. When you got to that stop sign, tell the jury
23 what you did?

24 A We came to the stop sign. And, you know, with the
25 fact that the car was behind us, my brother and

1 Scooter, you know, felt it best to get out of the
2 car. My brother said, "Let's get out." So they got
3 out and my brother told me just to leave.

4 Q So he told you to go?

5 A Yes.

6 Q All right. Do you know how far away the Tahoe was at
7 the time that you, your brother and Scooter got out
8 of the car?

9 A Right behind me.

10 Q Right behind you?

11 A Yes, ma'am.

12 Q Do you believe he would have had an opportunity to
13 view them getting out of your car?

14 A Yes, ma'am.

15 Q From there, what direction did you turn?

16 A I made a right.

17 Q Describe for the jury what happened when you took a
18 right on Westbridge?

19 A I made a right turn. And while driving up Westbridge
20 Road, I heard the Tahoe peel off from the stop sign
21 and, you know, follow, come in the same direction as
22 I did. And that caused some concern on my part. So
23 I maneuvered my vehicle, you know, trying to get out
24 of his way because I didn't have any idea what he was
25 going to do.

1 Q Okay. Where were you when you tried to pull out of
2 his way?

3 A About here.

4 Q Okay. And when you pulled out of the way, what
5 happened next?

6 A I was hit from behind.

7 Q Okay. Do you recall what part of your car got hit
8 from behind?

9 A The driver's side, rear driver's side.

10 Q Okay. I'm showing you State's 51. Is that your
11 Volvo?

12 A Yes, ma'am.

13 Q And do you see damage on the left fender portion of
14 that car?

15 A Yes, ma'am.

16 Q Okay. At that point tell the jury what happened
17 next?

18 A Mr. Cannon got out of his car --

19 Q Okay.

20 A -- and began to scream at me saying, "What, what?"
21 And my response was, "You tell me." You know, again
22 I had no idea, you know, why my car had just been
23 hit.

24 Q Okay. When he hit you from behind, where did your
25 car end up going?

1 **A** I was pushed into a yard.

2 **Q** Can you make it out on that map?

3 **A** It would be back in this area here.

4 (WHEREUPON, State's Exhibit No. 60 is marked for
5 identification.)

6 (WHEREUPON, State's Exhibit No. 61 is marked for
7 identification.)

8 **Q** And I'm going to show you a photograph, State's
9 No. 61. Look at 61 and tell me if that looks
10 familiar?

11 **A** Yes, ma'am.

12 **Q** What is it a picture of?

13 **A** The area where my car was pushed into.

14 **MS. SHIPLEY:** Your Honor, at this time the State
15 would seek 61 into evidence.

16 **MR. O'NEIL:** No objection, Your Honor.

17 **THE COURT:** Without objection.

18 (WHEREUPON, State's Exhibit No. 61 is admitted
19 into evidence.)

20 **Q** If you could on this picture, Mr. Green, show this,
21 sir, where approximately your car ended up in the
22 lawn of that residence?

23 **A** Here.

24 **Q** Okay. And point again so I can show the jury more
25 closely. Am I pointing at the correct portion?

- 1 **A** Yes, ma'am.
- 2 **Q** Now, when this big SUV is behind your Volvo, are you
3 able to get out?
- 4 **A** Yes, I am. But I don't.
- 5 **Q** Do you remain seated in your vehicle?
- 6 **A** Yes, ma'am.
- 7 **Q** Tell this jury where Mr. Cannon was standing when he
8 got out of his Tahoe?
- 9 **A** He was standing just outside the door of the driver's
10 side.
- 11 **Q** All right. Did he move towards you in any fashion?
- 12 **A** No, he didn't.
- 13 **Q** He stayed put?
- 14 **A** Yes.
- 15 **Q** No one pulled him out of his car?
- 16 **A** No, ma'am.
- 17 **Q** He got out on his own?
- 18 **A** He did.
- 19 **Q** And again, tell this jury what he was asking you?
- 20 **A** He's just screaming at me, "What? What?" And --
- 21 **Q** And did you know what he was talking about?
- 22 **A** No, ma'am.
- 23 **Q** Did you know what -- you had mentioned earlier you
24 saw a figure drop to the ground at the parking lot.
25 Did you know who that was?

1 **A** No, ma'am.

2 **Q** So you had no idea whether or not that was Pam
3 Cannon, this man's wife?

4 **A** No, ma'am.

5 **Q** When he is asking you "what, what", and he's standing
6 by his Tahoe, tell the jury what you remember next?

7 **A** After he screams at me, Scooter and my brother are
8 running down the street. The first thing I remember
9 is hearing my brother's voice, you know, asking if
10 I'm okay. You know, at this time I'm a little shaken
11 just because, you know, I was in an accident. And my
12 brother was telling me that I can move the car behind
13 me by just backing out. And as this is going on I
14 hear a gunshot and as I'm still moving my car I hear
15 another shot.

16 **Q** When you hear the first gunshot, did you look to see
17 where it was coming from?

18 **A** Yes.

19 **Q** You're in the driver's side of your car, correct?

20 **A** Yes, ma'am.

21 **Q** What direction or where -- let me rephrase this.
22 Tell this jury where the shot came from. If you are
23 in your car right now in the driver's seat, where did
24 you turn your head to hear where the sound came from?

25 **A** To my left.

1 Q Okay. And when you turned to your left -- so you're
2 right there, you turned to your left, tell this jury
3 what you saw?

4 A I saw -- after the first gunshot, I saw a body in the
5 street.

6 Q Okay.

7 A And Scooter or a man standing in the road.

8 Q Okay. The same person you had been introduced to at
9 the bar?

10 A Yes, ma'am.

11 Q Okay. Now, how far away do you believe the body and
12 Scooter were standing when you turned after the first
13 shot?

14 A Maybe two feet.

15 Q All right. The man standing over the body was two
16 feet away?

17 A Yes, ma'am.

18 Q And then from you, how far away were they from you
19 when you turned to see what was going on?

20 A Quite a distance.

21 Q You tell me to stop when I get there. I guess we're
22 just going to go this way for purposes of distance.

23 A Yes, ma'am.

24 Q But just tell me when to stop.

25 A Stop.

- 1 Q Okay. So 50 feet?
- 2 A Yes, ma'am.
- 3 Q Something like that? I don't know. I'm not very
- 4 good with feet. But it's a distance?
- 5 A Yeah.
- 6 Q Were you able to tell if the person that was standing
- 7 over the body of the victim was wearing the same
- 8 clothes as the person that you saw at the club?
- 9 A Yes, ma'am.
- 10 Q Do you remember what the clothes were?
- 11 A No, ma'am.
- 12 Q That the person, the shooter, was wearing?
- 13 A No, ma'am.
- 14 Q You don't remember? Did you have any question in
- 15 your mind that the person who was lying on the ground
- 16 was the same man you had seen get out of the white
- 17 SUV?
- 18 A No, I didn't.
- 19 Q So that was him?
- 20 A Yes, ma'am.
- 21 Q There were no other people in this cul-de-sac,
- 22 correct?
- 23 A No, ma'am.
- 24 Q Now, when you hear the first shot and you see the man
- 25 standing that you were introduced to, Scooter,

1 standing over the body of the victim, what did you do
2 next?

3 A I am still in motion trying to, you know, move my
4 car.

5 Q Okay. Now, describe for the jury how you were trying
6 to move your car. What are you doing with your car?

7 A I put the car in reverse --

8 Q Okay.

9 A -- and just, you know, pressed the gas. And it was
10 able to -- I moved the car behind me.

11 Q Do you remember the weather conditions that night?

12 A It wasn't raining at the time.

13 Q Okay.

14 A But I guess during the night it had rained. And I --
15 the ground was pretty slick. I guess that's how
16 after being hit I slid into the yard.

17 Q All right. And so I'm showing you again State's
18 No. 61. Do you see tire tracks in the general
19 vicinity of where your car was?

20 A Yes, ma'am.

21 Q Am I pointing to them?

22 A Yes, ma'am.

23 Q Okay. Is this accurate where I'm pointing?

24 A Yes, ma'am.

25 Q Was it easy to push the Tahoe back with your vehicle?

1 **A** It was.

2 **Q** And when you pushed the car back, the Tahoe back with
3 your car, tell the jury what happened when you start
4 turning your car to get out of there?

5 **A** I'm turning my car to, you know, get out of there,
6 and my brother who had been on the passenger's side
7 of my vehicle got into the passenger's seat. And as
8 I'm pulling forward, Mr. Scooter gets into the
9 driver's rear seat.

10 **Q** Okay. So at what point did you hear the second shot?

11 **A** As I am backing up.

12 **Q** On this can you show the jury when you're backing up
13 where you turned, what direction you turned to?

14 **A** I turned to my left. I just did what was necessary
15 for me to be able to maneuver my car and get back
16 into the road. So I didn't even come all the way
17 back into the road. I kind of cut across here a
18 little.

19 **Q** And then is that when you heard the second shot?

20 **A** I hear the second shot as I'm backing up.

21 **Q** Okay. When you hear the second shot, what do you
22 see?

23 **A** I see Scooter standing over the victim.

24 **Q** And earlier you said after the first shot he was
25 about two feet from the victim's body?

1 **A** Yes, ma'am.

2 **Q** How far was he away from the victim's body the second
3 shot?

4 **A** Well, I would say that he moved.

5 **Q** Okay.

6 **A** You know, after there was a body on the ground.

7 **Q** You don't remember seeing him walk away or anything?

8 **A** No.

9 **Q** What were you focused on doing?

10 **A** Getting out of there.

11 **Q** Were you focusing on your vehicle and trying to
12 maneuver your car?

13 **A** Yes, ma'am. Yes, ma'am.

14 **Q** What about your brother, Garry?

15 **A** He was just helping me, giving me instructions on how
16 to move the vehicle because I -- I was -- I was, you
17 know, shaking and, you know, wasn't thinking very
18 clearly on what to do to get out of there. So he was
19 like, you know, you just put it in reverse and you
20 should be able to move it.

21 **Q** And what was going through your mind when you heard
22 the gunshots?

23 **A** Shocked, you know. Never being in, you know, in an
24 environment close to that, I'm not sure why it
25 happened. You know, just really at a loss at that

1 time.

2 Q You said that Garry was on the passenger's side by
3 this point. Did he get in? Which side of the car
4 did he get into?

5 A The passenger's side.

6 Q When you get your car loose, who gets in the car.
7 after that?

8 A Scooter gets in the car and gets in on the driver's
9 rear side.

10 Q So behind where you are?

11 A Yes, ma'am.

12 Q At this point what happens next?

13 A You know, I am pretty familiar with this area. So I
14 know, you know, how to get out. And, you know, I
15 just am trying to get away from the situation. And,
16 you know, I'm given instructions to go to Killian
17 Road.

18 Q Who is giving you instructions?

19 A Scooter.

20 Q And where do you end up driving to?

21 A To Killian Road, to a subdivision off of Killian Road
22 which is the Winslow.

23 Q All right. Do you remember what route you took to
24 get to Killian Road?

25 A Yes, ma'am.

1 Q Bear with me one second, please.

2 (WHEREUPON, State's Exhibit No. 62 is marked for
3 identification.)

4 Q I'm going to show you a map and ask you if you
5 recognize this map, State's No. 62?

6 A Yes, ma'am.

7 Q And is this an accurate map of the area that you were
8 in that evening?

9 A Yes, ma'am.

10 Q All right. The early morning hours of June 3rd?
11 Your Honor, at this time the State seeks No. 62 in
12 evidence.

13 THE COURT: Any objection?

14 MR. O'NEIL: No objection, Your Honor.

15 THE COURT: Without objection.

16 (WHEREUPON, State's Exhibit No. 62 is admitted
17 into evidence.)

18 Q All right. If you could orient the jury a little bit
19 and yourself where everything is. You see Sloan Road
20 on this map?

21 A Yes, ma'am.

22 Q Okay. Please orient the jury and explain
23 approximately where you were?

24 A We would have been coming from this direction.

25 Q Okay.

1 **A** Turning onto Hard Scrabble Road.

2 **Q** Do you remember getting to the interstate?

3 **A** Yes, ma'am.

4 **Q** All right. And disregard this line. That's not
5 pertinent to you. How did you get to the interstate?
6 Do you remember? Which interstate, first of all?

7 **A** 77, I-77.

8 **Q** Okay.

9 **A** Right off of Farrow Road.

10 **Q** Right off of Farrow Road?

11 **A** Yes.

12 **Q** So you got onto Farrow Road somehow and got on 77?

13 **A** Yes.

14 **Q** Which direction did you go on 77?

15 **A** Toward Charlotte.

16 **Q** Is that northbound?

17 **A** Yes, ma'am.

18 **Q** Tell the jury what exit you were instructed to get
19 off on?

20 **A** The Killian Road exit.

21 **Q** Who instructed you to get off there?

22 **A** Scooter.

23 **Q** When you got off Killian Road, which direction did
24 you turn?

25 **A** I made a left.

1 Q And what happened then?

2 A I was told to turn around so we'd be at a stop light.
3 Once you made that left, there's a stop light there
4 that, you know, I made a u-turn there and made my way
5 in the other direction on Killian Road.

6 Q Do you see Killian on that map?

7 A Yes, ma'am.

8 Q Kind of describe where all this transpired?

9 A Right there.

10 Q Then you turn around. And which direction do you
11 head on Killian Road?

12 A In this direction.

13 Q What does Killian Road turn into eventually?

14 A Clemson Road.

15 Q And how far did you travel down Clemson Road?

16 A Well, I would say down Killian Road, I traveled like
17 maybe a mile. I would say that I went through two or
18 three stoplights.

19 Q All right. And when you got to the second or third
20 stop light, do you remember what direction you turned
21 then?

22 A I made a left.

23 Q Did you see any signs for a subdivision?

24 A Not that I paid attention to.

25 Q Did you know which subdivision you were in?

- 1 **A** No, ma'am.
- 2 **Q** All right. And when you got into that subdivision,
3 where did you go next? Do you recall?
- 4 **A** I do not.
- 5 **Q** Had you ever been in that subdivision before?
- 6 **A** No, ma'am.
- 7 **Q** How many turns do you believe you took once you were
8 in that subdivision?
- 9 **A** Two, maybe three.
- 10 **Q** Okay. Once you got to the subdivision, did you end
11 up at a -- explain where you ended up?
- 12 **A** We ended up at a home, at a residence. Whose it was
13 I didn't know. I had never been to the home before.
14 But that's where they wanted to go, so ...
- 15 **Q** Okay. And when you got there who got out of the car?
- 16 **A** Scooter and my brother, Garry.
- 17 **Q** And where did you end up going?
- 18 **A** I went home.
- 19 **Q** When you got home, did you ever call the police?
- 20 **A** No, ma'am.
- 21 **Q** Why not?
- 22 **A** Scared.
- 23 **Q** Have you ever seen anyone executed before?
- 24 **A** No, ma'am.
- 25 **Q** When you woke up the next morning, do you recall

1 having a conversation with your father, Glenn Green,
2 about your car?

3 **A** Yes, ma'am.

4 **Q** And describe that conversation to this jury?

5 **A** He was concerned about the damage done to the car,
6 just thinking I had maybe did something to it
7 somehow, some way. And, you know, I let him know
8 that I had been hit from behind, you know, that
9 someone hit me from behind.

10 **Q** But you didn't give him any more information than
11 that?

12 **A** No, ma'am.

13 **Q** Do you recall whether or not -- what you did later on
14 that day?

15 **A** Went to work.

16 **Q** Okay. And was that on a Sunday still?

17 **A** Yes, ma'am.

18 **Q** June the 3rd?

19 **A** Yes, ma'am.

20 **Q** And do you recall approximately what time it was when
21 you went to work?

22 **A** 3:00.

23 **Q** And what happened while you were at work?

24 **A** I still hadn't talked to my brother. And my means of
25 reaching my brother most times are by reaching my

1 sister first and just kind of passing word to have
2 him give me a call. And, you know, at this time I
3 guess other things had taken place. So she was, you
4 know, upset and --

5 Q Why? Because the police showed up at [REDACTED] William
6 Harden Road?

7 A Yes, ma'am.

8 Q And is that where she lives?

9 A No, ma'am. But --

10 Q How did she know about that? Do you know?

11 A I don't know.

12 Q So at that point when you made contact with her
13 trying to reach Garry, what were you informed of?

14 A Well, she didn't let me know anything. I started to
15 get phone calls from my parents and, you know, ended
16 up speaking to my dad and him letting me know that he
17 was with the police and that they were on the way up
18 to my job to get me and for me, you know, not to go
19 anywhere.

20 Q And did you wait and remain for the police?

21 A Yes, ma'am.

22 Q And when you got there, when the police arrived at
23 your job -- by the way, where is your job located?

24 A Off of Greystone Boulevard.

25 Q When they got there, what happened next?

1 **A** My dad was with an investigator. He asked that we
2 bring the vehicle I was driving to the police
3 department and I rode with the investigator to the
4 police department.

5 **Q** Did you talk to that investigator at all about your
6 case?

7 **A** No, ma'am.

8 **Q** Okay. When you get to headquarters, describe what
9 happened at the Richland County Sheriff's Department?

10 **A** At that time, you know, they wanted to speak to me
11 but I invoked my rights.

12 **Q** Okay. And specifically, did they go over your rights
13 with you?

14 **A** Yes, they did.

15 **Q** So you knew what your rights were?

16 **A** Yes, ma'am.

17 **Q** And specifically which right did you invoke? Which
18 Constitutional right did you invoke?

19 **A** The Fifth Amendment.

20 **Q** Is that your right to remain silent?

21 **A** Yes, ma'am.

22 **Q** And at that time did anyone question you further?

23 **A** No.

24 **Q** About this case?

25 **A** No, ma'am.

1 Q In fact, you don't talk to anybody until June the
2 18th, 2007, correct?

3 A Yes, ma'am.

4 Q And on June -- where were you from June 3rd, 2007
5 'til June 18th, 2007?

6 A Alvin S. Glenn Detention Center.

7 Q And when you invoked your right and wouldn't talk to
8 the police on June the 3rd, what charge were you
9 arrested for?

10 A Murder.

11 Q You had not shared any of this information you just
12 shared with this jury with the police at that time,
13 correct?

14 A No, ma'am.

15 Q When you are incarcerated at the Alvin S. Glenn
16 Detention Center, did your family then retain a
17 lawyer for you?

18 A Yes, ma'am.

19 Q And on the advice of your attorney, did you give a
20 statement to the police?

21 A Yes, ma'am.

22 Q And would that be on June the 18th, 2007?

23 A Yes, ma'am.

24 Q While you were -- do you remember where you were
25 brought to on June 18th, 2007?

- 1 **A** To the same courthouse.
- 2 **Q** This one right here?
- 3 **A** Yes, ma'am.
- 4 **Q** And is that where you met with investigators?
- 5 **A** Yes, ma'am.
- 6 **Q** Do you remember which investigators?
- 7 **A** Just one, a gentleman sitting in the middle there.
- 8 **Q** Okay. Investigator McRae?
- 9 **A** Yes, ma'am.
- 10 **Q** And did Investigator McRae show you some pictures?
- 11 **A** Yes, ma'am.
- 12 **Q** Is that the first thing he did?
- 13 **A** Yes, ma'am.
- 14 **Q** And who was present with you when you were shown
- 15 these pictures?
- 16 **A** Ms. Betsy Franklin.
- 17 **Q** And who does she work for?
- 18 **A** My attorney, Jack Swerling.
- 19 **Q** Okay. I'm going to show you what's been marked
- 20 State's Nos. 52 and 53 and ask you if you recognize
- 21 these two documents?
- 22 **A** Yes, ma'am, I do.
- 23 **Q** And what exactly are they?
- 24 **A** One is a photo line-up and the other is just
- 25 confirming, you know, what was said on the photo

1 line-up.

2 Q Okay. When Investigator McRae presented you with
3 these pictures, what did he ask you to do?

4 A He asked me if I recognized anyone in the photos.

5 Q And specifically, which photograph did you tell the
6 investigator you recognized?

7 A Picture 3.

8 Q Picture 3?

9 A Yes, ma'am.

10 Q Now, at that point had you seen Mr. Sanders -- is
11 that a picture of Scooter?

12 A Yes, ma'am.

13 Q Okay. Had you seen that picture on the news by that
14 point?

15 A I had.

16 Q And on the news, what did you learn about that
17 picture?

18 A That this is -- that this person had been arrested
19 for the same charge and crime or events that I had
20 been.

21 Q Okay. And did they report the name of that person?

22 A They did.

23 Q And is that when you learned the real name of that
24 person?

25 A Yes, ma'am.

1 Q And what was the name?

2 A Louis Sanders.

3 Q You had never met Mr. Sanders prior to June 3rd
4 before your brother introduced you to him?

5 A No, ma'am.

6 Q All right. Did you have any difficulty in
7 identifying his photograph in that picture?

8 A No, ma'am.

9 Q In that array of six pictures?

10 A No, ma'am.

11 Q And the fact that you had seen his picture on the
12 news, did that influence your choice of picking --

13 MR. O'NEIL: Objection, Your Honor. Leading.

14 THE COURT: Overruled.

15 Q Did that influence you in any way picking photograph
16 number 3?

17 A No, ma'am.

18 Q Why did you pick photograph number 3?

19 A I recognized it as the guy who I had been with on
20 that night, June 3rd.

21 Q And is that the same individual that was in your car
22 that night?

23 A Yes, ma'am.

24 Q Now, in that photograph -- Your Honor, the State
25 seeks to introduce No. 53 and 52 into evidence.

1 **MR. O'NEIL:** Subject to my previous objection.

2 **THE COURT:** Subject to defendant's previous
3 objection. Is that 52?

4 **MS. SHIPLEY:** 52 is the affidavit and 53 is the
5 photo line-up.

6 **THE COURT:** Go ahead.

7 (WHEREUPON, State's Exhibit No. 52 is admitted
8 into evidence.)

9 (WHEREUPON, State's Exhibit No. 53 is admitted
10 into evidence.)

11 **Q** And did you initial --

12 **A** Yes, ma'am.

13 **Q** -- and pick the photograph?

14 **A** Yes, ma'am.

15 **Q** Did Investigator McRae suggest to you in any manner
16 who to pick out?

17 **A** No, ma'am.

18 **Q** How long do you think it took him to pick him out?

19 **A** No time at all.

20 **Q** And you recognized his face?

21 **A** Yes, ma'am.

22 **Q** Did his hair appear to be the same from what you
23 recall it being that night?

24 **A** No, ma'am.

25 **Q** In fact, tell this jury what you recall his hair

1 looking like that night?

2 A It was permed.

3 Q And describe the length of his hair?

4 A To his shoulder.

5 Q So he had long hair that night?

6 A Yes, ma'am.

7 Q After you were shown this photographic line-up, you
8 then had a bond hearing, correct?

9 A Yes, ma'am.

10 Q And tell this jury what the amount of your bond was?

11 A \$75,000.

12 Q \$75,000?

13 A Yes, ma'am.

14 Q And you'd already been arrested for the charge of
15 murder, right?

16 A Yes, ma'am.

17 Q How long did it take your family or you to post that
18 money to get out of jail?

19 A Three or four days.

20 Q All right. Before you posted that money to post
21 yourself out of jail, do you recall being taken to
22 the headquarters, Richland County headquarters to
23 give your statement in writing?

24 A Yes, ma'am.

25 Q And so the jury understands the sequence of events,

1 you are shown these photos first, correct?

2 A Yes, ma'am.

3 Q You identified the third person in your car?

4 A Yes, ma'am.

5 Q You give an oral statement?

6 A Yes, ma'am.

7 Q I'm going to show you what's been marked or not
8 marked yet but will be in a second, State's No. ...

9 (WHEREUPON, State's Exhibit No. 63 is marked for
10 identification.)

11 Q -- 63. Do you recognize this document, sir?

12 A Yes, ma'am, I do.

13 Q What is that?

14 A The rights given to me prior to me giving the
15 statement.

16 Q Okay. And what time does it say that you are advised
17 of your rights on that form?

18 A 8:44 a.m.

19 Q 8:44 a.m.?

20 A Yes, ma'am.

21 Q And explain what Investigator McRae did with that
22 form with you that morning?

23 A Took a written or a verbal statement from me.

24 Q Did he advise you of everything on that document?

25 A Yes.

1 Q Did you sign it?

2 A Yes, ma'am.

3 Q Did you sign giving up your rights?

4 A Yes, ma'am.

5 MS. SHIPLEY: At this time, Your Honor, the
6 State would seek to introduce No. 63 into evidence.

7 MR. O'NEIL: Can I see it?

8 MS. SHIPLEY: Sure.

9 MR. O'NEIL: No objection.

10 (WHEREUPON, State's Exhibit No. 63 is admitted
11 into evidence.)

12 Q So after you are advised of everything on State's 63
13 you give an oral statement?

14 A Yes, ma'am.

15 Q What happens? Then you have the bond hearing,
16 correct?

17 A Yes, ma'am.

18 Q At that point do you recall being taken to
19 headquarters, Richland County Sheriff's Department on
20 Two Notch Road?

21 A Yes, ma'am.

22 Q And you met again with Investigator McRae?

23 A Yes, ma'am.

24 Q Was your attorney or a representative of your
25 attorney's office present at that time?

1 **A** Yes, ma'am.

2 **Q** I'm going to show you another document --

3 (WHEREUPON, State's Exhibit No. 64 is marked for
4 identification.)

5 **Q** -- and ask you if you recognize State's 64?

6 **A** Yes, ma'am, I do.

7 **Q** And what is State's 64?

8 **A** Again a paper that I signed before giving a written
9 statement.

10 **Q** Okay. And were you advised of all of your
11 Constitutional rights?

12 **A** Yes, ma'am.

13 **Q** On this form?

14 **A** Yes, ma'am.

15 **MS. SHIPLEY:** State's No. 64 into evidence at
16 this time, Your Honor.

17 **MR. O'NEIL:** No objection.

18 **THE COURT:** Without objection.

19 (WHEREUPON, State's Exhibit No. 64 is admitted
20 into evidence.)

21 **Q** And at the bottom of that document did you give up
22 your Constitutional rights and agree to talk to the
23 investigator?

24 **A** Yes, ma'am.

25 **Q** And did they force you to talk in any way?

1 **A** No, ma'am.

2 **Q** Did they coerce you, threaten you in any way to talk?

3 **A** No, ma'am.

4 **Q** And your lawyer or representative of your lawyer was
5 present, correct?

6 **A** Yes, ma'am.

7 **Q** Do you recall being asked how it is that you knew the
8 name of Louis Sanders? Do you remember being asked
9 that?

10 **A** Yes, ma'am.

11 **Q** And what did you tell the investigator?

12 **A** From the news and newspapers.

13 **Q** Okay. But the night that you met him, how were you
14 introduced to him? By what name?

15 **A** Scooter.

16 **Q** And then I'm going to show you a document. Do you
17 recognize that, sir?

18 **A** Yes, ma'am.

19 **Q** And how many -- what is it, first of all?

20 **A** Documentation of, you know, my version of the series
21 of events.

22 **Q** Okay. And is that your statement that you gave in
23 writing to the police?

24 **A** Yes, ma'am.

25 **Q** After you were advised of your rights a second time?

1 **A** Yes, ma'am.

2 **Q** And by the way, what time were you advised of your
3 rights on this form, State's 64?

4 **A** 3:54.

5 **Q** 3:54?

6 **A** Yes.

7 **Q** On what date?

8 **A** 16th. June 18th.

9 **Q** June 18th. Okay. And after you are advised of your
10 rights at 3:54 p.m. you then give a written
11 statement, correct?

12 **A** Yes, ma'am.

13 **Q** How many pages long is that statement?

14 **A** Five pages.

15 **Q** Five pages?

16 **A** Yes.

17 **Q** And does this statement go over everything you've
18 just testified to to this jury?

19 **MR. O'NEIL:** Objection, Your Honor.

20 **THE COURT:** Yes, sir. Sustained.

21 **Q** Is everything you told this jury in your statement to
22 the --

23 **MR. O'NEIL:** Objection, Your Honor.

24 **THE COURT:** That's the same question.

25 **Q** All right. Do you have anything to add to the

1 statement that you gave on June 18th, 2007?

2 **A** No, ma'am.

3 **Q** I'm going to show you what's been marked State's
4 No. 60 and ask you to open it, please. Do you need
5 scissors?

6 (Witness complies)

7 **A** It's a hat.

8 **Q** Okay. And do you recall seeing that hat anywhere
9 before?

10 **A** Yeah. This is my hat.

11 **Q** Your hat?

12 **A** Yes, ma'am.

13 **Q** And is that the hat the police collected from your
14 vehicle in the black Volvo?

15 **A** Yes, ma'am.

16 **MS. SHIPLEY:** Okay. Your Honor, at this time
17 we'd seek to introduce State's No. 60 into evidence.

18 **MR. O'NEIL:** We have chain of custody with this.

19 **THE COURT:** Sir?

20 **MR. O'NEIL:** We have a chain of custody.

21 **MS. SHIPLEY:** It's not a fungible item. It
22 doesn't require chain.

23 **THE COURT:** It's his hat. I'll allow it.

24 (WHEREUPON, State's Exhibit No. 60 is admitted
25 into evidence.)

1 **Q** So this hat that was recovered from your black Volvo
2 is your hat?

3 **A** Yes, ma'am.

4 **Q** Back on June the 3rd, 2007 when you were arrested,
5 I'm going to show you a document and ask you if this
6 accurately reflects the way you appeared on that
7 date?

8 **A** Yes, ma'am.

9 (WHEREUPON, State's Exhibit No. 65 is marked for
10 identification.)

11 **MS. SHIPLEY:** Your Honor, at this time we'd seek
12 to introduce 65 into evidence.

13 **MR. O'NEIL:** No objection.

14 **THE COURT:** Without objection.

15 (WHEREUPON, State's Exhibit No. 65 is admitted
16 into evidence.)

17 **MS. SHIPLEY:** May I publish it to the jury?

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

19 **Q** So that is what you looked like on June 3rd, 2007?

20 **A** Yes, ma'am.

21 **Q** Do you recall being served with an indictment on or
22 about July 18th, 2008?

23 **A** Yes, ma'am.

24 **Q** Okay. And do you recall seeing this document right
25 here?

1 **A** Yes, ma'am.

2 **Q** All right. What is that document?

3 **A** An indictment for accessory after the fact of murder.

4 **Q** Okay. And that's charging you with accessory after
5 the fact?)

6 **A** Yes, ma'am.

7 **Q** And were you served with that indictment? Where were
8 you served with that indictment?

9 **A** At my attorney's office.

10 **Q** And were you noticed to come here for trial?

11 **A** Yes, ma'am.

12 **Q** And when was your trial going to start?

13 **A** The 28th of July.

14 **Q** Which was just this Monday?

15 **A** Yes, ma'am.

16 **Q** Okay. Your case ended up not going forward, correct?

17 **A** Yes, ma'am.

18 **Q** Without going into the details, was it based on a
19 ruling from the Court or because prosecutors
20 approached you?

21 **A** I -- my attorney spoke with the prosecution and, you
22 know, after that conversation I was informed that my
23 case had been dismissed.

24 **Q** Do you recall being present during a hearing in front
25 of the Court? Were you present in a hearing in front

1 of the Court?

2 A Yes, ma'am..

3 Q All right. And was your case then not going to go
4 forward?

5 A Right.

6 Q As a result of the hearing?

7 A Yes, ma'am.

8 Q All right. And so as a result, you have to go ahead
9 to testify in this case?

10 A Yes, ma'am.

11 Q And are giving up your rights, your Fifth Amendment
12 rights?

13 A Yes, ma'am.

14 Q And the charge for accessory after the fact which you
15 were going to be tried for is being dismissed?

16 A Yes, ma'am.

17 Q You are not going to be tried for murder, correct?

18 A No, ma'am.

19 Q The person that you saw standing over the body of Mr.
20 Cannon, do you see him in the courtroom today?

21 A Yes, ma'am.

22 Q Can you please point him out for this jury?

23 A He's sitting at this table in a blue shirt. He has
24 his hair braided.

25 MS. SHIPLEY: Beg the Court's indulgence. Your

1 Honor, please let the record reflect he has
2 identified the defendant.

3 **THE COURT:** The record will so reflect the
4 witness identified the defendant. Anything further?

5 **MS. SHIPLEY:** Nothing further, Your Honor.

6 **THE COURT:** All right. All right, ladies and
7 gentlemen. I want to complete this witness's
8 testimony before lunch, but I think it would be
9 appropriate to take a short break at this time. So
10 just go to your jury room, relax for a minute and
11 again don't discuss the case among yourselves while
12 you're in the jury room.

13 (Jury out at 12:07 p.m.)

14 **THE COURT:** All right. Mr. Green, you can stay
15 there or you can move around if you'd like to. I'm
16 just going to ask you during the break -- and you can
17 go to the restroom. During the break don't discuss
18 this case with anyone. Do you understand?

19 **WITNESS:** Yes, sir.

20 **THE COURT:** All right. Thank you very much.
21 We'll stand at ease about ten minutes.

22 (Whereupon, a break is taken)

23 **THE COURT:** The State ready for the jury?

24 **MS. SHIPLEY:** Yes, sir, Your Honor.

25 **THE COURT:** Defense ready for the jury?

1 **MR. O'NEIL:** Yes, Your Honor.

2 **THE COURT:** Bring the jury, please.

3 (Jury in at 12:22 p.m.)

4 **THE BAILIFF:** The jury is seated, Your Honor.

5 **THE COURT:** Thank you. All right, Mr. O'Neil.

6 Cross examination.

7 **MR. O'NEIL:** Thank you, Your Honor.

8 CROSS EXAMINATION

9 **BY MR. O'NEIL**

10 **Q** Do you have a pointer, Mr. Green? Appreciate it.

11 Now, Mr. Green, when you first leave the pub --

12 **A** Yes, sir.

13 **Q** -- nobody is giving you directions about where to go?

14 **A** No, sir.

15 **Q** You say you're going to take your brother home?

16 **A** Yes, sir.

17 **Q** And what's your brother's address?

18 **A** William Harden, [REDACTED] William Harden.

19 **Q** William Harden?

20 **A** Yes, sir.

21 **MR. O'NEIL:** Your Honor, may the witness step
22 down?

23 **THE COURT:** Certainly. Watch your step.

24 **COURT REPORTER:** And if he could face me,
25 please, Your Honor?

- 1 **THE COURT:** You all swap, make sure you can ...
- 2 **Q** Now, the H&J pub is up here on Hard Scrabble,
- 3 correct?
- 4 **A** Yes, sir.
- 5 **Q** You said when you left the club your purpose was to
- 6 take your brother home?
- 7 **A** Yes, sir.
- 8 **Q** Nobody gave you directions?
- 9 **A** No, sir.
- 10 **Q** You leave out of the club. The club is on Hard
- 11 Scrabble?
- 12 **A** Yes, sir.
- 13 **Q** You take a right?
- 14 **A** Yes, sir.
- 15 **Q** On Hard Scrabble, a right on Sloan and then a right
- 16 on Flora?
- 17 **A** No. Yes, sir. Onto Chadworth. Yes, sir.
- 18 **Q** And then you take a right onto Chadworth right there?
- 19 **A** Yes, sir.
- 20 **Q** Nobody is giving you directions?
- 21 **A** No, sir.
- 22 **Q** You're taking your brother home?
- 23 **A** Yes, sir.
- 24 **Q** Your brother lives on William Harden, doesn't he?
- 25 **A** Yes, sir.

1 Q And this is where you were?

2 A Yes, sir.

3 Q You made a right onto Hard Scrabble?

4 A Yes, sir.

5 Q To go to William Harden?

6 A Yes, sir.

7 Q Wouldn't it make sense to take a left on Hard
8 Scrabble?

9 A Yes. It would.

10 Q And you're familiar with this area?

11 A Yes, sir.

12 Q You're very familiar with this area?

13 A Yes, sir.

14 Q But you said you took a right?

15 A Yes, sir.

16 Q Because you were taking your brother home?

17 A Yes, sir.

18 Q Okay. You can have a seat.

19 A All right.

20 Q Mr. Green, let's talk about the evolution of your
21 case. You were charged with murder on June 4th,
22 2007?

23 A Yes, sir.

24 Q And you gave a statement to police on June 18th,
25 2007?

1 **A** Yes, sir.

2 **Q** Now, I think Ms. Shipley said that on July 18th of
3 2008 they indicted you for accessory after the fact?

4 **A** Yes, sir.

5 **Q** So between June 5th or June 4th of 2007 to July 18th
6 of 2008 you were charged with murder?

7 **A** Yes, sir.

8 **Q** For a whole period of a year?

9 **A** Yes, sir.

10 **Q** And then on June 8th, 2008 they dropped your murder
11 charge?

12 **A** Yes, sir.

13 **Q** And they charged you with accessory after the fact?

14 **A** Yes, sir.

15 **Q** And they approached you to testify against Louis
16 Sanders?

17 **A** No, sir.

18 **Q** They did not -- they didn't offer to reduce your
19 charge to accessory after the fact if you would
20 testify against Louis Sanders?

21 **A** No, sir.

22 **Q** Did they also offer to reduce your charge from
23 accessory after the fact to misprisonment of a felony
24 if you would testify against Louis Sanders?

25 **A** No, sir.

1 Q They never made those offers to you?

2 A No, sir.

3 Q And no point did they offer you a reduced charge if
4 you testified against Louis Sanders?

5 A No, sir.

6 Q But you were scheduled to go to trial?

7 A Yes, sir.

8 Q On this past Monday?

9 A My trial had actually began.

10 Q Almost started?

11 A Yes, sir.

12 Q But then the State dismissed the charges against you?

13 A Yes, sir.

14 Q At that point you were charged with accessory after
15 the fact?

16 A Yes, sir.

17 Q And in exchange for your testimony --

18 MS. SHIPLEY: Objection, Your Honor. That is
19 not accurate.

20 THE COURT: You're not testifying. The witness
21 is testifying. You can ask the witness later on, but
22 you can't testify. I don't want that kind of
23 objection, speaking objections, in this record. Do
24 you understand?

25 MS. SHIPLEY: Yes, sir.

1 Q So we're clear, Mr. Green, on Monday of this week,
2 you were charged with accessory after the fact?

3 A Yes, sir.

4 Q At this point, in exchange for your testimony, have
5 your charges been dismissed?

6 A No, sir. My-- my case was dismissed. And after my
7 case being dismissed, I was summoned.

8 Q Who dismissed your case?

9 A The prosecution.

10 Q Okay. So after the prosecutor dismissed your case,
11 you were summoned to testify here today?

12 A Yes, sir.

13 Q Okay. Now let's walk through the late evening, early
14 morning hours of June 3rd here. Okay?

15 A All right.

16 Q I think you had made a couple of other stops before
17 you got to the pub that night, correct?

18 A Yes, sir.

19 Q Like Queenstown Bistro?

20 A Yes, ma'am.

21 Q And some other stops?

22 A Yes, sir.

23 Q And you had a few beers at Queenstown Bistro?

24 A Yes, sir.

25 Q And you had a few mixed drinks as well?

- 1 **A** Yes, sir.
- 2 **Q** So you had a little bit to drink that night?
- 3 **A** Yes, sir.
- 4 **Q** And this was around -- by the time you got to the
5 pub, this was around what time?
- 6 **A** About 2:30, 3:00.
- 7 **Q** 3:00 in the morning. And at this point you hadn't
8 been to sleep all day?
- 9 **A** No, sir.
- 10 **Q** Okay. And you go into the pub. There is music
11 playing in the pub?
- 12 **A** Yes, sir.
- 13 **Q** And you agree that it's kind of dark in the pub?
- 14 **A** Yes, sir.
- 15 **Q** And you had never met Louis Sanders before?
- 16 **A** No, sir.
- 17 **Q** How old are you?
- 18 **A** 25. I'm 26 today.
- 19 **Q** But back then you were 25?
- 20 **A** Yes, sir.
- 21 **Q** In your 25 years of living you had never met Louis
22 Sanders?
- 23 **A** No, sir.
- 24 **Q** And you only talked to Louis Sanders briefly in the
25 club, in the pub that night?

- 1 **A** Yes, sir. Just introduced to him.
- 2 **Q** No long conversation?
- 3 **A** No, sir.
- 4 **Q** Just briefly. And you said on that night his hair
- 5 was straight, in a perm?
- 6 **A** Yes, sir.
- 7 **Q** Straight, hanging down like this?
- 8 **A** To the back.
- 9 **Q** To the back?
- 10 **A** It was kind of slicked back.
- 11 **Q** No dreadlocks?
- 12 **A** No, sir.
- 13 **Q** No box braids?
- 14 **A** No, sir.
- 15 **Q** Nothing twisty like?
- 16 **A** No, sir.
- 17 **Q** No Geri curled looking thing?
- 18 **A** No, sir.
- 19 **Q** None of that?
- 20 **A** No, sir.
- 21 **Q** Just straight?
- 22 **A** Yes, sir.
- 23 **Q** And you don't remember anything Mr. Sanders had on
- 24 that night?
- 25 **A** No, sir.

1 Q You don't remember the clothes he had on?

2 A No, sir.

3 Q Okay. And then you said you went out into the
4 parking lot I think?

5 A Yes, sir.

6 Q Just look at the picture right here. This is the pub
7 up in this area, correct?

8 A Yes, sir.

9 Q Now, you said that -- show us where your car was
10 parked?

11 A It was parked like right here.

12 Q Close to the entrance of it?

13 A Yes, sir. There are parking spaces here on either
14 side here. So I was parked right in a parking space
15 right about there.

16 Q And this is not a building right here, is it?

17 A It's a store.

18 Q This brown portion?

19 A Oh, no. That's like some gas pumps and that's just
20 the roofing over that.

21 Q Okay. And you didn't tell Mr. Sanders at any point
22 to get in your car, did you?

23 A No, sir.

24 Q You didn't see him in your car that night?

25 A I did.

1 Q Prior to when you say you -- after you heard some --
2 before the shooting, did you ever see Louis Sanders
3 in your car?

4 A No, sir.

5 Q And your car is right here?

6 A Yes, sir.

7 Q Now, you were talking to Ms. Pam Cannon that night,
8 correct?

9 A Yes, sir.

10 Q And you were actually having a disagreement with Pam
11 Cannon that night, correct?

12 A We got into some teasing.

13 Q I think the word you used was a disagreement?

14 A Yes, sir.

15 Q It escalated from just a conversation?

16 A Yes, sir.

17 Q It got to the point where it was a disagreement
18 between you and Ms. Cannon?

19 A I say so, because of, you know, she began to curse
20 and get loud, you know. So to me that meant she was
21 a little upset.

22 Q She was upset at you?

23 A Yes, sir.

24 Q Okay. Ms. Cannon was upset at you?

25 A Yes, sir.

1 Q And she was so upset I guess that your brother had to
2 step in?

3 A Yes, sir.

4 Q And he tried to separate the two of you?

5 A Yes, sir.

6 Q And you didn't see Mr. Louis Sanders talking with Ms.
7 Cannon, did you?

8 A No, sir.

9 Q Okay. And where was Ms. Cannon at when you heard the
10 shot in the parking lot?

11 A I really couldn't say because, you know, I didn't
12 know who she was.

13 Q So you weren't looking at where Ms. Cannon was at?

14 A No, sir.

15 Q Where did you hear the shots coming from?

16 A Up here.

17 Q So the shots were coming from up here where Hard
18 Scrabble is?

19 A Yes, sir.

20 Q And how far away is Hard Scrabble to where you were
21 parked there? How big is this parking lot I guess is
22 what I'm asking you?

23 A 30 yards.

24 Q At least 30 yards?

25 A Yes. Something like that.

1 Q And how long between you hear the shots did you pull
2 off?

3 A Just a few moments.

4 Q Okay. And you couldn't -- there were other cars in
5 the parking lot I'm assuming?

6 A Not that I remember. The only car I would say
7 putting my eyes on was the Tahoe, and I would say
8 that was parked in the dirt there.

9 Q Did you know who was driving the Tahoe?

10 A No, sir.

11 Q You had no idea who was driving the Tahoe?

12 A No, sir.

13 Q So when the Tahoe got behind you when you all were in
14 the subdivision, you didn't think it was a black
15 female from the club?

16 A I wasn't sure who it would be. I thought it might be
17 somebody from the club, but I didn't know who it was.

18 Q Did you write in your statement you thought it was a
19 black female from the club?

20 A No, sir.

21 Q You didn't write that in your statement?

22 A No, sir.

23 Q Do you remember giving that statement to law
24 enforcement?

25 A Possibly. I can't say for sure.

- 1 Q And that was June 18th of 2007?
- 2 A Yes, sir.
- 3 Q And you were trying to be truthful in that statement?
- 4 A Yes, sir.
- 5 Q Right? Trying to be accurate?
- 6 A Yes, sir.
- 7 Q You knew that they were investigating a murder at
- 8 that point?
- 9 A Yes, sir. Yes, sir.
- 10 Q Let me show you your statement and see if that
- 11 refreshes your memory.
- 12 A Okay.
- 13 Q Take a look at your statement. Just read it to
- 14 yourself.
- 15 A All right.
- 16 Q And pay close attention to the last paragraph on page
- 17 3.
- 18 A No, sir.
- 19 Q You don't remember saying that I thought this was the
- 20 vehicle that the black female said was her car?
- 21 A Okay. Right.
- 22 Q So that's what you said?
- 23 A Yes, sir.
- 24 Q So you said I thought it was a black female that was
- 25 with the vehicle the black female said was her car?

1 **A** Yes, sir.

2 **Q** Okay. So on June 4th you were arrested. Okay. And
3 I'm sure you know you were arrested for murder?

4 **A** Yes, sir.

5 **Q** You know that murder is a very serious charge?

6 **A** Yes, sir.

7 **Q** You know that murder carries at least 30 years?

8 **A** I did not know that.

9 **Q** Okay. But you knew it was a serious charge?

10 **A** Yes, sir.

11 **Q** And I'm sure you had the opportunity to speak with
12 police on June 4th of 2007?

13 **A** I did have an opportunity to.

14 **Q** They were at that point arresting you for this
15 murder?

16 **A** Yes, sir.

17 **Q** The same murder that Louis Sanders is charged with?

18 **A** Yes, sir.

19 **Q** And I'm sure when they were questioning you about the
20 murder, the first thing you wanted to do was clear
21 your record?

22 **A** Yes, sir. But they didn't question me on that date.

23 **Q** Did you tell the police the story you're telling the
24 police now on that day?

25 **A** Yes, sir. No, sir.

1 Q You didn't give a statement on that day?

2 A No, sir.

3 Q So I'm assuming you gave a statement to the police on
4 the day after that day?

5 A No, sir. Not until June 18th.

6 Q So you were arrested on June 4th and didn't give a
7 statement until June 18th?

8 A Yes, sir.

9 Q Over two weeks later?

10 A Yes, sir.

11 Q Before you ever said a word about what happened that
12 night?

13 A Right.

14 Q Now, during that whole two-week span, did you talk to
15 your brother any time?

16 A No, sir.

17 Q You never talked to your brother?

18 A No, sir. I didn't have a chance to.

19 Q But you were in the same jail with your brother?

20 A Yes, sir.

21 Q Okay. Now when you got into the subdivision, let's
22 talk about that. Now, you said Mr. Cannon rammed the
23 car, the Volvo that you were driving?

24 A Yes, sir.

25 Q And he hit you with the right side of his car?

- 1 **A** Yes, sir.
- 2 **Q** He hit the left side of your car with the right side
- 3 of his?
- 4 **A** Yes, sir.
- 5 **Q** He hit directly behind you?
- 6 **A** No. The right side of his vehicle hit the left side
- 7 of my vehicle.
- 8 **Q** So if this is your Volvo and this is his Tahoe --
- 9 **A** Yes, sir.
- 10 **Q** -- the right side of his Tahoe hit the left side of
- 11 your Volvo?
- 12 **A** Yes, sir.
- 13 **Q** And the Volvo was smaller than the Tahoe, correct?
- 14 **A** Yes, sir.
- 15 **Q** So as you're sitting in the car, you would be sitting
- 16 lower than somebody sitting up in the high SUV?
- 17 **A** Yes, sir.
- 18 **Q** Would you agree that the hood of his SUV was probably
- 19 about the same height as the top of your car?
- 20 **A** That would be fair.
- 21 **Q** That would be fair? Okay. And you said you never
- 22 ever got out your car?
- 23 **A** No, sir.
- 24 **Q** You never got out your car. But Mr. Cannon got out
- 25 of his car?

1 A Yes, sir.

2 Q He opened the door of his car. And where were you at
3 when the first shot was fired?

4 A Still in the car.

5 Q Still in the car. Where was your brother at when the
6 first shot was fired?

7 A To the rear of my car.

8 Q Passenger's side?

9 A Yes, sir.

10 Q Back here somewhere?

11 A Yes, sir.

12 Q Not sure exactly where he was at?

13 A No, sir.

14 Q But back here somewhere?

15 A Yes, sir.

16 Q Where was Mr. Cannon, the deceased, at?

17 A Beside his car door.

18 Q Beside his car door?

19 A Yes, sir.

20 Q About here somewhere?

21 A Well, I would say that, you know, the door was
22 completely open to where it's almost --

23 Q Completely opened?

24 A Yes, sir.

25 Q I'm sorry. Like that?

- 1 **A** Right.
- 2 **Q** Okay. And that's where he was at when you heard the
3 shot?
- 4 **A** Yeah. You know, now put him standing beside the
5 door.
- 6 **Q** That would be fair?
- 7 **A** Yes, sir.
- 8 **Q** Okay. Now, you say you wasn't looking in your
9 rearview mirror?
- 10 **A** No, sir.
- 11 **Q** You just turned your head?
- 12 **A** Yes, sir.
- 13 **Q** And you saw through the Tahoe, through the open door
14 where Mr. Cannon was standing?
- 15 **A** No. My line of sight, you know, didn't cause me to
16 have to look past the Tahoe.
- 17 **Q** You didn't turn your head though all the way around,
18 did you?
- 19 **A** Didn't have to.
- 20 **Q** Just did like that?
- 21 **A** Yes, sir.
- 22 **Q** You saw behind you over there?
- 23 **A** Yes, sir.
- 24 **Q** And it was dark outside?
- 25 **A** Yes, sir.

1 Q Was it raining at that point?

2 A No, sir.

3 Q But it was raining later on?

4 A I never remember it raining.

5 Q At all that night?

6 A No, sir.

7 Q It just wasn't raining while you were there?

8 A While I was there.

9 Q And how far away was Mr. Cannon from you when you
10 heard the shot?

11 A I would say ten yards, fifteen yards.

12 Q And where was the street light at this point? Was
13 there a street light out here anywhere?

14 A There is a street light. Where it is I couldn't tell
15 you.

16 Q You don't remember. And what's the time difference
17 between the first shot and the second shot?

18 A A matter of seconds.

19 Q Seconds. You don't remember there being a few
20 minutes between the first shot and the second shot?

21 A No, sir.

22 Q How many seconds would you say?

23 A Ten seconds maybe.

24 Q Ten seconds?

25 A Yes, sir.

- 1 Q Now, you don't actually see -- which way was Mr.
2 Cannon facing when you heard the shot?
- 3 A He was facing me.
- 4 Q He was facing you when he got shot?
- 5 A Yes, sir.
- 6 Q He was facing towards you when you heard the shot?
- 7 A Yes, sir.
- 8 Q And which way was Mr. Louis Sanders coming from?
- 9 A Westbridge. So coming up behind him.
- 10 Q Coming up this way?
- 11 A Yes, sir.
- 12 Q Louis was coming up this way?
- 13 A Yes, sir.
- 14 Q Sanders was facing you?
- 15 A Mr. Cannon was facing me.
- 16 Q I'm sorry. Mr. Cannon was facing you?
- 17 A Yes, sir.
- 18 Q And your brother was over here somewhere?
- 19 A Yes, sir.
- 20 Q How close was he to your car?
- 21 A I would say he was right on the car.
- 22 Q So you would put your brother -- tell me where? Up
23 or down?
- 24 A Down. Yeah.
- 25 Q Right here?

1 **A** Yes, sir.

2 **Q** Absolutely sure Mr. Cannon was facing you when you
3 heard the shot?

4 **A** Yes, sir.

5 **Q** Had his back towards this way?

6 **A** Yes, sir.

7 **Q** And you put Louis Sanders over here. That's what you
8 said you saw?

9 **A** Yes, sir.

10 **Q** Okay. Now, the police showed you a photo line-up I
11 think of Mr. Sanders. Is that correct?

12 **A** Yes, sir.

13 **Q** And you agree that you saw that same picture they
14 showed you on that photo line-up on the news?

15 **A** Yes, sir.

16 **Q** You had also heard Mr. Sanders had been arrested from
17 the newspaper as well?

18 **A** Yes, sir.

19 **Q** So you saw his face on TV the same as that picture
20 that they showed you in that line-up?

21 **A** Yes, sir.

22 **Q** And you actually saw his name in the newspaper?

23 **A** Yes, sir.

24 **Q** Okay. And on June -- I think Ms. Shipley asked you
25 that you didn't add anything from your June 18th

1 statement at all today?

2 A No, sir.

3 Q Is that correct?

4 A Yes, sir.

5 Q So I'm sure when the State had your June 18th
6 statement, they dismissed your murder charge at that
7 very moment?

8 A They dismissed it on June 18th.

9 Q Yeah. Of 2007?

10 A No, sir.

11 Q So you told them what you're testifying to here today
12 but they didn't dismiss your charge at that point?

13 A No, sir.

14 Q Okay. Now, you say you dropped Louis off over in
15 Winslow?

16 A Yes, sir.

17 Q But you don't know the address to that place?

18 A No, sir.

19 Q You don't remember the directions to that place?

20 A No, sir.

21 Q But in your statement you do remember the detailed
22 directions of other places?

23 A Yes, sir.

24 Q You remember turn-for-turn how you got to Westbridge?

25 A Yes, sir.

1 Q You remember turn-for-turn how you got out of
2 Westbridge?

3 A Yes, sir.

4 Q But you just don't remember the address of the
5 Winslow apartment (sic)?

6 A That's right.

7 Q And let me make sure I'm clear about what exactly
8 happened at the club here. Okay. It was a few
9 minutes after you heard the shot when Garry said,
10 "Let's go", right?

11 A I can't -- you know, I can't say. It wasn't a -- it
12 wasn't a long period of time.

13 Q I think the words you used were after the fire was
14 shot, a few minutes later my brother said, "Let's
15 go"?

16 A Yes, sir.

17 Q So it was a few minutes. And you were driving the
18 Volvo that night?

19 A Yes, sir.

20 Q And I think you said you assumed Mr. Sanders just
21 shot in the parking lot of the pub?

22 A Yes, sir. Like I say, you know, I heard a shot. His
23 arm was raised in the air. So --

24 Q But you assume he shot?

25 A Yes, sir.

- 1 Q And the victim, Mr. Cannon, rammed your car?
- 2 A Yes, sir.
- 3 Q He rammed your car while you were the only one in it?
- 4 A Yes, sir.
- 5 Q And your brother, Garry, was there?
- 6 A Yes, sir.
- 7 Q And your brother was trying to protect you?
- 8 A Yes, sir.
- 9 Q Okay. Beg the Court's indulgence, Your Honor. After
10 this incident I think you said you were a little bit
11 afraid of Mr. Sanders?
- 12 A Yes, sir.
- 13 Q After you got back in the car?
- 14 A Yes, sir.
- 15 Q But didn't you drop your brother off with Louis
16 Sanders you said?
- 17 A Yes, sir.
- 18 Q The brother that you cared about?
- 19 A Yes, sir.
- 20 Q Dropped him off with him. Didn't have any problems
21 doing that?
- 22 A He got out of the car.
- 23 Q You didn't try to stop him from getting out of the
24 car with him?
- 25 A Yes, sir.

1 Q Dropped him off with Mr. Sanders?

2 A Yes, sir.

3 Q Left and went home?

4 A Yes, sir.

5 Q You didn't contact your brother?

6 A Didn't know how.

7 Q Didn't call your brother?

8 A I didn't know how.

9 THE COURT: Any further questions?

10 MS. SHIPLEY: Yes, Your Honor.

11 REDIRECT EXAMINATION

12 BY MS. SHIPLEY

13 Q Did Garry Green have a cellphone?

14 A Not that I was aware of.

15 Q So you couldn't reach your brother?

16 A No, ma'am.

17 Q In fact, I believe some questions you were asked by
18 Mr. O'Neil was you never had a chance to talk to your
19 brother after you dropped him off in the Winslow
20 Subdivision, correct?

21 A Right.

22 Q So he kept saying June 4. What day did you go into
23 the Richland County Sheriff's Department with your
24 father and the black Volvo? What day was that?

25 A June 3rd, a Sunday. It would have been June 3rd.

1 Q So the very day of this incident, that's when you get
2 arrested, correct?

3 A Yes, ma'am.

4 Q And you invoke your right to remain silent. Is that
5 right?

6 A Yes, ma'am.

7 Q Now, you were also asked about the details. You
8 remember when you were driving around in this area
9 right here?

10 A Yes, ma'am.

11 Q Are you familiar with this area?

12 A Yes. The route as far as making a right onto
13 Westbridge and the route that I used to leave the
14 subdivision is a route that I've taken over 100 times
15 just because of my past residence in relation to my
16 brother's, mother's house, that's the route I would
17 take to go.

18 Q And that's on William Harden Road?

19 A Yes.

20 Q And so you're familiar with that area?

21 A Correct.

22 Q Had you ever been in the Winslow Subdivision before
23 June 3rd, 2007?

24 A I have not.

25 Q So you are not familiar with that neighborhood?

1 **A** No, ma'am.

2 **Q** Are you familiar with the names of streets in that
3 neighborhood?

4 **A** Not at all.

5 **Q** Are you familiar with the names of streets in this
6 neighbor?

7 **A** To a certain extent.

8 **Q** And you knew which streets you were turning on?

9 **A** No.

10 **Q** I'm talking about this neighborhood.

11 **A** No. Not knowing the name of the street, just knowing
12 how to go that way.

13 **Q** Okay. All right. When you were leaving the club
14 after the shot is fired, you indicated you turn
15 right, correct?

16 **A** Yes, ma'am.

17 **Q** Why did you not turn left?

18 **A** I couldn't say. You know, I knew making a right I
19 could still get to where I wanted to go.

20 **Q** Okay. Do you recall if others were leaving at the
21 same time?

22 **A** I don't think so.

23 **Q** Okay. And so you turned right. You know how to get
24 to your brother's house turning right?

25 **A** Yes, ma'am.

- 1 Q All right.
- 2 A And I guess with the fact that I was already on that
3 side of the parking lot, you know, why not just go
4 ahead and exit out of that side of the parking lot
5 and, you know, just continue with that flow.
- 6 Q All right. On July 28th of this year, this past
7 Monday, what charge were you noticed to appear to
8 come to be tried?
- 9 A Accessory after the fact of a murder.
- 10 Q So you were never going to be tried for murder,
11 correct?
- 12 A No, ma'am.
- 13 Q Based on a court ruling, your case did not go
14 forward, correct?
- 15 A Right. Yes, ma'am.
- 16 Q As a result, your charge was dismissed?
- 17 A Yes, ma'am.
- 18 Q And you have been subpoenaed to testify in this case
19 as a witness?
- 20 A Yes, ma'am.
- 21 Q You were asked about the duration of time you had
22 with Scooter in the club. Tell this jury again how
23 many minutes it was you sat at that table with him
24 and your brother at the pub?
- 25 A 15, 20 minutes.

1 Q When you were arrested on June 3rd, 2007, had you
2 invoked your right to remain silent?

3 A Yes, ma'am.

4 Q Did the police let you hang out with Garry at
5 headquarters, your brother, Garry?

6 A No, ma'am. I didn't even know he was there.

7 Q Okay. When you were taken to Alvin S. Glenn
8 Detention Center, you indicated that you and your
9 brother were both under arrest and sent to jail,
10 correct?

11 A Yes, ma'am.

12 Q Did the jail separate you and your brother while you
13 were incarcerated?

14 A Yes, ma'am.

15 Q Did you ever have an opportunity to talk to Garry
16 Green while you were in the Alvin S. Glenn Detention
17 Center?

18 A No, ma'am.

19 Q Did you have any idea what Garry Green -- at this
20 time, by June 18th, 2007, did you have any idea what
21 Garry Green had reported or given in his statement?

22 A No, ma'am.

23 Q Had you been provided with any copies of his
24 statement prior to June 18th, 2007?

25 A No, ma'am.

1 Q When you were in the cul-de-sac, do you recall
2 whether your windows were up or down?

3 A They were down.

4 Q And so had it been raining, what would you have done
5 with the windows?

6 A Had them up.

7 Q You were testifying about being seated in your Volvo,
8 correct?

9 A Yes, ma'am.

10 Q Was anything obstructing your view of Mr. Cannon and
11 Scooter?

12 A No, ma'am.

13 Q Was there trees or other vehicles in the way?

14 A No, ma'am.

15 Q You indicated it was about ten to fifteen yards away?

16 A Yes, ma'am.

17 Q So from here to here, ten to fifteen yards in your
18 estimation, correct?

19 A Yes, ma'am.

20 Q Tell the jury what happened when Scooter ran up to
21 the victim?

22 A You know, I just saw -- saw him run up. And, you
23 know, you know, I'm not looking that way. You know,
24 I'm moving, you know, just, you know, trying to
25 gather myself after being hit is when I would say I

1 heard the first shot.

2 Q Okay.

3 A And then --

4 Q Do you know where on Mr. Cannon's body he was shot?

5 A No, ma'am.

6 Q All right. And where was -- do you recall whether or
7 not Mr. Cannon fell immediately down to the ground or
8 what happened with him?

9 A Yeah. After hearing the shot, I looked and I saw the
10 body already on the ground.

11 Q Okay. And do you know -- do you remember where in
12 relation to the body Scooter, Mr. Sanders, was
13 standing?

14 A Right next to it.

15 Q Right next to it?

16 A Yes, ma'am.

17 Q Do you recall whether or not they were facing each
18 other. Did they have a conversation first?

19 A Not that I remember.

20 Q Did you hear that conversation between Scooter and
21 the deceased, Mr. Cannon?

22 A No, ma'am.

23 Q Did you have any problems with Mr. Cannon at the
24 club?

25 A No, ma'am.

- 1 Q Did you even talk to Mr. Cannon at the club?
- 2 A I didn't.
- 3 Q When you left -- when you were getting ready to leave
- 4 the club right after it closed, was Scooter even
- 5 supposed to be riding with you?
- 6 A No, ma'am.
- 7 Q Who were you going to ride with?
- 8 A I was going to give my brother a ride home.
- 9 Q And then where were you going to go?
- 10 A I would go home myself.
- 11 Q And then tell this jury the length of Mr. Sanders'
- 12 hair the night or early morning hours of June 3rd,
- 13 2007?
- 14 A Shoulder length hair.
- 15 Q Shoulder length?
- 16 A Yeah.
- 17 Q Did you shoot Israel Cannon?
- 18 A No, ma'am.
- 19 Q Did your brother, Garry, shoot Israel Cannon?
- 20 A No, ma'am.
- 21 Q Who shot Israel Cannon?
- 22 A Scooter.
- 23 Q Do you see him in the courtroom?
- 24 A Yes, ma'am.
- 25 Q Mr. Sanders?

1 **A** Yes, ma'am.

2 **Q** Did you feel that you had any choice but to drive Mr.
3 Sanders?

4 **A** None at all.

5 **Q** Describe why to the jury. Why did you not have a
6 choice?

7 **A** You know, this is someone that I don't know, someone
8 that doesn't know me. I didn't trust him. I was
9 scared of him. He's sitting right behind me. So I'm
10 not going to challenge him in any way.

11 **Q** Did you intentionally try to conceal his identity?

12 **A** No, ma'am. I didn't know him.

13 **MS. SHIPLEY:** No further questions, Your Honor.

14 **MR. O'NEIL:** Just briefly.

15 **THE COURT:** Cross. Certainly.

16 RE CROSS EXAMINATION

17 **BY MR. O'NEIL**

18 **Q** Justin, just so we're clear about this, where your
19 brother lives at. You would agree with me -- will
20 you step down for a second? Your Honor, can he step
21 down?

22 **THE COURT:** Yes, sir.

23 **Q** I hate to rehash this. But you would agree with me
24 that the club is here and that William Harden Road is
25 here and the easiest way to get to William Harden is

- 1 take a left on Hard Scrabble?
- 2 **A** Yes, sir.
- 3 **Q** Not a right?
- 4 **A** I would.
- 5 **Q** Just so we're clear about this, you're absolutely
6 sure when you heard the shot fired Mr. Cannon was
7 facing you?
- 8 **A** Yes, sir.
- 9 **Q** And his back was to Louis Sanders?
- 10 **A** I would say, you know, it's kind of at an angle. You
11 know, kind of how you're standing towards me now, you
12 know, the way he is looking towards me. But, you
13 know, his body is positioned this way.
- 14 **Q** But Mr. Cannon was facing you?
- 15 **A** Yes, sir.
- 16 **Q** Okay. And your brother was over here?
- 17 **A** Yes, sir.
- 18 **Q** Okay. And Louis Sanders didn't come to the club with
19 you that day?
- 20 **A** No, sir.
- 21 **Q** Had never been with you in the car with you at that
22 time, had never been to your car prior to when you
23 heard the shot?
- 24 **A** Right.
- 25 **Q** Never been in your car?

1 **A** No, sir.

2 **Q** Didn't know where you were parked at?

3 **A** Right.

4 **Q** The judge didn't dismiss your charges, did he?

5 **A** No, sir.

6 **Q** The Solicitor's Office dismissed your charge?

7 **A** Yes, sir.

8 **Q** And you hadn't ever been to prison? Prior to the
9 incidents, you had never been to jail before, never
10 been the trouble?

11 **A** No, sir.

12 **Q** And surely didn't want to go to prison?

13 **A** No, sir.

14 **MR. O'NEIL:** No further questions.

15 **THE COURT:** All right. Thank you very much.

16 May the witness be excused?

17 **MS. SHIPLEY:** Yes, sir.

18 **THE COURT:** Without objection. All right,
19 ladies and gentlemen. That will conclude the
20 testimony for this morning. We'll now take our lunch
21 break. I'll ask you to be back in the courtroom at
22 2:15 at which time we'll resume the trial. Again
23 have a pleasant lunch. Don't discuss the case among
24 yourselves when you return to the jury room or with
25 anyone else over the lunch hour. Thank you very

1 much. You're now excused to go to lunch.

2 (Jury out at 12:55 p.m.)

3 **THE COURT:** All right, Mr. O'Neil. I understand
4 you have a motion.

5 **MR. O'NEIL:** Yes, Your Honor. It slipped my
6 mind.

7 **THE COURT:** It didn't slip mine.

8 **MR. O'NEIL:** I would ask for a mistrial, Your
9 Honor. I approached Your Honor at the side bar after
10 Ms. Lashonda Downing's testimony and want to move for
11 a mistrial based on her demeanor as she took the
12 stand and as she came into the courtroom.

13 Your Honor, I think just so the written record
14 is clear, I think she was visibly shaking from the
15 moment she came in the courtroom and she was visibly
16 crying from the moment she sat behind the solicitor's
17 table. I think she was crying out loud where the
18 jury could have heard when she stepped in the
19 courtroom. I think she was crying during the major
20 portion of her direct testimony. She was crying at
21 that point, too, Your Honor, crying where the jury
22 could hear her. She was visually shaking during that
23 testimony. I think even on cross examination she
24 actually turned and faced the jury at that point,
25 Your Honor, without evening looking towards the

1 defendant's area, Your Honor.

2 Coupled with the fact that her mother came and
3 testified directly after she did. Her mother was
4 crying upon entrance to the courtroom, crying during
5 her testimony and crying while leaving the stand,
6 too, Your Honor. I think based on all that, I think
7 Mr. Sanders at this point is denied a fair trial and
8 I would ask for a mistrial.

9 **THE COURT:** What's the State's position?

10 **MS. SHIPLEY:** Your Honor, the State has no
11 control over the behavior of witnesses. It's not our
12 fault that they are terrified of Mr. Sanders. They
13 got here at 9:00, Your Honor, and we kept them in our
14 lobby away from Mr. Sanders so that they would not
15 get upset. And they cried in the lobby of our
16 office. We gave them an hour to compose themselves and
17 it was time to get started this morning. They were
18 our first witnesses. We had no other witnesses here
19 to testify. So we had to call them in the condition
20 that they were in.

21 And I would like the record to reflect that they
22 both composed themselves at certain portions of their
23 testimony while they were testifying.

24 **THE COURT:** All right.

25 **MS. SHIPLEY:** And it's not grounds for a

1 mistrial.

2 **THE COURT:** That's my decision, not yours.

3 **MS. SHIPLEY:** Yes, sir.

4 **THE COURT:** Well, I didn't think they were so --
5 their behavior was so prejudicial that it rose to the
6 level of the granting of a mistrial. In General
7 Sessions courts people cry a lot, and it's not
8 unusual to see and hear very raw emotions in this
9 courtroom. And not that that -- that should not
10 effect my decision with regard to Mr. Sanders. But
11 it's just a fact of life that when serious matters of
12 this nature are discussed in open court, people react
13 differently emotionally.

14 And although it may have been unpleasant and
15 certainly their testimony was critical in this case
16 and perhaps because of the relationship between Mr.
17 Sanders and the witnesses, both witnesses, I can
18 certainly understand why they may have reacted in
19 that manner. So I must respectfully deny your
20 motion.

21 **MR. O'NEIL:** Yes, Your Honor.

22 **THE COURT:** Thank you very much. All right.
23 We'll stand at ease until 2:15. What did I tell the
24 jury?

25 **MS. SHIPLEY:** I don't remember.

1 **COURT REPORTER: 2:15.**

2 (Whereupon, a lunch break is taken)

3 (WHEREUPON, State's Exhibit No. 66 is marked for
4 identification.)

5 (WHEREUPON, State's Exhibit No. 67 is marked for
6 identification.)

7 (WHEREUPON, State's Exhibit No. 68 is marked for
8 identification.)

9 (WHEREUPON, State's Exhibit No. 69 is marked for
10 identification.)

11 (WHEREUPON, State's Exhibit No. 70 is marked for
12 identification.)

13 (WHEREUPON, State's Exhibit No. 71 is marked for
14 identification.)

15 (WHEREUPON, State's Exhibit No. 72 is marked for
16 identification.)

17 (WHEREUPON, State's Exhibit No. 73 is marked for
18 identification.)

19 (WHEREUPON, State's Exhibit No. 74 is marked for
20 identification.)

21 (WHEREUPON, State's Exhibit No. 75 is marked for
22 identification.)

23 (WHEREUPON, State's Exhibit No. 76 is marked for
24 identification.)

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1 (WHEREUPON, State's Exhibit No. 77 is marked for
2 identification.)

3 (WHEREUPON, State's Exhibit No. 78 is marked for
4 identification.)

5 (WHEREUPON, State's Exhibit No. 79 is marked for
6 identification.)

7 (WHEREUPON, State's Exhibit No. 80 is marked for
8 identification.)

9 (WHEREUPON, State's Exhibit No. 81 is marked for
10 identification.)

11 (WHEREUPON, State's Exhibit No. 82 is marked for
12 identification.)

13 (WHEREUPON, State's Exhibit No. 83 is marked for
14 identification.)

15 (WHEREUPON, State's Exhibit No. 84 is marked for
16 identification.)

17 (WHEREUPON, State's Exhibit No. 85 is marked for
18 identification.)

19 (WHEREUPON, State's Exhibit No. 86 is marked for
20 identification.)

21 (WHEREUPON, State's Exhibit No. 87 is marked for
22 identification.)

23 (WHEREUPON, State's Exhibit No. 88 is marked for
24 identification.)

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1 (WHEREUPON, State's Exhibit No. 89 is marked for
2 identification.)

3 (WHEREUPON, State's Exhibit No. 90 is marked for
4 identification.)

5 (WHEREUPON, State's Exhibit No. 91 is marked for
6 identification.)

7 (WHEREUPON, State's Exhibit No. 92 is marked for
8 identification.)

9 (WHEREUPON, State's Exhibit No. 93 is marked for
10 identification.)

11 (WHEREUPON, State's Exhibit No. 94 is marked for
12 identification.)

13 **THE COURT:** The State ready to proceed?

14 **MS. SHIPLEY:** Yes, sir, Your Honor.

15 **THE COURT:** Defense ready to proceed?

16 **MS. EVERHART:** Yes, Your Honor.

17 **THE COURT:** All right. They're moving some
18 prisoners in the hall. Bring the jury.

19 (Jury in at 2:25 p.m.)

20 **THE BAILIFF:** The jury is seated, Your Honor.

21 **THE COURT:** All right. Thank you. All right,
22 ladies and gentlemen. I hope you had a pleasant
23 lunch. We're now ready to continue with the trial.
24 Solicitor, call your next witness.

25 **MS. SHIPLEY:** Thank you, Your Honor. The State

1 calls Investigator Stan Richards.

2 STAN RICHARDS, after being duly sworn, testifies
3 as follows:

4 **THE CLERK:** Please have a seat. State your full
5 name for the record.

6 **WITNESS:** Stan Richards.

7 DIRECT EXAMINATION

8 **BY MS. SHIPLEY**

9 **Q** Investigator Richards, can you please tell the jury,
10 where are you employed?

11 **A** I work with the Richland County Sheriff's Department,
12 am a sergeant of the crime scene unit.

13 **Q** The crime scene unit?

14 **A** Yes.

15 **Q** What exactly does the crime scene unit do?

16 **A** We respond to most any types of crime. Our job is to
17 identify and to collect and to preserve any type of
18 physical evidence at a crime scene and whenever
19 possible use that physical evidence in the
20 reconstruction of a crime scene.

21 **Q** How long have you been doing that?

22 **A** I've been with the crime scene unit for about six
23 years.

24 **Q** Prior to that?

25 **A** Prior to that, 1994 I went on the road as a line

1 deputy with the Richland County Sheriff's Department.

2 Q Do you have to undergo special training when you're
3 in the crime scene unit?

4 A Yes, ma'am. We have several disciplines and sub
5 disciplines we have to be trained in.

6 Q Okay. And can you describe exactly what fields you
7 are trained in and trained in in order to testify as
8 a crime scene expert?

9 A Yes, ma'am. I've been trained in the following
10 areas. That's basic crime scene investigation, drug
11 analysis, blood pattern analysis, DNA collection
12 procedures, ridgology which is an advanced form of
13 latent verification, crime scene photography, latent
14 verification itself, hazardous materials tech, latent
15 processing, shoe and tire track impressions, forensic
16 shooting reconstruction, AFIS which is Automated
17 Finger Identification System certification,
18 comparison and examination of footwear impressions,
19 advanced blood pattern analysis, and I've attended
20 DNA overview seminars as well as forensic pathology
21 seminars. And I am certified as a crime scene
22 investigator through the International Association
23 for Identification.

24 Q How many times approximately do you believe you've
25 testified as an expert in the field of crime scene

1 investigation and its subcategories?

2 **A** 13 times.

3 **MS. SHIPLEY:** Your Honor, at this time we would
4 offer Investigator Richards as an expert in crime
5 scene investigations.

6 **MR. O'NEIL:** No voir dire nor objection.

7 **THE COURT:** Thank you.

8 **Q** Investigator Richards, I know that you have been
9 qualified as an expert in this field. Could you
10 please tell the jury, typically when you arrive on a
11 crime scene, what is the first thing you would expect
12 to happen when you arrive?

13 **A** Well, when I arrive on a crime scene, I am the
14 primary investigator. Of course I take an
15 opportunity to look it over, to be familiar with all
16 the evidence that I can physically see at that time,
17 gather any information that might be available to me
18 in the performance of my duties, and then I begin the
19 actual processing with photographs.

20 **Q** Now I'm going to bring your attention to 300
21 Westbridge Road. Do you recall responding to that
22 scene?

23 **A** Yes, ma'am.

24 **Q** Tell the jury approximately what time it was when you
25 were called there?

1 **A** I responded or received a call to respond around
2 5 a.m. in the morning and arrived there approximately
3 5:30 a.m. on the morning of the 3rd of June 2007.

4 **Q** And when you arrived there, who else was already
5 there?

6 **A** On the scene was the primary investigator for the
7 scene, which was Investigator Livingston, along with
8 Investigator McRae and at that time a Deputy Coroner,
9 Mr. Reese.

10 **Q** Deputy Coroner?

11 **A** Yes.

12 **Q** And why is it that the Coroner's Office would be
13 called to a crime scene?

14 **A** Well, if there is a deceased on the scene, the
15 Coroner's Office has to respond before we are able to
16 do anything with the body itself. They have to
17 pronounce the decedent.

18 **Q** And so you are not allowed to touch the body. It's
19 up to the Coroner's Office to do that?

20 **A** That would be what happens unless there is an
21 occasion where some type of physical evidence could
22 be destroyed or altered based on the weather or
23 whatever.

24 **Q** When you arrived there tell the jury exactly what
25 steps you took to learn what happened and so forth?

1 **A** Well, as I said, when I arrived, Investigator
2 Livingston was already on the scene and he was the
3 primary investigator. I assisted him in the
4 processing of the scene. When I arrived I observed
5 the following things. Crime scene tape around the
6 entire area. And there was a crime scene log
7 initiated at that time. That means whoever goes
8 inside the crime scene tape at the crime scene itself
9 has to be on that log. So I observed that.

10 I also observed inside the crime scene itself a
11 Chevy, white Chevy Tahoe which was stationary in
12 front of a chain link fence, front bumper of the
13 Tahoe up against a corner post, and there was damage
14 to the front end of the white Tahoe. That Tahoe,
15 like I said, was stationary, but it was -- I think it
16 was in drive. This was up over the drive -- I lost
17 my train of thought -- the roadway itself onto the
18 dirt portion in front of the chain link fence.

19 **Q** And I'm going to stop you right there. State's
20 No. 26, does that pretty much depict what you've just
21 described to this jury?

22 **A** Yes, it does.

23 **Q** And so the center -- you indicated that there is a
24 corner post at that fence?

25 **A** Yes, ma'am.

1 Q And that is where the Tahoe was resting?

2 A That's correct.

3 MS. SHIPLEY: Your Honor, may I publish this to
4 the jury? It's already in evidence.

5 THE COURT: Yes, ma'am.

6 Q Now, you indicated the car was still running and in
7 drive. Is that correct?

8 A That's correct.

9 Q All right. What were the weather conditions like
10 when you arrived?

11 A When I first arrived it was cloudy and overcast the
12 best I could tell because it was still dark. And at
13 some point during the processing period it began to
14 rain.

15 Q Okay. Now, describe what else you witnessed while
16 you were looking at this vehicle?

17 A After observing the Tahoe I observed a black male who
18 was laying face up in the roadway, his arms and legs
19 extended. I observed that he was approximately at
20 the left rear position of the Tahoe itself at an
21 angle. As I observed the victim I also saw what I
22 believed to be at that time a contact wound to the
23 right forehead. I also saw some blood around the
24 right corner of the victim's mouth which indicated to
25 me that there may be a wound or some type of injury

1 at that point also. Once the coroner came over and
2 we rolled the victim over, I saw one exit wound to
3 the back of the victim's head.

4 Q So you saw one exit wound but two entrance wounds.
5 Is that fair to say?

6 A One entrance wound and one additional that I believed
7 to be an entrance wound at that time.

8 Q And then on the back of his head was an exit wound?

9 A That's correct.

10 Q When you -- or were you present when Investigator
11 Livingston marked shell casings found at the scene?

12 A I was.

13 Q And did you have Investigator Livingston collect
14 those and turn them over to you as part of the chain
15 of custody?

16 A He collected them as part of his duties of processing
17 a scene. At one point later on that morning or that
18 afternoon, he did turn them over to me with a chain
19 of custody.

20 Q Okay. And I'm going to show you what's already been
21 introduced as State's No. 54 and ask you if you
22 recognize this item. And also I'm showing you
23 State's 59 is which another document. See if you
24 recognize that.

25 A Yes. This is the chain of custody sheet that we use

1 to sign the cartridges over to me from Investigator
2 Livingston and then eventually from me to
3 Investigator David Collins.

4 Q And what time on the chain of custody does it reflect
5 that you received shell casings from Investigator
6 Livingston?

7 A The 3rd of June 2007 at 3:15 p.m. in the afternoon.

8 Q What time did you turn the shell casings over to
9 David Collins, the ballistics expert?

10 A Basically 3-26 on the same day, 3rd of June. These
11 are the shell casings.

12 Q These those are the ones found at the scene?

13 A Yes, ma'am.

14 Q And they are properly labeled 1 and 2?

15 A Yes, there are.

16 Q All right. So two shell casings at the scene. Were
17 there other ballistics you received or ballistics
18 evidence that you received?

19 A While we were processing that scene Investigator
20 Livingston was called away to a secondary scene which
21 he went to. He collected at that scene what I was
22 told was an additional fired cartridge casing and an
23 unfired shot cartridge. Those were also turned over
24 to me at that time.

25 Q Okay. And I'm going to show you what's been marked

1 State's 55 and ask you if those are the shell casing
2 and the unfired projectile collected at a second
3 scene? And, by the way, is it reflected on that
4 envelope where the secondary scene was?

5 A This says parking lot of H&J's.

6 Q Okay.

7 A Yes. This is an unfired cartridge casing and one
8 fired cartridge casing.

9 Q And did you receive this item at the same time as
10 State's Exhibit No. 54?

11 A I received all four items at the same time. Yes,
12 ma'am.

13 Q Okay. And then you turned all of it over to David
14 Collins?

15 A After I processed it.

16 Q Okay. If I could get that form back. Now, you
17 testified earlier that when you observed the deceased
18 in the road that you noticed two possible entrance
19 wounds and only one exit wound?

20 A Correct.

21 Q Presumably a projectile. Explain the difference
22 between a projectile and a shell casing in case
23 people are not familiar with that?

24 A The shell casing itself is the term that we use of
25 the whole projectile, the casing and projectile goes

1 in the front and then the powder that is in the
2 casing itself. When the projectile is exposed, of
3 course what's left is the empty cartridge casing. So
4 the empty cartridge casing is what we term as a fired
5 bullet. The projectile itself that leaves the
6 cartridge casing, of course we identify that as a
7 projectile.

8 Q Okay. So it is expelled from the case?

9 A Yes.

10 Q Now, since you have noted in your report that there
11 was two entrance wounds but only one exit wound, did
12 you expect to find a projectile around the vicinity
13 of Mr. Cannon's body?

14 A Well, when you have one exit wound, you expect that
15 there is a projectile somewhere.

16 Q Tell this jury what efforts you undertook to locate
17 any projectiles near Mr. Cannon?

18 A Investigator Livingston and I both canvased the area
19 looking for a single projectile which is very, very
20 hard to find. If a person is standing upright, you
21 have a contact wound to the front, exit wound to the
22 rear, the projectile could have went anywhere based
23 on the direction that person is turning.

24 If you have a person who is laying down,
25 particularly on a substrate like a pavement, and a

1 contact wound to the front, an exit wound to the
2 rear, that would come down and ricochet off of the
3 pavement, based on the angle that he was shot, could
4 wind up anywhere.

5 So Investigator Livingston and I canvassed the
6 area starting around the body itself, expanding the
7 search area as we went out several times. We did
8 this twice using a metal detector, with negative
9 results.

10 Once we finished processing the scene and the
11 victim was removed, transported, I called the fire
12 department to come out to clean up the biohazard area
13 of course. And as they were doing that, I observed
14 them as the water was flowing downhill to make sure
15 that there wasn't a projectile in the water as it was
16 being cleaned up, with negative results.

17 Q So no luck finding the projectile that was
18 through-and-through Mr. Cannon's head?

19 A That's correct.

20 Q And is it unusual not to locate a projectile?

21 A No, ma'am. It's not unusual.

22 Q Can you describe for the jury what, if anything, you
23 observed around the vicinity of the Chevy Tahoe that
24 was up against the fence?

25 A Well, there were several impressions in the dirt on

1 the right side, the left side and underneath the
2 Chevy Tahoe. At that time, not knowing -- working on
3 limited information, I counted that as being just
4 impressions where somebody had driven off the road.
5 But when you're inside a crime scene, anything and
6 everything could be important. So I did photograph
7 it with the Tahoe in place and then after the Tahoe
8 was towed to our garage.

9 Q And I'm going to show you what's been marked 66. And
10 I believe we already have another one of your photos
11 in here. Hold on. Here we go. This one is already
12 in evidence, State's 61. Did you take that picture?

13 A Yes, I did.

14 Q Okay. And I'm going to show you 66. Did you take
15 that picture also?

16 A Yes, I did.

17 Q Okay.

18 MS. SHIPLEY: Your Honor, we would introduce 66
19 at this time.

20 MR. O'NEIL: No objection.

21 THE COURT: Without objection.

22 (WHEREUPON, State's Exhibit No. 66 is admitted
23 into evidence.)

24 MS. SHIPLEY: Your Honor, may this witness step
25 down?

1 **THE COURT:** Certainly.

2 **Q** Please come down. I am going to ask you to speak up
3 so the court reporter can hear, and please describe
4 what is described in each exhibit?

5 **THE COURT:** Switch.

6 **Q** Okay. Let's switch.

7 **A** Okay. Both of these photos accurately depict what I
8 photographed at the scene after the Tahoe had been
9 removed and transported to our forensic garage. What
10 is here is two or three -- it's hard to tell -- sets
11 of impressions that presumably a vehicle had made at
12 one point. These if you look at the fence in the
13 corner post is where the Tahoe was resting, the
14 center bumper.

15 On the right side of the Tahoe there were deep
16 impressions in the dirt coming from this area going
17 perpendicular to the chain link fence back this way.
18 Also there is one running parallel to the fence
19 coming this direction.

20 Now, when I took the photograph of the Tahoe
21 itself which was up against the corner fence, this
22 impression running parallel to the fence was already
23 there. It was underneath the Tahoe along with these
24 impressions to the right-of-way.

25 **Q** I'm going to show you State's No. 27 and see if you

1 can make out any tire impressions where the Tahoe is
2 in position?

3 **A** Yes. You can barely see it if you look closely.
4 It's the same as this impression that runs parallel
5 to the chain link fence. This is the impression
6 that's coming from underneath the Tahoe at that time
7 near the fence.

8 **Q** On this diagram can you estimate exactly where these
9 tire marks are?

10 **A** Okay. On the right side. As I indicated, on the
11 right side of the Tahoe itself, the tire impressions
12 or deep impressions were running along the right side
13 of the Tahoe in this general area like this. They're
14 perpendicular to the chain link fence. This one
15 impression this ran underneath the Tahoe itself is
16 running parallel to the chain link fence in that
17 manner.

18 **Q** Okay. And this tire impression that I'm pointing at
19 right here, does that belong to the Chevy Tahoe?

20 **A** No, it does not.

21 **Q** Okay. And so the ones that are running perpendicular
22 do not belong to the Chevy Tahoe?

23 **A** No.

24 **Q** Now, when you had the Chevy Tahoe up against the
25 chain link fence, can you see a tire impression that

1 belongs to the Chevy Tahoe going over the other tire
2 impression in that photograph?

3 **A** Well, it's hard to depict in this photograph. I did
4 have a photograph --

5 **Q** Okay.

6 **A** -- somewhere.

7 **Q** Okay. Beg the Court's indulgence, Your Honor. Oh.
8 Here we go. I think, Investigator Richards, I'm
9 going to show you State's 73 and 74 if this would
10 help assist you better.

11 **A** Yes. These are photographs I took also, one with the
12 Tahoe in place, one without the Tahoe in place.

13 **MS. SHIPLEY:** Your Honor, at this time we'd
14 introduce 73 and 74 into evidence.

15 **THE COURT:** Without objection.

16 (WHEREUPON, State's Exhibit No. 73 is admitted
17 into evidence.)

18 (WHEREUPON, State's Exhibit No. 74 is admitted
19 into evidence.)

20 **Q** Please explain to the jury what your findings were at
21 the crime scene?

22 **A** Okay. As I indicated previously, this is the tire
23 impression that ran underneath the Tahoe running
24 parallel to the chain link fence or perpendicular
25 with the Tahoe itself. This is also the same

1 impression photographed at the time the Tahoe was
2 removed. This is the tire track there. The Tahoe
3 and it overlaps or is on top of this impression. So
4 that means the Tahoe went over it last. So this
5 impression from the Tahoe is the last one to make the
6 impression.

7 Q So is it possible that a car had made those
8 impressions with their tires and left the scene and
9 then the Tahoe drove over them?

10 A A car did make those impressions and the Tahoe drove
11 over them.

12 Q Okay. Thank you, sir. Now, after you completed your
13 photographs at the crime scene, can you please tell
14 this jury what it is you did next?

15 A I returned to the crime scene lab and as previously
16 stated I received the four items, shell casing, fired
17 shell casings and unfired cartridge from Investigator
18 Livingston. At that time I processed those items for
19 latent prints and possible DNA.

20 Q Okay. And I'm going to show you what's been marked
21 94 and ask you if that's what you swabbed?

22 A These are the four swabs that I used to collect
23 possible DNA from the cartridges that I received from
24 Investigator Livingston marked by me, my signature
25 and my initials on the back.

1 Q And describe the technique?

2 MS. SHIPLEY: At this time, Your Honor, we'd
3 seek to introduce No. 94 into evidence.

4 MR. O'NEIL: No objection.

5 THE COURT: Without objection.

6 (WHEREUPON, State's Exhibit No. 94 is admitted
7 into evidence.)

8 Q Describe for the jury the technique, the scientific
9 technique you use in order to swab items of evidence?

10 A DNA collection is very simple. All you use is a
11 cotton swab. It's moistened with distilled water and
12 you run it across the substrate of any item if you
13 want to see if there's DNA on it. At that time you
14 place those swabs in a cardboard box. After they've
15 dried, you package them correctly and you submit it
16 with evidence for submission to the DNA lab who makes
17 analyzation on those.

18 Q Does the Richland County Sheriff's Department have
19 its own DNA lab?

20 A They do. We do.

21 Q Now, when you do your swabbing, does it impact the
22 ridges at all on the shell casing? Does it tamper
23 the evidence at all?

24 A Well, it depends. If we're talking about should you
25 process the latent prints first, absolutely.

1 Q Right.

2 A But then does it tamper any other thing as far as the
3 gun or the way it was fired or scratches or anything
4 of that nature? No, it would not.

5 Q Absolutely not?

6 A No.

7 Q Now, once you swabbed the shell casings and the
8 unfired projectile, tell the jury what you did next?

9 A Well, following this on June the 4th, 2007 at
10 approximately 9:30 in the morning I responded to our
11 Powell Road compound where I found the white Chevy
12 Tahoe in place after it had been processed by another
13 CSI. At that time I photographed again, observing
14 the damage to the front of the vehicle.

15 What I found was that there is a vehicle that
16 was damaged. Mostly of course was the front bumper
17 area, the center damage and up to the hood. It was
18 consistent with the vehicle being located where it
19 was located and that was resting up against the
20 corner post of the chain link.

21 Again I have photographed and marked both the
22 left and the right areas of the bumper, the right
23 front bumper was marked No. 1 by me, and the left
24 front bumper was marked number 2. And I observed
25 both areas of the vehicle pulled away from the

1 vehicle.

2 Q I'm going to stop you right there, Investigator. 72,
3 please look at all these photographs and let me know
4 if you're the one that took those?

5 A Yes, ma'am. I took those photographs.

6 MS. SHIPLEY: Your Honor, we would seek to
7 introduce 75, 71, 72, 67, 68, 69 and 70 at this time.

8 MR. O'NEIL: No objection.

9 (WHEREUPON, State's Exhibit No. 67 is admitted
10 into evidence.)

11 (WHEREUPON, State's Exhibit No. 68 is admitted
12 into evidence.)

13 (WHEREUPON, State's Exhibit No. 69 is admitted
14 into evidence.)

15 (WHEREUPON, State's Exhibit No. 70 is admitted
16 into evidence.)

17 (WHEREUPON, State's Exhibit No. 71 is admitted
18 into evidence.)

19 (WHEREUPON, State's Exhibit No. 72 is admitted
20 into evidence.)

21 (WHEREUPON, State's Exhibit No. 75 is admitted
22 into evidence.)

23 Q I'm going to show you first State's 72. And now can
24 you please step down to show this jury? Show the
25 jury what you noted in that photograph?

1 **A** This, I believe as you can see, it's a certain
2 portion of the vehicle. It's the bumper area that
3 was resting against the corner post. It's where the
4 most heavy damage was done. And that's consistent
5 with being next to the post.

6 **Q** In your experience, is a Chevy Tahoe a pretty steady
7 or strong car?

8 **A** It's fairly strong I would imagine. Yes, ma'am.

9 **Q** In your experience, what type of force would be
10 required to cause that type of damage to the vehicle
11 when it hit the post?

12 **A** I couldn't tell you miles per hour because I don't
13 know. But it would take a forward motion of some
14 type in order to bend a bumper and pull both sides.
15 It would have to be a pretty good force.

16 **Q** And again, the car was in drive when you arrived on
17 the scene?

18 **A** It was.

19 **Q** And can you describe again the fender on the left and
20 on the right, how you described the pulled out
21 motion?

22 **A** Yes. As you can see, on the left side I believe I
23 stated it was marked number 1 by me, it's pulled away
24 from the vehicle itself. The same on the right side.
25 I believe that was marked number 2. It was also

1 pulled away from the body itself, indicating where
2 the post was and how the vehicle hit it and how it
3 crunched in the vehicle.

4 Q Now, I'm going to show you another photograph,
5 State's No. 71. What is the significance in that
6 photograph?

7 A Okay. This photograph, one of the small yellow
8 lights was missing. And you can tell it had been
9 broken out because there are still pieces of it left
10 in the area. The one above it was cracked. The
11 bumper was pulled way out as compared to the left
12 front side. Also along the wheel well and along the
13 rubber, there's a lot of scrapings on this rubber and
14 a lot of scrapings along the upper wheel well of the
15 right front tire which is not consistent with hitting
16 the corner post in the middle of the bumper.

17 Q So something else caused that damage?

18 A Yes.

19 Q Not the post?

20 A No.

21 Q I'm going to show you the rest of the photographs,
22 State's 70, 69, 75, 67 and 68 and ask you just to go
23 through all of these with the jury and let them know
24 what is the relevance in these photographs?

25 A This shows a better view. And I have the reverse

1 side. This is the front portion of the Tahoe and
2 this is marked number 1, marked by me. This, you can
3 see that's the bumper being pushed out. This, if you
4 can tell, is the scraping along the upper wheel well
5 area and it was cut off. Let me see if there is a
6 better picture. This is scraping along the bumper
7 area down here. It's pretty well scraped up.

8 Now, the position of the bumper being pulled out
9 and bowed out on both sides can be consistent with it
10 hitting the center of the bumper with the corner post
11 obviously, but I'm talking about the scrapings that I
12 found all on the sides along the wheel well, along
13 the rubber bumper area in particular and the light
14 fixtures being damaged.

15 Q Okay. Did you see any evidence of foreign paint on
16 this vehicle?

17 A No. I checked this. Because of those areas that I
18 saw, I checked the areas and did not find any other
19 trace evidence.

20 Q Okay. Thank you. Please have a seat. Did you then
21 collect a sample of the white paint belonging to the
22 Chevy Tahoe?

23 A Yes. Based on the damage that I saw, I took a
24 standard, what we call standards, a paint scraping of
25 the white paint from the number one position which is

1 the right front and submitted that to our evidence.

2 Q Okay. I'm going to show you what's already been
3 marked State's number 2, ask you to look at the
4 contents and see if you find a sample of the white
5 Tahoe that you collected?

6 A Yes, ma'am. This is my evidence envelope with
7 evidence labeled, my handwriting and signature from
8 the paint scrapings from the white Tahoe right front
9 marked number 1.

10 Q And when you enter an object in the property room,
11 the evidence room, describe for the jury what, if
12 any, identifying markers or signs you have?

13 A Well, our case number is assigned to everything that
14 we do, to include our analysis reports, any evidence
15 that we might put into our evidence property room so
16 they are associated together obviously.

17 Q Okay. And so the paint scraping that you turned into
18 the property room at the Richland County Sheriff's
19 Department after you collected it, would that be item
20 number 13?

21 A That would be item number 13 which is placed on there
22 by the property room.

23 Q Okay. All right. What is the next thing -- oh, by
24 the way, when you turned that into evidence, do you
25 recall who you turned that into at the property room?

1 **A** It is received by Curtis Burnett.

2 **Q** Okay. And what date and time did you submit it to
3 Curtis Burnett?

4 **A** June the 5th of 2007 at 10:52 a.m.

5 **Q** Okay. I'm going to show you my copy and maybe you'll
6 be able to see that number a little. Item number 13,
7 what time was it?

8 **A** He has 11:02, and that's when it was entered into our
9 computer system.

10 **Q** Okay. Great. Thank you. And on the envelope it
11 states who you turned it into?

12 **A** Yes, ma'am.

13 **Q** Now, once you finished processing the Tahoe, what is
14 the next item that you began to examine?

15 **A** I returned to our forensic garage at that time and
16 was assisted by then Lieutenant Padgett in the
17 processing of a '94 black in color Volvo.

18 **Q** Okay.

19 **A** What I did with the Volvo itself was I processed four
20 latent prints, the outside front and rear doors on
21 both sides and the inside front and rear doors on
22 both sides of the vehicle, plus the windows for the
23 possibility of latent prints. That was the
24 processing that I did of that, of which I developed
25 one partial palm print from the inside left rear

1 window.

2 Q Okay. And did you submit that palm print for further
3 analysis?

4 A Yes. I submitted it to our latent print section.

5 Q What were the results?

6 A The results was it was not suitable for AFIS. That's
7 our Automated Fingerprint Identification System.
8 However, it was compared to a major case print card
9 of a Mr. Louis Joseph Sanders and the results was it
10 was determined the latent was not made by the same
11 source as the palms depicted on the known print.
12 That means it was not a match.

13 Q Okay. And so when a person is in a vehicle and
14 they -- describe how a person leaves a fingerprint?

15 A Okay. On your fingers there are ridges. I think
16 everybody has looked at a finger and saw the ridges.
17 What happens, you secrete sweat from those ridges,
18 and it's oils and water. It's 90 percent water.
19 When you touch something, that's what you leave. You
20 leave that oil base and water on the surface or the
21 substrate of the item that you touch.

22 Based on how much oil a person has or secretes
23 from the glands inside your fingers, you would have a
24 lot. A person could have a lot or you could have a
25 little. There is a lot of things that go into

1 developing a fingerprint. The fingerprint is a very
2 fragile piece of physical evidence and it is not as
3 easy to develop one that most people think it is.
4 There's a lot of things.

5 It's based on environment, whether it's too hot,
6 too cold, the amount of oils on a person's finger,
7 what they touched, the surface that they touched,
8 whether or not it is smudged. That means the person
9 touching a surface or substrate may slide their
10 fingers across it. You've got to have an
11 identifiable pattern of ridges in order to make a
12 comparison for a fingerprint.

13 Q Okay. And the fact that hypothetically if I have for
14 the first time gone into someone's vehicle and sat
15 down in it and shut the door and everything, would I
16 necessarily leave a fingerprint?

17 A You wouldn't necessarily leave an identifiable
18 fingerprint. You may leave some smudges which we
19 find all the time because there is a difference
20 between a smudge and a usable and identifiable
21 fingerprint.

22 Q All right. I'm going to show you some photographs
23 and ask you if you recognize 76 through 87?

24 A Yes. This is the Volvo that I -- Lieutenant Padgett
25 and I processed inside our forensics garage.

1 Q Okay. And did you observe any damage on that
2 vehicle?

3 A Yes, I did.

4 Q Where?

5 A To the left rear area of the vehicle.

6 Q And what kind of damage did you notice?

7 A Well, at the very top of the left rear there is an
8 indentation, quite large. It's very observable
9 damage to that area. Also some white markings,
10 possibly paint, on the bumper area down at the bottom
11 of the left rear of the vehicle also.

12 MS. SHIPLEY: Okay. I'm going to introduce
13 these items of photographs at this time, Your Honor.

14 MR. O'NEIL: No objection, Your Honor.

15 (WHEREUPON, State's Exhibit No. 76 is admitted
16 into evidence.)

17 (WHEREUPON, State's Exhibit No. 77 is admitted
18 into evidence.)

19 (WHEREUPON, State's Exhibit No. 78 is admitted
20 into evidence.)

21 (WHEREUPON, State's Exhibit No. 79 is admitted
22 into evidence.)

23 (WHEREUPON, State's Exhibit No. 80 is admitted
24 into evidence.)
25

1 (WHEREUPON, State's Exhibit No. 81 is admitted
2 : into evidence.)

3 (WHEREUPON, State's Exhibit No. 82 is admitted
4 into evidence.)

5 (WHEREUPON, State's Exhibit No. 83 is admitted
6 into evidence.)

7 (WHEREUPON, State's Exhibit No. 84 is admitted
8 into evidence.)

9 (WHEREUPON, State's Exhibit No. 85 is admitted
10 into evidence.)

11 (WHEREUPON, State's Exhibit No. 86 is admitted
12 into evidence.)

13 (WHEREUPON, State's Exhibit No. 87 is admitted
14 into evidence.)

15 Q I'm going to ask you to step down one more time and
16 please go through these photographs and tell the jury
17 what the significance of each photograph is?

18 A This is the rear of the Volvo that was processed
19 inside our secure forensic garage. As you can see,
20 hopefully you can see, at the very top of the left
21 rear area there is the damage there, the indentation.

22 This is another photograph of the left side.
23 This is just the outside of the vehicle. This is
24 marked number 1 of the area on the inside window
25 where I took the partial palm print. This is the

1 area, a larger depiction of the area that was damaged
2 at the left rear area of the Volvo itself. And I
3 have a scale there to kind of give you an indication
4 of the size of it. As you can see, there is some
5 white area there.

6 Q And is that white area foreign paint?

7 A It's what I believed to have been foreign paint at
8 that time.

9 Q Okay. And did you collect that?

10 A I did.

11 Q Okay.

12 A The same, just a different view of the damage to the
13 top area left rear. This is the left rear bumper
14 with the scrapings also, some white in that area.
15 Again the same left rear bumper, left rear bumper
16 with the scale. Again the damage to the top left
17 rear with scale. Overview of the bumper area,
18 overview of the right side of the vehicle as it was
19 processed and an overview of the rear of the vehicle
20 itself.

21 Q Great. Thank you, Investigator. You indicated you
22 had collected what you believed to be paint scrapings
23 foreign to the Volvo from the left rear bumper. Can
24 you please look in State's number 2 and see if you
25 see that collection?

1 **A** Paint scrapings from the left rear area that is under
2 my signature with the evidence label and packaging as
3 turned into our evidence property room.

4 **Q** Okay. And that would be to the black Volvo?

5 **A** That was.

6 **Q** All right. What number was assigned by the property
7 room when you turned it in?

8 **A** Our case number 12.

9 **Q** Number 12?

10 **A** Yes, ma'am.

11 **Q** And who received that in the property room?

12 **A** This was received by Tena Goff.

13 **Q** Okay. And what date and time?

14 **A** She received it the 5th of June, 2007 at 15:30.

15 **Q** 5:30 p.m.?

16 **A** 5:30 p.m. I'm sorry.

17 **Q** And when you turn items of evidence into the property
18 room at the Sheriff's Department, do you seal the
19 envelopes yourself?

20 **A** Yes.

21 **Q** What is the purpose of doing that?

22 **A** To maintain the chain of custody. It goes through me
23 to the property room, has to be sealed so no one else
24 opens it up unless it's checked out of the property
25 room by a person who needs to know. Then they can

1 break the seal and they have to seal it themselves.
2 The chain of custody maintains who has the physical
3 piece of evidence.

4 Q What is the purpose of making a chain of custody?

5 A So you can keep track of where it goes, who has it at
6 any time so you know it hasn't been tampered with.

7 Q So it won't be tampered with?

8 A That's right.

9 Q So typically the person that would break your seal on
10 an envelope would be a scientist who analyzes the
11 item?

12 A Yes. If I placed it into evidence with the paperwork
13 for it to be submitted somewhere else, say, DNA or to
14 firearms or to SLED for comparison, they would be the
15 one who would open the envelope.

16 Q Great. You've mentioned earlier about fingerprints
17 and how you leave fingerprints. What is an ideal
18 surface to leave a fingerprint on?

19 A Ideal. An ideal surface would be room temperature
20 with a person who has a normal amount of oils on
21 their fingertips and probably on a very smooth
22 substrate.

23 Q Can you leave fingerprints on clothes?

24 A I'm not going to say you can't leave a fingerprint on
25 anything. It's very, very difficult to develop a

1 fingerprint off an item of that nature.

2 **MS. SHIPLEY:** Okay. Thank you. No further
3 questions, Your Honor.

4 **THE COURT:** Cross examination.

5 **MR. O'NEIL:** Thank you, Your Honor.

6 CROSS EXAMINATION

7 **BY MR. O'NEIL**

8 **Q** Now, Investigator, you were not the first person on
9 scene of this incident, were you?

10 **A** No, sir, I was not.

11 **Q** I think you actually arrived on the scene at 5:30?

12 **A** That's correct, sir.

13 **Q** And other deputies and investigators had been on the
14 scene before you got there?

15 **A** Yes, sir.

16 **Q** And they had briefed you about what was going on?

17 **A** They briefed me the best they could on what they
18 knew.

19 **Q** And those briefings are very important to you?

20 **A** They can be. Yes, sir.

21 **Q** They gave you a kind of starting point for your own
22 investigation?

23 **A** That's correct.

24 **Q** Lets you know what's important and what may need to
25 be photographed?

1 **A** They tell me what they know. I decide what's
2 important and what needs to be photographed.

3 **Q** Did you take all that information into consideration?

4 **A** I do.

5 **Q** Now, you were initially briefed that the victim's
6 vehicle actually struck the fence. Is that correct?

7 **A** I saw it against the fence. It wasn't hard to deduce
8 that it struck the fence. Yes, sir.

9 **Q** But you were briefed that it was actually being
10 chased by the vehicle and then struck the fence?

11 **A** I don't recall that I had that information at that
12 time. I was told and then I went and observed that
13 it was in drive and was still idling.

14 **Q** I understand that. But my question was, you were
15 told that the victim's vehicle was being chased by
16 another vehicle and struck the fence?

17 **A** Sir, I know that now. What time it was and in what
18 sense I was told that and that I heard that
19 information, I can't say for sure.

20 **Q** Well, let me let you look at your bench notes here so
21 you can maybe refresh your memory here.

22 **A** All right.

23 **Q** Do you have the bench notes in front of you?

24 **A** I believe I do.

25 **Q** Take a look at them.

1 **A** Okay. I've got them. "Witness stated". Yes, sir.

2 **Q** So, "witness stated that the victim's vehicle was
3 being chased by another vehicle"?

4 **A** That's correct.

5 **Q** And struck the chain fence?

6 **A** That's correct.

7 **Q** And after that, "The victim was pulled out of the
8 vehicle"?

9 **A** It says: "Location and chased." It says: "The
10 victim dragged from his vehicle." That's the
11 information that I got there or I wouldn't have
12 written it down.

13 **Q** I'm sorry. That the victim was drug out of his
14 vehicle?

15 **A** That's what I have written down.

16 **Q** Okay. And you processed that Tahoe I think you said?

17 **A** I did not process the Tahoe at the forensic garage.
18 It was processed by another CSI.

19 **Q** But did you do any processing to the Tahoe at all?

20 **A** I looked in it at the scene you talked about, sir.

21 **Q** Either at the scene or in the garage?

22 **A** Yes. I photographed it at our compound.

23 **Q** And you saw the damage it had to the front bumper?

24 **A** Yes, sir.

25 **Q** And it had damage to the right front bumper?

1 **A** It had damage -- the bumper was pulled out from both
2 the right and the left area of the bumpers on either
3 side and indentations where it was up against the
4 corner post in the center of the bumper.

5 **Q** But it also had damage to the right front which was
6 consistent with striking --

7 **A** Yes.

8 **Q** -- the fence? Okay. Now, you also processed shell
9 casings that you found there at the scene at
10 Westbridge Road?

11 **A** I did. Yes, sir.

12 **Q** And you processed those for fingerprints?

13 **A** Latent prints and possible DNA collection. Yes, sir.

14 **Q** And those shell casings were negative for
15 fingerprints?

16 **A** That's correct.

17 **Q** Fingerprints, those, Louis Sanders' fingerprints was
18 not on those shell casings?

19 **A** There was to fingerprints I could find only them.
20 No, sir.

21 **Q** None at all?

22 **A** No, sir.

23 **Q** Well, you didn't process those for DNA, did you?

24 **A** I -- yes, sir, I did.

25 **Q** Did you actually analyze those?

1 **A** I do not analyze the --

2 **Q** You don't analyze the evidence?

3 **A** No, sir. I do collections.

4 **Q** So you just did those to be analyzed by somebody
5 else?

6 **A** The swabs go to our DNA lab.

7 **Q** It would be important if somebody's DNA was on those
8 shell casings?

9 **A** Anybody's DNA would be deemed important. Yes, sir.

10 **Q** And so that's why you sent them off to get tested?

11 **A** That's correct.

12 **Q** And you tested the Volvo owned by Justin Green I
13 think?

14 **A** I don't know who the owner was, sir.

15 **Q** But you tested the -- I'm sorry. You processed the
16 defendant's black Volvo in the garage?

17 **A** Yes, sir.

18 **Q** You processed that. I think you were able to lift a
19 partial palm print?

20 **A** Yes, sir.

21 **Q** From the driver's -- the rear driver's side window?

22 **A** Just a second. Let me make sure. It was a partial
23 palm marked number 1 from the inside left rear
24 window.

25 **Q** Okay. And that palm print did not match Louis

1 Sanders?

2 A It did not.

3 Q It was tested against a known palm print that you had

4 for Louis Sanders?

5 A That's correct.

6 Q And it came back not a match?

7 A That's correct.

8 Q Was it used to eliminate anybody else?

9 A That, I do not know if it was. I just know that that

10 one was not a match.

11 Q Okay. And I think you said that Mr. Cannon, the

12 deceased, had an exit wound to the back of the head?

13 A That's correct.

14 Q It was an exit wound, not an entrance wound, but you

15 said an exit wound?

16 A That's correct.

17 Q I think you said you took some picture of the tire

18 marks that were located here. I think they are

19 State's Exhibits 66 and 61?

20 A Yes, sir.

21 Q And there was soot? There were center tire marks --

22 if I might see them?

23 A Sure.

24 Q That were parallel to the chain fence?

25 A They were tire impressions. Marks is something else.

1 I couldn't determine patterns or anything like that.
2 They were tire impressions that run parallel to the
3 chain link fence and perpendicular.

4 Q And the ones that ran perpendicular, you thought
5 those came from the Tahoe?

6 A There was a set that came from the Tahoe because I
7 looked at it based on the Tahoe which was still there
8 when I arrived. Yes, sir.

9 Q And the set that came from the Tahoe, those were
10 perpendicular to it?

11 A Yes, they were.

12 Q And the ones that were parallel didn't appear to have
13 came from the Tahoe?

14 A Didn't appear to have. No, sir.

15 Q And the ones that came from the Tahoe were on top of
16 the ones that were parallel to the chain link fence?

17 A Yes.

18 Q So the ones that would have came from the Tahoe were
19 actually left after the ones that ran parallel to the
20 fence?

21 A That's correct.

22 Q Okay. Beg the Court's indulgence, Your Honor. The
23 Volvo that you processed, the car, were there any
24 items taken out of that Volvo?

25 A Not by me.

1 Q Not by you?

2 A I was advised by Lieutenant Padgett. He may have
3 taken some out of there.

4 MR. O'NEIL: No further questions, Your Honor.

5 THE COURT: Is that all?

6 MS. SHIPLEY: Just redirect briefly, Your Honor.

7 REDIRECT EXAMINATION

8 BY MS. SHIPLEY

9 Q Mr. O'Neil asked you about information you gathered
10 at the scene when you first got there to be briefed
11 on what to expect to find at the scene. Is that
12 correct?

13 A Yes.

14 Q Okay. What I believe he has asked you, isn't it true
15 that some witness at the scene said the Tahoe was
16 being chased?

17 A Yes. That's what I have down. He was --

18 Q Well, does the physical evidence at the scene support
19 that?

20 A It didn't when I arrived there and what I processed.
21 What I based -- I take everything into consideration,
22 what I'm being told by the investigator, by the
23 deputy on the scene, what they have been told by
24 anyone else at the area. And then I do my processing
25 based on what I see of the physical evidence.

1 Q All right. And your physical findings, your findings
2 of the physical evidence at the scene is what about
3 the Tahoe leaving its tire impressions?

4 A The Tahoe moved forward in a direction of the corner
5 fence and struck it in the middle.

6 Q And its tire marks went over what?

7 A The tire marks went over any other impressions that
8 ran perpendicular to it.

9 Q It ran over a different car's tire marks?

10 A Tire impressions, yes.

11 Q Tire mark impressions. How long does -- can you date
12 a fingerprint or palm print?

13 A No.

14 Q So the one that you collected from the left rear
15 window of the Volvo, you have no idea when this was
16 left there?

17 A I do not.

18 Q For all you know, it could have been an occupant that
19 was allowed to be in that car?

20 MR. O'NEIL: Objection, Your Honor. Leading.

21 THE COURT: Sustained.

22 Q You have no idea to tell how long it had been there?

23 A You cannot date a print.

24 MS. SHIPLEY: I have no further questions.

25 THE COURT: Anything further?

1 **MR. O'NEIL:** No, Your Honor.

2 **THE COURT:** You may come down, sir. Thank you
3 very much. Witness be excused?

4 **MS. SHIPLEY:** Yes, please.

5 **THE COURT:** Without objection. Next witness.

6 **MS. MCDUFFIE:** The State calls Investigator
7 Morris Davis.

8 MORRIS DAVIS, after being duly sworn, testifies
9 as follows:

10 **THE CLERK:** Please have a seat. State your full
11 name.

12 **WITNESS:** Investigator Davis, Richland County
13 Sheriff's Department.

14 DIRECT EXAMINATION

15 **BY MS. MCDUFFIE**

16 **Q** Good afternoon, Investigator Davis. Where are you
17 currently employed?

18 **A** Richland County Sheriff's Department.

19 **Q** And what are your duties with the Richland County
20 Sheriff's Department?

21 **A** As of right now I work for victim services.

22 **Q** And back in June of 2007, what were your duties then?

23 **A** I was working in investigations.

24 **Q** And what were your duties as an investigator?

25 **A** I worked criminal domestic violence crimes, any type

1 of assault crimes.

2 Q Were you working on the morning of June the 3rd,
3 2007?

4 A I was.

5 Q And did you have the occasion to go to the H&J club
6 on Hard Scrabble Road?

7 A I did.

8 Q And why were you called out to the H&J club?

9 A To look for shell casings.

10 Q And was anyone else on the scene when you arrived
11 there?

12 A There was not.

13 Q And what did you do when you got to the H&J club?

14 A I was checking the vicinity near the phone booth for
15 any shell casings on the ground, at which time I did
16 find two.

17 Q I'm going to show you what's been marked as State's
18 Exhibit 20. Do you recognize that?

19 A I do.

20 Q And can you tell the jury what's in Exhibit 20?

21 A What I see here is the area where the shell casings
22 were found. I also see where I placed pieces of
23 paper so that way I could easily identify them when
24 the lab unit came. I also see our markings from the
25 Sheriff's Department where those rounds would be

1 where the paper was located.

2 **MS. MCDUFFIE:** Your Honor, may I publish this to
3 the jury?

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

5 **Q** And State's Exhibit 18, can you tell the jury what
6 that is?

7 **A** That is a -- looking at -- that is an extracted round
8 which I located with the paper, that blue paper
9 sitting there.

10 **Q** So you put that piece of blue paper there?

11 **A** I did.

12 **Q** So that you could locate it easily?

13 **A** Yes.

14 **Q** And State's Exhibit 17?

15 **A** This is an unextracted round which has a piece of
16 paper that I placed there so that I could easily
17 identify it location wise.

18 **Q** And so this is an unfired round?

19 **A** Yes, ma'am.

20 **Q** And did Investigator Livingston respond out to the
21 H&J pub?

22 **A** He did.

23 **Q** And did he collect those shell casings while you were
24 present?

25 **A** He did.

1 Q And did you have the occasion to go to [REDACTED] William
2 Harden Road later that afternoon?

3 A I did.

4 Q And why was that?

5 A It was a search warrant being conducted.

6 Q And after the search warrant was conducted, did you
7 stay back?

8 A I did. Other investigators went to other locations
9 and I stayed behind.

10 Q And what was the purpose of you staying behind?

11 A I was actually talking with the family. I can't
12 remember why I stayed behind, but I was talking with
13 the family. And we just started talking. I
14 recognized them from the location of where I used to
15 work at. And I waited on further instructions from
16 Investigator McRae and also had an opportunity to
17 speak with the mother; I can't remember her name, and
18 the stepfather.

19 Q You're talking about the parents of Garry Green?

20 A The parents of Garry. Yes, ma'am.

21 Q And did they tell you where Garry Green was?

22 A Not at first. But after I guess they kind of got
23 calm with me, they told me. They said, "Well, Garry
24 is nextdoor." So I asked them if they would have
25 Garry come out, at which time he did. And I called

1 Investigator McRae and told them that Garry was there
2 with me.

3 Q And did you have an occasion that day to talk to a
4 Mr. Glenn Green?

5 A I did.

6 Q Where was that?

7 A He showed up moments later. I'm assuming he was
8 called. I spoke with him. He was -- of course, he
9 appeared to be pretty upset. And of course he told
10 me that Justin which was his son was at work. And so
11 he did phone Justin.

12 Q And did he tell you anything about Justin's vehicle?

13 A He arrived. He told me that they owned -- or Justin
14 was driving a Volvo which actually matched the
15 description of the Volvo that was in the yard.

16 Q And so did you take Mr. Green to Justin's place of
17 employment?

18 A Yes. He followed me there, at which time Justin came
19 out. And Justin rode with me back to headquarters.
20 I informed Lieutenant McDonald that we were in route
21 to headquarters. And dad actually left his vehicle
22 there and drove the Volvo to headquarters behind me.

23 Q And did you attempt to question Justin Green or have
24 any conversation with him in the car?

25 A We did not have any conversation about the incidents,

1 no.

2 **MS. MCDUFFIE:** Nothing further from this
3 witness, Your Honor.

4 **THE COURT:** Cross examination.

5 **MR. O'NEIL:** Just briefly, Your Honor.

6 CROSS EXAMINATION

7 **BY MR. O'NEIL**

8 **Q** Investigator Davis?

9 **A** Mm-hmm (affirmative).

10 **Q** You were working assault crimes during this time?

11 **A** During that time I received cases such as criminal
12 domestic, any type of assault crimes, which include
13 criminal domestic violence, simple assault at the
14 time, aggravated assault, those type cases.

15 **Q** And you searched the pub on the morning of June 3rd,
16 the parking lot of the H&J pub area?

17 **A** I did.

18 **Q** You didn't find any firearms?

19 **A** That morning?

20 **Q** Yeah. That morning.

21 **A** I did. I found two.

22 **Q** Firearms or --

23 **A** Well, no firearms. Just the rounds themselves.

24 **Q** Just two rounds?

25 **A** Yes.

1 Q You executed a search warrant at Garry Green's
2 residence?

3 A I actually didn't issue the search warrant myself.
4 But it was at that address.

5 Q Did you just execute it there, or were you part of
6 the execution of that search warrant?

7 A I was part of the search warrant team. Yes, sir.

8 Q What was found? What was found during that search
9 warrant at Garry Green's residence?

10 A I'm not sure all that was found. I do know that dad
11 did own a firearm, at which time he said that he had
12 never fired that firearm before. I'm not sure if it
13 was taken from the house. I apparently assume that
14 it was.

15 MR. O'NEIL: Okay. No further questions, Your
16 Honor.

17 MS. MCDUFFIE: No redirect, Your Honor.

18 THE COURT: You may come down. Thank you very
19 much. May the witness be excused?

20 MS. MCDUFFIE: Yes, sir.

21 THE COURT: Without objection. Next witness.

22 MS. MCDUFFIE: The State calls Investigator Hal
23 Boland.

24 JAMES BOLAND, after being duly sworn, testifies
25 as follows:

1 **THE CLERK:** Please have a seat. State your full
2 name for the record.

3 **WITNESS:** James Boland.

4 DIRECT EXAMINATION

5 **BY MS. MCDUFFIE**

6 **Q** Good afternoon, Investigator Boland. Where are you
7 currently employed?

8 **A** Richland County Sheriff's Department.

9 **Q** And what your duties with the Richland County
10 Sheriff's Department?

11 **A** Currently assigned as a criminal investigator of the
12 major crimes unit within the investigative division.
13 I've worked a lot of aggravated assaults, domestic
14 related, non-domestic related homicides, things of
15 that nature.

16 **Q** And were you working on June the 3rd of 2007?

17 **A** I was.

18 **Q** Did you participate in a search warrant at [REDACTED]
19 William Harden Road?

20 **A** I did.

21 **Q** And describe to the jury what that entailed?

22 **A** Typically whenever we execute a search warrant, a
23 number of us go to facilitate the service of the
24 search warrant. It was myself and a couple of other
25 investigators that went to that address. Typically

1 we like to find someone at home to assist us and not
2 damaging or disturbing the premises as much as
3 possible. The search warrant is then read to the
4 person if they are home. Items that may be recovered
5 during that search are transcribed and a copy left
6 for the person if they're home.

7 Q And who was with you when this search warrant was
8 executed?

9 A Sergeant McDonald, Investigator McRae, Investigator
10 Davis and Deputy Parish.

11 Q And did you get to meet William and Carolyn Culler?

12 A I did.

13 Q And did you have a chance to speak with them?

14 A I was present whenever we spoke with them. I know
15 that Lieutenant McDonald and Investigator McRae were
16 the actual case officers in this. But I was present;
17 yes, ma'am.

18 Q What, if anything, did you all recover from [REDACTED]
19 William Harden Road?

20 A Particularly, there was a -- we had gone there in
21 reference to a firearm. After meeting with Mr. and
22 Mrs. Culler, we determined that there was a -- that
23 Mr. Culler actually had a handgun, a Smith and Wesson
24 9-millimeter. As I recall, he may have indicated
25 this to Lieutenant McDonald, where that weapon was.

1 And I believe Lieutenant McDonald may have retrieved
2 that. And there was also a black Volvo that was in
3 the driveway.

4 Q And what make on the Volvo was that?

5 A It was a '94 Volvo, 940, bearing --

6 Q And did you then receive the 9-millimeter Smith and
7 Wesson from Sergeant McDonald?

8 A I did. I took that into my possession.

9 Q Once you received that firearm, what did you then do?

10 A Well, we executed the search warrant that late
11 afternoon on the 3rd. It either would have stayed
12 with me in my possession -- or I say my possession --
13 a secured area that I have a key to, my desk or my
14 file cabinet. Then I don't recall if it was the
15 afternoon of the 3rd or maybe early morning of the
16 4th, because of the late afternoon hours, I would
17 have taken that to Investigator Collins for firearms
18 analysis.

19 Q And when you received that handgun, was there
20 anything else with it?

21 A It had a blue case, a couple of magazines. And
22 typically there is a fired cartridge that accompanies
23 the firearm from the manufacturer.

24 Q The manufacturer puts that in?

25 A Correct.

1 Q And you then turned that over to whom?

2 A Investigator Collins.

3 Q And that's Investigator David Collins with the
4 Sheriff's Department?

5 A Correct.

6 Q And that item was in your custody and control the
7 entire time until you turned it over to David
8 Collins?

9 A Right.

10 Q And after Investigator David Collins had the firearm,
11 did he then return it to you?

12 A He did. I stayed probably with the weapon while he
13 looked at it. It was a quick examination, if you
14 will. I would have taken it down to evidence and
15 logged it in.

16 Q And you then logged that into evidence?

17 A Correct.

18 MS. MCDUFFIE: Thank you. Nothing further, Your
19 Honor?

20 THE COURT: Questions?

21 MS. EVERHART: Please, Your Honor. Just
22 briefly.

23 CROSS EXAMINATION

24 BY MS. EVERHART

25 Q How are you, Investigator?

1 **A** Fine. How are you?

2 **Q** Fine, thanks. You said this gun belonged to
3 Mr. Culler?

4 **A** It was recovered at that address.

5 **Q** His address?

6 **A** Mr. Culler's address. Correct.

7 **Q** Where is the house?

8 **A** The search warrant indicated the master bedroom.

9 **Q** And who all resided in the home?

10 **A** As far as I know, it was Carolyn Cullers and
11 Mr. Cullers.

12 **Q** Do you happen to know if Mr. Green lived in the home?
13 Garry Green?

14 **A** I was there to assist with the search warrant. I
15 don't have any information about Mr. Green.

16 **MS. EVERHART:** No further questions of this
17 witness. Thank you.

18 **THE COURT:** Anything further?

19 **MS. MCDUFFIE:** He may be excused. No. No
20 redirect, Your Honor.

21 **THE COURT:** You may come down. This witness be
22 excused?

23 **MS. SHIPLEY:** Yes. Please, Your Honor.

24 **THE COURT:** Without objection. Next witness.

25 **MS. SHIPLEY:** The State calls Investigator David

1 Collins.

2 DAVID J. COLLINS, after being duly sworn,
3 testifies as follows:

4 **THE CLERK:** Please have a seat. State your full
5 name for the record.

6 **WITNESS:** David J. Collins.

7 DIRECT EXAMINATION

8 **BY MS. SHIPLEY**

9 Q Investigator Collins, can you tell the jury where you
10 are employed?

11 A I work for the Richland County Sheriff's Department.

12 Q And what is your title there?

13 A I am a firearms examiner in the forensics laboratory.

14 Q How long have you been a firearms examiner?

15 A I first started my training in firearms examination
16 at SLED, the State Law Enforcement Division, in 1990.
17 I have been in that field ever since.

18 Q And so how long were you at SLED?

19 A I worked at SLED from April of 1990 until September
20 of 2002 when I transferred my employment to the
21 Richland County Sheriff's Department.

22 Q Are you in charge of the firearms department at the
23 Sheriff's Department?

24 A Yes, I am.

25 Q Can you tell the jury a little bit about your

1 educational background and experience with firearms?

2 **A** I received my bachelor's degree from the Citadel in
3 1984. And then after graduating from the Citadel, I
4 was in a non-law enforcement field. I started in law
5 enforcement and in firearms examination in 1990.

6 At SLED I undertook the training program for
7 firearms and tool marks examiners. That training
8 program lasts for approximately two to three years.
9 After successful completion of that program at SLED,
10 I was certified there as a firearms and tool marks
11 examiner and began working cases on my own.

12 I also have undertaken continuing education and
13 training in my field often provided by our
14 professional association which is the Association of
15 Firearms and Tool Marks Examiners of which I am a
16 member and have been a member for approximately 15
17 years.

18 **Q** Your Honor, at this time we would -- have you ever
19 testified in a court of law as an expert in
20 ballistics?

21 **A** Yes. I've testified in the circuit courts of South
22 Carolina as an expert in firearms and tool marks
23 examination in excess of 200 times. I've also
24 testified in similar courts in the states of North
25 Carolina and Georgia. I've testified as an expert in

1 these matters in federal court and in the military
2 courts.

3 **Q** Thank you, Investigator Collins.

4 **MS. SHIPLEY:** Your Honor, at this time we
5 proffer him as an expert in the field of firearms.

6 **THE COURT:** Voir dire or objection?

7 **MR. SECOR:** No voir dire. No objection, Your
8 Honor.

9 **THE COURT:** Thank you.

10 **Q** Investigator Collins, I'm going to bring -- if you
11 can just educate the jury if they're not familiar
12 with the way a firearms works. Can you explain
13 exactly what you mean by tool impressions and so
14 forth?

15 **A** A tool mark is any type of a mark that is left by a
16 hard object on a softer object. And the markings
17 that are left can be unique to the harder object or
18 instrument. The same principle applies to firearms
19 identification. The barrel of the firearm, for
20 instance, will mark the surface of a bullet fired
21 through it in a manner that can be unique to that
22 particular firearm.

23 During the manufacturing process there are
24 certain tools that are used to produce the metal
25 parts of the firearm. These tools leave behind

1 microscopic imperfections on the surfaces that can by
2 the nature of their location, size and shape be very
3 unique. And the marks left by those particular items
4 on bullets and cartridge cases fired in a firearm can
5 be as unique to that firearm as, for instance, a
6 fingerprint is to a person.

7 The same principle applies for firearms or any
8 other type of mark left in a similar fashion; for
9 instance, by a pair of bolt cutters on a padlock hasp
10 that has been cut. Those markings can also be unique
11 to that particular set of bolt cutters.

12 **Q** Okay. And explain what happens to a bullet when you
13 put it into a firearm and you pull the trigger?

14 **A** When a loaded -- when an unfired cartridge is placed
15 into the chamber of a firearm and it is fired, what
16 exactly happens is pretty specifically related to
17 what type of firearm is being used. And if we were
18 to look, for instance, at a semi-automatic firearm,
19 the first thing that's going to happen when the gun
20 is fired is that the bullet is going to pass down the
21 barrel of the firearm and then exit in the direction
22 in which the firearm is aimed.

23 Immediately thereafter, actually so fast that
24 your eye can't register it, it happens in the blink
25 of an eye, the slide of the firearm is going to

1 retract taking with it the fired cartridge case from
2 the chamber which is a waste product, and it's going
3 to reject that from the gun.

4 Q Okay. And so when you find shell casings at a crime
5 scene, where did they come from?

6 A Typically they have come from a firearm that was
7 fired there at the scene.

8 Q Okay. And when you find shell casings at a crime
9 scene, do they reflect the general location of where
10 the firearm was fired?

11 A In combination with other information, they can be
12 used to determine that. However, the ability to do
13 so is fairly limited.

14 Q Okay. Explain what happens when you fire a firearm
15 and the shell casing is ejected. Describe what
16 happens to it?

17 A The shell casing is simply going to be ejected from
18 the gun in a manner -- and they're fairly predictable
19 in the direction that they'll be ejected from a
20 particular gun. The gun is going to send to tend to
21 eject a cartridge case in the same general direction
22 each time. And once it is ejected from the gun, it's
23 going to come to rest on the ground. If it impacts
24 on a hard surface such as concrete or pavement, it
25 may tend to bounce around some. But a cartridge case

1 is a fairly light object. And so it is susceptible
2 to being moved or kicked or otherwise disturbed
3 unless it comes to rest in something like deep grass
4 or something of that nature.

5 Q Okay. You indicated -- can you explain what happens
6 if you have a live round in the chamber and you cock
7 the gun?

8 A If there is an unfired cartridge in the chamber of a
9 firearm, a semi-automatic firearm, and then the
10 operator pulls the slide to the rear which would be
11 the normal operation for loading the gun, but in this
12 particular case the gun is already loaded, it is
13 going to extract that unfired cartridge just as if it
14 was a fired cartridge case and eject it from the gun
15 also.

16 Q Okay. I'm going to bring your attention to the case
17 at hand. Were you asked to examine shell casings in
18 this case?

19 A I was.

20 Q All right. I'm going to hand up to you State's
21 No. 55 and 54 and ask you if you recognize them?

22 A State's Exhibit 54 contains two envelopes that are
23 indicated as containing two fired cartridge cases.
24 These envelopes bear my markings and initials, and I
25 have examined these items.

1 Q Okay. On the outside of that envelope, does it
2 reflect where those items were collected?

3 A The location collected, I believe it says 300
4 Westbridge.

5 Q Okay. So is there an evidence number assigned to
6 those two shell casings?

7 A It's our items number 42 and 43.

8 Q 42, 43?

9 A That's correct.

10 Q Okay. Now, what is in the next envelope?

11 A State's Exhibit 55 contains two envelopes that will
12 also bear my markings and are indicated as containing
13 two fired cartridge casings. Those would be our item
14 numbers or Richland County Sheriff's Department item
15 numbers 44 and 45.

16 Q Okay. And where were those two items collected from?

17 A According to the label on the package, they were
18 collected, parking lot of H&J's. Actually one of
19 them -- I apologize. One of them is a fired
20 cartridge case and one of them is an unfired
21 cartridge.

22 Q One is a live round?

23 A Yes.

24 Q And you described earlier what happens when you
25 already have a loaded gun and you slide the gun back.

1 What happens to the bullet that's already in the
2 chamber?

3 **A** If you retract the mechanism, the slide mechanism of
4 a semi-automatic firearm with a loaded cartridge in
5 the chamber of the gun, normally it will be ejected
6 from the gun.

7 **Q** Okay. Now, what did you do once you had the two
8 fired shell casings from Westbridge Road and the one
9 fired shell casing and one live round from H&J's
10 parking lot?

11 **A** The first thing that we do with any type of evidence
12 of this nature when we receive it is take notes about
13 its condition, its appearance. In the particular
14 case of cartridge cases and cartridges, we'll make
15 note of the brand and the caliber of those items.

16 Following that, if they are fired, I will do
17 what is considered, called a microscopic comparison
18 of the items. What I'm looking for are markings that
19 were left by the firearm on these items that are
20 unique to that firearm.

21 In the way that I described to you before how
22 the firearm could leave behind these microscopic
23 markings, a cartridge case when it is fired will have
24 similar markings on, for instance, the primer area
25 from the breach face of the gun, or the firing pin

1 may leave markings. There are several parts of the
2 firearm that can mark the cartridge case in a manner
3 this is unique.

4 What I do in the laboratory is I take two items
5 and place them each under a comparison microscope
6 that allows me to view both items side-by-side at the
7 same magnification and look for areas where these
8 markings match.

9 In this particular case I was able to perform
10 microscopic comparison of the three fired cartridge
11 cases; that is, the two that were submitted from
12 Westbridge Road and one from the parking lot of
13 H&J's, and was able to conclude that all three had
14 been fired by one gun.

15 Q So one gun fired the shell casings at Westbridge and
16 the shell casing found at the club?

17 A That is correct.

18 Q The same gun fired those three?

19 A That is correct.

20 Q And what caliber gun are we talking about?

21 A It's a 9-millimeter Luger caliber firearm.

22 Q Now, I noted in your report that one is a Chinese
23 head stamp. Another one is a CBC mag type head stamp
24 that were located at the Westbridge Road location.
25 Can you describe for the jury why there's different

1 brand names and so forth?

2 A It is not uncommon in cases that we receive in the
3 laboratory to have various brands of ammunition fired
4 in the same incident. Sometimes people will simply
5 take whatever ammunition they have available and load
6 it into the magazine, and it can be mixed brands or
7 even mixed bullet types within that same brand.

8 Q And then the two items that were located at the club,
9 were those the same brand, the fired one and the
10 unfired?

11 A Yes. Those are both the same brand.

12 Q The same brand. But no question in your mind that
13 the same firearm, the same gun fired the bullets at
14 the pub and at the Westbridge Road address?

15 A All three of the fired cartridge cases submitted in
16 this case were fired by the one gun. Yes, ma'am.

17 Q I am going to bring your attention -- by the way, is
18 there any difference between the 9-by-13 that was
19 noted on the chain of custody form?

20 A That actually should have been 9-by-19. It's a very
21 small marking. It may have been hard for the person
22 that initially wrote that up to read it. 9-by-19 is
23 another -- it's actually the European or Asian manner
24 of indicating 9-millimeter Luger ammunition. It's
25 the same caliber.

1 Q And I'm going to show you 59. Is that the chain of
2 custody where you received these items?

3 A Yes.

4 Q Did any of these envelopes appear to be tampered with
5 prior to your examination of them?

6 A No.

7 Q Were you presented with a Smith and Wesson firearm
8 after an execution of a search warrant at [REDACTED] William
9 Harden Road, most specifically bearing serial number
10 RAT7825?

11 A I was shown a Smith and Wesson brand 9-millimeter
12 pistol by Investigator Boland.

13 Q Okay.

14 A And --

15 Q What was the purpose of them showing you this gun?

16 A They were wanting to know if it could have possibly
17 been the firearm that fired the 9-millimeter
18 cartridge cases that were recovered from the two
19 scenes.

20 Q And what did you do to analyze the evidence?

21 A A very cursory visual examination of that firearm and
22 of a test fired cartridge case that was submitted in
23 the package from the factory with that firearm was
24 sufficient for me to exclude that firearm as being a
25 possible source of the fired cartridge cases from the

1 scene. It didn't fire this cartridge case.

2 Q It did not fire these shell casings collected at the
3 scenes?

4 A That is correct.

5 Q So just so we can explain that further to the jury,
6 you indicated the manufacturer puts a round in the
7 package?

8 A Many manufacturers now are including with the firearm
9 a fired cartridge case. That is because some
10 locations in the country require that those be
11 entered into a database before the firearm is sold.
12 And while South Carolina does not have that
13 requirement, the manufacturer packages the gun, they
14 don't know where the gun may end up. So it's still
15 in the package with the gun.

16 Q And so, in your expert opinion, can a Smith and
17 Wesson leave the details that were found on the shell
18 casings that were turned into you for analysis?

19 A The particular type of Smith and Wesson pistol that
20 was submitted was a Smith and Wesson SW-9 model
21 series firearm, and that particular type of firearm
22 cannot leave the type of markings that were found on
23 these cartridge cases. The shape of the firing pin
24 is completely different, as are the other markings
25 that it would leave. And that was sufficient by

1 itself for me to be able to exclude it. If the
2 investigator had called me in advance or even told me
3 over the phone what the model of the firearm was, I
4 would have been able to tell them, you know, it was
5 not the possible source of having fired these
6 cartridge cases.

7 Q Just even based on the model of the gun?

8 A That is correct.

9 Q And was any other firearm submitted to you for
10 analysis to compare to these shell casings?

11 A No, there was not.

12 Q All right. Did you also have an opportunity to view
13 a fired bullet core that was removed from the victim
14 at the autopsy?

15 A I did.

16 Q I'm going to show you State's No. 95 --

17 (WHEREUPON, State's Exhibit No. 95 is marked for
18 identification.)

19 Q -- and ask you if you recognize that item?

20 A Yes. This appears to be the projectile that I
21 examined. It bears my markings on the seal of this
22 package.

23 Q You see your initials on there?

24 A Yes, I do.

25 Q And what date did you exam it?

1 **A** It was initially submitted to me on June -- let's see
2 -- on June 15th of 2007.

3 **Q** And explain for the jury what it was you were trying
4 to determine when you examined the bullet that was
5 recovered from the victim at the autopsy?

6 **A** When we receive a projectile of this nature, the
7 first thing we try to determine again is we take
8 notes as to its condition and appearance. We'll
9 weigh it and measure whatever we can on the
10 projectile to try to determine what caliber it is.

11 Beyond that, if it is sufficiently intact
12 condition, we can attempt to compare it
13 microscopically with test specimens from a firearm or
14 with other evidence projectiles to determine if they
15 are of a common origin or from the same gun.

16 In this particular case, the examination of the
17 item revealed it to be the core of a jacketed lead
18 bullet. What that means is that the item itself
19 never came into contact with the barrel of the
20 firearm. There was originally a copper jacketing
21 material around the bullet which was not recovered
22 and was stripped away.

23 This also creates a condition where we would not
24 be able to identify this particular item with any
25 specific gun. Even if we had the gun, I couldn't

1 match this particular projectile to it.

2 Q And so this projectile was too damaged to even tell
3 where it came from?

4 A That is correct. The only thing I was able to
5 determine is based on the measurements of what was
6 left of the projectile that it was consistent with
7 having come from a .38 or 9-millimeter caliber
8 firearm.

9 Q And that's the best you can do?

10 A That's the best I could do with this item.

11 Q And sometimes the evidence isn't perfect in your
12 investigations?

13 A Quite frequently evidence isn't perfect in
14 investigations.

15 MS. SHIPLEY: Your Honor, at this time we would
16 submit No. 95 into evidence. Without objection?

17 MR. SECOR: No objection.

18 (WHEREUPON, State's Exhibit No. 95 is admitted
19 into evidence.)

20 Q One last question. If a person were to describe
21 seeing some sort of flash after hearing a gunshot,
22 can you describe what that person would be witnessing
23 if it was dark outside?

24 A If it is dark, and sometimes even if it's light --

25 MR. SECOR: Your Honor, I'm going to object to

1 speculation.

2 **THE COURT:** Overruled.

3 **Q** Please proceed.

4 **A** When a firearm is discharged, part of the process is
5 that the gun powder in the cartridge is going to be
6 burned. And depending on many factors, including the
7 brand of ammunition being used, the type of powder in
8 that cartridge, the length of the barrel of the
9 firearm, there are occasions where the burning powder
10 will actually be projected beyond the muzzle of the
11 firearm as a cloud of voluminous gas, basically hot
12 gas. And it will appear like a very brief flash or
13 flame from the muzzle of the firearm.

14 **Q** Thank you very much, Investigator. Beg the Court's
15 indulgence. Nothing further, Your Honor.

16 **THE COURT:** Cross examination.

17 **MR. SECOR:** Thank you, Your Honor.

18 CROSS EXAMINATION

19 **BY MR. SECOR**

20 **Q** Good afternoon, Investigator Collins. One thing I
21 was curious about with regards to the markings that
22 are set into the casing when the gun is fired, is it
23 the actually the firing of the gun that causes those
24 markings to be set into that casing that remains in
25 the gun?

1 **A** In some cases the actual loading and unloading of a
2 cartridge in the firearm can leave behind markings on
3 that cartridge or cartridge case that can be
4 identified to the gun without having to fire it.

5 **Q** Okay.

6 **A** The markings that I was examining in this particular
7 case are specifically caused by the firing process.

8 **Q** Okay. And did you compare the unfired shell that I
9 believe -- or the unfired cartridge casing that I
10 believe is evidence number 45; did you compare that
11 one to the fired ones you found? I believe your
12 report says that you can say that 42, 43 and 44 which
13 are the empty shell casings were probably fired from
14 the same gun. But I didn't see anything about 45.
15 Did you compare 45 as well?

16 **A** 45 would have been examined for the presence of
17 markings.

18 **Q** Yes, sir.

19 **A** Consistent with that, that could have been possibly
20 used for identification with the other items. There
21 were no markings detected that were of sufficient
22 quality for me to be able to determine whether or not
23 it came from the same gun as the other cartridge
24 cases.

25 **Q** And with regards to -- I know you kind of compared

1 this to fingerprint analysis, when you find these
2 markings on a shell casing. Is there a certain
3 number of identifiers or a certain number of
4 identifiers you try to reach to be able to say that
5 you can definitively match these shell casings as
6 fired from the same gun?

7 A No, there is not.

8 Q Okay. And I believe you covered this with Ms.
9 Shipley, but I just want to be sure. The bullet that
10 was recovered from Mr. Cannon, this couldn't be
11 matched to any firearm?

12 A That is correct. Even if I had the firearm in my
13 possession, I would not be able to determine if it
14 fired that projectile.

15 Q Right. So you couldn't say either way, yes or no.
16 And then I assume that you know that Mr. Cannon
17 suffered two gunshot wounds. Is that right?

18 A That is my understanding, yes.

19 Q Okay. And since the other shot apparently is
20 through-and-through, there was nothing to analyze
21 with regards to that shot?

22 A I never received any other projectiles. No, sir.

23 Q Right. Okay. So it would be -- it would certainly
24 be fair to say that you can exclude the gun that you
25 analyzed as being the gun that fired the spent shell

1 casings that you examined, but you can't definitively
2 say that it's not the gun that fired the bullets that
3 killed Mr. Cannon?

4 A I can say that that firearm did not fire the
5 cartridge cases. .

6 Q Right.

7 A I could not say what gun fired the projectile for the
8 autopsy.

9 Q Okay. And the only other thing I just wanted to ask
10 you about is, Ms. Shipley asked you about the
11 location of shell casings at a scene can be
12 indicative of -- or potentially indicative of where
13 somebody was standing when they fired a gun. And I
14 believe you said that it's difficult to tell because
15 there's variables and they can move. They can be
16 kicked. They can be run over, what have you. But I
17 would assume that the location of a spent shell
18 casing when it's expelled from a gun, where it's
19 found also could be influenced by the way in which a
20 gun is held?

21 A Absolutely.

22 Q I mean, if it's held sort of John Wayne style or if
23 it's held sideways or almost upside down like that?

24 A That is absolutely correct.

25 Q Okay. Beg the Court's indulgence for just a moment.

1 Ms. Shipley was talking to you about when you sort of
2 shuck back the action on a semi-automatic pistol. It
3 would expel a -- if the gun, a magazine was loaded
4 and you shuck back the action in a semi-automatic
5 pistol, it would expel a live round like it was found
6 at H&J's, right?

7 A If there is a round in the chamber. Not talking
8 magazines. Because if there's a round in the chamber
9 and the firearm is functioning properly, when you
10 draw the slide to the rear, the term that we often
11 use is racking the slide. You pull the slide to the
12 rear. If that firearm is functioning properly, it
13 will extract the unfired -- excuse me -- the unfired
14 or live ammunition from the chamber of the firearm
15 and eject it from the gun just as if it was a fired
16 cartridge case during a firing sequence.

17 Q Right. And then if there was bullets in the
18 magazine, another one would automatically load,
19 right?

20 A When you release the slide and it goes forward, if
21 there is more ammunition in the magazine, yes; the
22 next cartridge in the magazine will go into the
23 chamber of the firearm.

24 Q And if there was no ammunition in the magazine when
25 you brought the slide back, the gun would be empty?

1 It would release the live round that was in the
2 chamber and the gun would be empty?

3 **A** If there were no other ammunition in the magazine; in
4 other words, if the only ammunition in the gun was
5 the one round that was in the chamber, you rack the
6 slide to the rear, there would be nothing. The gun
7 would then be unloaded. One of two things would
8 happen at that point depending on which type of
9 firearm you have. In many firearms, when you pull
10 the slide to the rear on an empty magazine, the slide
11 is going to lock to the rear. It's going to latch
12 back. In some firearms, however, it will not, and
13 the slide may go forward a distance.

14 **Q** Yes, sir. And for purposes of bringing the slide
15 back in a semi-automatic pistol, that would certainly
16 take two hands, would it not; one hand to hold the
17 pistol grip and one, your left or right hand,
18 depending?

19 **A** That would be the normal way of doing it. Yes, sir.

20 **Q** Okay. I believe that's all I've got. Thank you,
21 Investigator Collins. I appreciate it.

22 **THE COURT:** Anything else?

23 **MS. SHIPLEY:** No, sir, Your Honor.

24 **THE COURT:** All right. You may come down.

25 Thank you very much, Investigator. Next witness.

1 **MS. MCDUFFIE:** The State calls Investigator
2 Patricia Reed-Enzor.

3 PATRICIA REED-ENZOR, after being duly sworn,
4 testifies as follows:

5 **THE CLERK:** Please have a seat. State your full
6 name for the record.

7 **WITNESS:** Patricia Reed-Enzor.

8 DIRECT EXAMINATION

9 **BY MS. MCDUFFIE**

10 **Q** Investigator Reed-Enzor, where are you currently
11 employed?

12 **A** The Richland County Sheriff's Department.

13 **Q** And what are your duties with the Sheriff's
14 Department?

15 **A** I'm currently an investigator, a criminal
16 investigator with the Sheriff's Department.

17 **Q** And back in June of 2003, what were your duties?

18 **A** A crime scene investigator.

19 **Q** And can you please tell the jury a little bit about
20 your training and background in crime scene
21 investigation?

22 **A** Yes, ma'am. I attended multiples classes and
23 seminars, to include crime scene processing, crime
24 scene reconstruction, crime scene photograph
25 techniques, forensic photography and forensic art,

1 blood pattern analysis, development and documentation
2 and the recording of prints, to include finger, palm
3 and sole prints, footwear and tire track development
4 and documentation, and expert witness testimony.

5 **Q** And on June 3rd, 2007, did you have the occasion to
6 process a 1999 Chevy Tahoe?

7 **A** Yes, ma'am, I did.

8 **Q** And where was that located?

9 **A** It was located at 5623 Two Notch Road which is our
10 forensic garage at headquarters.

11 **Q** And are you aware of how the vehicle got there?

12 **A** It was already there when I arrived. I believe it
13 was towed there, but I'm not sure.

14 **Q** I show you what's been marked as State's Exhibits 90,
15 91, 92 and 93. Do you recognize those photos, and
16 would they aid in your testimony?

17 **A** Yes, ma'am. That's the vehicle that I photographed
18 that was at the garage when I arrived there.

19 **MS. MCDUFFIE:** Your Honor, at this time the
20 State would offer 90, 91, 92 and 93 into evidence.

21 **MR. O'NEIL:** No objection, Your Honor.

22 **THE COURT:** Without objection.

23 (WHEREUPON, State's Exhibit No. 90 is admitted
24 into evidence.)
25

1 (WHEREUPON, State's Exhibit No. 91 is admitted
2 into evidence.)

3 (WHEREUPON, State's Exhibit No. 92 is admitted
4 into evidence.)

5 (WHEREUPON, State's Exhibit No. 93 is admitted
6 into evidence.)

7 Q Investigator, in State's Exhibit 90, tell the jury
8 what that is?

9 A That is the front of the vehicle and it appears that
10 there is a dent on the front of the hood area of that
11 vehicle.

12 Q And what is depicted in State's Exhibit 91?

13 A 91 is a picture of the side, the right passenger's
14 side of the vehicle. It also depicts two tires on
15 the side of the vehicle being flat.

16 Q And please tell the jury what's in State's 92?

17 A State's 92, this is also on the right side, the same
18 side as the flat tires. This is a dent on the back
19 bumper, a tear in the metal and a dent.

20 Q And when you process a vehicle, what do you do?

21 A The first thing I do is I walk around the vehicle and
22 not touch anything, just observe, see what condition
23 the vehicle is in. I then photograph it with and
24 without scale which basically means I photograph it
25 the way it is. If I see anything, then I put a scale

1 on it which is just a small ruler to show any kind of
2 damages so I can document it. After I photograph it
3 I process it for any type of latent fingerprints
4 using different kinds of chemicals and powders. But
5 here I used black powder.

6 Q I'm going to stop you right there and show you
7 State's Exhibit 93 which has already been entered
8 into evidence. Can you describe to the jury what
9 that is?

10 A Yes, ma'am. That is the driver's side front door
11 handle area I processed for fingerprints using black
12 powder. I did not get any identifiable prints when I
13 processed it.

14 Q And then what do you do after you fingerprint the
15 vehicle? Or what did you do in this case after you
16 fingerprinted the vehicle?

17 A After that I processed it for any type of DNA
18 evidence, meaning I swabbed it. And I swabbed the
19 exterior door handle area which is also that same
20 area.

21 (WHEREUPON, State's Exhibit No. 96 is marked for
22 identification.)

23 Q I'm going to show you State's 96. Do you recognize
24 that? And is that in substantially the same
25 condition as when you handled it?

1 **A** Yes, ma'am. That is the swab that I submitted to
2 evidence.

3 **MS. MCDUFFIE:** At this time the State would
4 offer Exhibit 96 into evidence.

5 **MR. O'NEIL:** No objection.

6 **THE COURT:** Without objection.

7 (WHEREUPON, State's Exhibit No. 96 is admitted
8 into evidence.)

9 **Q** And you submitted that to where?

10 **A** To evidence.

11 **Q** At the Richland Count property room?

12 **A** Yes, ma'am. At the Richland County evidence property
13 room.

14 **Q** What did you then do to the Chevy Tahoe after that?

15 **A** It was towed then by Zeb Roberts who works for Lonnie
16 Roberts Towing.

17 **Q** And did you also do a GSR kit on the Chevy Tahoe?

18 **A** I did. I apologize. I did do a GSR collection kit
19 to the interior driver's door window area. And the
20 test kit was sent to SLED.

21 **Q** And describe for the jury how you do a GSR kit on a
22 vehicle?

23 **THE COURT:** Why don't you -- don't talk in
24 letters. Tell the jury what a GSR is.

25 **Q** I'm sorry. Can you tell the jury how you do a

1 gunshot residue kit on a vehicle?

2 **A** Yes, ma'am. It's a kit where there's -- there's a
3 little tacky substance on some of the collection
4 where you can press down to collect particles, very
5 small particles. There is also -- if you were to do
6 it on different substances, you can also use some
7 chemicals to also collect. On the vehicle, what I
8 used is sticky pads, in essence, and pressed it to
9 the outside or the area in which I was trying to see
10 if there was any residue. I collected it and put it
11 into evidence.

12 **Q** I show you State's Exhibit 1. Is this what you
13 collected and put into evidence?

14 **A** Yes, ma'am.

15 **MS. MCDUFFIE:** Your Honor, at this time we would
16 seek to admit State's Exhibit 1.

17 **MR. O'NEIL:** No objection.

18 **THE COURT:** Without objection.

19 (WHEREUPON, State's Exhibit No. 1 is admitted
20 into evidence.)

21 **Q** And after you collected this gunshot residue kit from
22 the vehicle, what did you then do with it?

23 **A** I submitted it to our Richland County evidence room.

24 **Q** And do you know where it went after the Richland
25 County evidence room?

1 **A** To SLED, which is the South Carolina Law Enforcement
2 Division.

3 **Q** Did you also have the occasion to go to [REDACTED] William
4 Harden Road?

5 **A** Yes, ma'am.

6 **Q** And what day was that on?

7 **A** That was on June the 3rd, 2007.

8 **Q** And why were you called out to [REDACTED] William Harden
9 Road?

10 **A** I was requested to observe or look at a -- one
11 moment -- a black Volvo that was supposed to be
12 parked at that location.

13 **Q** And did you note the make and model of the Volvo in
14 your report?

15 **A** Yes, ma'am. It's a '94 Volvo, model 940, black in
16 color.

17 **Q** Model 940?

18 **A** Yes, ma'am.

19 **Q** I show you what's been marked as State's Exhibits 88
20 and 89. Do you recognize those?

21 **A** Yes, ma'am. That is the vehicle.

22 **MS. MCDUFFIE:** The State would offer 88 and 89
23 into evidence.

24 **MR. O'NEIL:** No objection, Your Honor.

25 **THE COURT:** Without objection.

1 (WHEREUPON, State's Exhibit No. 88 is admitted
2 into evidence.)

3 (WHEREUPON, State's Exhibit No. 89 is admitted
4 into evidence.)

5 Q That's 88, does that depict the black Volvo?

6 A Yes, ma'am.

7 Q From William Harden Road?

8 A Yes, ma'am.

9 Q And is that another picture of it at the residence?

10 A Yes, ma'am, it is.

11 Q And that's State's 89?

12 A Yes, ma'am, it is.

13 Q And what are these markings coming down here?

14 A Those are the markings that I observed where it
15 appears the vehicle was parked behind that vehicle
16 and had pulled or backed out into the roadway.

17 Q Did you also -- did you observe any other markings by
18 that vehicle?

19 A Yes, ma'am. I observed around the actual Volvo
20 itself, there was water dripping marks around the
21 perimeter of the Volvo where it appeared it had
22 rained substantially. The drip marks are on the
23 vehicle. I had also observed what appears to be, the
24 best way I can describe it is, wash out marks where
25 it was a torrential rain and it kind of washes the

1 sand kind of like around a river or an ocean, you can
2 kind of see the streaming around it.

3 Q And the vehicle was towed while you were present?

4 A Yes, ma'am. It was towed.

5 Q And after it was towed what, if anything, did you
6 observe?

7 A I observed a very large area of dry dirt, sand and
8 weeds in the center of the area where the Volvo had
9 been parked.

10 Q Based on your observations, do you think that the
11 Volvo had been moved recently?

12 A No, ma'am, I do not.

13 MS. MCDUFFIE: Nothing further, Your Honor.

14 THE COURT: Cross examination.

15 MR. O'NEIL: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MR. O'NEIL

18 Q Investigator, you wound up I guess processing this
19 Volvo. But it didn't have anything to do with the
20 crime that we're here for today, correct?

21 A I am unaware if it does or not, sir.

22 Q Okay. You actually processed the Tahoe you said?

23 A A '99 Chevrolet Tahoe. Yes, sir.

24 Q And you dusted I think the driver's side front door
25 for fingerprints?

1 **A** I think the driver's side of the vehicle which
2 included the front quarter panel, the driver's door,
3 the passenger door and the rear quarter panel.
4 **Q** You dusted that for fingerprints?
5 **A** Yes, I did.
6 **Q** And you dusted that area for fingerprints because you
7 had a report that maybe the suspect had touched that?
8 **A** We were unaware if they had or not, so I was asked to
9 process that area.
10 **Q** And that came back negative?
11 **A** That's correct.
12 **Q** No fingerprints at all?
13 **A** None that were identifiable. No, sir.
14 **Q** None that were identifiable. You also -- did you
15 dust that -- you also swabbed the area for DNA?
16 **A** I swabbed -- I swabbed the exterior driver's door
17 handle area for DNA.
18 **Q** Okay. And you sent that to SLED?
19 **A** No. That was sent to our -- it was submitted to
20 evidence. But our own in-house does the DNA normally
21 for that.
22 **Q** You don't do DNA?
23 **A** No, sir. I do not.
24 **Q** And you checked the driver's side door, the interior
25 area for gunshot residue?

1 **A** The interior door, driver's door and window area.

2 Yes, sir.

3 **Q** And tell us a little bit about what gunshot residue
4 is. You talked a little bit about how you collect
5 it. But what is gunshot residue?

6 **A** The particles that are left behind when a firearm is
7 fired, it's very small gunpowder, lead. I don't know
8 what the entire make is, but I know it's just very
9 small molecules, materials.

10 **Q** And how far away from a firearm would you expect
11 gunshot residue to spread?

12 **A** I am not exactly sure how far it could be. It
13 depends on the type of weapon and the weather
14 conditions. It really kind of depends.

15 **Q** But you checked that area in order to see whether or
16 not there was any gunshot residue in that area?

17 **A** Yes, sir.

18 **Q** And you didn't actually do the analyzation of those
19 tests?

20 **A** Oh, no, sir.

21 **Q** You send that to SLED?

22 **A** To SLED. Yes, sir.

23 **MR. O'NEIL:** Beg the Court's indulgence, Your
24 Honor. No further questions.

25 **MS. MCDUFFIE:** No redirect, Your Honor.

1 **THE COURT:** All right. You may come down. May
2 the witness be excused?

3 **MS. SHIPLEY:** Yes, sir..

4 **THE COURT:** Without objection. All right,
5 ladies and gentlemen, let's take a short break after
6 which we'll continue. Again, don't discuss the case
7 among yourselves while you're in the jury room.
8 Let's just relax for a few minutes. We'll call you
9 when we're ready.

10 (Jury out at 4:05 p.m.)

11 **THE COURT:** We were about to lose one or two of
12 them. Let me ask you all to come up here.

13 (Whereupon, a bench conference is had)

14 **THE COURT:** We'll stand at ease for ten minutes.

15 (Whereupon, a break is taken)

16 **THE COURT:** The State ready to proceed?

17 **MS. SHIPLEY:** Yes, sir, Your Honor.

18 **THE COURT:** Defense?

19 **MR. O'NEIL:** Yes, sir, Your Honor.

20 **THE COURT:** Bring the jury, please.

21 (Jury in at 4:28 p.m.)

22 **THE COURT:** Approach the bench.

23 (Whereupon, a bench conference is had)

24 **THE BAILIFF:** The jury is seated, Your Honor.

25 **THE COURT:** All right. Thank you, Ladies and

1 Gentlemen. Call your next witness, Solicitor.

2 **MS. MCDUFFIE:** The State calls Investigator
3 Harold Bouknight.

4 HAROLD BOUKNIGHT, after being duly sworn,
5 testifies as follows:

6 **THE CLERK:** Please have a seat. State your full
7 name for the record.

8 **WITNESS:** Investigator Harold Bouknight.

9 DIRECT EXAMINATION

10 **BY MS. MCDUFFIE**

11 **Q** Investigator Bouknight, where are you employed?

12 **A** With the Richland County Sheriff's Department in the
13 crime scene unit.

14 **Q** And what are your duties as a crime scene
15 investigator?

16 **A** I go to crime scenes and identify, collect and
17 preserve and process evidence.

18 **Q** And as part of your duties, do you also attend an
19 autopsy?

20 **A** Yes, ma'am.

21 **Q** And what are your duties when you attend an autopsy?

22 **A** Our basic duties is to look for any evidence that may
23 be on or in the body. I collect it and I also
24 collect standards of head hair, pubic hair, DNA and
25 fingerprints from the body for later either

- 1 comparison or elimination.
- 2 Q And did you have the occasion to attend the autopsy
- 3 of Mr. Israel Duane Cannon?
- 4 A Yes, ma'am, I did.
- 5 Q And when was that autopsy done?
- 6 A It was on June 3rd, 2007.
- 7 Q And where was it done?
- 8 A At Richland Memorial morgue.
- 9 Q At the morgue?
- 10 A Yes, ma'am.
- 11 Q Who performed the autopsy of Mr. Cannon?
- 12 A The autopsy was performed by Dr. Nichols. He was
- 13 assisted by Phillip Pittman and Richland County
- 14 coroners, Deputy Coroner Natasha Phillips.
- 15 Q When you go to an autopsy, do you normally photograph
- 16 the body?
- 17 A Yes, ma'am. I will photograph the body from several
- 18 different angles. Any marks, wounds, tattoos,
- 19 abrasions, anything that may look out of place on the
- 20 body, I photograph those also.
- 21 Q And did you photograph the autopsy in this case?
- 22 A Yes, ma'am.
- 23 Q And did you have occasion to check the victim's
- 24 clothing?
- 25 A Yes, ma'am, I did. All the clothing that was on the

1 victim at this time I did collect.

2 Q And what condition were the victim's hands in when
3 you arrived at the autopsy?

4 A Whenever I got there his hands were bagged with paper
5 bags and taped.

6 Q And why is that done?

7 A To protect any evidence from being lost or destroyed.

8 Q What kind of evidence could be on someone's hands?

9 A It could be DNA under fingernail scrapings, gunshot
10 residue. Anything like that would be on the victim's
11 hands, some other type of blood or other biological.

12 Q Did Dr. Nichols remove the bags from the victim's
13 hands?

14 A Yes, ma'am.

15 Q And did you have the opportunity to perform a gunshot
16 residue kit on the victim's hands?

17 A Yes, ma'am, I did.

18 Q And why do you test someone's hands for gunshot
19 residue?

20 A It's just to show that either they fired or handled a
21 gun or they were in the vicinity of a gun being
22 fired.

23 Q And did you do a gunshot residue kit on Israel Duane
24 Cannon?

25 A Yes, ma'am, I did.

1 Q I show you what's been marked as State's Exhibit 3.
2 Do you recognize this?

3 A Yes, ma'am.

4 MS. MCDUFFIE: Your Honor, at this time the
5 State would offer Exhibit 3 into evidence.

6 MR. SECOR: No objection, Your Honor.

7 THE COURT: Without objection.

8 (WHEREUPON, State's Exhibit No. 3 is admitted
9 into evidence.)

10 Q Investigator, will you explain to the jury how you do
11 a gunshot residue kit on someone's hands?

12 A Yes, ma'am. They come prepackaged with vials that
13 are labeled left back, left palm, right back, right
14 palm. And inside those is a sticky tab. And you
15 open one up and in the appropriate area, being left
16 back, left palm, right back, right palm, you just dab
17 it around and then secure it again and place it back
18 in the bag. And then there are swabs that we moisten
19 with a nitric acid solution and rub and also place
20 into little test tubes that are already premarked
21 left back, left palm, right back, right palm and are
22 controlled. And then it's packaged, sealed and sent
23 off to SLED for analysis.

24 Q So you test the front of a person's hands and also
25 the palms of someone's --

- 1 **A** The backs and the palms; yes, ma'am.
- 2 **Q** And you also do a control sample?
- 3 **A** Yes, ma'am.
- 4 **Q** Why do you do a control?
- 5 **A** Just in case the person, their occupation or hobbies
6 or anything like that or anything where their
7 clothing would have the materials that would be
8 consistent with gunshot residue. If you take from
9 the small of their back, you know they shouldn't have
10 any there. But if something comes up, then they may
11 have been contaminated before.
- 12 **Q** And will gunshot residue stay on your hands forever?
- 13 **A** No, ma'am.
- 14 **Q** What can remove it from your hands?
- 15 **A** Washing them, putting them in and out of pockets,
16 anything like that. It's very fragile evidence.
- 17 **Q** And did you also collect a projectile from the
18 victim's body?
- 19 **A** It was; yes, ma'am.
- 20 **Q** I show you what's already been placed into evidence
21 as State's Exhibit 95. Is that the projectile you
22 collected?
- 23 **A** It appears it's the packaging. I can't see the
24 projectile. But, yes, ma'am, that's the evidence
25 package.

1 Q And after you collected that, what did you then do
2 with it?

3 A I placed it into our evidence for it to be forwarded
4 for firearms examination.

5 Q And with the gunshot residue kit, after you collected
6 that from the victim, what did you then do with that?

7 A It was placed in my locker at our headquarters and
8 turned into evidence and forwarded to SLED for a
9 gunshot residue analysis.

10 Q And you do not perform that testing yourself?

11 A No, ma'am.

12 Q What date did you turn in the gunshot residue kit to
13 your evidence room?

14 A January 14th, 2008.

15 Q To whom did you give that?

16 A William Cedarstaff.

17 Q And was that in your custody and control the entire
18 time?

19 A Yes, ma'am.

20 Q In a secure place?

21 A Yes, ma'am.

22 Q And where was that?

23 A In my secured evidence locker at our lab.

24 MS. MCDUFFIE: Nothing further at this time,
25 Your Honor.

1 **THE COURT:** Cross examination.

2 **MR. SECOR:** I have no questions. Thank you,
3 Investigator Bouknight.

4 **THE COURT:** May come down. Thank you very much.
5 The witness be excused?

6 **MS. MCDUFFIE:** Yes, sir. Please.

7 **THE COURT:** Without objection. Next witness.

8 **MS. SHIPLEY:** Your Honor, at this time we would
9 call Marina Bender with our office to read the
10 testimony of Tena Goff of the Richland County
11 Sheriff's Department property room.

12 **THE COURT:** All right. Have you made it
13 available to the defense?

14 **MS. SHIPLEY:** Yes, sir. They cross examined the
15 witness.

16 **THE COURT:** Deposition?

17 **MS. SHIPLEY:** Is it was in open court. May we
18 approach, Your Honor?

19 (Whereupon, a bench conference is had)

20 **MS. SHIPLEY:** Ms. Bender, please take the stand.

21 **THE COURT:** Come around, ma'am. All right,
22 ladies and gentlemen of the jury. As I understand
23 it, the witness, Ms. Tena Goff -- this is not
24 Ms. Goff -- I believe works for the Sheriff's
25 Department was placed under oath at some time prior

1 to today and gave her testimony because she was going
2 to be unavailable today. So the witness is going to
3 be introduced and she is going to read that testimony
4 to you. You may proceed. What about the cross?

5 **MS. SHIPLEY:** She is going to read the
6 transcript, Your Honor.

7 **THE COURT:** Well, who is the questioner?

8 **MS. SHIPLEY:** The questions were posed by
9 myself.

10 **THE COURT:** Well, why don't you read the
11 questions, she reads the answers?

12 **MS. SHIPLEY:** Okay.

13 **THE COURT:** Isn't that the way you do it?

14 **MS. SHIPLEY:** I wasn't sure. I've never done
15 this before.

16 **THE COURT:** You read the questions. She reads
17 the answers.

18 (Whereupon, the following testimony which was
19 previously taken by this court reporter on July 21,
20 2008, is published to the jury and included here as
21 follows)

22 TENA GOFF, after being duly sworn, testifies as
23 follows:

24 **THE CLERK:** Thank you. Please have a seat in
25 the witness stand and state your full name for the

1 record.

2 **WITNESS:** Tena Goff.

3 DIRECT EXAMINATION

4 **BY MS. SHIPLEY**

5 **Q** Ms. Goff, can you please tell the Court where you are
6 employed?

7 **A** The Richland County Sheriff's Department.

8 **Q** How long have you been employed by the Sheriff's
9 Department?

10 **A** Fifteen years.

11 **Q** And what are your current titles and duties?

12 **A** I am the evidence custodian, and my job is to oversee
13 procedures on a daily basis in the evidence room to
14 ensure the evidence is logged in properly, handled
15 and then chained over when needed for either testing
16 or for court.

17 **Q** And so when a person, an officer submits evidence,
18 it's your responsibility to make sure that nobody
19 else contaminates or tampers with that evidence?

20 **A** That is correct.

21 **Q** And who else has access to the evidence room at the
22 Sheriff's Department?

23 **A** The two other employees that are assigned to the
24 evidence room, William Cedarstaff and Curtis
25 Burnette.

1 Q Okay. And they are both available to testify next
2 week. Is that correct?

3 A That is true.

4 Q And what are your obligations next week?

5 A I will be out of state at a conference in Tennessee.

6 Q Now, specifically bringing your attention to the case
7 at hand, State v. Lewis Sanders and Justin Green, can
8 you tell the Court a little bit about what items of
9 evidence you became involved in; and also tell the
10 Court what the evidence -- or excuse me -- case
11 number it is?

12 A The Sheriff's Department case number is 0706019903.
13 I initially took in the evidence that was submitted
14 by Investigator Bouknight, and then throughout the
15 duration of evidence coming in, I accepted more and
16 then transported evidence to SLED.

17 Q Okay. And the specific items that you transported to
18 SLED, could you please tell us what those are?

19 A The one item was number 10.

20 Q Okay. And what is that? Or what was the package
21 labeled as when you received it?

22 A A GSR kit for a Chevy Tahoe.

23 Q And who submitted that to you?

24 A Give me just a second. Investigator Patricia
25 Reed-Enzor.

1 Q And what date and time did she submit it to you?

2 A June 4th, 2007.

3 Q And does it tell you a time?

4 A 14:38 or 2:38 in the afternoon.

5 Q Okay. And that again was a GSR kit to a white Tahoe?

6 A Yes.

7 Q Interior door?

8 A Yes.

9 Q What is the next item that you received that you
10 eventually submitted to SLED?

11 A Item number 12 --

12 Q Okay.

13 A -- is paint scrapings, left rear.

14 Q Left rear?

15 A -- Yes.

16 Q Okay. Does it indicate what model of left rear it
17 was taken from?

18 A No, it does not.

19 Q Who submitted that?

20 A Investigator Stan Richards.

21 Q And he is -- what is -- what does he do for the
22 Sheriff's Department?

23 A He is a sergeant in the crime scene lab.

24 Q Is he in charge of the crime scene unit at the
25 Sheriff's Department or one of the senior

1 supervisors?

2 A He is.

3 Q Okay. And what date did he submit the sample, paint
4 sample from the left rear, item number 12, to you?

5 A June 5th of 2007 at 8:14 in the morning..

6 Q Okay. What is the next item of evidence that you
7 took to SLED in this case?

8 A Item 13.

9 Q And what is that?

10 A It's paint scrapings, white Tahoe, right front.

11 Q Okay. And who turned that into you? Or who turned
12 that into the property room?

13 A Sergeant Stan Richards.

14 Q And what date and time did he turn it in?

15 A He turned it in June 5th, 2007 at 11:02 in the
16 morning.

17 Q Okay. And who was the evidence custodian at the time
18 that received that?

19 A Curtis Burnette.

20 Q And he is available to testify next week. Is that
21 correct?

22 A He is.

23 Q And what is the last item of evidence that you
24 submitted to SLED for testing?

25 A Number 40.

1 Q Okay. And what is that?

2 A It's a GSR kit from Israel Cannon.

3 Q All right. And when did you receive that in evidence
4 at the Sheriff's Department?

5 A It was brought into the evidence room January 14th of
6 2008 at 11:12 in the morning.

7 Q I have pre-marked some of the exhibits. And I'll ask
8 you, can you identify what's in item No. 1, State's
9 No. 1?

10 A The Richland County Sheriff's Department bar code
11 says it's item number 10.

12 Q Again, that's the GSR kit from the white Tahoe?

13 A The Chevy Tahoe, yes.

14 Q Okay. The Chevy Tahoe. Can you please open it up
15 and confirm that that is indeed the package you
16 received on June 4th at 14:38 hours?

17 A It is.

18 Q Okay. And did you initial it in any way?

19 A My signature is at the bottom.

20 Q Receiving it?

21 A Yes. Along with the date and time.

22 Q Okay. And I'm going to now hand you State's number 2
23 and ask you to open that to confirm its contents?

24 A Those are items 12 and 13.

25 Q All right. And those again were received by -- one

1 item was received by you from Stan Richards, correct?

2 A Yes.

3 Q And the other one was submitted to the property room
4 and Curtis Burnette signed it in?

5 A Yes, he did.

6 Q All right. And do you see your signature on item 12?

7 A I do.

8 Q And do you see the signature of Curtis Burnette on
9 number 13?

10 A I do.

11 Q All right. With items 1 -- excuse me. Items number
12 10 which is in State's No. 1 and items number 12 and
13 13 which are in State's number 2, what date and time
14 did you submit those items to SLED?

15 A July 25th, 2007 at 8:28 in the morning.

16 Q Okay. And can you describe the integrity of the
17 packages? Were they tampered in any way or looked
18 like someone had gone into the packages while in your
19 care at the Sheriff's Department?

20 A They were not tampered with.

21 Q Were they still sealed?

22 A Yes, they were.

23 Q In the condition that the crime scene investigators
24 would have submitted them to you?

25 A Yes.

1 Q And at that point on July 25th, 2007 at 8:28 a.m.,
2 did you then transport them to SLED?

3 A Yes.

4 Q And describe the procedures you're required to follow
5 when you submit these items to SLED?

6 A When the investigators submit these items to our
7 evidence room they have SLED paperwork to fill out.
8 We assure the paperwork is filled out correctly. We
9 sign it out from us to SLED, take it to SLED. They
10 in turn log it into their evidence room. And they
11 have a -- they put their SLED sealing tape on it. We
12 initial and date the seal. And then once they log it
13 in, they put their bar codes on each one of the
14 items, and then they take it.

15 Q So on items number 1 and 2, the yellow sticker, who
16 does that belong to?

17 A SLED.

18 Q The white sticker, who does that belong to?

19 A Richland County Sheriff's Department.

20 Q I am then going to show you -- and are those the
21 items that you then turned in on July 25th?

22 A Yes.

23 Q All right. I'm going to show you State's No. 3 and
24 ask you to examine the contents of that package.

25 A Okay.

- 1 Q Ms. Goff, can you tell the judge, what is item number
2 40?
- 3 A It is a GSR kit for Israel Cannon.
- 4 Q And who turned that into the evidence room at the
5 Sheriff's Department?
- 6 A Investigator Bouknight.
- 7 Q And what date did he do that?
- 8 A It was received in the evidence room on January 14th
9 of 2008 at 11:12 in the morning.
- 10 Q And who received it?
- 11 A William Cedarstaff.
- 12 Q Okay. And what date did you take custody of it?
- 13 A I transported it to SLED on January 25th, 2008.
- 14 Q All right. And the packaging, was it tampered with
15 in any way?
- 16 A No.
- 17 Q Was it sealed when you delivered it to SLED?
- 18 A Yes.
- 19 Q Did you tamper with any of these items of evidence in
20 any fashion or form?
- 21 A No.
- 22 Q And when you submitted number 3, State's number 3
23 which is the GSR kit belonging to Israel Cannon, did
24 you initial the date and time that you submitted it
25 to SLED?

1 **A** Yes, I did.

2 **Q** Is that it on your package?

3 **A** It is.

4 **Q** And you did that as to each item of evidence?

5 **A** Yes.

6 **Q** Each package?

7 **A** (Nods head affirmatively).

8 **MS. SHIPLEY:** That's all from the State, Your
9 Honor.

10 (Whereupon, the testimony of Tena Goff is
11 concluded)

12 **THE COURT:** Cross examination.

13 **MS. EVERHART:** No questions for this witness.

14 **THE COURT:** Okay. Is that it?

15 **MS. SHIPLEY:** That is it, Your Honor.

16 **THE COURT:** You may come down, ma'am. Thank you
17 very much.

18 **MS. SHIPLEY:** And, Your Honor, I believe the
19 defense is stipulating to William Cedarstaff and
20 Curtis Burnette's testimony.

21 **MS. EVERHART:** Yes, Your Honor.

22 **MS. SHIPLEY:** To the chain, as to their
23 involvement.

24 **THE COURT:** All right. Next witness.

25 **MS. SHIPLEY:** The State calls Ila Simmons.

1 ILA SIMMONS, after being duly sworn, testifies
2 as follows:

3 **THE CLERK:** Please have a seat. State your full
4 name for the record.

5 **WITNESS:** My name is Ila Simmons.

6 DIRECT EXAMINATION

7 **BY MS. SHIPLEY**

8 **Q** Ms. Simmons, can you please tell the jury where
9 you're employed?

10 **A** I work at the South Carolina Law Enforcement
11 Division, also known as SLED, in the forensics
12 laboratory trace evidence department.

13 **Q** And how long have you been employed there?

14 **A** Almost nine years.

15 **Q** And tell the jury a little bit about your duties?

16 **A** In trace evidence we analyze gunshot residue. We
17 perform ballistics testing on muzzle to distance. We
18 also analyze glass samples, explosive samples. We do
19 paint comparisons and duct tape analysis.

20 **Q** And is SLED sort of the FBI for the state of South
21 Carolina?

22 **A** Yes. We are.

23 **Q** And have you ever been qualified as an expert in the
24 field of trace evidence to testify in court?

25 **A** Yes, I have. Over 125 times.

1 **MS. SHIPLEY:** And at this time, Your Honor, we
2 would offer Ms. Simmons as an expert in the field of
3 trace evidence.

4 **THE COURT:** Any voir dire or --

5 **MS. EVERHART:** No voir dire, Your Honor.

6 **THE COURT:** No objection?

7 **MS. EVERHART:** No objection.

8 **THE COURT:** Go ahead.

9 **Q** I'm going to hand over to you State's No. 3 which
10 is -- if you could please look at that and examine
11 it?

12 **A** Yes, ma'am. This is an item of evidence that was
13 received into the laboratory.

14 **Q** When was it that you received that item of evidence?

15 **A** I received it into my custody on October 15th of
16 2007.

17 **Q** Okay. And did it -- was it in proper form? Was it
18 sealed when you received it?

19 **A** It was sealed and initialed. Yes, ma'am.

20 **Q** Okay. At that point please describe for the jury
21 what you did with item number -- what is number 40,
22 by the way?

23 **A** It is a gunshot residue collection kit.

24 **Q** Okay. And does it indicate on the package whose it
25 is?

1 **A** It says Israel Cannon.

2 **Q** When you received the gunshot residue kit belonging
3 to Israel Cannon, can you describe for the jury what
4 it is you did when you opened the package?

5 **A** I opened the package and processed it to be placed on
6 one of the instruments we use for analysis. This
7 requires taking the samples out, numbering the test
8 tubes, writing the numbers down on a corresponding
9 sheet and adding three mills of dilute acid to the
10 test tubes.

11 **Q** And what does that acid do?

12 **A** The acid will remove any gunshot residue if present
13 in the swabs. It will put it into the solution.

14 **Q** Okay. Please proceed and explain to the jury why it
15 is that you handled this prior to Hue Tang, the
16 person who signed the report?

17 **A** The reason I handled it is we do rotations for
18 gunshot residue. We get approximately 10,000 gunshot
19 residue samples or so a year. So we do them in
20 batches. I will receive them for several months.
21 Then another analyst will receive their batches for
22 several months.

23 And at this time a sample came in, a paint
24 sample came in, and it was assigned to another
25 analyst, Hue Tang, who signed the report in this

1 case. Well, this also came in as part of this case.
2 Being that it was gunshot residue evidence, it was
3 given to me because I was taking gunshot residue
4 samples. I did them as a batch along with the
5 samples that I received. And that's why Hue Tang
6 would have signed the report but I placed the samples
7 on the instrument.

8 Q And I'm going to show you a document and ask you if
9 you recognize this, ma'am?

10 A Yes, ma'am. This is a portion of our chain of
11 custody that goes through. When we log in an item,
12 it goes through into our computer. It is for this
13 particular gunshot residue kit.

14 Q Did SLED assign a specific evidence number to
15 Mr. Israel Cannon's gunshot residue kit?

16 A Yes, ma'am. But I would have to refer back to my
17 notes to see.

18 Q Well, if I just could save you some time, does it
19 indicate --

20 A Yes, it does. It says item 4.

21 Q 4?

22 A Mm-hmm (affirmative).

23 Q Okay. And what date and time did you get that? If
24 you could refer to the second page.

25 A Okay. I received that on February 20th of '08.

1 Q Okay.

2 A It was submitted at a different time than the first
3 gunshot residue kit.

4 Q Yes, ma'am. Now, explain what it is, when you
5 performed your analysis of Mr. Cannon's gunshot
6 residue, what were your results?

7 A I did not construct the report, but I can look at the
8 report that Hue Tang did. What I did was I took the
9 data from the instrument. The instrument will go
10 through and will analyze how much of each of the
11 elements that we're looking for is present. We're
12 looking for lead, barium and antimone that are metals
13 that come out of the gun. And the instrument will
14 give us a printout of how much each one of these
15 metals is present in each sample. And I printed this
16 date out and gave it to Hue tang. He was the person
17 who reviewed the data and made the conclusion on it.

18 Q Then we're just going to save that for Mr. Hue Tang.

19 A Okay.

20 Q Was there any other evidence that you handled in this
21 case?

22 A No, ma'am. These were just the GSR kits.

23 Q And you said just the GSR kit belonging to Israel
24 Cannon, correct?

25 A Yes. The other GSR kits that -- let's see -- from a

1 Chevy van went through my custody, but they also went
2 into Hue Tang's custody.

3 Q Okay. And were they sealed --

4 A Yes.

5 Q -- when you got them?

6 A Yes.

7 Q And you turned them over to him?

8 A Yes.

9 Q Okay. And did any of the packages appear to be
10 tampered with in any way when you received them?

11 A No, ma'am.

12 MS. SHIPLEY: I have no further questions.

13 THE COURT: Any questions for this witness?

14 MS. EVERHART: No questions for this witness.

15 THE COURT: All right. You may come down,
16 ma'am. Thank you very much. You're free to go.
17 Without objection. Next.

18 MS. MCDUFFIE: The State calls Hue Tang.

19 HUE TANG, after being duly sworn, testifies as
20 follows:

21 THE CLERK: Please have a seat and state your
22 full name for the record.

23 WITNESS: Hue Tang.

24 DIRECT EXAMINATION

25 BY MS. MCDUFFIE

1 Q Will you please spell your first name for the court
2 reporter?

3 A H-U-E.

4 Q Mr. Tang, where are you employed?

5 A I am employed by South Carolina Law Enforcement
6 Division.

7 Q And what do you do at SLED?

8 A I'm employed there as a forensic scientist.

9 Q And what department do you work in?

10 A Trace evidence.

11 Q And what is trace evidence?

12 A Trace evidence, we examine the evidence that is
13 collected from the scene ranging from arson sample,
14 gunshot residues, paints, either architectural or
15 vehicle paints, and duct tape and glass.

16 Q And can you describe or tell the jury a little bit
17 about your educational background and training?

18 A I receive a bachelor of science major in chemistry
19 from University of South Carolina. I complete my
20 training in trace evidence and arson analysis, drug
21 analysis which is at SLED.

22 Q And have you also had training in GSR and paint?

23 A That's right. I complete my in-house training on
24 gunshot residues and paint analysis; also received
25 additional training with RCMP, Royal Canadian Mounted

1 Police.

2 **Q** How long have you been employed as a forensic analyst
3 at SLED?

4 **A** 18 years.

5 **Q** And have you been qualified as an expert in courts of
6 record of this state?

7 **A** Yes, ma'am, I have.

8 **Q** And about how many times?

9 **A** Total, around 170, 175 times.

10 **MS. MCDUFFIE:** Your Honor, at this time we would
11 offer Mr. Tang as an expert in trace.

12 **THE COURT:** Any objection or voir dire?

13 **MR. SECOR:** Neither, Your Honor.

14 **THE COURT:** All right. You may proceed.

15 **Q** Mr. Tang, Ms. Simmons just explained to us what GSR
16 is and how it's tested and collected. So if you
17 could just tell us your results in this case. Did
18 you have the chance to examine a GSR kit taken from
19 Israel Cannon?

20 **A** You're referring to item 4 in our report?

21 **Q** Correct. Item 4.

22 **A** Yes, ma'am. The results for right palm of Israel
23 Cannon, the quantity of metal did not indicate
24 presence of gunshot residues.

25 **Q** So no gunshot residue was found on his right palm?

1 **A** That's correct. The right back, the quantity of metal
2 did not indicate presence of gunshot residues.

3 **Q** No gunshot residue found on the back of his right
4 hand?

5 **A** That's right. The left palm, quantity of metal did
6 not indicate presence of gunshot residues.

7 **Q** So no gunshot residue on his left palm?

8 **A** That's right. And the back of left hand, the
9 quantities of metals found did not indicate presence
10 of gunshot residues.

11 **Q** So he did not have gunshot residue on any of the
12 areas you tested on his hands?

13 **A** That's correct.

14 **Q** That were tested on his hands? Did you have also a
15 chance to prepare a report on a GSR kit on a white
16 Chevy Tahoe? It would be SLED item 1.

17 **A** Yes, ma'am.

18 **Q** And what were your results from that?

19 **A** The quantity of metal detect did not indicate
20 presence of gunshot residues.

21 **Q** And where was that vehicle tested or swabbed for
22 gunshot residue?

23 **A** It was collected interior driver door.

24 **Q** The interior driver door?

25 **A** That's correct.

1 Q And there is no gunshot residue present?

2 A That's correct.

3 Q Did you also have a chance to analyze some paint
4 samples in this case?

5 A Yes, ma'am.

6 Q I show you what's already been admitted into evidence
7 as State's Exhibit 2. Do you recognize this?

8 A Yes, ma'am. I do.

9 Q And what is that?

10 A It's an envelope that evidence was submitted in. And
11 as to envelope, this one I marked as item number 2.

12 Q And what is item number 2?

13 A It's a paint scraping from left rear area.

14 Q Okay. And it doesn't -- when it was submitted to
15 you, it didn't tell you what vehicle that was from?

16 A No, ma'am.

17 Q It just told you left rear?

18 A That's correct.

19 Q Okay. And then did you also get submitted to SLED
20 item number 3?

21 A That's correct.

22 Q And what is SLED item number 3?

23 A It's a paint scraping from white Tahoe, right front,
24 marker number 1.

25 Q So item number 3 was taken from the white Tahoe?

1 **A** That's right.

2 **Q** And tell the jury what you did with these paint
3 scrapings?

4 **A** Item number 3, when I called Officer Stanley (sic),
5 he informed me that's a standard for comparison.

6 **Q** So you called Stan Richards?

7 **A** That's right.

8 **Q** And he told you that item 3 was the standard?

9 **A** That's correct.

10 **Q** And what is a standard?

11 **A** Standard is paint that the officer collect from
12 either suspect or victim car that I can compare to a
13 known, either collect from a suspect or victim to
14 compare to.

15 **Q** So they knew which paint came from?

16 **A** That's correct.

17 **Q** They knew which vehicle that paint belonged to?

18 **A** That's correct.

19 **Q** And that was from which vehicle?

20 **A** The white Tahoe.

21 **Q** Okay. And then what did you compare that standard
22 to?

23 **A** I collect the paint sample, white paint sample from
24 item 2. And I collect paint to the number 3
25 standard.

1 Q So you were able to take item number 2 which was the
2 paint scrapings from the left rear of the vehicle and
3 extract white paint off of that?

4 A That's correct.

5 Q And how do you do that?

6 A I do microscopic tests and I look for layer
7 structure.

8 Q So there are different layers of paint?

9 A That's correct.

10 Q And how many different layers of paint are there?

11 A From item number 2, the white paint, I only detect
12 two layers.

13 Q But in a normal -- or in a vehicle, how many layers
14 are there?

15 A A typical car will have four layers of paint.

16 Q And you were only able to get two layers from the
17 left rear --

18 A That's correct.

19 Q -- scraping?

20 A Mm-hmm (affirmative).

21 Q And what two layers of paint were you able to get?

22 A The clear coat and the white color coat.

23 Q So you got the top coat and the next coat down?

24 A That's correct.

25 Q You weren't able to get further than that?

1 **A** There was no other layers available.

2 **Q** Okay. And then what did you do once you obtained
3 that sample from the left rear?

4 **A** I perform a microscopic test and also ran an
5 instrumental test.

6 **Q** And what were your conclusions?

7 **A** The unknown paint in the first two layers of the
8 standard item number 3 are the same in physical and
9 chemical characteristics. The standard can be
10 considered the possible source for the unknown paint.

11 **Q** So the paint from the left rear, the sample you had
12 from the left rear, and the ones you had from the
13 Chevy Tahoe, those you said are the same in physical
14 and chemical characteristics?

15 **A** For the first two layers. Correct.

16 **Q** For the first two layers. And the paint from the
17 left rear can be -- the Chevy Tahoe, can be
18 considered as the possible source of that paint?

19 **A** That's correct.

20 **Q** And when you say a possible source, what do you mean
21 by that?

22 **A** That could have come from a car, make and model
23 similar to the Chevy Tahoe.

24 **Q** So any Chevy Tahoe manufactured that year with that
25 same paint color would have the same properties in

1 the paint?

2 A Correct.

3 Q And how does paint transfer in this case from one
4 vehicle to another? Or how can it transfer?

5 A I believe from the impact from the white Chevy Tahoe
6 to I believe the black Volvo.

7 Q Beg the Court's indulgence. I want to go back and
8 just clear one thing up on gunshot residue. If I
9 fire a gun, what happens to the gunpowder?

10 A The gunpowder would -- the gun primer would
11 accumulate on the person's hands.

12 Q How far can the gunpowder or the gun primer go on
13 someone that fires a gun or when someone fires a gun?

14 A Depending on the caliber of gun, it can go up to five
15 feet typically.

16 Q So it's not going 100 feet?

17 A No.

18 Q Just the immediate surrounding area?

19 A That's correct.

20 Q Up to five feet?

21 A Typical.

22 Q And how long will gunpowder or gun primer stay on
23 something or someone?

24 A The length of time?

25 Q (Nods head affirmatively)

1 **A** Six hours.

2 **Q** So after six hours SLED no longer tests samples that
3 were taken?

4 **A** That's right. That's our cut off point. Yes.

5 **Q** So if you think someone fired a gun ten hours ago and
6 you're just now swabbing them, you would not then
7 test it?

8 **A** That's correct.

9 **Q** And why is that?

10 **A** Due to daily activity, you can remove gun primer from
11 a person's hands, and that will reduce the chance of
12 detecting it.

13 **MS. MCDUFFIE:** Beg the Court's indulgence.
14 Nothing further, Your Honor.

15 **THE COURT:** Cross.

16 **MR. SECOR:** No questions, Your Honor. Thank
17 you, Mr. Tang.

18 **THE COURT:** You may come down. Thank you very
19 much. This witness be excused?

20 **MS. MCDUFFIE:** Thank you, Your Honor.

21 **THE COURT:** Without objection. Next witness.
22 Approach the bench?

23 (Whereupon, a bench conference is had)

24 **THE COURT:** All right, ladies and gentlemen.
25 That will conclude the testimony for today. We'll

1 resume again at 9:30 in the morning and we'll just
2 move right on. In talking with the attorneys it
3 appears that we will finish it this week. So it may
4 be Friday. But we've been through a lot of witnesses
5 today and there's still several more.

6 I don't want to start another lengthy witness at
7 this time. So the most efficient use of our time
8 would be to just have a pleasant evening. We'll see
9 you at 9:30 in the morning. Again, don't discuss the
10 case among yourselves or with anyone else when you
11 return to the jury room or anyone else over the
12 evening hours. Have a pleasant evening. We'll see
13 you at 9:30 in the morning.

14 (Jury out at 5:07 p.m.)

15 **THE COURT:** We'll stand at ease until 9:30.

16 **MS. SHIPLEY:** Judge, do you want to meet at 9 to
17 proffer the testimony of Anthony Smith?

18 **THE COURT:** That will be fine. He is your first
19 witness?

20 **MS. SHIPLEY:** Yes, sir. We're going to call him
21 out of order just to get him done.

22 **THE COURT:** Do you understand that?

23 **MS. EVERHART:** Yes, Your Honor.

24 (Whereupon, the proceedings are concluded for
25 the day, to be reconvened tomorrow morning)

Thursday, July 31, 2008

THE COURT: The State ready to proceed?

MS. SHIPLEY: Your Honor, we would at this time proffer the testimony of Anthony Smith.

THE COURT: All right.

MS. SHIPLEY: Mr. Smith, please take the witness stand.

ANTHONY P. SMITH, after being duly sworn, testifies as follows:

THE CLERK: Please have a seat and state your full name for the record.

WITNESS: My name is Anthony Percell Smith.

DIRECT EXAMINATION

BY MS. SHIPLEY

Q Mr. Smith, can you tell the judge where you're from?

A Columbia, South Carolina.

Q And born and raised here?

A Yes, ma'am.

Q Do you know the defendant, Louis Sanders?

A Yes, ma'am.

Q And when did you meet him?

A I met him a couple of years back at the Shamrock. It's a store that everyone frequents sometimes.

Q Okay.

A Then the next time I seen him in the Richland County

1 Detention Center.

2 Q All right. What were you doing at the Richland
3 County Detention Center?

4 A I had a criminal domestic violence of a high and
5 aggravated nature.

6 Q And it's still pending, correct?

7 A Yes, ma'am.

8 Q Have any deals been struck with you or your lawyer
9 concerning your pending charge?

10 A No, ma'am.

11 Q All right. In fact, when you were subpoenaed to
12 testify in this case, is your attorney present in the
13 courtroom?

14 A Yes, ma'am.

15 Q And is that him right there?

16 A Yes, ma'am.

17 Q What's his name? Mr. Art Aiken?

18 A Yes, ma'am.

19 Q Are you nervous?

20 A A little, yes.

21 Q And did Mr. Aiken, after you were subpoenaed to
22 testify in this case, did he make a motion in front
23 of a judge?

24 A Yes, ma'am.

25 Q And what was that motion?

1 **A** For a bond reduction.

2 **Q** And was that granted?

3 **A** Yes, ma'am.

4 **Q** And do you know why? Why was this motion filed?

5 **A** Because the bond was too high.

6 **Q** Okay. Were you -- what happens to people who testify
7 against other inmates at the jail when they return to
8 jail?

9 **A** They -- frequently their safety be at hand.

10 **Q** Was your attorney concerned about your safety?

11 **A** Yes, ma'am.

12 **Q** And so the court reduced your bond, not the State?

13 **A** Yes, ma'am.

14 **Q** And you have a prior criminal history, correct?

15 **A** Yes, ma'am.

16 **Q** Besides a pending criminal domestic violence of a
17 high and aggravated nature charge, you also have a
18 conviction from 1993 for burglary in the second
19 degree and grand larceny, correct?

20 **A** Yes, ma'am.

21 **Q** And in 1997 possession with intent to distribute
22 cocaine?

23 **A** Yes, ma'am.

24 **Q** In 2002 shoplifting?

25 **A** Yes, ma'am.

1 Q And in 2003 assault and battery of a high and
2 aggravated nature?

3 A Yes, ma'am.

4 Q When was it that you saw Mr. Sanders at the jail?

5 A It was April the 27th.

6 Q Okay. And how long were you -- describe for the
7 judge how you saw him?

8 A Well, after I got arrested I was placed in the cell
9 with him.

10 Q So you were his cell mate?

11 A Yes, ma'am.

12 Q How long were you his cell mate for?

13 A I want to say about 14 to 15 days.

14 Q So about two weeks?

15 A Yes, ma'am.

16 Q Describe for the judge the defendant's conduct while
17 you were incarcerated with him?

18 A Well, it was a lot of hollering through the vents, a
19 lot of gambling and other inmates in and out the room
20 and popping a lock on the door which will cause both
21 of us to get locked down. So I had, you know, asked
22 the officer could I be moved because, you know, I was
23 getting tied of it and didn't want to be locked down.

24 Q So because of his conduct you were getting locked
25 down with him?

- 1 **A** Yes, ma'am.
- 2 **Q** As a result, you asked to be moved?
- 3 **A** Yes, ma'am.
- 4 **Q** Were you moved?
- 5 **A** Yes, ma'am.
- 6 **Q** After you were moved, do you remember talking to a
- 7 police officer?
- 8 **A** Yes, ma'am.
- 9 **Q** Now, did you ask to speak to this police officer?
- 10 **A** No, ma'am.
- 11 **Q** He just came to you?
- 12 **A** Yes, ma'am.
- 13 **Q** And what did he ask you?
- 14 **A** He asked me about a murder that had occurred at the
- 15 pub.
- 16 **Q** At the H&J pub?
- 17 **A** Yes.
- 18 **Q** And did you tell him that Mr. Sanders had talked to
- 19 you about the murder that happened from the H&J pub?
- 20 **A** Yes, ma'am.
- 21 **Q** Can you please go into, describe for Judge Cooper
- 22 what exactly Mr. Sanders told you concerning that
- 23 murder?
- 24 **A** Well, every other night he would go through his
- 25 motion with me, motion of discovery.

- 1 Q So he reviewed his discovery with you?
- 2 A Yes, ma'am.
- 3 Q And did you ever read his discovery?
- 4 A No, ma'am.
- 5 Q He read it to you?
- 6 A Yes, ma'am.
- 7 Q Describe for the judge what would happen when he'd
- 8 read you his discovery?
- 9 A Well, he would ask questions: How could this happen
- 10 and how could this happen if the individual was
- 11 facing this way? And a lot of folks thought that it
- 12 happened at the pub but it happened away from the
- 13 pub. And that it was over I guess an incorrect
- 14 comment that was made to the victim's wife, and after
- 15 the club let out that a shot was fired by the
- 16 victim's wife's head and --
- 17 Q Who did he tell you fired that shot by the victim's
- 18 wife's head?
- 19 A Himself.
- 20 Q Himself?
- 21 A Yes.
- 22 Q Did he indicate how many times he fired next to her
- 23 head?
- 24 A Once.
- 25 Q Did he indicate where it was that he fired next to

1 her head?

2 A Next to a telephone booth to the left of the club.

3 Q Okay. Outside in the parking lot of the club?

4 A Yes, ma'am.

5 Q And what's next? What was near the woman?

6 A A telephone booth.

7 Q Okay. And where was that telephone booth located?

8 A To the left of the club.

9 Q Did he indicate what happened once he fired the shot
10 next to the lady by the telephone booth?

11 A Yes, ma'am. There was three of them, that they had
12 exited the club in a black Volvo. And I think the
13 victim had chased them because of the comment that
14 was made to his wife inside the club of the younger
15 guy that was driving the Volvo, and that I think they
16 stopped and got out and the younger brother kept on
17 going. And I guess the victim was so mad he didn't
18 put the truck in gear and it rammed the left side of
19 the Volvo. And they came up from behind, the older
20 brother and Mr. Sanders.

21 Q Okay. And did he indicate whether or not -- did he
22 ever say whether or not he shot the man driving the
23 other car?

24 A No, ma'am.

25 Q And did he describe what kind of car the husband was

1 driving?

2 A Yes. A white Tahoe.

3 Q Did he tell you what kind of gun he had when he shot
4 the gun next to the woman's head?

5 A A 9. A 9-millimeter.

6 Q Did he indicate where the victim was shot at?

7 A Yes, ma'am.

8 Q Where?

9 A In the mouth and in the head.

10 Q And did he tell you where they went after that?

11 A He was dropped off at his girlfriend's house.

12 Q Okay. And did he indicate whether or not he has
13 children with this woman?

14 A Yes, ma'am.

15 Q And what was his answer?

16 A Yes.

17 Q What did he tell you about this woman?

18 A Well, when he got there he was so high on coke and
19 had been drinking that he had put hands on the whole
20 family in some kind of way, that the woman's son was
21 able to call the grandmother and she arrived.

22 Q Okay. And so he told you that after the shooting
23 where the man was shot in the head and in the mouth
24 they went to the baby's mother's house?

25 A Yes. In Winslow.

1 Q In Winslow?

2 A Yes.

3 Q And did he indicate why he put his hands on her?

4 A Because I guess she wouldn't say an alibi for him.

5 COURT REPORTER: I'm sorry. I didn't hear that.

6 A She wouldn't announce the alibi for him.

7 Q She would not announce that she would be his alibi?

8 A Yes.

9 Q All right. And did he indicate whether or not
10 someone showed up at the baby's mother's house in
11 Winslow?

12 A No, ma'am.

13 Q You indicated earlier that someone called a
14 grandmother?

15 A Yes.

16 Q Who called the grandmother?

17 A The young -- the son of the girlfriend.

18 Q And did he indicate whether or not the grandmother
19 showed up?

20 A No.

21 Q I'm going to show you your statement.

22 A Oh, yes. Yes, ma'am. A few hours later.

23 Q Okay. And so the grandmother did show up. Is that
24 correct?

25 A Yes.

1 Q Do you know Mr. Sanders to go by a nickname?

2 A Scooter. Yes, ma'am.

3 Q Did the police ever pay you for this information?

4 A No, ma'am.

5 Q And again, who approached you about this?

6 A Sergeant McDonald of the Richland County homicide
7 division.

8 Q Beg the Court's indulgence. Did he indicate that
9 when they were in the club whether or not the wife
10 broke anything or said anything?

11 A Yes. Broke a bottle and said F that B.

12 Q F that B?

13 A Yeah.

14 Q And did he indicate who that was directed to?

15 A The younger brother.

16 Q The younger brother. Thank you. No further
17 questions, Your Honor.

18 **THE COURT:** Cross examination.

19 **MS. EVERHART:** Your Honor, we wouldn't have any
20 cross for this witness at this time, but I would like
21 to put an objection on the record.

22 **THE COURT:** All right. You may come down, sir.
23 All right.

24 **MS. EVERHART:** Thank you, Your Honor. I believe
25 in his testimony he mentions that while incarcerated

1 with Mr. Sanders, Mr. Sanders may have gotten in
2 trouble sometimes at the jail, was acting out, things
3 of this nature. We would argue under 402 that that's
4 not relevant to the charge at hand. We would also
5 argue under 404(b), Your Honor.

6 **THE COURT:** Prior bad acts.

7 **MS. EVERHART:** Prior bad acts. 404(b) on the
8 lock down stuff.

9 **MS. SHIPLEY:** Your Honor, that just goes to why
10 he asked to be moved out of the cell from this man.

11 **THE COURT:** Well, he can say that he asked to be
12 moved.

13 **MS. SHIPLEY:** Yes, he did.

14 **THE COURT:** I said he can say.

15 **MS. SHIPLEY:** Oh. He can say.

16 **THE COURT:** He can say he asked to be moved. He
17 just doesn't have to go into whatever.

18 **MS. SHIPLEY:** Why, what was going on?

19 **THE COURT:** Shutting the door lock and gambling
20 and whatever he said was the reason for it, he just
21 doesn't have to go in that.

22 **MS. SHIPLEY:** Yes, sir.

23 **THE COURT:** That's 404(b).

24 **MS. SHIPLEY:** Okay. You cannot say anything
25 about --

1 **THE COURT:** Mr. Aiken can explain it to him.

2 **MR. AIKEN:** I'll explain it, Your Honor.

3 **THE COURT:** All right.

4 **MS. SHIPLEY:** Any objection to the use of
5 cocaine?

6 **THE COURT:** Just wait a minute. Where was
7 the -- oh, the cocaine was at the girlfriend's house.

8 **MS. SHIPLEY:** The defendant tells his roommate,
9 Mr. Smith, that he put his hands on the woman and
10 that he was drinking and smoking and tooting powder.

11 **MS. EVERHART:** Your Honor.

12 **MS. SHIPLEY:** I think drinking and smoking is
13 okay, but we agree we won't ask him to -- we'll tell
14 him certainly not to mention anything about tooting
15 powder.

16 **MS. EVERHART:** I would prefer there be no
17 mention of drinking. And I think that the smoking
18 could be inferred as smoking an illegal substance as
19 well as tobacco. So I'd ask that that be also kept
20 out.

21 **THE COURT:** Well, unless it clearly implies an
22 illegal act, I don't think it's -- I think I'll admit
23 it. I know a lot of people that drink and smoke but
24 don't violate any laws. Maybe some in this room. I
25 don't know.

1 **MS. SHIPLEY:** I quit smoking, Judge.

2 **COURT REPORTER:** So did I.

3 **THE COURT:** Oh. That's news. Put that on the
4 record.

5 **COURT REPORTER:** I did. I did.

6 **THE COURT:** All right. Anything further?

7 **MS. SHIPLEY:** That is all from this witness,
8 Your Honor.

9 **THE COURT:** All right. Other than that, the
10 State ready to proceed?

11 **MS. SHIPLEY:** Yes, sir, Your Honor.

12 **THE COURT:** Defense ready to proceed?

13 **MS. EVERHART:** Yes, Your Honor.

14 **THE COURT:** All right. I'll be right back.

15 **MS. SHIPLEY:** Yes, sir.

16 (Whereupon, a short break is taken)

17 **THE COURT:** The State ready to proceed?

18 **MS. SHIPLEY:** Yes, sir, Your Honor.

19 **THE COURT:** Defense ready to proceed?

20 **MS. EVERHART:** Yes, Your Honor.

21 **THE COURT:** Bring the jury.

22 (Jury in at 9:44 a.m.)

23 **THE BAILIFF:** The jury is all present, Your
24 Honor.

25 **THE COURT:** Thank you very much. Good morning,

1 ladies and gentlemen. I hope you had a pleasant
2 evening. We're ready to continue with the trial.
3 Solicitor, call your next witness.

4 **MS. SHIPLEY:** Thank you, Your Honor. The State
5 calls Anthony Smith.

6 ANTHONY P. SMITH, after being duly sworn,
7 testifies as follows:

8 **THE CLERK:** Please have a seat. State your full
9 name for the record.

10 **WITNESS:** My name is Anthony Percell Smith.

11 DIRECT EXAMINATION

12 **BY MS. SHIPLEY**

13 **Q** Could you spell Percell for the court reporter,
14 please?

15 **A** P-E-R-C-E-L-L.

16 **Q** Mr. Smith, could you tell the jury where you're from?

17 **A** Columbia, South Carolina.

18 **Q** Born and raised here?

19 **A** Yes, ma'am.

20 **Q** And do you know the defendant, Louis Sanders?

21 **A** Yes, ma'am.

22 **Q** And how long have you known him?

23 **A** Well, I've seen him at the Shamrock on Shakespeare
24 Road a couple of years back, and then we seen each
25 other again at the Richland County Detention Center.

1 Q Why were you in the Richland County Detention Center?

2 A For criminal domestic violence.

3 Q And have any deals been cut with you or your lawyer
4 regarding your pending charge for criminal domestic
5 violence?

6 A No, ma'am.

7 Q You have a prior criminal history, correct?

8 A Yes, ma'am.

9 Q And isn't it true you were convicted of burglary in
10 the second degree and grand larceny back in 1993?

11 A Yes, ma'am.

12 Q And then also for possession with intent to
13 distribute cocaine in 1997?

14 A Yes, ma'am.

15 Q And shoplifting in 2002?

16 A Yes, ma'am.

17 Q And lastly, assault and battery of a high and
18 aggravated nature in 2003?

19 A Yes, ma'am.

20 Q Is that the extent of your prior criminal history?

21 A Yes, ma'am.

22 Q How long were you -- describe for this jury how you
23 saw Mr. Sanders at the jail?

24 A Well, when I had gotten classified I was put in the
25 room with him.

1 Q Okay. So you shared a cell with Mr. Sanders?

2 A Yes, ma'am.

3 Q Can you tell this jury whether or not you and Mr.
4 Sanders discussed his pending charge against him?

5 A Yes, ma'am. Well, you know, every other night he
6 went over his motion of discovery with me.

7 Q Okay. And when you were talking about motion of
8 discovery, was he going over the police reports and
9 statements that were provided to him in the case that
10 we're here for now?

11 A Yes, ma'am.

12 Q Okay. Did you ever read his discovery?

13 A No, ma'am.

14 Q Who read the discovery to you?

15 A Mr. Sanders.

16 Q When he would read the discovery to you, tell this
17 jury what he would talk about?

18 A Well, he would talk about the incident that occurred
19 that night and how could this happen if they said
20 this and how could that happen if it said this.

21 Q All right. Can you tell the jury how long you were
22 incarcerated in the same cell with him?

23 A About 14 to 15 days.

24 Q And why did you -- what happened? Why did you not
25 stay there longer?

1 **A** Because I wanted to move out the cell with him.

2 **Q** So you asked to be moved?

3 **A** Yes, ma'am.

4 **Q** And did they move you?

5 **A** Yes, ma'am.

6 **Q** After you were moved out, were you approached by a
7 police officer?

8 **A** Yes, ma'am.

9 **Q** Did you ask to speak to the police?

10 **A** No, ma'am.

11 **Q** He came to you?

12 **A** Yes, ma'am.

13 **Q** And did he ask you whether or not you knew anything
14 about this case?

15 **A** Yes, ma'am.

16 **Q** And did you give him a statement at that time?

17 **A** Yes, ma'am.

18 **Q** Please tell this jury exactly what Mr. Sanders told
19 you about the homicide on June 3rd, 2007?

20 **A** Well, it was him and two other guys. One was young
21 and one was older. The younger guy had said
22 something to the victim's wife that I guess was
23 inappropriate and he got upset and the club let out
24 and he --

25 **Q** Did the wife do anything in the club?

- 1 **A** Well, she broke a bottle and said F that B.
- 2 **Q** F that B?
- 3 **A** Yeah.
- 4 **Q** Okay. And what happened after she said that?
- 5 **A** Well, the club had closed and Mr. Sanders had shot by
- 6 to her head. And the husband which is the victim got
- 7 upset. And they had jumped in a black Volvo and left
- 8 and he pursued them.
- 9 **Q** Okay. Now, did he indicate who shot the gun in the
- 10 parking lot by the woman's head?
- 11 **A** Yes, ma'am. Mr. Sanders.
- 12 **Q** He said he did it?
- 13 **A** Yes.
- 14 **Q** Did he tell you what kind of gun it was?
- 15 **A** A 9-millimeter.
- 16 **Q** Did he tell you where the woman was standing in the
- 17 parking lot when this happened?
- 18 **A** Next to a telephone booth to the left of the club.
- 19 **Q** And again, is this in the parking lot of the club?
- 20 **A** Yes, ma'am.
- 21 **Q** Did he indicate what kind of car he got into after he
- 22 fired the shot?
- 23 **A** A black Volvo.
- 24 **Q** And did he indicate who was driving the black Volvo?
- 25 **A** The younger of the two.

1 Q Okay. Did he indicate whether or not these two
2 individuals that he was in the car with were related
3 in any way?

4 A Yes. They were brothers.

5 Q And did he tell you what kind of car the victim got
6 into?

7 A Yes. A white Tahoe.

8 Q Did he indicate what happened after they left in the
9 black Volvo and the white Tahoe followed them?

10 A Yes. That they had stopped and they had got out and
11 the younger guy took off and the car had -- the Tahoe
12 had hit the left end of the car. It was still in
13 gear, and they ran up from behind and the situation
14 happened.

15 Q Okay. Did he ever admit to you that he was the one
16 that shot Mr. Cannon by the scene of the car
17 accident?

18 A No, ma'am.

19 Q He never said that?

20 A No, ma'am.

21 Q Did he say where the victim was shot?

22 A Yes, ma'am. In the mouth and in the head.

23 Q Did he indicate where they went to after the victim
24 was killed?

25 A Yes. To his girlfriend's house in Winslow.

- 1 Q Did he indicate whether or not he had children with
2 this woman?
- 3 A Yes, ma'am.
- 4 Q And so this would be the mother of his baby?
- 5 A Yes.
- 6 Q And again, what neighborhood did he indicate to you
7 that she resided?
- 8 A Winslow.
- 9 Q Did he indicate what happened when he got to her
10 house?
- 11 A Yes. That he was trying to establish an alibi
12 between the time the incident occurred and the time
13 that the grandmother got there.
- 14 Q Did he indicate whether or not he became -- whether
15 he touched her or not?
- 16 A Yes, ma'am. He said he put hands on everyone that
17 was in the house and the --
- 18 Q Did he say he put his hands on her?
- 19 A Yes, ma'am.
- 20 Q Did he indicate whether or not he was under the
21 influence?
- 22 A Yeah. Alcohol and smoking.
- 23 Q Did he then indicate if anyone came to --
- 24 MS. EVERHART: Your Honor, objection. Leading.
- 25 MS. SHIPLEY: I'll rephrase the question, Your

1 Honor.

2 **THE COURT:** Leading.

3 **Q** What happened after he put his hands on the mother of
4 his child? Did he indicate whether or not anyone
5 showed up?

6 **A** Yes. The male child had some way managed to get the
7 phone and call the grandmother which resided in
8 Blythewood, and he was trying to establish alibi by
9 the time that she got there from Blythewood to
10 Winslow.

11 **Q** And so he did indicate -- did he say whether or not
12 the grandmother showed up?

13 **A** Yes. And that they wanted him to leave. He
14 wouldn't. So the grandmother took everyone with
15 them, the family, the females.

16 **Q** Do you know Mr. Louis Sanders to go by a nickname?

17 **A** Yes, ma'am. Scooter.

18 **Q** And again, how many times did he tell you he shot by
19 the woman's head in the parking lot?

20 **A** Once.

21 **Q** Once you were subpoenaed to testify as a witness in
22 this case, did your lawyer file a motion?

23 **A** Yes, ma'am.

24 **Q** And what kind of motion did your lawyer file?

25 **A** For a bond reduction.

1 Q And why was that?

2 A Because after I have testified I would, you know,
3 just fear for my safety back at the Richland County
4 Detention Center.

5 Q And so did the judge grant your lawyer's motion for a
6 bond reduction?

7 A Yes, ma'am.

8 Q And you were out on bond for your pending charge of
9 criminal domestic violence?

10 A Yes, ma'am.

11 Q And no deals have been struck with you on those
12 charges, the pending charge?

13 A No, ma'am.

14 Q Were you ever paid for your information by the
15 police?

16 A No, ma'am.

17 Q Are you an informant for the government?

18 A No, ma'am.

19 MS. SHIPLEY: No further questions, Your Honor.

20 THE COURT: Cross examination.

21 MS. EVERHART: Thank you, Your Honor.

22 CROSS EXAMINATION

23 BY MS. EVERHART

24 Q Hi, Mr. Smith.

25 A Good morning.

1 Q Mr. Smith, you've testified you have current charges
2 right now?

3 A Yes, ma'am.

4 Q And what are these charges again?

5 A Criminal domestic violence.

6 Q How long ago did this occur?

7 A About three months ago.

8 Q So you've been incarcerated three months on your
9 charges? You were incarcerated three months?

10 A Fifth Amendment.

11 Q It's fair to say you had been incarcerated a period
12 of time?

13 A Fifth Amendment.

14 Q Were you incarcerated with Mr. Sanders?

15 A Yes, ma'am.

16 Q Okay. You were in jail up until last week, correct?

17 A Yes, ma'am.

18 Q And your attorney brought you into court for a
19 motion?

20 A Yes, ma'am.

21 Q And that was to get your bond reduced?

22 A Yes, ma'am.

23 Q You knew you were going to testify in this trial?

24 A Yes, ma'am.

25 Q And you didn't want to have to go back to the jail

1 after testifying?

2 A Yes, ma'am.

3 Q Because you'd be considered a snitch?

4 A Yes, ma'am.

5 Q And other people at the jail, they wouldn't like
6 that?

7 A No, ma'am.

8 Q And what kind of bond did you get last week?

9 A The Fifth Amendment.

10 Q Did you get a PR bond last week?

11 A Yes, ma'am.

12 Q And a PR bond means you get out on your own
13 recognizance?

14 A Yes, ma'am.

15 Q You don't have to put up any money?

16 A No, ma'am.

17 Q So last week you got to go home after court?

18 A Yes, ma'am.

19 Q And the State didn't have any problem with you
20 getting a PR bond, no objection?

21 A No, ma'am.

22 Q So you went home last week and that's where you've
23 been for the whole last week?

24 A Yes, ma'am.

25 Q Back in your old home?

- 1 **A** Yes, ma'am.
- 2 **Q** With your family?
- 3 **A** Yes, ma'am.
- 4 **Q** With your friends around?
- 5 **A** No, ma'am.
- 6 **Q** No? Got to sleep in your own bed?
- 7 **A** Yes.
- 8 **Q** Eat in your own kitchen?
- 9 **A** Yes, ma'am.
- 10 **Q** Wear your own clothes?
- 11 **A** Yes, ma'am.
- 12 **Q** So this morning you got to wake up at your house?
- 13 **A** Yes, ma'am.
- 14 **Q** Get ready in your own bathroom?
- 15 **A** Yes, ma'am.
- 16 **Q** And you got come down here without cuffs?
- 17 **A** Yes, ma'am.
- 18 **Q** No leg shackles?
- 19 **A** Yes, ma'am.
- 20 **Q** You didn't get up at 3 in the morning. You weren't
- 21 put in holding?
- 22 **A** No, ma'am.
- 23 **Q** No. And you testified that you roomed with Mr.
- 24 Sanders for around two weeks?
- 25 **A** Yes, ma'am.

1 Q And that during that time he read you his discovery?

2 A Yes, ma'am.

3 Q So he'd sit there and he'd read from it to you?

4 A Yes, ma'am.

5 Q You also testified that you've been incarcerated
6 before?

7 A Yes, ma'am.

8 Q So you know what discovery is like?

9 A Yes, ma'am.

10 Q There would be incident reports from the police in
11 this?

12 A Yes, ma'am.

13 Q There'd be notes from the investigators?

14 A Yes, ma'am.

15 Q There'd be statements from witnesses?

16 A Yes, ma'am.

17 Q There would be photographs?

18 A I didn't see them. Yes, I think.

19 Q You didn't see any photographs in his?

20 A No.

21 Q Now, how big is this room you were in with Mr.
22 Sanders?

23 A It's small. I couldn't tell you the measurements.

24 Q It's small enough that you can reach his bed from
25 your bed?

- 1 **A** Yes, ma'am.
- 2 **Q** And you all don't have a lot of privacy in these
- 3 rooms?
- 4 **A** No, ma'am.
- 5 **Q** You don't have the lockers there that you can put
- 6 your stuff in and lock them?
- 7 **A** No, ma'am. No.
- 8 **Q** Got some bins?
- 9 **A** Yes, ma'am.
- 10 **Q** You toss your stuff in those?
- 11 **A** Yes, ma'am.
- 12 **Q** But those aren't locked?
- 13 **A** No, ma'am.
- 14 **Q** And there are times when you're incarcerated when you
- 15 might be in your room alone?
- 16 **A** Yes, ma'am.
- 17 **Q** Your roommate might have to go take a shower?
- 18 **A** Yes, ma'am.
- 19 **Q** Go see medical?
- 20 **A** Yes, ma'am.
- 21 **Q** Go attend a class?
- 22 **A** Yes, ma'am.
- 23 **Q** Just talk with friends out in the common area?
- 24 **A** Yes, ma'am.
- 25 **Q** Speak to their lawyer?

- 1 **A** Yes, ma'am.
- 2 **Q** So there would be times you'd be in this room alone?
- 3 **A** Right.
- 4 **Q** And during this time you'd have an opportunity to
5 look at his discovery?
- 6 **A** Yes. If I wanted to, yes.
- 7 **Q** And you did get a chance to see there weren't any
8 photos in there?
- 9 **A** Well, he hadn't showed me any photos.
- 10 **Q** And I believe you testified today that he told you
11 where the telephones were at the club?
- 12 **A** Yes.
- 13 **Q** Why would you ask him where the telephones were at
14 the club?
- 15 **A** I wouldn't ask him that. I didn't ask him that.
- 16 **Q** You didn't ask him?
- 17 **A** No.
- 18 **Q** Where the telephones were at the club?
- 19 **A** No.
- 20 **Q** Do you remember making a statement to the police?
- 21 **A** Yes, ma'am.
- 22 **Q** If you saw that statement, would that refresh your
23 memory?
- 24 **A** Yes, ma'am.
- 25 **Q** Beg the Court's indulgence one moment. If I could

1 have you read to yourself the first couple of lines.
2 So did you ask him where the telephones were at the
3 club?

4 A Yes, ma'am.

5 Q And he told you that they were located to the left?

6 A Yes, ma'am.

7 Q Not to the right?

8 A Yes, ma'am.

9 Q To the left?

10 A Yes, ma'am.

11 Q And you said that he would talk about the kind of car
12 he was in?

13 A Yes, ma'am.

14 Q And that it was a black Volvo?

15 A Yes, ma'am.

16 Q Specifically a black Volvo?

17 A Yes, ma'am.

18 Q Not Garry's car?

19 A No, ma'am.

20 Q Black Volvo?

21 A Yes, ma'am.

22 Q Not Justin's car?

23 A Yes, ma'am.

24 Q Black Volvo?

25 A Yes, ma'am.

- 1 Q And he said the other car was a white Tahoe?
- 2 A Yes, ma'am.
- 3 Q Again specifically white Tahoe?
- 4 A Yes, ma'am.
- 5 Q You also indicated that he told you he went over to
- 6 his baby's mama's house that night?
- 7 A Yes, ma'am.
- 8 Q And that he put his hands on everyone in that house?
- 9 A Yes, ma'am.
- 10 Q When you say put his hands on, do you mean he hit
- 11 them?
- 12 A Yes, ma'am.
- 13 Q So he hit everyone in this house?
- 14 A Yes, ma'am.
- 15 Q He hit his little two-year-old baby?
- 16 A No, ma'am. I mean, you know, the older kids and the
- 17 mother.
- 18 Q He beat up his girlfriend?
- 19 A Yes.
- 20 Q He beat up her kids?
- 21 A Yeah.
- 22 Q And you said that his baby's mama's son called the
- 23 police?
- 24 A No.
- 25 Q I mean called the grandmama?

1 **A** Yes.

2 **Q** That it was his son?

3 **A** Yes.

4 **Q** The State's asked you; they've said they haven't
5 promised to reduce your charge for your testimony,
6 correct?

7 **A** Correct.

8 **Q** And CDVHAN, that's a pretty big charge, correct?

9 **A** Yes.

10 **Q** It carries between one and ten years in prison?

11 **A** Yes.

12 **Q** Now, if you plead to that charge or you do the time
13 and you lose, you could be put back in jail. Is that
14 correct?

15 **A** Yes, ma'am.

16 **Q** You can be taken down and booked at Alvin S. Glenn?

17 **A** Yes, ma'am.

18 **Q** Sent over to R&E?

19 **A** Yes.

20 **Q** And then put in the Department of Corrections?

21 **A** Yes, ma'am.

22 **Q** And you don't want to go back to jail?

23 **A** No, ma'am.

24 **Q** It's not a fun place?

25 **A** No, ma'am.

1 Q You don't want to be away from your friends and
2 family?

3 A No, ma'am.

4 Q And you're hoping that by cooperating with the State
5 you'll get something out of it?

6 A I never thought about it.

7 Q You never thought about it?

8 A No. I just told the truth.

9 Q You're just doing this out of your own goodwill?

10 A Yes.

11 Q As a concerned citizen?

12 A Because the investigator came to me, I told the
13 truth.

14 Q And you're not hoping to get any benefit at all?

15 A No, ma'am.

16 Q Not hoping to avoid any prison time?

17 A No, ma'am.

18 Q Beg the Court's indulgence one moment. Prior to
19 today have you had a chance to review your statement,
20 the one you made to the police?

21 A No. I have it but I haven't reviewed it.

22 Q Haven't looked over it?

23 A Yeah.

24 Q And did you have an opportunity to meet with the
25 solicitor before today?

1 **A** No, ma'am.

2 **Q** No? No further questions.

3 **THE COURT:** Anything further?

4 **MS. SHIPLEY:** Yes, sir, Your Honor.

5 REDIRECT EXAMINATION

6 **BY MS. SHIPLEY**

7 **Q** Mr. Smith, you were asked by Ms. Everhart about your
8 asking Mr. Sanders where the phone was. You didn't
9 know where the phone was, correct?

10 **A** Correct.

11 **Q** I'm going to -- if you could just read the entire
12 sentence that is highlighted, please, that you gave
13 to police?

14 **A** "I asked him where the phone was at and he said to
15 the left side of the building."

16 **Q** Left side of the building?

17 **A** Yeah.

18 **Q** Okay. When you were served with a subpoena to come
19 testify, did you have a choice to show up or not?

20 **A** No, ma'am.

21 **Q** So you're not here willingly, are you?

22 **A** Yes, ma'am.

23 **Q** But you were served with a subpoena, correct?

24 **A** Yes, ma'am.

25 **Q** And while Mr. Sanders would read you his discovery,

1 he never showed you any photographs?

2 **A** No, ma'am.

3 **Q** Okay. You're also asked about your statement to the
4 police. And I'm going to ask you to read in context
5 what you reported to the police about Mr. Sanders
6 putting hands on people. Okay? Beginning with the
7 bottom sentence right there.

8 **A** This?

9 **Q** And then read to the next sentence.

10 **A** "He told her that he would put his hands on everybody
11 inside the whole house. He stated that he was
12 drinking, smoking."

13 **Q** Okay. And so basically he tells you, at that point
14 in your statement you write down that he put his
15 hands on her and told her that he would put his hands
16 on everybody inside the whole house?

17 **A** Yes.

18 **Q** So he never said he actually put his hands on
19 everybody else?

20 **A** Yes.

21 **MS. SHIPLEY:** Beg the Court's indulgence. Thank
22 you. No further questions, Your Honor.

23 **THE COURT:** Anything further?

24 **MS. EVERHART:** Yes, Your Honor. Only briefly.

25 RECROSS EXAMINATION

1 **BY MS. EVERHART**

2 **Q** He did tell you that he beat his girlfriend?

3 **A** Yes.

4 **MS. EVERHART:** Okay. No further questions.

5 **THE COURT:** All right, sir. You may come down.
6 Thank you very much. May this witness be excused?

7 **MS. SHIPLEY:** Yes, please, Your Honor.

8 **THE COURT:** Without objection. You're free to
9 go, sir. Next witness.

10 **MS. SHIPLEY:** The State calls Sergeant McDonald.

11 WALTER S. MCDANIELS, after being duly sworn,
12 testifies as follows:

13 **THE CLERK:** Please have a seat. State your full
14 name for the record.

15 **WITNESS:** My name is Walter Shawn McDaniels.

16 **DIRECT EXAMINATION**

17 **BY MS. SHIPLEY**

18 **Q** Sergeant McDaniels, can you tell the jury where
19 you're employed?

20 **A** With the Richland County Sheriff's Department.

21 **Q** What is your title there and what are your duties?

22 **A** Currently I'm sergeant of the cold case homicide
23 division. I am responsible for the investigation and
24 the reopening of old murder cases.

25 **Q** And do you have experience in the investigations unit

1 at the Richland County Sheriff's Department?

2 A Yes, I do.

3 Q How long have you been with investigations?

4 A Seven years.

5 Q Seven years. And are you trained in interviewing
6 witnesses and suspects?

7 A Yes, I am.

8 Q All right. Now, I'm going to bring your attention to
9 the case at hand. Did you have an occasion to go to
10 the Alvin S. Glenn Detention Center to interview one
11 Anthony P. Smith on May 17th, 2008?

12 A Yes, I did.

13 Q Did you go to him or did he ask to speak to you?

14 A I went to him.

15 Q Did you offer him any promise or any reward in order
16 for him to give you a statement?

17 A No, ma'am.

18 Q Did you have any involvement in the investigation of
19 the murder of Israel Cannon?

20 A No, I did not.

21 Q So you were not familiar at all with any of the facts
22 of this case?

23 A No, ma'am.

24 Q And did you indeed take a statement from Mr. Smith at
25 the Alvin S. Glenn Detention Center?

1 **A** Yes, I did.

2 **Q** And I'm going to show you this document and ask you
3 if you recognize your handwriting?

4 **A** I do.

5 **Q** And how many -- what is that, by the way?

6 **A** It's a written statement. It's the actual written
7 statement, a copy of the written statement that I
8 actually took from Mr. Smith that day on the 17th of
9 May.

10 **Q** Okay. And how many pages long is it?

11 **A** One moment. It's four pages.

12 **Q** Is Mr. Smith an informant of yours of any kind?

13 **A** No, ma'am.

14 **Q** Thank you, Sergeant McDaniels.

15 **THE COURT:** Cross.

16 **MS. EVERHART:** No cross of this witness. Thank
17 you.

18 **THE COURT:** All right. Thank you very much.

19 **WITNESS:** Thank you, sir.

20 **THE COURT:** Witness be excused?

21 **MS. SHIPLEY:** Yes, please, Your Honor.

22 **THE COURT:** Without objection. Next witness.

23 **MS. SHIPLEY:** Thank you. The State calls John
24 Barron.

25 DR. JOHN C. BARRON, after being duly sworn,

1 testifies as follows:

2 **THE CLERK:** Please have a seat. State your full
3 name for the record.

4 DIRECT EXAMINATION

5 **BY MS. SHIPLEY**

6 **Q** Please state your name for the record, sir?

7 **A** John C. Barron, B-A-R-R-o-N.

8 **Q** Dr. Barron, where are you employed?

9 **A** Richland County Sheriff's Department.

10 **Q** How long have you been employed there?

11 **A** Just over four years.

12 **Q** Can you tell the jury a little bit about what your
13 title is and what are your duties at the Richland
14 County Sheriff's Department?

15 **A** Yes. My primary duty at the Richland County
16 Sheriff's Department is in the DNA laboratory. I'm
17 forensic scientist there, and our job is to receive
18 evidence that is brought in by our investigators, to
19 analyze evidence for the presence of DNA in
20 developing profiles, to compare those profiles with
21 any known samples that are submitted from defendants,
22 suspects or anyone possibly associated with crimes.

23 **Q** Okay. How long have you been a DNA scientist?

24 **A** I've been a DNA scientist since 1999. I began my
25 career in DNA at SLED or South Carolina Law

1 Enforcement Division. In 2004 I came over to the
2 Richland County Sheriff's Department and helped
3 establish the DNA laboratory there.

4 Q And the DNA laboratory at the Richland County
5 Sheriff's Department, is it accredited?

6 A It is.

7 Q Okay. Have you ever testified in a court of law in
8 this state as an expert in the field of DNA
9 expertise?

10 A Yes, I have.

11 Q DNA evidence?

12 A Yes, I have.

13 Q And what about serology?

14 A Yes.

15 MS. SHIPLEY: Your Honor, at this time we would
16 offer Dr. Barron as an expert in the field of DNA
17 evidence.

18 THE COURT: Any voir dire or objection?

19 MR. SECOR: Neither, Your Honor.

20 THE COURT: You may proceed.

21 MS. SHIPLEY: Thank you.

22 Q Approximately how many times do you believe you've
23 been qualified as an expert in the field of DNA?

24 A In DNA, approximately 25 times. In serology,
25 probably hundreds of times.

1 Q Hundreds?

2 A Mm-hmm (affirmative).

3 Q And what is serology versus DNA?

4 A Serology is the identification -- in the world of
5 forensics anyway, it's the identification of dried
6 body fluids such as blood and other body fluids that
7 could be used to identify DNA from.

8 Q And then tell the jury a little bit about what is
9 involved in DNA analysis?

10 A DNA analysis is a rather drawn out procedure. It
11 involves first of all extracting the sample, removing
12 the DNA from the nucleus of the cells. If you're
13 familiar with your high school biology, DNA is in the
14 nucleus of cells in the body. The DNA is removed
15 from that, purified. Then it is actually
16 quantitated. We need to know how much DNA is present
17 because in many of our samples there is no DNA and we
18 stop our procedure at that point.

19 Once we identify DNA, then we amplify it, copy
20 it. Forensic identification through DNA is involved
21 in copying certain portions of the DNA molecule, not
22 the whole molecule but just certain portions that are
23 used for human identification.

24 Those portions then are analyzed and a profile
25 is developed. And that profile then is unique to you

1 as an individual. All of the DNA in your body is the
2 same. And if DNA is identified, it is matched to
3 you, then it's pretty conclusive that that piece of
4 evidence came from you.

5 Q Now, can you describe how a person can leave DNA
6 evidence behind at a crime scene?

7 A Like I said, any cell in your body has DNA. So blood
8 has many cells. And so that's going to have DNA. In
9 sexual assault cases, you know, vaginal fluids,
10 seminal fluid. Any tissue in your body. Many times
11 at crime scenes, cells from your skin are actually
12 sloughed off or cells in your mouth are left when you
13 drink or smoke a cigarette, drink a drink or smoke a
14 cigarette.

15 There is DNA in all of your tissues in your
16 body. So if someone were to yank out your hair,
17 there would be tissue on the end of the root that
18 could be identified and matched DNA wise. So
19 basically any -- you can use your imagination. Any
20 cell in your body, however it could be left, would be
21 potential DNA evidence.

22 Q Now I'm going to bring your attention to case number
23 07-06-01-9903. Are you familiar with this case?

24 A Somewhat.

25 Q And are you the analyst that analyzed some evidence

1 with the victim named Israel Cannon?

2 A Yes.

3 Q All right. Tell the jury first of all what items of
4 evidence were submitted to the evidence room at the
5 Richland County Sheriff's Department that would be
6 potential DNA material for you to analyze?

7 A Well, there was a long list of potential items that
8 were submitted. Our crime scene officers, when they
9 go to a crime scene, they collect anything and
10 everything that could leave DNA. Not all of it's of
11 course evidentiary value.

12 But these items were collected. The fingernail
13 scrapings from the victim, fired cartridge casings
14 from the crime scene, an unfired cartridge, swabs
15 from a Chevy Tahoe, swabs from a black Volvo, items
16 of evidence recovered inside of these vehicles, knit
17 hats, plastic bottles, plastic cups. That's pretty
18 much it. The victim's clothes were submitted in this
19 case also.

20 Q Okay. In our case, hypothetically, in a case where a
21 victim is shot, would you expect to find blood on or
22 about the victim's body and clothes?

23 A Yes.

24 Q Okay. And whose blood would that belong to?

25 A It belonged to the victim of course.

1 Q Okay. And if there is no other evidence of anyone
2 else being injured or cut in any way, leaving any
3 kind of blood evidence behind, you would not analyze
4 the clothes, correct?

5 A No. No. Especially in gunshot cases where somebody
6 is shot and there is no evidence of a struggle and
7 there is cutting or, you know, where someone is
8 bleeding, they could potentially transfer evidence
9 back and forth, typically the blood around the bullet
10 hole is the victim's. So that's pretty much
11 considered something that we would not bother
12 analyzing.

13 Q Okay. No evidentiary value. We know the blood on
14 the victim's clothes is his own?

15 A That's correct.

16 Q Now, you also indicated that you had fingernail
17 scrapings that were submitted from Mr. Israel
18 Cannon's hands?

19 A Right.

20 Q Did you analyze those?

21 A No.

22 Q And tell the jury why not?

23 A Fingernail scrapings are collected when there's
24 believed to be a fight and scratching and we can get
25 tissue from underneath fingernails. In our meetings

1 with investigators in this case, I don't believe that
2 we felt that that was necessary in this case.

3 Q And describe for the jury a little bit, you get a lot
4 of evidence from the crime scene investigators,
5 correct?

6 A Yes.

7 Q I believe you testified earlier they collect anything
8 and everything?

9 A Yes, they do. They collect anything that potentially
10 could be of evidentiary value. You know, after the
11 investigators investigate the case, many times the
12 items that are collected are not necessarily tested.

13 Q Okay. And you indicated that you attend meetings
14 with these investigators?

15 A Yes.

16 Q And what are those meetings called? Or is there a
17 term that the Sheriff's Department uses?

18 A There might be. I just call them, you know, homicide
19 meetings, homicide review meetings, meetings where we
20 review -- as a matter of fact, it is our -- you know,
21 it unwritten policy that we do, we in the DNA
22 department meet with investigators to go over
23 evidence in a homicide case because there is a lot of
24 evidence collected usually and it is important for us
25 to understand the crime and what took place so that

1 we can focus our investigation or DNA analysis on
2 those items that would be of evidentiary value.

3 Q And after meeting -- did you meet with Investigator
4 McRae about this case?

5 A Yes.

6 Q All right. And after meeting with him, did you make
7 a determination about what evidence you needed to
8 focus on in this case?

9 A Yes.

10 Q All right. Can you tell the jury what items of
11 evidence you analyzed?

12 A It boiled down to just analyzing the cartridge
13 casings in this case. In the case of a homicide,
14 automatic, semi-automatic weapons, cartridge cases
15 are left at the crime scene. And these are handled
16 presumably by the person who had the gun and loaded
17 those cartridges in the magazine and fired the gun.
18 So that type of evidence left at a crime scene has
19 potential because a person can, you know, leave
20 enough skin cells on the cartridge cases to
21 potentially leave DNA evidence.

22 However, our laboratory has had a lot of
23 experience analyzing this type of evidence and it is
24 very, very rare that we even get DNA at all; and if
25 we do, it's usually not enough. But there's been

1 rare occasions when we've gotten something.

2 Q Off of a cartridge casing?

3 A Yes.

4 Q And in this case I'm going to show you what's already
5 been put into evidence, State's 94. Do you recognize
6 that, sir?

7 A Yes.

8 Q And what is it?

9 A This is an evidence container that contains the three
10 fired cartridge casings and the swabs from the fired
11 cartridge casings and the swab from the cartridge
12 that was also analyzed.

13 Q And tell the jury a little bit about what efforts you
14 undertook to analyze those items, State's No. 94?

15 A Yes. The items themselves I never saw. I saw the
16 swabs. So the crime scene people that swabbed the
17 cartridge cases that they collect for DNA and
18 preserve them, they're on cotton tipped swabs which
19 are clean before they use them of course. And I cut
20 the cotton tipped swabs and extract them for DNA,
21 test them to see if there is any human DNA present;
22 and, if not, then the process stops there. As I
23 stated, if so, then I try to quantitate it and try to
24 develop a DNA profile from it. If I do, then I would
25 run known samples from people involved and compare

1 it.

2 Q And tell the jury what your results were after
3 analyzing the swabs in this case?

4 A I did not find any DNA nor develop any DNA profiles
5 from the swabs.

6 Q All right. Now I'm going to bring your attention to
7 another item of evidence that was submitted, number
8 9, a swab from the exterior handle driver's door of a
9 '99 Chevy Tahoe. Did you analyze that?

10 A No.

11 Q Okay. And why not?

12 A Again, as a result of our homicide review meeting, it
13 was determined that the evidence showed that the
14 suspects or the defendant in this case did not come
15 in contact with that vehicle.

16 Q And the swabs from the mouths of the bottles found in
17 the black Volvo, were those ever analyzed?

18 A No.

19 Q And why not again?

20 A As a result of our meeting it was determined that the
21 defendant was known to be in this vehicle or admitted
22 being in this vehicle or something of that nature,
23 and it was determined that this was not of
24 evidentiary value.

25 Q Was there ever a beer bottle submitted to you for

1 analysis, any beer bottle ever entered into evidence
2 in this case?

3 **A** No.

4 **Q** Beg the Court's indulgence, Your Honor. Thank you,
5 Dr. Barron. No further questions, Your Honor.

6 **THE COURT:** Cross examination.

7 **MR. SECOR:** Thank you, Your Honor.

8 CROSS EXAMINATION

9 **BY MR. SECOR**

10 **Q** Good morning, Dr. Barron. How are you, sir?

11 **A** Good morning.

12 **Q** Just a few questions. I'll try to keep this as brief
13 as I can. One thing, I think when Ms. Shipley was
14 talking to you, you said when you're testing DNA you
15 can tell conclusively from your analysis if the DNA
16 you find came from a specific person. Isn't that
17 right? Isn't that what you just testified to?

18 **A** If there is enough DNA present you can, yes.

19 **Q** Okay. Wouldn't you agree that you can't tell
20 conclusively in all cases?

21 **A** If there is not enough DNA, no. And sometimes
22 there's just enough DNA to develop a partial profile.
23 In all these cases we develop the probability of the
24 frequency of that profile occurring in the
25 population. So in the case of a full single source

1 DNA profile, then the frequency of that profile is so
2 rare that it's statistically conclusive that that DNA
3 is from that person.

4 Q Okay. So just sort of in laymen's terms, DNA
5 analysis, sort of it's a process of inclusion or
6 exclusion. You can say that this person is likely
7 within the group of people that it might have left it
8 or they're outside of that group of people that might
9 have left it. And sometimes it's so likely that you
10 can say probably conclusively it's this individual
11 person?

12 A Okay. That's an interesting summary. But I think I
13 can go along with that.

14 Q Okay. Sometimes I have difficulty with the expert
15 language, so I try to put it in my own terms. Now,
16 you said that the items that -- when you were talking
17 to Ms. Shipley about the items that were submitted,
18 you said nail scrapings, cartridges from a firearm,
19 swabs from a Chevy Tahoe, swabs from a Volvo, and
20 items from inside?

21 A Right. A lot of bottles. I guess the assumption was
22 that perhaps the DNA from the person who drank those
23 bottles might be important in the case.

24 Q Mm-hmm (affirmative). And you said that's pretty
25 much it in terms of the evidence that was submitted,

1 right?

2 A That's pretty much it.

3 Q You'd agree with me that there were 45 of them
4 altogether, right?

5 A I didn't count.

6 Q Okay. With regards to the nail scrapings, I think
7 you said that after meeting with the investigators on
8 the case you decided not to test those because they
9 didn't feel from the evidence in the case that there
10 was any indication that an altercation had occurred
11 or a physical altercation, and usually DNA only ends
12 up under fingernails when there's some sort of
13 physical altercation?

14 A Well, that's the purpose of collecting DNA or
15 fingernail scrapings, is the supposition that a fight
16 and scratching, clawing and that type of thing would
17 have transferred tissue from somebody's face perhaps
18 to the fingernails.

19 Q Okay. Were you aware that there was a fresh scrape
20 on Mr. Cannon, the victim's leg in this case?

21 A No.

22 Q Now, when you're talking about the blood that was
23 recovered or tested -- or I guess it was not tested
24 from Mr. Cannon's clothes -- you figured that that
25 was unnecessary to test because it was clearly Mr.

1 Cannon's. Is that right?

2 A Correct.

3 Q Okay. But, I mean, part of the DNA analysis is not
4 trying to figure out who the deceased is. I mean,
5 it's partially to try to figure out who the
6 perpetrator is?

7 A Well, in the case of analyzing the victim's clothes,
8 then you would be looking for DNA evidence from the
9 perpetrator, not from the victim. Most of the time
10 victims of murder do a lot of bleeding and they bleed
11 all over their clothes. But if there is evidence of
12 a struggle or anything like that, then you might want
13 to see if you can find some stains that are not part
14 of the soaked blood on the clothing to perhaps test
15 it for someone else's DNA.

16 Q Okay. With regards to the swabs that were submitted
17 from the Volvo in this case, there was a number
18 submitted. Items inside the car were swabbed,
19 including door handles, front rear, driver's side,
20 passenger's side and things like that. Those were
21 not tested?

22 A No.

23 Q Okay. Beg the Court's indulgence for just a moment.
24 Just briefly, Dr. Barron. You said part of the
25 reason some of the stuff wasn't tested is that you

1 received information that Mr. Sanders had been in
2 this vehicle?

3 A In the Volvo.

4 Q In the Volvo. Okay. And that was through your
5 conversation with the investigators I assume?

6 A Yes. That was part of the discussion in the homicide
7 review meeting.

8 Q Right.

9 A That it was a known fact either that the defendant
10 admitted being in the vehicle or some other
11 investigative means. But it was pretty well
12 established that he had been in that vehicle. So we
13 would expect to find his DNA in this vehicle.

14 Q And you said you met with the police to try to sort
15 of determine what was important to test in the case?

16 A That is our procedure, because there is lot of
17 evidence many times collected in homicide cases. DNA
18 testing is time consuming and expensive. So we like
19 to focus on analyzing those pieces of evidence that
20 is of evidentiary value. Because if it's not going
21 to be of value, then there's no sense in wasting our
22 time doing it.

23 Q And, I mean, sort of my understanding of DNA evidence
24 and any sort of forensic testing with regards to a
25 crime is, I mean, it can sort of corroborate what

1 people say or it can prove what somebody says is
2 untrue, right?

3 A That's true.

4 Q So, I mean, if you just take somebody's word and just
5 disregard the scientific evidence, I mean, you could
6 potentially be leaving something important behind.
7 No?

8 A Well, that's the purpose of our meetings. I mean, we
9 have these meetings on homicide cases. And it is the
10 way our policy is, to focus in on those pieces of
11 evidence that are important. There are cases where
12 the case is just a total unknown stranger or just
13 total unknown which we do analyze as much as
14 possible. And there are cases where an investigator
15 will ask us to analyze stuff that we don't feel is
16 important but we'll do it anyway because they are the
17 ones who are in charge of the investigation and we
18 basically tee off of what they're telling us is
19 important.

20 Q Okay. Just one brief moment, Your Honor. Thank you,
21 Dr. Barron. I appreciate it very much.

22 THE COURT: Redirect.

23 MS. SHIPLEY: Yes, sir.

24 REDIRECT EXAMINATION

25 BY MS. SHIPLEY

1 Q If a person admits to being in a car and you find
2 their DNA in the car, what does that tell you?

3 A That he's telling the truth.

4 Q Okay. Thank you. No further questions, Your Honor.

5 THE COURT: Anything further?

6 MR. SECOR: No.

7 THE COURT: All right, Doctor. You may come
8 down. May this witness be excused?

9 MS. SHIPLEY: Please, Your Honor.

10 THE COURT: Without objection.

11 MR. SECOR: No objection. Next witness.

12 MS. SHIPLEY: The State calls Jerry Hall.

13 JERRY HALL, after being duly sworn, testifies as
14 follows:

15 THE CLERK: Please have a seat. State your full
16 name for the record.

17 WITNESS: Jerry Hall, Richland County Sheriff's
18 Department Fugitive Task Force.

19 DIRECT EXAMINATION

20 BY MS. SHIPLEY

21 Q Investigator Hall, you just mentioned you're with the
22 Richland County Sheriff's Department?

23 A Yes, ma'am.

24 Q All right. Which task force?

25 A Fugitive Task Force.

1 Q Fugitive. What are your duties working for the
2 Fugitive Task Force team?

3 A I work high profile cases, to include murder or
4 burglary, robbery cases. We get the warrants. We
5 track the subjects down and we facilitate their
6 arrest.

7 Q Okay. I'm going to bring your attention to June the
8 7th, 2007. Do you recall being provided with an
9 arrest warrant for the defendant, Louis Sanders, for
10 the charge of murder?

11 A Yes, ma'am.

12 Q Did you have information as to what address he
13 resided at?

14 A Yes, ma'am, I did.

15 Q I'm going to show you a document and ask you if you
16 recognize this?

17 A This is an arrest warrant that was filled out on
18 June 12th of 2007 for the arrest of Louis Sanders.

19 Q Okay. And what address is listed on there?

20 A ■ Torrowood Drive.

21 Q Tell this jury what efforts you had to undertake to
22 find Mr. Sanders to arrest him for the charge of
23 murder?

24 A A few days prior to June 12th I stopped at what I
25 knew to be the Louis Sanders' house at ■ Torrowood.

1 I got his address through the use of the Department
2 of Motor Vehicles' website through his driver's
3 license, had it listed. I went to that address and
4 spoke to his mother. She stated she hadn't seen him
5 in some days and that she didn't know where his
6 whereabouts were.

7 We then left. A few days later I drove back by
8 that house just as a routine thing, just to drop by
9 to see if I saw something different at the house than
10 what I'd seen previously. And I saw Louis exit a
11 vehicle being driven by his brother with another
12 female that was with him, who I didn't know who she
13 was. I just knew that she was younger, in her
14 twenties.

15 I observed them get out of the car in the
16 driveway. I went around and parked my vehicle at a
17 spot where I could surveil the house and I watched
18 them walk into the house. I then called my team.
19 They all showed up along with a SLED fugitive team.
20 And Louis never left the house. No one ever came and
21 gone after I watched him go into the house. And we
22 surrounded the house. We knocked on the door. We
23 yelled for him to come out. He did not.

24 Q Did you identify yourselves as police?

25 A Yes. All of us are marked. We identify ourselves

1 Richland County and/or SLED. All of us had raid
2 vests that say Deputy Sheriff or Richland County
3 Sheriff's Department or SLED on our raid vest. We
4 knocked a number of times. He never came to the
5 door. No one ever came to the door. We then decided
6 to force entry through a back door of the residence.

7 **Q** And because you had a valid arrest warrant for
8 murder, that gave you the means to use force to enter
9 the house?

10 **A** Yes, ma'am, it does.

11 **Q** Tell this jury what happened when you gained entry
12 into [REDACTED] Torrowood Road?

13 **MR. O'NEIL:** Your Honor, for the record, I renew
14 my previous objections.

15 **THE COURT:** Yes, sir. I understand. This
16 testimony is over the defendant's objection.

17 **Q** All right. Please proceed.

18 **A** We forced entry through the back of the house. There
19 was a number of us stacked up at the back door.

20 **Q** What do you mean by "stacked up"?

21 **A** Each of us have a position in the stack so when we go
22 in a house we know which way we're going and we have
23 cover and we're able to engage targets if we have to
24 when we walk into a house.

25 We made entry to the house. I went left and did

1 a sweep from left to right. A number of other agents
2 or investigators swept the rest of the house.

3 Initially we did not find him. A woman emerged from
4 the center of the house. I do not know exactly where
5 because I wasn't there right there, but I did see her
6 come as she was being escorted out of the house by
7 other investigators.

8 Q And this woman is not the same woman as his mother?

9 A This was not the mother who I had previously
10 contacted. This was the young lady who I mentioned
11 that I surveilled get out the car with Louis that his
12 brother was driving.

13 Q Okay. And what information did you gather from this
14 woman?

15 A We stated -- you know, we told her that we knew Louis
16 was in the house, tell us where he is in the house,
17 we don't want people to get hurt. And she didn't say
18 where Louis was in the house. We cleared the whole
19 house. The only thing left was the attic. At this
20 time we know we have a K-9 in the house and we
21 lowered the attic door. The K-9, the dog was
22 barking. They were giving demands for Louis to come
23 out. He then emerged in the hole over where the
24 attic door closes showing his hands. He didn't
25 comply very fast with coming out of the attic, so we

1 went up and grabbed him, pulled him from the attic to
2 the floor and handcuffed him. He was taken into
3 custody.

4 **Q** And so at that point he was arrested?

5 **A** Yes, ma'am.

6 **Q** And on the top left corner of that arrest report,
7 what time does it say he was arrested?

8 **A** 12:00 hours, being noon.

9 **Q** Noon?

10 **A** Yes, ma'am.

11 **Q** On June 12th, 2007?

12 **A** Yes, ma'am.

13 **MS. SHIPLEY:** That is all from the State, Your
14 Honor.

15 **THE COURT:** Cross examination.

16 **MR. O'NEIL:** Thank you, Your Honor.

17 CROSS EXAMINATION

18 **BY MR. O'NEIL**

19 **Q** Investigator Hall, what day did you talk with Louis'
20 mom?

21 **A** A few days prior to June 12th. I don't know the
22 exact date.

23 **Q** And you don't know whether or not Louis had talked to
24 his mother after you spoke with her, do you?

25 **A** I wouldn't have any idea. She stated she hadn't

1 talked to him in a couple of days.

2 Q So she told you she hadn't talked to him?

3 A Correct.

4 Q And there wasn't any media coverage of Louis being
5 wanted prior to June 12th, was there, that you're
6 aware of?

7 A Not that I'm aware of, no.

8 Q Now, how many officers came to the house that day?

9 A A lot.

10 Q A lot? Five? Ten? Twenty?

11 A I'd probably say between ten and -- between ten and
12 fifteen.

13 Q Between ten to fifteen officers?

14 A Mm-hmm (affirmative). That being our whole fugitive
15 team, some K-9's, K-9 team, and then the SLED
16 fugitives team.

17 Q How many K-9's?

18 A There was one at the door with us. They usually run
19 a pair or two or three run together with the dog.

20 Q Okay.

21 A Other handlers run -- like one dog, they'll run a dog
22 and then the other handlers will be there to assist.

23 Q And you all were in your full SWAT gear?

24 A Actually I swear civilian clothes. When I'm
25 conducting an arrest warrant or a search warrant I

1 wear a raid vest, a marked raid vest.

2 Q You all had your weapons?

3 A Yes, sir.

4 Q What kind of weapons did you all have?

5 A I had my service weapon which is a Glock pistol.

6 SLED agents have automatic weapons.

7 Q Everybody had handguns?

8 A Well, Richland County had handguns.

9 Q About how far away I guess are those handguns
10 accurate to would you think?

11 A Quite a distance.

12 Q Okay. You all had your weapons drawn?

13 A Yes, sir.

14 Q And you all knocked the back door down?

15 A Yes, sir.

16 Q And when you all saw Louis in the attic, he showed
17 you his hands?

18 A As I remember it; yes, sir. He had his hands like
19 kind of like this and he was looking down.

20 Q And then he came down out of the attic?

21 A He didn't come down. He got pulled down from the
22 attic.

23 Q You all pulled him down from the attic?

24 A Yes, sir.

25 Q Because he was coming down a little bit slow I think

1 is what you said?

2 **A** Yes, sir.

3 **MR. O'NEIL:** Beg the Court's indulgence. No
4 further questions.

5 **THE COURT:** All right. Anything further?

6 **MS. SHIPLEY:** No, Your Honor.

7 **THE COURT:** All right. You may come down, sir.
8 This witness be excused?

9 **MS. SHIPLEY:** Please. Yes, Your Honor.

10 **MR. O'NEIL:** No objection.

11 **THE COURT:** Without objection. Next witness.

12 **MS. MCDUFFIE:** The State calls Investigator
13 Travis Holdorf.

14 **TRAVIS HOLDORF,** after being duly sworn,
15 testifies as follows:

16 **THE CLERK:** Please have a seat. State your full
17 name for the record.

18 **WITNESS:** Travis Holdorf.

19 **DIRECT EXAMINATION**

20 **BY MS. MCDUFFIE**

21 **Q** Good morning, Investigator Holdorf. Where are you
22 currently employed?

23 **A** The Richland County Sheriff's Department.

24 **Q** And what are your duties with the Richland County
25 Sheriff's Department?

1 **A** I work assaults, aggravated assaults and arsons and
2 homicides when we have them.

3 **Q** And were those the same duties you had in June of
4 2007?

5 **A** Yes, ma'am.

6 **Q** And were you working on June 12th of 2007?

7 **A** Yes, ma'am.

8 **Q** And did you have the occasion to go to [REDACTED] Torrowood
9 Drive?

10 **A** Yes, ma'am.

11 **Q** What was that in reference to?

12 **A** We had obtained a search warrant related to
13 Investigator McDonald's case.

14 **Q** And do you know whose residence that was?

15 **A** Louis Sanders.

16 **Q** And did you participate in the execution of that
17 search warrant?

18 **A** I did.

19 **Q** And while executing that search warrant, did you --
20 what items did you find?

21 **MR. SECOR:** Your Honor, I'd just like to state
22 this is subject to our previous objection.

23 **MS. MCDUFFIE:** I'll rephrase the question.

24 **Q** Did you find a gun cleaning kit and a Firebox?

25 **THE COURT:** All right. Subject to the

1 defendant's objection, this testimony is allowed.

2 **A** Yes, ma'am. We did.

3 **Q** I show you what's been marked as State's items 4 and
4 5. Do you recognize these?

5 **A** Yes, ma'am.

6 **Q** And are they in the same condition as when you had
7 them on June 12th?

8 **A** Yes, ma'am.

9 **MS. MCDUFFIE:** Your Honor, at this time we would
10 offer State's Exhibit 4 and 5 into evidence.

11 **MR. SECOR:** Subject to our previous objections,
12 Your Honor.

13 **THE COURT:** All right. Admitted over the
14 defendant's objection.

15 (WHEREUPON, State's Exhibit No. 4 is admitted
16 into evidence.)

17 (WHEREUPON, State's Exhibit No. 5 is admitted
18 into evidence.)

19 **Q** Investigator Holdorf, can you please tell the jury
20 what State's Exhibits 4 and 5 are?

21 **A** No. 4 is a green gun case. Star firearms is on the
22 front. And it has a Fire Star and then a number down
23 here, 2132303. Inside is gun oil and a gun cleaning
24 fluid, also an Allen key.

25 **Q** Was there any weapon located in that gun case?

1 **A** No, ma'am. We did not find a weapon inside the
2 house.

3 **Q** And can you please tell the jury what's in State's
4 Exhibit 5?

5 **A** This is a gun cleaning kit. It's going to have --
6 pretty much, one size fits all. I don't see what
7 type or size this one is, but it's your typical gun
8 cleaning kit.

9 **Q** And those were found in the defendant's home?

10 **A** Yes, ma'am.

11 **Q** And after those items were found, did you then take
12 those items to the Richland County Sheriff's
13 Department?

14 **A** Yes, ma'am.

15 **Q** And what did you do with them there?

16 **A** They were placed in our evidence room.

17 **Q** From the time you collected them at the home until
18 you placed them in the evidence room, were they in
19 your custody and control?

20 **A** Yes, ma'am.

21 **Q** Were they tampered with in any way?

22 **A** No, ma'am.

23 **MS. MCDUFFIE:** Nothing further, Your Honor.

24 **THE COURT:** Cross examination.

25 **MR. SECOR:** Thank you, Your Honor.

CROSS EXAMINATION

BY MR. SECOR

Q Good morning, Investigator Holdorf. How are you?

A Good morning, sir.

Q I just want to ask you a couple of quick questions about these, if I may. Were you present for the actual execution of the search warrant?

A Yes, sir.

Q You were. Okay. And the residence was -- you said it was Mr. Sanders' residence. His mother lived there, too, right?

A Yes, sir.

Q And do you know if anybody else lived there or had lived there? Did you talk with anybody about that?

A Not that I recall, sir.

Q Okay. Do you think you could use this if you had put one of these attachments on the gun cleaning kit to clean a 9-millimeter?

A Absolutely. I have one just like it for my .40 and a .380.

Q So you could use it to clean a .30 caliber?

A Yes, sir.

Q A .38?

A There is a -- it's a generic tip.

Q Right. Yeah. We'll talk about that. But you could

1 use it for a .30 caliber?

2 A I would imagine you could use it for any sort of
3 firearm.

4 Q And then you could also use it to clean like a short
5 action .22 rifle, like a little one?

6 A Again, you can clean it for all sorts of guns. Yes,
7 sir.

8 Q All right. And you could probably, if you put the
9 third attachment on, you could use it for like a .12
10 gauge duck hunting gun or maybe my 7 Mag rifle for
11 deer hunting?

12 A You could.

13 Q Now, this box that you all found, too, you could fit
14 a 9-millimeter in here, right?

15 A It would have to be an awfully small one with those
16 items in there.

17 Q You could fit a .22 in there?

18 A If it was empty.

19 Q If it was empty?

20 A I mean, I guess you could do a .22 you now. You
21 could put a 9-millimeter in there if it was empty.

22 Q And a .22 pistol would fit in there, right?

23 A It's possible.

24 Q Maybe even a .30 or a .38?

25 A It's possible.

1 Q Okay. It would be tough to fit any gun in there
2 though with the stuff that was found in it, right?

3 A I don't know. They make several little pocket guns,
4 sir. I am not a gun expert.

5 Q Like a Saturday Night Special or something?

6 A I'm not a gun fanatic. But it's possible.

7 Q And this is the way that you found that stuff that's
8 in this box, would be these items inside it, correct?

9 A Yes, sir.

10 MR. SECOR: Beg the Court's indulgence for just
11 a minute. Thanks, Mr. Holdorf. I appreciate it.
12 I've got nothing further.

13 THE COURT: Anything further?

14 REDIRECT EXAMINATION

15 BY MS. MCDUFFIE

16 Q Investigator Holdorf, did you find a weapon at all at
17 ■ Torrowood?

18 A No, ma'am.

19 MS. MCDUFFIE: Nothing further, Your Honor.

20 THE COURT: All right. You may come down, sir.
21 Thank you very much. May this witness be excused?

22 MS. SHIPLEY: Please, Your Honor.

23 THE COURT: Without objection.

24 MR. SECOR: No objection.

25 THE COURT: Next witness.

1 **MS. MCDUFFIE:** The State calls Lieutenant Scott
2 McDonald.

3 SCOTT MCDONALD, after being duly sworn,
4 testifies as follows:

5 **THE CLERK:** Please have a seat. State your full
6 name.

7 **WITNESS:** Scott McDonald.

8 DIRECT EXAMINATION

9 **BY MS. MCDUFFIE**

10 **Q** Lieutenant McDonald, can you tell the jury where
11 you're employed?

12 **A** The Richland County Sheriff's Department.

13 **Q** What are your duties with the Richland County
14 Sheriff's Department?

15 **A** I'm a lieutenant in the major crimes unit which is
16 the crimes against persons unit. We investigate all
17 homicides, suicides, aggravated assaults,
18 carjackings, robberies of commercials and
19 individuals.

20 **Q** And were those the same duties you had in June of
21 2007?

22 **A** I was a sergeant then in the same unit with basically
23 the same responsibilities.

24 **Q** And when you investigate any sort of case, what do
25 you do? Explain to the jury how you investigate a

1 case, a typical case.

2 A Well, there's a number of factors. It just depends
3 on the case. But you go and you try to gather as
4 much information as possible, witnesses, any evidence
5 at the scene. We talk with the forensic
6 investigators on the scene on something like this to
7 determine what may have happened and we begin
8 interviewing witnesses trying to piece together what
9 may have happened, try to identify a suspect or
10 suspects.

11 Q And you typically assign a lead investigator to each
12 case?

13 A Yes, we do.

14 Q Who is the lead investigator on this case?

15 A Investigator McRae.

16 Q And what was your role in this case?

17 A We were actually -- I was on evening shift this week.
18 When we're on evening shift, the supervisor on the
19 evening shift is responsible for a homicide on-call
20 type rotation we have. So I was a supervisor in
21 charge if we were to have a homicide, which we did.
22 I was notified about 5 that morning of a homicide. I
23 then contacted my lead investigator who -- we put out
24 a schedule as well -- who was Investigator McRae,
25 told them we'd had a homicide and to meet me at the

1 scene.

2 Q So McRae was the lead investigator and you were his
3 supervisor?

4 A That is correct.

5 Q And did you assist him in the investigation on this
6 case?

7 A Yes, I did. The next day upon talking with our
8 superiors it was agreed that I would continue on
9 working the case with Investigator McRae.

10 Q And, sir, when is the first time -- or when you were
11 first involved with this investigation?

12 A I got a call about 5 that morning on June 3rd from
13 the desk sergeant notifying me of a homicide. I got
14 some just brief details. Details were sketchy at
15 that point. I told him I'd be responding to the
16 scene.

17 Q And did you respond to the scene?

18 A Yes, I did. I got there about 5:40.

19 Q So tell the jury where this scene or where you're
20 talking about was?

21 A This was on Westbridge Road in Richland County. It's
22 in the Charleswood Subdivision in Northeast Columbia.

23 Q And about what time did you arrive on Westbridge
24 Road?

25 A Approximately 5:40 a.m.

1 Q And what did you observe when you arrived on
2 Westbridge Road?

3 A Well, it was raining quite heavily by that point. I
4 saw crime scene tape up around the perimeter of the
5 crime scene. There were several deputies present.
6 Investigator Livingston from the forensic unit and
7 Sergeant Richards was there. I saw a black male
8 laying in the middle of the cul-de-sac. And I saw a
9 white Tahoe up against a fence still running.

10 Q And was it your job to collect the evidence or to
11 look for shell casings or things of that nature on
12 the scene?

13 A No. That would be the forensic investigators. We
14 got there. I was briefed by one of the on-the-scene
15 uniformed deputies as to how did they receive this
16 call. They had already done a preliminary canvas
17 with all the neighbors in the area. And I was
18 provided the name of a neighbor or two that had seen
19 something relating to this incident.

20 Q And was the victim's body still there when you
21 arrived?

22 A Yes, it was.

23 Q And why is that?

24 A The body remains on scene until the coroner arrives.
25 Our lab is not allowed to, you know, get in and start

1 doing their investigation until the coroner arrives
2 unless there is some kind of exigent circumstance
3 that may require immediate retrieval of evidence that
4 may be lost. So that's why the perimeter was set up.
5 The lab was taking some preliminary pictures of the
6 crime scene, but they had not approached the body at
7 this point.

8 **Q** And were you present when the coroner arrived on the
9 scene?

10 **A** Yes, I was.

11 **Q** Do you remember approximately what time that was?

12 **A** Approximately 6:00 a.m.

13 **Q** And that's on June 3rd, 2007?

14 **A** Yes, it was.

15 **Q** And when the coroner arrived, what then happened?

16 **A** They were briefed as to the limited information we
17 had at that point. And then at that point they and
18 the forensic investigators approached the body.
19 Myself and Investigator McRae were also invited into
20 the crime scene at that point as they approached the
21 body.

22 **Q** And were you able to identify the body once the
23 Coroner's Office came?

24 **A** Yes. They were able to find a driver's license in
25 the victim's pocket.

1 Q Did the victim have anything else on his person that
2 morning?

3 A I believe he had his wife's ID in his pockets as
4 well. There may have been some cash, other asserted
5 ID's and things like that in his wallet. We were
6 mainly concerned with identifying him at that point.
7 I didn't do an inventory. That would be done by the
8 Coroner's Office and forensic investigators as to
9 every little item that he might have had.

10 Q But he did have his wife's ID in his pocket?

11 A Right.

12 Q And did you learn about the whereabouts of his wife
13 sometime that morning?

14 A Shortly after we got him identified, one of the
15 deputies on the scene notified me that another
16 officer had stopped a vehicle which presumably could
17 be this victim's wife present in that vehicle.

18 Q And so what did you do after you found this out?

19 A Investigator McRae and I made plans to return to
20 headquarters to meet with Mrs. Cannon and a couple of
21 other females that were in the vehicle with her to
22 try to understand what may have happened, get further
23 information on this case.

24 Q And did you have an opportunity to meet with Pam
25 Cannon and Kim Goins that morning?

1 **A** Yes, we did.

2 **Q** And you were able to speak with them and question
3 them at that time?

4 **A** That's correct.

5 **Q** And also notified them of the death of Mr. Cannon?

6 **A** Yes. We didn't do that initially. We feared any
7 information, that if we'd come right out and said,
8 "Your husband is dead", that we may have lost vital
9 information due to the emotional reaction, you know,
10 when someone dies, especially a violent death like
11 this.

12 **Q** And earlier that morning did you do anything else in
13 the investigation of this case?

14 **A** I talked to Mr. Eubanks who was -- his name was
15 provided to me by one of the deputies on the scene.
16 The deputy did caution me he was, you know, very
17 concerned about his safety and his family's safety
18 and asked us not to respond to his residence, to
19 please just call him and he would cooperate in any
20 way he could but he didn't want us coming to his
21 house at that point.

22 **Q** And did you contact him on the telephone?

23 **A** Yes, I did.

24 **Q** And did you tell him that you'd like to get a written
25 statement from him at some point?

1 **A** Yes. And he agreed to make that happen.

2 **Q** And did he?

3 **A** Yes.

4 **Q** To your knowledge? Did you also try and follow up
5 leads at the H&J pub?

6 **A** Yes, we did. Once we realized that all this had
7 originated at the H&J pub, we were familiar with the
8 owner of the club, Mr. Rick Jacobs. I was in
9 communication with my captain, Stan Smith, who had
10 worked a case recently. And he stated in one of his
11 follow-ups he believed he had a cellphone or a home
12 number for Mr. Jacobs. The club was of course by now
13 closed and no one was present there. So we were
14 trying to make contact with Mr. Jacobs to see if he
15 could offer any further information.

16 **Q** Did you make contact with Mr. Jacobs?

17 **A** Eventually, later that day we did, called several
18 numbers. Finally we did get ahold of him later in
19 the day.

20 **Q** And what kind of information were you looking for?

21 **A** By that point we knew we were looking for someone
22 that may be a regular in the club, may have long
23 braided hair and drives a black Volvo; kind of
24 limited it at that point. Mr. Jacobs as soon as he
25 heard the black Volvo would suggest Garry Green to us

1 who lived right around the corner from the club at
2 ████ William Harden Road.

3 Q And did he also give you any leads about people he
4 had seen with braids or the hair you just described?

5 A During this initial call or later on?

6 Q Later on. I'm sorry.

7 A Later on we would learn further information about
8 another subject with braids and facial hair that was
9 there by the name of Ricardo Guilbert, Gilbert or
10 Guilbert, something.

11 Q And how did Mr. Jacobs describe him to you?

12 A He was an employee of Red Robin Restaurant. He had
13 come there with several other employees from Red
14 Robin. He was wearing a Red Robin shirt that night
15 in fact.

16 Q So based on this information, what did you then do?

17 A Myself and Captain Smith responded to the Red Robin
18 Restaurant located in the Sandhills Shopping Center
19 and spoke with the management there to see if they in
20 fact had anyone fitting that description that may
21 work there that may have been at the pub that night.
22 The manager on duty informed us he had two people
23 that may have fit that description and he does hang
24 out with some of the females there at the business.
25 And we made plans to start interviewing some of these

1 folks to see if they had been at the pub that night.

2 Q And you continued your investigation into this
3 individual?

4 A Yes.

5 Q And based on your investigation, what did you
6 determine?

7 A We determined Ricardo was there and present that
8 night. He was not the subject we were looking for.
9 After interviewing several people that he was there
10 with, they all gave consistent statements. They left
11 when the lights come on, came on. They didn't hear
12 the gunshot. They had already left by that point.
13 And we, you know, eventually would interview Ricardo
14 who -- you know, we verified any alibis or statements
15 he made, and everything checked out with him. So we
16 ruled him out at this point as being involved.

17 Q And why did you rule him out as a possible suspect?

18 A Because his alibis had checked out. He wasn't
19 present during the time of the shooting. We had even
20 presented photo line-ups to some of our witnesses who
21 couldn't positively ID him as being present during
22 this incident.

23 Q And so based on that he was not a suspect in this
24 case?

25 A No, he wasn't.

1 Q And then you mentioned that he also gave you --
2 Mr. Jacobs gave you the name of Garry Green?

3 A Yes, he did.

4 Q And what did you all do to follow up with that?

5 A We researched a little background on Garry Green.
6 Usually when we get a name or information we like to
7 research and get a little background, look at
8 criminal histories, things like that, to know what
9 we're dealing with since neither one of us was
10 personally familiar with Mr. Green. I believe
11 Investigator McRae actually rode by the residence and
12 spotted a black Volvo parked at the residence which
13 made our suspicions even higher at that point that he
14 may be involved.

15 Q And did you all execute a search warrant at his
16 residence, [REDACTED] William Harden Road?

17 A Yes, we did. Later that afternoon we did execute a
18 search warrant there.

19 Q And were you present during the execution of that
20 search warrant?

21 A Yes, I was.

22 Q And did you have a chance to speak with his
23 stepfather, Mr. Culler?

24 A Yes, I did. I explained why we were there. We read
25 the search warrant to him, explained what was going

1 on. He was very cooperative with us. I told him our
2 main interest is not only looking for Garry but for a
3 9-millimeter firearm. By this point we knew we were,
4 looking for it. He volunteered that he did have a
5 9-millimeter in the residence and told me it was in
6 the master bedroom where I did go and retrieve it.

7 Q And did you then get -- who did you then give that
8 weapon to?

9 A I believe that weapon was given to Hal Boland,
10 Investigator Hal Boland, who was scribing the warrant
11 that day I believe. It was put in his control at
12 that point.

13 Q And we've heard from David Collins, that he then
14 tested it and that that was not the weapon used?

15 A That's correct.

16 Q What did you then do with the weapon after it was
17 ruled out as being linked to this homicide?

18 A It was returned to its owner, Mr. Culler by myself.

19 Q You returned the weapon?

20 A Yes.

21 Q And why is that?

22 A Because it had no bearing on this case. It was not
23 part of this case. It wasn't the weapon that fired
24 the rounds.

25 Q And then after the execution of the search warrant on

1 William Harden Road, what did you then do?

2 **A** I went to another address in the North Crossing
3 Subdivision, another address we'd come across while
4 doing background on Mr. Green -- that was a former
5 address -- to see if he might be there since we
6 didn't encounter him at his mother's house. The
7 mother said she hadn't seen him. We went there and
8 we were unable to locate him.

9 **Q** Was Mr. Green eventually located?

10 **A** Yes, he was. Investigator Morris Davis was left
11 behind waiting on the tow truck at [REDACTED] William Harden
12 for the black Volvo. And while he was waiting there
13 and talking with the Cullers, Garry Green appeared
14 from nextdoor at [REDACTED] William Harden.

15 **Q** And did you have a chance to speak with Mr. Green at
16 headquarters?

17 **A** Yes, I did. I had actually gone home I think after
18 we struck out in the North Crossing looking for Mr.
19 Green. And Investigator McRae would call me shortly
20 after arriving at my residence to tell me that Garry
21 Green had been located and he was on his way into
22 headquarters with him. So I responded back to
23 headquarters.

24 **Q** And Mr. Green gave you all a statement that day?

25 **A** Yes, he did.

1 Q And did he give you a statement the next day?

2 A On the 4th?

3 Q I'm sorry. How many statements did he give you on
4 June the 3rd?

5 A Two.

6 Q And then on June the 4th, did you have a chance to
7 speak with any other witnesses in this case?

8 A Yes. The three females that were in the vehicle, Ms.
9 Cannon, Ms. Kim Goins and Kim Bowers had all agreed
10 to come in for formal written statements at that
11 point.

12 Q Was Kim Bowers in the vehicle with Ms. Cannon that
13 evening, or was she driving her own vehicle?

14 A She was driving her own vehicle. She had gone
15 actually looking for Mr. Cannon when he departed the
16 scene.

17 Q And so you and Investigator McRae had a chance to
18 take written Statement from them?

19 A Myself, Investigator McRae and Captain Smith, yes.

20 Q And what, if anything, new was learned, or where did
21 your investigation go after this?

22 A The statements were pretty much consistent with what
23 we had learned earlier. We were still looking for a
24 black male with braids that had come and kind of
25 flirted or talked with the females. There had been

1 some chatter outside the club as the lights came on
2 after a beer bottle had broke, a statement to the
3 effect of, "You're trying to pick up girls but you're
4 driving your mama's Volvo." And we were still trying
5 to identify who else might be in that vehicle. And
6 we felt at this point that Garry Green wasn't being
7 totally truthful as to the identity of the third
8 person we were looking for.

9 Q And then on June the 7th, did you get contacted that
10 Garry Green was willing to speak with you all?

11 A Yes, I did. I believe he had a bond hearing
12 scheduled for that morning. And we'd been notified
13 by his attorney, Mr. Delgado, that he wished to speak
14 with us and he would identify the shooter in this
15 case, the third person we'd been trying to identify.

16 Q And was Mr. Green given his Miranda warnings at that
17 time?

18 A Yes, he was.

19 Q And did he voluntarily wish to speak with you all?

20 A Yes, he did.

21 Q And what did he tell you all that day? Or what, if
22 anything, new did you learn at that point in time?

23 A That the shooter in this case was Louis Sanders who
24 was an acquaintance of Mr. Green. He'd known him for
25 some time. Once we got the name, the general

1 information on Mr. Sanders, I then went into the
2 Solicitor's Office. This all occurred up here at the
3 county courthouse where the bond hearing was
4 scheduled. And through some databases was able to
5 retrieve a picture of Mr. Sanders which I then placed
6 into a photo line-up and presented that to Mr. Green.
7 And he would positively identify Louis Sanders as the
8 person he was talking about.

9 Q Did you show photo line-ups containing Mr. Sanders'
10 picture to any other witnesses anything?

11 A Yes. We would show them to Ms. Bowers, Ms. Goins.
12 And I can't remember if we showed them to Ms. Cannon
13 or not. I believe we did.

14 Q I show you what's already been introduced into
15 evidence as State's Exhibit 40. Is that the line-up
16 you showed to Ms. Kimberly Bowers?

17 A Yes, it is. Later in the day on the 7th I met with
18 Ms. Bowers at the Columbia Mall in the parking lot
19 there. She was out doing some errands and I was
20 leaving headquarters and we agreed to meet there. I
21 presented this line-up to her to see if she could
22 identify anyone in these pictures.

23 Q And how did you present that line-up to her?

24 A I told her -- I asked her if she saw anyone in these
25 pictures that may have been involved with the

1 shooting that night, the incident at the club, the
2 black male with the braids that with were looking
3 for. I explained to her that sometimes facial hair
4 they change. Hair style, hair length may change
5 slightly; but, you know, to take a look at this and
6 see if she could identify anyone.

7 Q And could she?

8 A She went to -- picture number 2 was very strong. She
9 briefly looked at another candidate in here but kept
10 focusing on number 2. Ultimately she would say she
11 was pretty sure this was the subject that she was you
12 talking to and fired a shot near Pam Cannon while at
13 the club. She just couldn't say 100 percent it was
14 him.

15 Q Did she say if anything was different about the
16 picture that was causing her not to be 100 confident?

17 A I think his hair was a little bit different than she
18 recalled.

19 Q And did she sign a statement at the bottom of that
20 line-up?

21 A Yes, she did.

22 Q And what was that statement in effect to?

23 A It stated: "I'm pretty sure this is the person I was
24 talking to and fired a shot near Pam Cannon."

25 Q And who is the picture in number 2?

1 **A** It would be Louis Sanders.

2 **Q** And you showed line-ups to other witnesses?

3 **A** Yes, we did.

4 **Q** And no one was able to pick anyone out of any
5 other -- pick Mr. Sanders out of any other line-ups?

6 **A** Not with 100 percent certainty, no.

7 **Q** On June the 12th 2007, were you working that day?

8 **A** Yes, I was.

9 **Q** Around noon what did you learn?

10 **A** I was notified by Investigator McRae that Louis
11 Sanders was in custody. They had arrested him at his
12 mother's house on Torrowood Drive and he was being
13 brought to headquarters along with a female that was
14 in his company.

15 **Q** What did you then do?

16 **A** I made plans to meet with the female once they
17 arrived to see if we would gather any information
18 before we went into the interview with Mr. Sanders.
19 So I sat down with a Natalie Cayce, explained to her
20 what was going on, the significance of any
21 information she may provide, and she didn't need to
22 get caught up in a murder investigation with lying
23 and being deceitful. And she understood. Upon me
24 interviewing her though, she indicted to me she had
25 absolutely no information on the murder. He had not

1 told her anything about it and she had no idea.

2 Q And did you have a chance to speak with the
3 defendant, Mr. Sanders?

4 A Yes, I did. After finishing up with Ms. Casey, I
5 joined Investigator McRae in Captain Smith's office.
6 At the time Investigator Goff was present with
7 Mr. McRae for safety concerns, and also they had just
8 advised him of his written Miranda rights.

9 Q And about what time was this?

10 A Approximately about 1:00 in the afternoon.

11 Q And they were where in the Sheriff's Department?

12 A They were in Captain Smith's office.

13 Q Describe Captain's Smith's office to this jury, the
14 size?

15 A It's probably about eight, nine feet wide, maybe
16 about twelve feet long.

17 Q Does it have a window?

18 A It has a couple of windows in it. There is a door.
19 The blinds, it has blinds in it, the blinds were
20 down. Generally when we have an interview so there
21 is no distractions, we pull the blinds down.

22 Q And in the room with Mr. Sanders at that time was
23 whom?

24 A Investigator McRae and Investigator David Goff.

25 Q And when you entered the room, what happened or what

1 did you then do?

2 A Mr. Goff then excused himself from the room and I
3 joined the interview where I was one of the case
4 officers.

5 Q Why did Investigator Goff leave the room?

6 A He was not affiliated with the case at this point.
7 He was merely in there for security and to witness
8 the advice of rights that Investigator McRae was
9 going over.

10 Q And had Louis Sanders been advised of his rights?

11 A Upon my entry he had. I clarified a couple of things
12 with him just a little bit further to make sure he
13 fully understood; you know, how far he went in
14 school.

15 Q Please tell the jury when we're talking about Miranda
16 rights what those rights are?

17 A That the defendant has the right to remain silent.
18 Anything he can say can and will be used against him
19 in court. He has the right to have an attorney
20 present before any questioning if he wishes. If he
21 can't afford one, one will be appointed for him. And
22 he can stop answering questions at any time during
23 this interview.

24 Q And it was your understanding upon entering the room
25 that he had waived those rights and was wishing to

1 speak with investigators?

2 A That is correct.

3 Q And how did you confirm that?

4 A I asked him if he understood his rights and he
5 indicated to me he had. And then just to clarify
6 before we got into any statement taking, I wanted to
7 know his educational background and whether he could
8 read or write. Typically when we take a statement we
9 type it on a computer and then read it back to the
10 defendant, let him review it for any changes,
11 additions, deletions. Not everyone can read and
12 write, so we try to clarify that right from the
13 start.

14 Q And what did you learn from the defendant?

15 A I learned from him he went to the tenth grade but he
16 did have a GED certificate. I asked him about
17 whether he could read or write, which he indicated he
18 could. I asked him if he'd had any drugs or alcohol
19 in the last 24 hours. He indicated he had had five
20 beers the preceding evening.

21 Q And why do you ask suspects these questions?

22 A To make sure he's not under the influence of any
23 drugs or alcohol that could cloud his judgment. You
24 know, we wanted to make sure he understood what was
25 happening and, you know, we wanted to get an accurate

1 portrayal of anything he may tell us.

2 Q And this was at what time that day?

3 A This was at 1 in the afternoon.

4 Q And did Mr. Sanders appear to understand what you
5 were asking him?

6 A Yes, he did.

7 Q Did he give appropriate responses to your questions?

8 A Yes, he did.

9 Q Any doubt in your mind based on your experience that
10 he understood what you were asking him?

11 A Yes. He understood what I was asking him.

12 Q And after you confirmed that he'd waived his rights
13 and went over those things we just discussed with
14 him, what happened after that?

15 A We discussed the case with Mr. Sanders. He was
16 denying any involvement. We started explaining some
17 of the facts of the case, some of the things we knew
18 in the case to be true from our investigation. And
19 he is denying his involvement in it continually. We
20 told him we'd like to get a statement and his
21 statement could be whatever he wanted it to be, but
22 we'd like to get a statement from him. He states he
23 was at the pub that night. He said he was --

24 Q He said he was at the pub, the H&J pub on Hard
25 Scrabble Road?

1 **A** That's correct. He did admit to being there and
2 present that night. He admitted to hanging out with
3 Garry Green that night. He said he didn't remember
4 Justin Green.

5 **Q** So he said he didn't remember Justin Green?

6 **A** Right. He stated he was there until around closing
7 time and was outside in the parking lot area. And he
8 heard three or four shots he said, which was a little
9 unusual because everything had been reported to us
10 was only one shot happening. He stated to us
11 numerous times he didn't shoot in that parking lot or
12 anywhere else, and after the shooting in the parking
13 lot he got a ride from the scene from a friend of his
14 named Twan who took him to his baby's mother's house,
15 Ms. Downing's up in the Winslow Subdivision.

16 **Q** And did he provide you with an address, phone number
17 or actual name of Twan?

18 **A** No. We asked him about that. He said he only knew
19 him as Twan, couldn't provide us any further. He
20 said he had a black Cutlass that he drove and that's
21 all he could provide.

22 **Q** And where did they say that Twan took him?

23 **A** To his baby's mother's house in the Winslow
24 Subdivision.

25 **Q** And did he give you that woman's name?

1 **A** Yes. I was provided the name of Lashonda Downing and
2 a phone number of [REDACTED]

3 **Q** And who provided you that name and phone number?

4 **A** Mr. Sanders did.

5 **Q** Did he say if anyone was with him when he went to
6 Lashonda's house?

7 **A** No. He indicated he was there by himself.

8 **Q** And what, if anything, did he say happened at her
9 home?

10 **A** He stated they got into an argument and he would
11 eventually leave the residence, began walking back to
12 a friend's residence at [REDACTED] William Harden Road. And
13 we believed this to be a little impractical due to
14 the distance involved from the Winslow Subdivision
15 located up off of Clemson Road all the way down to
16 William Harden Road is quite a little hike.

17 **Q** I show you what's been marked and admitted into
18 evidence as State's Exhibit 67. Just to orient you,
19 here is Clemson Road and 77. Can you show the jury
20 where the Winslow Subdivision would be on that map?

21 **A** This is Clemson Road here. If you're coming in this
22 way, it would be a left off Clemson Road and Green
23 Rose Road is towards the back of this subdivision.

24 **Q** And would be a denoted with a marker by what letter?

25 **A** The letter A.

1 Q And show the jury where William Harden Road is?

2 A William Harden would be way down. This is Hard
3 Scrabble Road here. The pub would be right in this
4 general area here. And just around the corner of
5 William Harden is this road right here that
6 intersects Hard Scrabble.

7 Q And do you have any knowledge of how far those two
8 locations are from each other?

9 A I do not have an exact distance. I would estimate
10 probably four to five miles.

11 Q And he told you he got there how?

12 A Walking.

13 Q Did he tell you about what time he got there, to
14 William Harden Road?

15 A He estimated a little after 8:00 that morning.

16 Q And how long did he say he stayed there?

17 A 'Til about 1 or 2 in the afternoon.

18 Q And --

19 A I'm sorry. Between 12 and 1 in the afternoon.

20 Q Did he say if anyone else was at that residence?

21 A Yeah. He stated he remembered seeing Garry Green at
22 the residence while he was there.

23 Q Did he remember seeing anyone else there?

24 A No.

25 Q Did you ask him if he remembered seeing the police

- 1 there that day?
- 2 **A** Yes. He denied that.
- 3 **Q** He denies seeing the police that day?
- 4 **A** Mm-hmm (affirmative).
- 5 **Q** Did you ask him if he had been in Justin Green's
- 6 Volvo at all?
- 7 **A** Yes, I did. He indicated he had sat in the back of
- 8 Justin's Volvo and drank a beer at the club around
- 9 closing time.
- 10 **Q** And that was that evening?
- 11 **A** Yes.
- 12 **Q** And earlier what had he told you about Justin Green?
- 13 **A** That he didn't remember Justin Green.
- 14 **Q** And then later in the same interview he told you that
- 15 he sat in Justin Green's Volvo?
- 16 **A** That's correct. And he drank a beer while in there.
- 17 **Q** And where was that Volvo when he sat in it and drank
- 18 a beer in it?
- 19 **A** In the H&J parking lot around closing time.
- 20 **Q** Did he say whether or not he left with Justin Green?
- 21 **A** He stated he did not. He stated he left with a
- 22 friend of his named Twan.
- 23 **Q** And did Mr. Sanders say if he knew Mr. Cannon or Ms.
- 24 Cannon?
- 25 **A** He did not.

1 Q Did he deny knowing Ms. Cannon?

2 A Yes.

3 Q Did you ask Mr. Sanders to put this down into a
4 written statement?

5 A Several times. He was very hesitant, did not want to
6 give a written statement, which would --

7 MR. O'NEIL: Objection, Your Honor.

8 THE COURT: Sustained.

9 Q After you finished interviewing him -- and then the
10 interview was finished at that point with him?

11 A Yes.

12 Q Did you have a chance to follow up and speak with
13 Ms. Lashonda Downing?

14 A I had left a message for her a couple of times and I
15 finally did get ahold of her I believe.

16 Q And did she tell you that he was at her house that
17 morning?

18 A She indicated to me -- this was several days later
19 when I finally got ahold of her -- she did remember
20 Mr. Sanders coming to her house on June 3rd sometime
21 in the morning, sometime after daylight in the
22 morning which is very important in this case. He
23 would stay for a while and then he was picked up by
24 his mother according to Ms. Downing.

25 Q And what, if anything, did you then do in your

1 investigation after this?

2 A We would take a statement from Justin Green on the
3 18th of June. He also had a bond hearing scheduled.
4 And he agreed to give us a statement. And earlier he
5 had invoked upon his arrest. We had no statement
6 from him. So we took a statement from Mr. Green and
7 also showed him a photo line-up.

8 Q And was Investigator McRae present when that was done
9 as well?

10 A Yes, he was.

11 Q Beg the Court's indulgence. I'm going to direct you
12 to page 4 of your notes. I know they're in front of
13 you.

14 A Mine are probably labeled a little bit different.
15 Okay.

16 Q Why were Justin and Garry Green charged with murder
17 in this case?

18 A At the time of their arrest Garry Green was
19 cooperating. He gave us a statement implicating
20 himself and his brother as being present at the crime
21 scene. And under the hand of one, hand of all in
22 this state, we felt it appropriate to charge them
23 both with murder at that point. They were present at
24 the scene of the murder. They did nothing to stop
25 it. They didn't call 911, did nothing to prevent it,

1 did not report it to law enforcement afterwards. So
2 at that point they were both charged with murder.

3 Q And did you know at this time who the shooter was in
4 this case?

5 A No, we did not.

6 MS. MCDUFFIE: Beg the Court's indulgence just a
7 moment. Nothing further, Your Honor.

8 THE COURT: Cross examination.

9 MR. O'NEIL: Yes, Your Honor.

10 CROSS EXAMINATION

11 BY MR. O'NEIL

12 Q Investigator, part of your job I guess is to follow
13 up on some of the information that the initial
14 deputies give you?

15 A Right.

16 Q You talk to those witnesses?

17 A That's correct.

18 Q Interview some of those witnesses?

19 A That's correct.

20 Q Try to get statements from some of them?

21 A Yes.

22 Q Even show some of them photo line-ups like you showed
23 Ms. Bowers?

24 A That is correct.

25 Q And basically after you finish all that information

1 you generate a report?

2 **A** Right.

3 **Q** You are probably involved in a lot of cases and
4 sometimes these cases don't come to court 'til years
5 later?

6 **A** That's right.

7 **Q** And you need those reports to help refresh your
8 memory?

9 **A** That's correct.

10 **Q** Now, one of the people you talked to I think was
11 Ms. Pam Cannon?

12 **A** That's correct.

13 **Q** And she was actually the individual who was shot at
14 in the pub that day?

15 **A** Outside the pub, yes.

16 **Q** Outside the pub. I'm sorry. And she didn't even
17 remember seeing anybody with long hair?

18 **A** I believe she described someone kind of flirting with
19 them at the table fitting that description. She
20 initially gave a description that would be more
21 consistent with Garry Green.

22 **Q** She remembered Garry Green that night?

23 **A** Right.

24 **Q** She didn't remember anybody having dreads or anything
25 like that?

- 1 **A** Right.
- 2 **Q** And I think she actually picked Garry Green out of a
- 3 line-up, correct?
- 4 **A** Yes, she did.
- 5 **Q** And she also stated that she made a comment to that
- 6 same gentleman that had been flirting about driving
- 7 their mother's Volvo?
- 8 **A** That's correct.
- 9 **Q** And she actually went on to say that she thought that
- 10 she kind of upset the guy she was talking to?
- 11 **A** She explained they were engaged in some banter back
- 12 and forth. I don't recall her saying she thought it
- 13 upset him.
- 14 **Q** But they were engaged in banter back and forth?
- 15 **A** Yes.
- 16 **Q** And I think you actually talked to Keith Eubanks in
- 17 this case as well?
- 18 **A** Yes, I did.
- 19 **Q** He was one of the people that lived in the
- 20 cul-de-sac?
- 21 **A** Yes, he was.
- 22 **Q** You initially talked to him over the phone first?
- 23 **A** I talked to him that morning. While we were talking
- 24 to Pam and the other girls I placed a phone call to
- 25 Mr. Eubanks to see what he might be able to offer us

1 as we were investigating this.

2 Q Now, I think when you first talked to him this
3 morning, I think you said he saw two subjects?

4 A That's correct.

5 Q And you said he saw one with long hair?

6 A That's correct.

7 Q And the one with long hair I think he said had a
8 striped shirt?

9 A That is correct.

10 Q I think he initially said he said he saw a subject
11 with long hair shoot once?

12 A Correct. Causing the victim to fall.

13 Q Then I think he said he saw that subject get back in
14 the car. Right then I think he also told you that
15 morning he saw another subject get out of the car?

16 A That's correct.

17 Q And that other subject shoot the victim?

18 A That is correct.

19 Q And that other subject was short haired?

20 A It just says another -- he just said another subject
21 got out of the car and walked up and shot the victim
22 on the ground.

23 Q That's what he told you when you talked to him on the
24 phone?

25 A That's correct.

1 Q But you later came back and went to his house I think
2 with Investigator McRae?

3 A I think I was out there with Captain Smith.

4 Q Captain Smith. You all went back to his house. And
5 when you went back to his house he said the other
6 subject, this individual, was short haired?

7 A When we went back out there he said one of the
8 subjects had long hair or braids. The other one had
9 a short haircut.

10 Q And that subject with the short haircut may have
11 fired the second shot?

12 A He indicated the subject with the long braids is the
13 one that fired the first shot and that he was
14 thinking the subject with the short hair may have
15 fired the second shot.

16 Q And to you, that subject would have -- the
17 shorthaired subject would have fit Garry Green?

18 A That is correct.

19 Q Okay. And I think you interviewed Kim Goins as well?

20 A Yes, I did.

21 Q And she said that a guy with dreads came up and
22 talked to her and Pam at the club?

23 A Yes.

24 Q And you also talked to the manager of the club that
25 day? Mr. Jacobs?

- 1 **A** Yes, we did.
- 2 **Q** And he gave a description of that guy who turned out
3 to be I think Ricardo Guilbert?
- 4 **A** Correct.
- 5 **Q** And you showed a line-up to Ms. Goins I think that
6 actually included Mr. Guilbert?
- 7 **A** Yes, we did.
- 8 **Q** I think you all actually went to talk to Ricardo
9 Guilbert?
- 10 **A** Yes, we did.
- 11 **Q** And he admitted to talking -- Mr. Guilbert admitted
12 to talking to a lady that fit the description of Kim
13 Bowers?
- 14 **A** Yes, he did.
- 15 **Q** And he also remembered Pam Cannon knocking a beer out
16 of his hand?
- 17 **A** Correct.
- 18 **Q** I think he also remembered I think the deceased,
19 Mr. Duane Cannon, bought him a beer to replace that
20 beer that she knocked out of his hand?
- 21 **A** That's correct.
- 22 **Q** And Ricardo also told you he was with a couple of
23 friends that night?
- 24 **A** Coworkers, yes.
- 25 **Q** I think they were Jamal and Alex?

1 **A** Let me find it in my notes. Yes. He was there with
2 Tracey Caldwell and Jamal.

3 **Q** And I think Jamal told you that Alex was there as
4 well?

5 **A** Yes. Alex was present.

6 **Q** And Alex turned out to be Alex Williams?

7 **A** Yes.

8 **Q** And he was a black male?

9 **A** Yes, he was.

10 **Q** I think he was about five-nine?

11 **A** Right.

12 **Q** 170?

13 **A** Yes.

14 **Q** With braids?

15 **A** That's correct.

16 **Q** So it was a black male, five-nine, 170, with braids?

17 **A** That's correct.

18 **Q** And he was there that night as well?

19 **A** Yes, he was.

20 **Q** Did you go talk to Alex Williams?

21 **A** Yes, I did.

22 **Q** Did you go talk to Tracey Caldwell?

23 **A** No. I think we talked to her on the phone. Captain
24 Smith. And I might have been in his office while he
25 was talking to her on the speaker. I think

1 Investigator McRae actually went up to Charlotte and
2 talked with her.

3 Q He went up to Charlotte?

4 A Right.

5 Q But you talked with a Ms. Capel?

6 A Yes.

7 Q She was another person who lived in the cul-de-sac?

8 A Yes, she was.

9 Q And she was another eye witness potentially to the
10 events that night?

11 A That's correct.

12 Q And you talked to her. Her last name was Capel,
13 C-A-P-E-L?

14 A That's correct.

15 Q And I think she said there was some fussing and
16 cussing going on that night?

17 A She had just returned home from taking her husband to
18 the hospital helping him get in the house when she
19 heard the crash and she looked out and saw the victim
20 getting out of his SUV and an argument starting
21 between him and the other folks involved.

22 Q I think she only described seeing one black male? I
23 think that's correct.

24 A She heard a shot and turned back around to see the
25 victim fall to the ground. Yeah. She gave a

1 description of a dark-skinned black male who got in a
2 dark in color car.

3 Q And that was the only description she was able to
4 give you?

5 A Yeah. She was a good distance. That's all she could
6 provide.

7 Q And I think you talked to Kimberly Bowers as well?

8 A Correct.

9 Q You showed her I think on June 3rd a photo line-up
10 including Garry Green?

11 A Yeah. I would show her a line-up with Garry Green,
12 and she positively ID'd him as the suspect. He was
13 in the group arguing with Pam Cannon.

14 Q And the line-up showed Garry Green. Of course the
15 pictures were different than this line-up, correct?

16 A (Nods head affirmatively).

17 Q But the bottom portion was the statement?

18 A I believe so. I haven't got that in front of me, but
19 I believe so.

20 Q This is the standard form that you all used?

21 A Well, we've got a couple of different photo line-up
22 forms that are used, one with just pictures and we
23 have a second page for the affidavit and one where
24 it's all on one.

25 Q But you just can't remember which one you showed her?

- 1 **A** Not without seeing it again.
- 2 **Q** Let me show you something, see if that refreshes your
3 memory.
- 4 **A** Okay. Yes. It's the same format.
- 5 **Q** So you showed Kim Bowers the same format where she
6 picked out Garry Green?
- 7 **A** That's correct.
- 8 **Q** And on that format, when she picked out Garry Green,
9 was there a place for her to sign saying she was
10 positive it was Garry Green?
- 11 **A** I'd have to see the line-up again.
- 12 **Q** You can't remember?
- 13 **A** I'd have to see it again.
- 14 **Q** Okay.
- 15 **A** I mean, there's not formal space made for comments
16 and things. We sometimes stick comments in there.
17 There were no comments on this particular one other
18 than up here where it says: "Which is the person:
19 Male or female, white or black who committed the
20 crime of".
- 21 **Q** Okay. So there's a place below that that is for a
22 signature?
- 23 **A** That's correct.
- 24 **Q** Okay. And she signed on that line for her signature
25 for Garry Green?

- 1 **A** Yes, she did.
- 2 **Q** Okay. She didn't write any comments about Garry
- 3 Green or anything like that on there, did she?
- 4 **A** Just, there's a brief narrative. If I could see the
- 5 other line-up again, I can read it. With the group
- 6 arguing with Pam Cannon and then drove a black Volvo ..
- 7 they left in.
- 8 **Q** So Kim Bowers said that Garry Green was driving the
- 9 Volvo?
- 10 **A** That's what it says here.
- 11 **Q** Not Justin Green?
- 12 **A** She is saying Garry Green.
- 13 **Q** So Kim Bowers said Garry Green was driving the Volvo?
- 14 **A** That's right.
- 15 **Q** Okay. Then you showed her this line-up right here
- 16 that had Louis Sanders in it?
- 17 **A** Some days later, yes.
- 18 **Q** On June 7th I think?
- 19 **A** Right.
- 20 **Q** And I think you said initially she narrowed her
- 21 selection between Louis Sanders and another candidate
- 22 in this line-up?
- 23 **A** When she first looked at it she went to Louis
- 24 Sanders' pictures and felt very strongly that he was
- 25 the person. She then looked at one other subject on

1 there she thought may have been involved but then she
2 went right back to Mr. Sanders. She didn't linger on
3 that one any further. That's why it wasn't
4 documented.

5 Q Who it was the other subject that she narrowed her
6 choice between?

7 A I don't recall.

8 Q But it was two different subjects in this line-up she
9 was going between?

10 A Initially, yes.

11 Q And she didn't sign right here on this document, did
12 she?

13 A Not -- it is up further. She signed down below.

14 Q She stated she was only pretty sure this was the
15 person she saw?

16 A Right. Didn't you want to say with 100 percent
17 certainty but she felt sure that it was the subject.

18 Q And you're aware that Ms. Bowers was fairly
19 intoxicated that night on June 3rd?

20 A She had been drinking that night over a long period
21 of time. I think it was eight to ten drinks over
22 about an eight or nine-hour period.

23 Q And I think you all didn't even take a statement from
24 them when they first got to headquarters, did you?

25 Not a written statement?

1 **A** No. We took oral statements that morning. Things
2 were moving kind of fast. We were trying to get this
3 investigation moving. And we made arrangements for
4 them to come in in a day or two for a formal written
5 statement.

6 **Q** I mean, wasn't another reason why you all sent them
7 home because you thought they were not in good shape
8 to provide a statement that morning? They had been
9 up all night and drinking?

10 **A** They had been up all night and they had been drinking
11 alcohol. They might get a clearer picture later on.
12 But they were fully able to converse with us.

13 **Q** You thought it best for them to go back home and get
14 some rest before writing anything down?

15 **A** Right. We made arrangements for them to come in a
16 couple of days later.

17 **Q** And I think actually on June 4th you showed Kim Goins
18 a line-up?

19 **A** On the 4th?

20 **Q** Yeah. June 4th, 2007. You and Investigator McRae.

21 **A** That's when we took a formal statement. I don't see
22 where we showed her a line-up that day.

23 **Q** You don't remember showing her the line-up?

24 **A** Okay. Later that day we did.

25 **Q** Okay.

- 1 **A** It was the one with Ricardo Guilbert in it.
- 2 **Q** You showed her a line-up with Ricardo Guilbert in it?
- 3 **A** Correct.
- 4 **Q** And she actually went between Ricardo Guilbert and
- 5 another person?
- 6 **A** Yes, she did.
- 7 **Q** And this was the same Ricardo Guilbert that came up
- 8 earlier in the investigation?
- 9 **A** That's correct.
- 10 **Q** And you showed her a line-up actually I think on
- 11 June 7th as well, Ms. Kimberly Goins?
- 12 **A** That's correct.
- 13 **Q** And this line-up actually had Louis Sanders in it,
- 14 correct?
- 15 **A** Right. By now we'd been provided the name Louis
- 16 Sanders.
- 17 **Q** So you showed Kim Goins the line-up with Louis
- 18 Sanders in it on June 7th?
- 19 **A** That's correct.
- 20 **Q** And she didn't pick out Louis Sanders in that
- 21 June 7th line-up, did she?
- 22 **A** She looked at the line-up carefully and after several
- 23 minutes narrowed her selection to Mr. Sanders and one
- 24 other subject saying she couldn't be absolutely sure.
- 25 **Q** Are you sure it was Louis Sanders, or was it two

- 1 other people in that line-up that she narrowed her
- 2 choice between?
- 3 **A** It was Mr. Sanders and one other subject.
- 4 **Q** Let me show you something and see if that refreshes
- 5 your memory.
- 6 **A** All right. Between number 2 and number 6.
- 7 **Q** She narrowed her choice between number 2 and number
- 8 6?
- 9 **A** That's correct.
- 10 **Q** Correct?
- 11 **A** That's correct. Mr. Sanders is not number 2 on this
- 12 one.
- 13 **Q** What number was Mr. Sanders?
- 14 **A** He is number 1.
- 15 **Q** So Mr. Sanders was number 1, correct?
- 16 **A** That's correct.
- 17 **Q** And she narrowed her choices between subject number 2
- 18 and subject number 6?
- 19 **A** That's correct.
- 20 **Q** Neither one of those were Louis Sanders?
- 21 **A** No, they weren't.
- 22 **Q** Okay. And you only found one weapon during your
- 23 investigation? One firearm?
- 24 **A** The 9-millimeter at [REDACTED] William Harden Road.
- 25 **Q** And that's Garry Green's stepfather and his mother's

1 house?

2 **A** Correct.

3 **Q** Now, that weapon didn't match the shell casings found
4 in this case, correct?

5 **A** Correct.

6 **Q** You all were not able to compare that with the
7 projectile that was found in the autopsy of Mr.
8 Cannon?

9 **A** My understanding is that it was too -- the round was
10 too destroyed to make a positive identification, I
11 think is what Mr. Collins testified to.

12 **Q** So you all couldn't say whether or not the projectile
13 that was found in Mr. Cannon was fired by the gun you
14 found in Garry Green's stepfather and mother's house?

15 **A** I couldn't say that. I don't know what Mr. Collins
16 would say, but I couldn't say that.

17 **Q** Okay. And I think you said that Louis Sanders told
18 you he never shot in the parking lot that night?

19 **A** That's correct.

20 **Q** He told you he never shot anywhere else?

21 **A** Right.

22 **MR. O'NEIL:** Beg the Court's indulgence. No
23 further questions, Your Honor.

24 **THE COURT:** Redirect?

25 **MS. MCDUFFIE:** Yes, Your Honor.

REDIRECT EXAMINATION

BY MS. MCDUFFIE

Q Lieutenant McDonald, Mr. O'Neil asked you about the statements that Mr. Eubanks made to you?

A Mm-hmm (affirmative).

Q I'm going to ask you to finish reading the sentence that he had you start reading in your notes about what he told you.

A He initially said that he felt the long haired suspect fired first and that a second shorthaired suspect fired the last shot. However, in a subsequent interview after this assertion, to some degree he would as a result state that he felt the same person fired both shots.

Q So when you went on the written statement, when you went back and sat down with him formerly, he said that the long haired person fired both shots?

A This would be when Investigator McRae sat down and took the statement, yes.

Q And going back to Ricardo Guilbert and Alex Williams, Jamal Baker and Tracey Caldwell, they were all together that night?

A Yes, they were.

Q And you confirmed what?

A We talked with all of those people involved. They

1 all had the same story about where they were at, what
2 they were doing, what time they left. Everyone's
3 story checked out. They had left the scene before
4 the shooting even occurred.

5 Q And where did they go?

6 A They went to a hotel over on Bates Road, Motel 6
7 where Ms. Caldwell had a room along with another one
8 of the parties there, and they remained there
9 until -- Ricardo remained there until about 6:30 or 7
10 that morning.

11 Q Did you confirm that?

12 A Yes, we did.

13 Q With whom?

14 A With the parties, everybody. Everyone who was
15 present agreed.

16 Q Did you also check to see with the hotel manager?

17 A Yes. We even went there to try to retrieve a video
18 from that night to try to identify the coming and
19 going of these subjects.

20 Q And did they in fact have rooms rented at that hotel
21 that evening?

22 A Yes, they did.

23 Q Were you able to identify anyone off of that video?

24 A No, we weren't.

25 Q Let me ask you about showing line-ups to Kim Bowers

1 and Kim Goins. Did Kimberly Goins identify anyone
2 besides Garry Green in those line-ups?

3 **A** No, she didn't.

4 **Q** Did she go between two people on a couple of
5 different line-ups?

6 **A** Yes.

7 **Q** And was that because they had similar features or --

8 **MR. O'NEIL:** Objection, Your Honor.

9 **THE COURT:** Sustained.

10 **Q** I'll rephrase the question. Why did she go between
11 different people in those different line-ups?

12 **MR. O'NEIL:** Objection, Your Honor.

13 **THE COURT:** Sustained.

14 **Q** Is it common for people sometimes not to be able to
15 identify anyone in a case?

16 **A** Yes. Very common.

17 **Q** In your experience, is it more likely that people
18 will able or are not able to identify people?

19 **A** Usually not able due to a number of factors. It's
20 not like someone calls time out right before it
21 happens, says, get a good look here, something is
22 getting ready to happen. Things happen very quickly.
23 People move fast after something like this happens.
24 So oftentimes we don't get positive identifications.

25 **Q** And that morning when they were first brought in,

1 they had been drinking?

2 **A** They had been drinking.

3 **Q** They had been up all night?

4 **A** Yes, they had.

5 **Q** And after you briefly spoke with them, they then
6 found out that -- or Pam found out her husband died
7 and Kim found out her husband died?

8 **A** That's correct. And at that point there was no way
9 we could have done an interview with them or a
10 written statement that day due to their emotional
11 state.

12 **Q** And so you say you sent them home?

13 **A** Yes, we did.

14 **Q** And when did they come back?

15 **A** A couple of days later for their formal written
16 statements.

17 **Q** And Mr. O'Neil also talked with you about witnesses
18 who lived on Westbridge Road and specifically Melissa
19 Capel?

20 **A** Yes.

21 **Q** Did she see the shooting occur?

22 **A** She saw -- she heard the shot and looked to see and
23 saw a subject fall and saw a single black male there.
24 She couldn't give any more description than that.

25 **Q** She never saw said she saw anyone doing the shooting?

1 **A** I believe she said she heard the shot and turned and
2 that's when she saw the subject fall to the ground
3 and a black male standing there.

4 **Q** And that was all the information she could give you?

5 **A** That's all that she could provide..

6 **Q** And how did she describe the black male she saw?

7 **A** She described a dark-skinned black male who got in a
8 dark in color car.

9 **Q** That's the only description she could give?

10 **A** That's correct.

11 **Q** Beg the Court's indulgence. And did she indicate
12 where she was when the second shot was fired?

13 **A** While she was on the phone she heard the second shot.

14 **Q** The phone with whom?

15 **A** 911.

16 **Q** Beg the Court's indulgence, Your Honor. On the scene
17 at Westbridge Road, were there any other shell
18 casings found at that scene?

19 **A** Just two shell casings, were the only that I'm aware
20 of.

21 **Q** And those shell casings matched the shell casing at
22 the H&J pub on Hard Scrabble Road?

23 **A** They were both fired from the same weapon. All three
24 were fired from the same weapon according to
25 Mr. Collins.

1 **MS. MCDUFFIE:** Nothing further, Your Honor.

2 **MR. O'NEIL:** Just briefly, yes under.

3 **THE COURT:** Certainly.

4 RECROSS EXAMINATION

5 **BY MR. O'NEIL**

6 **Q** Investigator, you think you said that it's usually
7 hard for people to make positive identifications?

8 **A** Yes, it is.

9 **Q** That nobody ever calls a time out when something is
10 going on?

11 **A** When something happens, no one knows it's going to
12 happen generally. Yeah.

13 **Q** So you would say the default, it would be hard to
14 identify somebody after an incident like this?

15 **A** It could be, yeah.

16 **Q** It happens fast?

17 **A** That's right.

18 **Q** And especially drinking eight to ten beers would make
19 your ability to identify somebody less, correct?

20 **A** I think it would be depend on how tight an interval
21 those beers or alcohol were consumed. If it's over
22 the course of ten or twelve hours, it's not going to
23 be the same as, you know, within two or three hours.

24 **Q** But that wouldn't help your ability to identify
25 somebody?

1 **A** It could hamper it.

2 **Q** I'm sorry. That wouldn't help your ability to
3 identify somebody, would it?

4 **A** It could hamper it.

5 **Q** How about staying up all night? Would that help or
6 hurt your ability to identify somebody?

7 **A** That could hurt.

8 **Q** And Ricardo did admit the interaction with Pam Cannon
9 that night?

10 **A** Right.

11 **Q** And did you interview William Patterson?

12 **A** Yes, I did.

13 **Q** He is Keith Eubanks' nephew?

14 **A** He lived next door to Mr. Eubanks.

15 **MS. MCDUFFIE:** Your Honor, I object. This is
16 outside the scope of prior testimony on direct
17 examination.

18 **THE COURT:** Go ahead and ask the question. I'm
19 not sure.

20 **Q** He lives next to Mr. Eubanks, correct?

21 **A** That's correct.

22 **Q** He actually lives closer to the cul-de-sac than Mr.
23 Eubanks does, correct?

24 **A** He lives one house to the right of Mr. Eubanks if
25 you're standing on his front porch.

1 Q And that would put him closer to the cul-de-sac?

2 A Right.

3 Q His name, does he go by William Patterson or Bradford
4 Patterson?

5 A William D. Patterson.

6 Q So Bradford is his middle name?

7 A Right.

8 Q So William Bradford Patterson. No further questions.

9 THE COURT: All right, sir. You may come down.
10 May the witness be excused? Well, he's going to
11 stay. All right, ladies and gentlemen. Let's take a
12 short break. Just go to your jury room. Relax a few
13 minutes and we'll call you. Just don't discuss the
14 case among yourselves while you're in the jury room.

15 (Jury out at 11:45 a.m.)

16 THE COURT: All right. We'll stand at ease for
17 about ten minutes.

18 (Whereupon, a break is taken)

19 THE COURT: The State ready to proceed?

20 MS. SHIPLEY: Yes, sir, Your Honor.

21 THE COURT: Defense ready to proceed?

22 MS. EVERHART: Yes, Your Honor.

23 THE COURT: Bring the jury, please.

24 (Jury in at 12:03 p.m.)

25 THE BAILIFF: The jury is all present.

1 **THE COURT:** Thank you very much. All right,
2 Solicitor. Call your next witness.

3 **MS. SHIPLEY:** Thank you, Your Honor. The State
4 calls Investigator Don McRae.

5 (WHEREUPON, State's Exhibit No. 97 is marked for
6 identification.)

7 DON MCRAE, after being duly sworn, testifies as
8 follows:

9 **THE CLERK:** Please have a seat. State your full
10 name for the record.

11 **WITNESS:** Don McRae.

12 DIRECT EXAMINATION

13 **BY MS. SHIPLEY**

14 **Q** Investigator McRae, can you tell the jury where you
15 are employed?

16 **A** I'm currently employed with the Richland County
17 Sheriff's Department in the criminal investigative
18 division.

19 **Q** And as a member of the criminal investigative
20 division, can you tell the jury what your duties are?

21 **A** My current duties are I'm assigned to the major
22 crimes division within the Sheriff's Department. I
23 investigate primarily robberies and I'm also assigned
24 homicides as they occur within the county of
25 Richland.

1 Q And can you describe for the jury how it is the
2 procedures at the Richland County Sheriff's
3 Department, if you're on call or on duty, explain
4 that, please?

5 A There is a schedule put out usually on a monthly
6 basis that will assign a primary homicide
7 investigator and a secondary homicide investigator.
8 The week that this homicide was on call, I was
9 assigned on-call for that week. Excuse me.

10 Q Who ended up being designated as your second in
11 charge of this case?

12 A I don't know if I could classify it as a secondary at
13 this time. At the time of the homicide now
14 Lieutenant McDonald who was a sergeant was the
15 supervisor over the evening shift for the Sheriff's
16 Department and he was also the sergeant over the
17 homicide. The following day the decision was made by
18 the superiors at the Sheriff's Department to just
19 allow Sergeant McDonald to continue to work the case
20 with me.

21 Q Okay. And you mentioned it was the evening shift.
22 What hours are those?

23 A The evening shift at the Sheriff's Department at this
24 time of this incident was 3:30 in the afternoon 'til
25 midnight.

1 Q Okay.

2 A And that would be the time that that person would be
3 at the Sheriff's Department. Whoever he is, he would
4 remain on call that evening.

5 Q Then you were on call through June 3rd, 2007?

6 A I was.

7 Q Please tell this jury what time you became involved
8 in this case on June 3rd?

9 A At approximately 5:08 in the morning I received a
10 call from Sergeant McDonald of a homicide in the 300
11 block of Westbridge Road which is in Richland County.

12 Q And what exactly was referred to? What was the
13 nature of the call?

14 A The nature of the call --

15 Q I know you mentioned it was a homicide. But what
16 exactly was found at the scene?

17 A I was informed that there was a black male found in
18 the middle of the street with a possible gunshot
19 wound to the head.

20 Q All right. And you indicated this is all in Richland
21 County, correct?

22 A Yes, ma'am.

23 Q All right. What time did you arrive on the scene?

24 A I arrived on the scene at approximately 5:33 in the
25 morning.

1 Q And who was already there when you arrived?

2 A When I arrived on the scene Investigator Livingston
3 from the Sheriff's Department lab was on the scene.
4 I believe that myself and Sergeant McDonald pulled up
5 simultaneously.

6 Q Describe for this jury what it is you observed when
7 you arrived on the scene?

8 A The first thing I ensure when I arrive on a crime
9 scene is to ensure the responding deputies have
10 secured the scene, ensure that the yellow crime scene
11 tape is around the scene, ensure that they have
12 established a crime scene log. I ensure that there
13 is no possible way that that crime scene can become
14 contaminated after arrival.

15 Q So by the time you arrived there was crime scene tape
16 up?

17 A Yes.

18 Q Were pedestrians or curious neighbors allowed within
19 that parameter of the crime scene tape?

20 A No, ma'am. Not at all. Not at all.

21 Q And initially you indicated that it appeared this
22 individual who is deceased in the road had one
23 gunshot wound?

24 A I was informed with a possible gunshot wound to the
25 head. After we were allowed -- after the coroner had

1 examined the body, after the coroner had pronounced
2 the victim deceased, myself and Sergeant McDonald
3 would approach the body. At that point I observed
4 what appeared to be two gunshot wounds to the head.

5 Q Okay. And do you remember where you noted them on
6 the person?

7 A I remember -- I remember one being approximately here
8 and one to the forehead portion of his head.

9 Q Okay. Now, at any point did you observe a vehicle at
10 the scene?

11 A I did.

12 Q And tell this jury what you saw?

13 A Within the crime scene tape there was a white in
14 color Chevy Tahoe. This vehicle was still running.
15 It appeared that the vehicle had run in a fence.
16 Both the right side tires were flat or low. And
17 that's the vehicle that I observed inside the crime
18 scene tape.

19 Q Were you able to see the victim? Eventually he's
20 identified. Mr. Cannon. Correct?

21 A That is correct.

22 Q Did you see if Mr. Cannon had any jewelry on when you
23 were there?

24 A The victim was lying in the middle of the cul-de-sac
25 area. The victim did have jewelry on. I don't

1 recall exactly what type of jewelry it was. He did
2 also have some money hanging out of his front pocket.

3 Q And as a crime scene investigator, when you find
4 somebody that still has their valuables on them, what
5 does that tell you?

6 A If someone still has jewelry and money, we can pretty
7 much eliminate a motive of robbery in this crime.

8 Q Just to show you State's No. 30, is that the
9 condition you observed Mr. Cannon that morning?

10 A It is.

11 Q And do you see the jewelry and the money on him?

12 A I do.

13 Q Okay. And you indicated you weren't sure what type
14 of jewelry. Do you see that in that photograph?

15 A I do. I see a gold in color necklace chain around
16 the victim's neck.

17 Q And can you tell the jury what exhibit that is,
18 please?

19 A This is State's Exhibit 30.

20 Q Okay. Thank you. Now, while you're on the scene,
21 was there any information provided to you about
22 possible witnesses?

23 A There was. We were notified of a possible witness,
24 of a Keith Eubanks who lived on Westbridge Road.

25 Q And was he a -- describe his willingness to talk to

1 you.

2 **A** Well, as I'm sure anybody can imagine, after
3 witnessing such an act, the first thing that you
4 would be concerned with would be your safety and the
5 safety of your family, as in this case. Mr. Eubanks
6 was willing to talk to investigators; however, he
7 requested that we not knock on his door. And we
8 acknowledged that. And I did not initially speak to
9 Mr. Eubanks that morning. As I started reviewing the
10 case and looking over all the notes of all the other
11 investigators, I wouldn't say that Mr. Eubanks was
12 reluctant to cooperate. His reluctance was more in
13 the fact that he was afraid.

14 **Q** Okay. Now, while you're at the scene, did you get
15 informed from different officers that a vehicle had
16 been stopped on Killian Loop Road?

17 **A** Yes, ma'am.

18 **Q** And describe that for the jury, please?

19 **A** While we're on the scene we were informed that Region
20 6 -- and if I can explain that to you. The Region 6
21 area of Richland County would be the Blythewood area.
22 It would also include Clemson Road, north of Clemson
23 Road. We were informed that a Region 6 deputy had
24 what we thought to be an unrelated traffic stop on
25 Killian Loop road. Deputy Zajdel pulled over a

1 vehicle that was operated by two black females.
2 Deputy Zajdel -- both of the females' clothing was
3 dirty. Both seemed to have been drinking that
4 evening. When questioned by Deputy Zajdel, they
5 informed him they were shot at in the parking lot at
6 the H&J club. Deputy Zajdel had one of the
7 females -- had the females come back to Richland
8 County headquarters.

9 Q All right. And at that point was it made clear to
10 you that one of those females was a woman named
11 Pamela Cannon?

12 A Yes. Yes.

13 Q And who was the other female in the vehicle?

14 A The other female would have been Kimberly Goins.

15 Q Goins?

16 A Which we later identified as Pam Cannon's cousin.

17 Q All right. Now, when you heard that one of the
18 occupants of this car has the last name Cannon, did
19 you tie it to the identity of the person at the crime
20 scene, the deceased?

21 A We became suspicious. I mean, it threw up red flags.
22 It doesn't take a seasoned investigator to figure out
23 that they probably were related. So at that point
24 myself and Sergeant McDonald returned to headquarters
25 to talk with these two individuals.

1 Q Describe for jury a little bit about your encounter
2 with the women at headquarters?

3 A We met both Pam and Ms. Goins. I can't say that they
4 were beyond speaking with investigators at this time.
5 Both were legal drinking age, so there wasn't a
6 problem there. They appeared to be dirty. They had
7 dirt on their clothes. And they wanted to tell me
8 and Sergeant McDonald what had occurred at the H&J
9 club that evening.

10 Q What exactly did they report to you? What did Pam
11 Cannon report to you first?

12 A Ms. Cannon had said that they had been out all night.
13 They had been celebrating her birthday which had just
14 occurred a couple of days prior. She had said that
15 they at first had gotten something to eat. I don't
16 recall where they had gone. They had gone to Club
17 Essence, remained there until approximately 1 a.m.,
18 possibly maybe a little later. They then left Club
19 Essence and went to the H&J club. Inside while at
20 the club Ms. Cannon said that she had been kidding
21 around with a few guys in the club, one black male in
22 the club who was giving the girls a hard time. Pam
23 described each person that she remembered from being
24 in the club.

25 Q Who did she indicate was with her, present in her

1 party at the H&J club?

2 A In her party would have been her husband, the victim
3 in this case, Israel Duane Cannon, her cousin who is
4 a black female, Ms. Kim Goins, another friend who
5 went by the nickname of E.J. who was -- later his
6 full name was learned to be Eric Johnson.

7 Q And by the way, about Eric Johnson; was he even there
8 when the shot was fired at the H&J club?

9 A No, ma'am.

10 Q So he was not even a witness in this case?

11 A No. They had indicated to us Mr. Johnson had left
12 prior to the incident that happened.

13 Q Okay. And then who is the fourth person in their
14 group?

15 A The fourth person in the group was a white female by
16 the name of Kimberly Patton.

17 Q Did you later learn that she had been married?

18 A Yes.

19 Q And what's her married name?

20 A Kim Bowers.

21 Q Kim Bowers?

22 A Yes.

23 Q Now, was Ms. Cannon able to provide you with a
24 description of anybody that evening?

25 A She did. Pam told us of a black male with a square

1 face. She said he was about five-five, 215 pounds,
2 with a goatee and a low haircut. She described him
3 as having light/medium brown skin, 35 to 40 years
4 old.

5 Q Okay. And pursuant to your investigation, did you
6 then confirm who she was describing?

7 A Yes, ma'am.

8 Q And who was she describing right there?

9 A With that description, that would have been Garry
10 Green.

11 Q And did she positively identify Garry Green in a
12 photographic line-up?

13 A Yes, she did.

14 Q So we have no question as to who she is describing
15 there?

16 A None whatsoever.

17 Q Who is the next individual she describes?

18 A Pam described the second subject as a black male,
19 six-foot-three, 130 pounds, skinny. She described
20 him as medium brown skinned, described the subject
21 who had become very irritated and could not take any
22 ribbing at the club.

23 Q I believe ribbing meaning what?

24 A Kidding.

25 Q Kidding. All right. And pursuant to your

1 investigation, did you later learn who she was
2 describing with that description?

3 A Yes, ma'am. That would be Justin Green.

4 Q Okay. She never says anything about dreads, braids,
5 anything of that nature?

6 A Not at this point, no. Not -- no.

7 Q Okay. Now, describe what else she reports to you?

8 A Well, she would tell us that she could not describe
9 anyone else, was unsure of how many people were
10 inside the club. Pam said that when the club closed
11 they all went outside. She also could not describe
12 how many people were in this group but the two that
13 she had previously described. Pam told us that when
14 they were walking towards the car to go home, the
15 second subject she described still had a problem with
16 her. She said she made a comment to him that he was
17 acting mad but was still driving his mama's Volvo.

18 Q And at that point what does she report next?

19 A Pam told myself that when she reached the area of the
20 parking lot near the phone booth a subject fired a
21 gun next to her head. Pam then told us that the next
22 thing that she remembers was waking up with her
23 cousin next to her, her cousin being Kim Goins.

24 Q And so does she report she passed out?

25 A Yes.

1 Q And did she report that her -- what did she report
2 her cousin, Kim Goins, telling her when she came to?

3 A She said that after she had passed out that her
4 husband, Israel Duane Cannon, the victim, had gotten
5 into the white colored Tahoe that they were in and
6 chased after the victim (sic).

7 Q After the what?

8 A After the black in color Volvo.

9 Q Okay.

10 A Pam would also --

11 Q And did she indicate whether or not someone had been
12 seen getting into that black Volvo?

13 A Pam told us that she had been told that the subject
14 who fired the shot at her had jumped into a black in
15 color Volvo.

16 Q Now, she mentioned something about phone booths?

17 A Yes, ma'am.

18 Q Are you familiar with the H&J club?

19 A I am very familiar with the H&J club.

20 Q You can you describe for this jury, if you are facing
21 the club, which side of the parking lot -- if you're
22 standing on Hard Scrabble Road looking at the club,
23 which side of the parking lot is the phone booth?

24 A The club is on Hard Scrabble Road. If you're looking
25 at the club from the street, there is some old gas

1 pumps there. There is a restaurant also in there.
2 There's a little convenience store. To the right of
3 all of that is the club. If you're looking at the
4 gas station, the club and the convenience stores, the
5 phone booth would be to the left of the building.

6 Q Okay. And do you see that depicted in State's
7 No. 37?

8 A I do. These are the gas pumps that I was talking
9 about. The club is over here. The convenience store
10 is here. I believe that there's a -- the restaurant
11 is located somewhere within here. This being Hard
12 Scrabble Road, if you were standing here facing the
13 club, the phone booths would be to the left.

14 Q Now, once you were able to get this information from
15 Ms. Cannon, did you stop interviewing her?

16 A I did.

17 Q And why is that?

18 A Myself, Sergeant McDonald after talking with Pam, we
19 talked a little bit and we determined -- I would
20 also -- we would also talk to Ms. Goins. At some
21 point we knew that we were going to have to notify
22 Pamela Cannon about her husband.

23 Q And why is it that you didn't tell her right away as
24 soon as you found out that her husband had been found
25 dead? Why didn't you tell her right away?

1 **A** There are a lot of things that are hard to do in
2 life. I feel that identifying the wife of someone
3 who has been murdered is probably one of the hardest
4 things for me to do. It's also hard to be able to
5 tell them and to be able to tell them the right way.
6 I don't know if there is actually a right way that
7 you can tell someone that. But the reason that we
8 had made a conscious decision not to do that
9 immediately was there was vital information that Pam
10 and Kim both had that we needed to get to solve this
11 case.

12 **Q** And once you were able to get the basics, the vitals
13 to start beginning your investigation, did you indeed
14 tell Pam about her husband, Duane?

15 **A** I went to Lieutenant McDonald or Sergeant McDonald
16 and I began to become concerned of us not telling her
17 of her husband's passing. Normally the deputy
18 coroner or one of our victims assistance
19 investigators who normally do that would have told
20 Ms. Cannon of her husband's passing. Due to the fact
21 that there was not a victims advocate at the
22 Sheriff's Department yet and my more increasing
23 concern for the family, I took it upon myself to
24 inform the victim, the victim's family.

25 **Q** How did Pam react when you told her?

1 **A** Pam became extremely emotional, broke down. Kim
2 became extremely emotional, broke down. At this
3 point they were taken into a little waiting area and
4 we left them to grieve together.

5 **Q** Prior to telling Pam and Kim Goins about Duane's
6 fate, did you get an opportunity to talk to Kim Goins
7 a little bit?

8 **A** I did.

9 **Q** All right. Tell this jury what she was able -- what
10 vital information Kim Goins was able to provide to
11 you?

12 **A** Again, Ms. Goins would inform investigators that she
13 was out with a group celebrating Pam's birthday. She
14 would give the same people in the group being Israel
15 Duane, Pam, Pam Cannon, Kim Goins, Eric Johnson and
16 Kim Patton who is also known as Kim Bowers. Ms.
17 Goins would continue to say that when they were
18 coming out of the club somebody shot a gun near Pam
19 which caused Pam to pass out. She remembered that
20 Israel telling her to stay with her cousin, being
21 Pam. Ms. Goins said that she remembered Israel
22 getting into his Tahoe and taking off after the
23 subject who had shot the gun and gotten into the dark
24 in color Volvo.

25 **Q** And did she provide a description at this time of the

1 shooter?

2 **A** We asked Ms. Goins to provide a description of the
3 people that she saw get into the Volvo. The subject
4 that she -- her first subject was a black male, 30 to
5 40, five-ten, 170 pounds with brown skin; as she
6 said, that this subject had what she described as
7 Geri curled hair. She also said that this guy was
8 skinny.

9 **Q** All right. And did she give a description of the
10 second subject she saw with him?

11 **A** She did.

12 **Q** And what was that description?

13 **A** That description was a black male, possibly mid
14 twenties, six foot, 215 pounds, medium haircut,
15 overweight.

16 **Q** Pursuant to your investigation were you able to
17 determine what description, that second description,
18 which one she was describing?

19 **A** That would have been Garry Green.

20 **Q** Okay. Did she indicate whether she could provide any
21 information about the third subject in the car?

22 **A** She could not provide any information on the third
23 subject in the car.

24 **Q** Going back to the first subject she identifies?

25 **A** Yes, ma'am.

1 Q Tell this jury again the age?

2 A The age was 30 to 40.

3 Q Okay. How old is Justin Green at the time of this
4 crime?

5 A If I can pull the arrest report I can give you an
6 exact age. He was younger; 24, 25.

7 Q Is that Justin's arrest report?

8 A It is.

9 Q And how old was he when this happened?

10 A His birth date is [REDACTED] of 1981 making him 25 years
11 old at the time of the crime.

12 Q So that description provided by Kim Goins, the guy
13 with the Geri curl then would not be consistent with
14 the age of Justin Green?

15 A No, ma'am.

16 Q And did you have an opportunity to see Justin Green
17 on June 3rd, 2007?

18 A I did.

19 Q Later on in the day?

20 A Later on in the day.

21 Q Describe his hair for this jury?

22 A He has no hair.

23 Q Was Kim Goins able to identify Garry Green in a
24 photographic line-up?

25 A She was.

1 Q I'm going to show you a document and just ask you if
2 you recognize that document?

3 A Yes.

4 Q Okay. She was not able to?

5 A No, she was not able. Kim Goins. Okay. Kim Goins
6 was not able to identify. That's correct.

7 Q Okay. But Kim Bowers was, correct?

8 A Yes, ma'am.

9 Q All right. Now, after you got a description from
10 Ms. Kim Goins, did she indicate that -- all right.
11 After you talked to Ms. Goins, then you had a
12 description from Pam Cannon of a heavysset,
13 light-skinned black male, correct?

14 A Correct.

15 Q What about, what description of a car did you have?

16 A A black in color Volvo.

17 Q All right. And did Ms. Cannon indicate that she had
18 seen this individual, the heavysset, light-skinned
19 black male before?

20 A Yes.

21 Q Had you been able to talk to Kim Bowers yet?

22 A No. Not at this point.

23 Q Did Kim Bowers eventually come in and give a
24 statement or talk to you orally, just verbally?

25 A Yes.

1 Q All right. Was that also the morning of June 3rd?

2 A It was.

3 Q Can you describe for the jury exactly what Kim
4 Bowers, what information she was able to provide?

5 A At approximately 8:30 in the morning Ms. Bowers and
6 her husband had arrived at the office, being Richland
7 County Sheriff's Department. I had asked Ms. Bowers
8 what had occurred at the H&J club. Ms. Bowers told
9 me that she and some friends went out to celebrate
10 Pam Cannon's birthday. She also said that while they
11 were at the club a black male with dreads was giving
12 Pam a hard time. Ms. Bowers said that this same guy
13 was giving her a hard time, trying to pick her up.

14 Ms. Bowers told myself that she knew one of the
15 guys that was with the guy with dreads. Ms. Bowers
16 told me that she knew the guy only as Garry. She
17 described him as a black male, 35 to 40 years old,
18 five-eight, 200 pounds, and she only knew this guy as
19 Garry.

20 Q Did she indicate whether or not there is something
21 unique about his teeth?

22 A She described a gap between the front top teeth here.

23 Q And did she indicate whether or not this individual,
24 Garry, had recognized her from high school?

25 A She did. She did. Ms. Bowers said that he told her

1 that he knew her from Richland Northeast High School.

2 Q And at that point you didn't have Garry's last name
3 yet, correct?

4 A No, ma'am.

5 Q Were you notified by Investigator Davis concerning
6 anything he had found at the H&J parking lot? Morris
7 Davis?

8 A Later, yes.

9 Q And this was done later? What did he describe to you
10 finding there, or what were you informed?

11 A After we realized that there was an incident that
12 occurred at the H&J club, the shot being fired by Pam
13 Cannon's head, I had requested that Investigator
14 Davis go to the parking lot to search the area of the
15 parking lot for any shell casings or any evidence of
16 a possible crime that may have occurred in the
17 parking lot. I was informed that Investigator Davis
18 did locate a shell casing. He located a shell casing
19 and an unfired cartridge in the parking lot near the
20 pay phones.

21 Q So a fired shell casing and an unfired bullet?

22 A Yes, ma'am.

23 Q All right. Now, did you get a description from Kim
24 Bowers concerning anybody, the person that was
25 harassing her on the dance floor?

1 **A** She provided the following description on the second
2 subject. She said he was a black male, five-nine,
3 150, 160 pounds, medium brown skinned with dreads.

4 **Q** Did she indicate whether or not she had seen Garry
5 around the second subject?

6 **A** Yes.

7 **Q** Okay. And so they were seen together?

8 **A** Yes.

9 **Q** Once you were able to talk to her further, did she
10 give you any information concerning whether or not
11 Garry, the person she knew as Garry, yelled anything
12 to the person with --

13 **MS. EVERHART:** Objection. Hearsay.

14 **THE COURT:** Sustained. Just what did he find
15 out as a result of this investigation.

16 **MS. SHIPLEY:** Yes, sir.

17 **Q** Once you had the name, Garry, and a description of a
18 black Volvo, what did you do next?

19 **A** We went back to -- we spoke with the owner of the H&J
20 Club.

21 **Q** And who is that?

22 **A** That is Mr. Ricky Jacobs.

23 **Q** Did he provide you with information relating to Garry
24 Green?

25 **A** He did. He immediately recalled Garry Green as maybe

1 being one of the three black males in the black
2 Volvo. He knew that he occasionally drove -- well,
3 not that he drove a Volvo but that his father owned a
4 foreign auto dealership. But --

5 Q Auto shop?

6 A Auto shop. Yes, ma'am.

7 Q Okay. Did he provide you with an address where you
8 might find Garry Green?

9 A He provided us -- he told us that he lived on William
10 Harden Road maybe two or three houses down from the
11 turn into Torrowood which is a subdivision off of
12 William Harden Road two or three houses down.

13 Q Okay.

14 A That would be his residence.

15 Q And is that [REDACTED] William Harden Road?

16 A Yes.

17 Q Okay. And now, did you based -- now armed with this
18 information, you've got an address, you've got a full
19 name, Garry Green; what did you do next?

20 A At this point I actually drove by [REDACTED] or by the
21 house. And as I drove by the house at [REDACTED] William
22 Harden Road which was Garry Green's address, in the
23 driveway was a black in color Volvo.

24 Q Did that peak your interest?

25 A Very high. Seeing the black -- based on that

1 information and the information that we had gathered
2 from the witnesses, Pam, Kim and Kim Bowers, I
3 obtained a search warrant for [REDACTED] William Harden Road
4 and a warrant for that black in color Volvo that was
5 parked in that driveway.

6 Q All right. Approximately what time do you believe it
7 was that you went and executed that search warrant at
8 [REDACTED] William Harden Road?

9 A I would say probably maybe 4; 4:00 in the afternoon.

10 Q Okay. And by this point had you been notified by the
11 ballistics expert about the shell casings found at
12 the crime scene and at the H&J Club?

13 A I had.

14 Q What information did you obtain?

15 A David Collins, our ballistics expert at the Richland
16 County Sheriff's Department, had informed me that the
17 two shell casings that were located on Westbridge
18 Road which was the scene of the crime and the one
19 fired shell casing which was found in the parking lot
20 of the H&J Club near the telephone booths were
21 ballistically matched and fired from the same gun.

22 Q And did he tell you the caliber of the gun?

23 A He did. It was a 9-millimeter.

24 Q When you were executing the search warrant at [REDACTED]
25 William Harden Road, was Garry Green home?

1 **A** No, ma'am.

2 **Q** Who was there?

3 **A** The only people at the residence at the time of the
4 execution of the search warrant were Garry Green's
5 mother and his stepfather.

6 **Q** Mr. and Mrs. Culler?

7 **A** Yes, ma'am.

8 **Q** Describe their demeanor when you arrived to their
9 residence?

10 **A** Initially their demeanor was cooperative. Of course
11 they let us in. We asked them to just sit down. And
12 there was a little sunroom in there. We asked them
13 to sit down while we executed the search warrant.

14 **Q** Did Mr. Culler volunteer where his gun was?

15 **A** He did.

16 **Q** And you heard Sergeant McDonald already testify to
17 that, correct?

18 **A** Yes.

19 **Q** And again, you were notified by Investigator David
20 Collins about his examination of that 9-millimeter
21 gun, correct?

22 **A** Correct.

23 **Q** And also at that point did you have the Volvo towed?

24 **A** Yes.

25 **Q** Did Mr. and Mrs. Culler indicate whether or not they

1 knew where Garry Green was?

2 **A** They did not know where Garry was.

3 **Q** Did they indicate when was the last time they had
4 seen him?

5 **A** They did not recall.

6 **Q** Okay. Were you provided with another address at that
7 time?

8 **A** I was.

9 **Q** And what address was that?

10 **A** I'd been given another address for Garry Green of [REDACTED]
11 North Crossing which is also in Richland County.

12 **Q** And when you arrived, did you go to that location?

13 **A** I did.

14 **Q** Immediately after executing the search warrant?

15 **A** Immediately. We had searched the house. We had left
16 Investigator Morris Davis behind and he was waiting
17 for the vehicle to be towed. He also was just, you
18 know, talking with the parents, kind of making them
19 feel a little bit more at ease, letting them know
20 what was going on. I left the residence at [REDACTED]
21 William Harden and went to [REDACTED] North Crossing.

22 **Q** When you went there, what did you discover?

23 **A** That the house was vacant. It had a For Sale sign in
24 the front yard. It also had a realtor box on the
25 doorknob of the front door.

1 Q All right. While you were -- from there where did
2 you go?

3 A After I left there, I would depart this location on
4 North Crossing and go back to headquarters.

5 Q And while you were at headquarters describe for the
6 jury what information you were alerted to?

7 A I was told that Garry Green had returned to [REDACTED]
8 William Harden Road by Investigator Davis.

9 Q How much time do you believe passed from the time you
10 executed the search warrant, went to [REDACTED] North
11 Crossing, headquarters, when you were notified that
12 Garry was at the house?

13 A Total time, executing the search warrant, going to
14 North Crossing and heading back, from the start of
15 the search warrant until the time I was notified,
16 maybe I believe a little bit more than an hour.

17 Q Okay. Now, when you arrived, did you respond to [REDACTED]
18 William Harden Road when you found out Garry Green
19 had shown up?

20 A I did.

21 Q All right. And describe for the jury what happens
22 when you get there?

23 A When I pull up to [REDACTED] William Harden Road, I didn't
24 want to park directly in front of the residence or in
25 front of the driveway because I knew that there would

1 be a tow truck coming to pick up that car. I pulled
2 up actually to [REDACTED] which is the house to the right of
3 [REDACTED]

4 Q Okay. And let me just show you State's No. 47. I
5 believe Mr. Green has already testified that's his
6 house?

7 A Yes, ma'am.

8 Q Which house are you referring to?

9 A The house directly to the right.

10 Q This one?

11 A Yes, ma'am.

12 Q Okay. So you parked in front of this house?

13 A Yes, ma'am.

14 Q All right. Tell the jury what happened next?

15 A I parked in front of that house. The front door of
16 that house that I parked in front of, the front door
17 was open. There is a screen door. As I got out I
18 saw what appeared to be a black male, long hair
19 peeking out from the door. I didn't think anything
20 of it. A lot of people peek out from the door when
21 they see the police, want to see what's going on. At
22 that time I really didn't put any -- I had no reason
23 to wonder who that was. Also it really didn't peak
24 my interest at that time. At that point we only knew
25 of Garry Green, you know, starting from that area.

1 At that point I just went back into the Green
2 residence and asked Garry to come to headquarters
3 with me to talk to me about the incidents.

4 Q And before you left with Garry, did Garry's father
5 arrive on the scene?

6 A His natural father did arrive, Mr. Glenn Green.

7 Q And describe what information you were able to gain
8 from Mr. Glenn Green?

9 A At that house Mr. Green didn't -- he had asked me
10 what was going on. And at that point my focus was on
11 getting Garry in the truck and getting him to
12 headquarters. I told him that there's another
13 investigator, he'll explain to you what's going on,
14 at this point in time I need to leave. So at that
15 point in time I put Garry in my front seat. Garry
16 was not handcuffed. Garry is not in custody at this
17 point in time. And we head back to Richland County
18 headquarters.

19 Q All right.

20 A While I was in route to Richland County headquarters
21 Investigator Davis called me on my Nextel and
22 informed me of what Glenn Green informed him, that he
23 believed Justin Green, Garry's son, who also drives a
24 black in color Volvo --

25 Q Glenn's son?

1 **A** Yes, ma'am. Glenn's son who also drives a black in
2 color Volvo may have been involved in some type of
3 incident that morning.

4 **Q** All right. So you indicated that Garry Green went
5 voluntarily with you?

6 **A** Yes.

7 **Q** Not in custody, not under arrest?

8 **A** No.

9 **Q** When you got to headquarters did you begin asking him
10 questions?

11 **A** I did.

12 **Q** All right. Tell this jury about what you were able
13 to gain from interviewing him?

14 **A** I began the interview of Garry who did admit being at
15 the club during the time the initial incident took
16 place in the parking lot. Mr. Green told me that he
17 was at the bar with his brother and when they were
18 getting ready to leave go out the parking lot he
19 heard a shot in the parking lot. He also said that
20 an unidentified black male who he did not know jumped
21 in the back seat of his vehicle with him, in the
22 vehicle that his brother and himself were in.

23 **MS. EVERHART:** Objection, Your Honor.

24 **THE COURT:** I'm sorry. I can't hear.

25 **MS. EVERHART:** Bolstering.

1 **THE COURT:** Approach the bench, please.

2 **MS. SHIPLEY:** Yes, sir.

3 (Whereupon, a bench conference is had)

4 **THE COURT:** Overrule the objection.

5 **Q** Investigator McRae, can you just summarize whether or
6 not in the very first statement that Garry Green gave
7 you at headquarters while he's not under arrest, did
8 he provide you the identity, the name of the third
9 person in the car?

10 **A** No, ma'am, he did not.

11 **Q** Did he make any mention of the Winslow Subdivision in
12 that statement?

13 **A** No, ma'am, he did not.

14 **Q** Do you remember what time that statement was given?

15 **A** The initial statement from Garry Green was taken at
16 19:00 hours which would have been 7 p.m.

17 **Q** On what day?

18 **A** The 3rd day of June, 2007.

19 **Q** Okay. While you're interviewing him at this time,
20 are you aware of whether or not Justin Green is
21 brought into headquarters?

22 **A** While I am speaking with Garry, Glenn Green and
23 Justin are brought into headquarters upstairs.
24 Sergeant McDonald would take the reins with Justin at
25 that point.

- 1 Q All right. Can you describe Garry Green's demeanor
2 when you're talking to him in your office, in your
3 cubicle?
- 4 A Garry's demeanor, he acted as if he wanted to be
5 helpful initially. As questioning continued, Garry
6 became increasingly nervous. He began to stumble
7 over some general questions. He would show signs,
8 based on my training and my experience, that I
9 thought he was providing some deceitful information.
- 10 Q And would that be pertaining to questions about the
11 third subject?
- 12 A Yes, ma'am.
- 13 Q Did he tell you about who was driving the Volvo?
- 14 A He did.
- 15 Q And who did he tell you was driving the Volvo?
- 16 A His brother, Justin.
- 17 Q And did he admit to being in that Volvo?
- 18 A He did.
- 19 Q Did you eventually tell Mr. Green that you weren't
20 buying it?
- 21 A Before I did that, at that point I told -- I met with
22 Sergeant McDonald again. We looked over the written
23 statement, his first initial statement. I told him
24 that about his demeanor, his actions, I observed some
25 inconsistencies in his first statement. At that,

1 point Mr. Green was informed that basically we
2 weren't buying all of his story.

3 Q All right. At that point did Sergeant McDonald get
4 involved in the conversation?

5 A He did. At this point Justin would have invoked one
6 of his Constitutional rights.

7 Q And when someone invokes one of their Constitutional
8 rights, what are you required to do as a matter of
9 law?

10 A Cease questioning. And any other questioning of that
11 person who has invoked their Constitutional right
12 would be a violation of their Constitutional right.

13 Q Once Garry Green is advised of his rights, does he
14 agree to continue to talk to you and Sergeant
15 McDonald?

16 A Yes, ma'am.

17 Q And in the second statement does he pretty much
18 repeat what was said in the first statement?

19 A He does.

20 Q With the exception of the nickname Flash, correct?

21 A He gives a nickname of Flash in his second statement.

22 Q And what description does he provide of Flash? Just
23 the height and weight and complexion, please. I've
24 got it right here to help you out.

25 A Thank you. I've got the wrong one up here.

1 Q Do you see where he actually gives you a description
2 of this person named Flash?

3 A Yes, ma'am. He describes Flash as a black male,
4 five-ten, 130 to 140 pounds, medium brown skin.

5 Q Okay. Was that description consistent with the
6 description provided by Kim Bowers?

7 A It was.

8 Q Now, at that point he would not tell you the
9 identity, correct?

10 A No, ma'am.

11 Q And based on the information you had at the time,
12 with him admitting to being there, seeing a witness
13 or victim getting shot and killed, what did you and
14 Sergeant McDonald decide to do?

15 A Based on the facts of the case that we had so far,
16 the interviews that had been completed and the
17 evidence that we had, Garry Green was arrested and
18 charged with murder.

19 Q Okay. And did you feel that you had probable cause
20 to charge him with that offense at the time?

21 A We felt that we had probable cause under the hand of
22 one, hand of all statute in this case, South
23 Carolina.

24 Q Now at that point Justin Green never tells you his
25 side of the story. Is that correct?

1 **A** That's correct.

2 **Q** As a result, what did you charge him with?

3 **A** Again, not knowing the full extent of either Garry or
4 Justin's involvement in this case, Justin Green would
5 also be charged with murder.

6 **Q** And, explain to this jury exactly; once an arrest is
7 made, does your investigation stop at that time?

8 **A** I was told a little saying once. "Just because the
9 handcuffs go on doesn't mean the investigation
10 stops." So the investigation will continue even
11 though we had arrested and charged two people in this
12 crime.

13 **Q** Did you know that there was a third person still out
14 there?

15 **A** Yes, ma'am.

16 **Q** And so did your investigation continue?

17 **A** It did.

18 **Q** And what information did you -- what leads did you
19 pursue on any other subjects whose names or
20 descriptions came up?

21 **A** We would interview Pam Cannon, Kim and Kim again. We
22 would continue to investigate the long hair and the
23 dreads. We would also try to basically identify the
24 nickname Flash.

25 **Q** Okay. And did you have an opportunity to interview a

1 guy named Ricardo Guilbert?

2 **A** Yes. Ricky Jacobs would tell us of a group of
3 individuals at the club that evening. Those
4 individuals were a group that appeared they all
5 worked at Red Robin; Ricky being -- Ricardo being one
6 of those subjects.

7 **Q** And is that the individual that -- you've been
8 present in the courtroom this entire trial, correct?

9 **A** Yes, ma'am.

10 **Q** Is that the individual Mr. Jacobs said had a burgundy
11 shirt on?

12 **A** Yes, ma'am.

13 **Q** All right. And do you recall the description Mr.
14 Eubanks provides as to the person who fired the gun?

15 **A** Black male with long hair.

16 **Q** Okay. Did he describe -- do you recall his testimony
17 about what kind of shirt he was wearing?

18 **A** And a striped shirt.

19 **Q** Now, did you confirm the whereabouts of Ricardo
20 Guilbert, Alex Williams, that whole other group of
21 people that were at the bar that night?

22 **A** Myself and Lieutenant McDonald would later go to Red
23 Robin to speak with Rico. Rico would tell us that
24 they were at the club. They were actually there
25 celebrating the departure of one of the waitresses

1 that evening. That would be Ms. Tracey Caldwell. We
2 would interview Rico. We would talk to Jamal. We
3 would talk to Mr. Baker. Their stories were
4 consistent. They would leave prior to any shooting
5 occurring in the parking lot. We would also be told
6 that they had gone to the Motel 6 on Bates road.

7 **Q** Did you confirm that with the management there?

8 **A** We went to the Motel 6 on Bates Road. We did observe
9 some video cameras. Those video cameras were
10 provided more for employee theft than safety within
11 the hotel. We would also be told by the management
12 that two of the people within this group of people
13 from Red Robin did have rooms reserved at that hotel.

14 **Q** And so based on your investigation, were they ruled
15 out as being involved?

16 **A** They were cleared as suspects in this case.

17 **Q** All right. Now I'm going to bring your attention to
18 June the 7th, 2007, and ask you if you recall being
19 in this courthouse and an attorney named John Delgado
20 asking you to interview his client?

21 **A** Yes, ma'am.

22 **Q** Describe for this jury what information you got from
23 John Delgado's client, that being Garry Green, on
24 June the 7th?

25 **A** On June the 7th we were asked by John Delgado who was

1 the attorney for Mr. Garry Green to talk to his
2 client again about the incidents. During the
3 incident Garry would inform us that he did know the
4 third individual who was in the vehicle with himself
5 and his brother, Justin. When this incident occurred
6 he would identify the third subject as Louis Sanders
7 who he also knew as Scooter.

8 Q And did you show him a photographic line-up to
9 identify Mr. Sanders?

10 A We did.

11 Q And did he positively identify him?

12 A He did.

13 Q But he has known him since high school, correct?

14 A That's my understanding; yes, ma'am.

15 Q Now, the fact that he gave a statement on the 7th of
16 June finally identifying the third subject in the
17 car, what was the result of his bond hearing?

18 A Garry's bond was denied.

19 Q So even though he cooperated he didn't get out of
20 jail?

21 A No, ma'am.

22 Q The statement he provided June 7th, 2007, was it
23 consistent with the testimony you observed during
24 this trial?

25 A Yes.

1 Q Did he indicate to you who that individual that was
2 watching you at [REDACTED] William Harden Road, who that
3 was?

4 A He did.

5 Q And who did he identify that as being?

6 A Louis Sanders.

7 Q At that point did you obtain a warrant for the arrest
8 of Louis Sanders for murder?

9 A Yes.

10 Q And that's June 7th, 2007, correct?

11 A Yes, ma'am.

12 Q Did you notify the media that you were looking for
13 Louis Sanders who is the shooter in this case?

14 A Typically in a case of such high violence as with
15 murder, typically we don't notify the media of a
16 warrant warning the person due to the fact that they
17 may try to leave the state. It's been our experience
18 that sometimes once a person finds that they are
19 wanted for the crime of murder they will arm
20 themselves which becomes increasingly more dangerous
21 for officers to arrest this person.

22 Q And so you did not want to tip Mr. Sanders off that
23 he had been identified?

24 A No, ma'am.

25 Q Did you then get the fugitive team involved in

1 locating him?

2 **A** I did.

3 **Q** And that would have been Investigator Jerry Hall who
4 already testified, correct?

5 **A** Yes, ma'am.

6 **Q** Now, on 5:30 on the 7th of June, did you have an
7 opportunity to actually sit down and talk to Keith
8 Eubanks about what he saw the early morning hours of
9 June 3rd, 2007 on Westbridge Road?

10 **A** We did.

11 **Q** All right. And apparently when he was on the phone
12 with Sergeant McDonald he gave some inconsistent,
13 confusing information about the bald man firing the
14 second shot?

15 **A** He did.

16 **Q** Describe for the jury exactly what he reported to you
17 on the 7th of June at 5:30?

18 **A** Mr. Eubanks who was of course one of the witnesses
19 from Westbridge Road said that he had heard a car
20 speeding around 4:30 a.m., 4:30 or so in the morning.
21 Mr. Eubanks said that he opened the door, saw two
22 black males walking fast towards the direction of the
23 dark colored vehicle and the white SUV. Mr. Eubanks
24 continued to say as the two men who were walking
25 towards the vehicle, they approached the man from the

1 white SUV and the confrontation occurred.

2 Mr. Eubanks then stated that the black male with
3 long hair fired one shot at the man who came from the
4 SUV. Mr. Eubanks continued to tell us that this man
5 fell to the ground. This man fell to the ground.
6 Mr. Eubanks said that they got in the dark color
7 vehicle. They got the vehicle out from in front of
8 the white SUV.

9 As the two males that were walking up the street
10 fast walked towards the dark colored vehicle, Mr.
11 Eubanks said that the one with long hair took a
12 couple of steps towards the vehicle and then turned
13 around, leaned over the man from the white SUV and
14 shot him one more time at close range. Mr. Eubanks
15 said that both of the subjects got into the vehicle
16 and it sped off.

17 Mr. Eubanks described the man who shot the gun
18 as a black male with long hair. Mr. Eubanks also
19 stated that the two shots occurred less than a minute
20 apart. Mr. Eubanks said that he called 911 after
21 this had occurred. He then closed the door because
22 he was afraid one of the guys might have seen him
23 looking out the door during the incident.

24 Q Did you ever get an opportunity to talk to a neighbor
25 by the name of Ms. Capel?

1 **A** I never spoke to her directly. I do recall Sergeant
2 McDonald and I going to her residence. She was not
3 at home. But, no, I never talked to that person.

4 **Q** And do you recall whether or not she failed to show
5 up for any meeting with you or Sergeant McDonald?

6 **A** It's my understanding through review of the case that
7 Sergeant McDonald did attempt to set up a couple of
8 appointments with this witness. This witness would
9 never come forward and follow through with these
10 appointments.

11 **Q** Were you notified on June 12th by anybody with the
12 fugitive team that they had been able to locate Mr.
13 Sanders?

14 **A** At approximately 11:30 a.m. I'm notified that the
15 fugitive team is at [REDACTED] Torrowood which was the last
16 known address for Louis Sanders and has located him
17 inside the residence.

18 **Q** And did you wait at the residence? Did you respond
19 to the residence?

20 **A** I left Richland County headquarters to meet with
21 members of the fugitive team and SLED officers. Upon
22 my arrival at this residence, they had not -- they
23 did not have him in custody at this point. I
24 remained outside by my vehicle until he was taken
25 into custody.

- 1 Q And when you -- I'm going to show you a report and
2 ask you if you recognize it and also a photograph and
3 ask you if you recognize that?
- 4 A This is the Richland County Sheriff's Department
5 standard arrest report. Whenever someone is arrested
6 for a crime, the arrest report is filled out.
- 7 Q All right. And what date and time was Mr. Sanders
8 arrested?
- 9 A According to this report, Mr. Sanders was arrested on
10 June the 12th, 2007 at 12 p.m.
- 11 Q And that's noon, correct?
- 12 A Noon.
- 13 Q And the address where he was arrested?
- 14 A [REDACTED] Torrowood in Columbia which is in Richland
15 County.
- 16 Q Now, as part of the arrest report, do you get a
17 height and weight and description of the individual?
- 18 A We do.
- 19 Q Okay. And what height and weight is Mr. Sanders?
- 20 A Mr. Sanders is five-feet-eight, 160 pounds.
- 21 Q Okay. And the other document that I handed to you --
- 22 A Yes, ma'am.
- 23 Q -- do you recognize that?
- 24 A It appears to be a photo of Mr. Sanders.
- 25 Q And is that how he appeared when he was arrested on

1 June 12th, 2007?

2 **A** Yes, ma'am.

3 **MS. SHIPLEY:** Your Honor, we would seek to
4 introduce this photo into evidence at this time.

5 **MR. O'NEIL:** Your Honor, may we approach?

6 (Whereupon, a bench conference is had)

7 **Q** Can you please describe the hair of Mr. Sanders when
8 you met with him on June 12th, 2007?

9 **A** Shoulder length hair, braids, twisted braids, kind of
10 like braids in the back, shoulder length.

11 **Q** Now, at that point did you take -- was Mr. Sanders
12 taken to headquarters?

13 **A** He was.

14 **Q** All right. And did you advise Mr. Sanders of his
15 Constitutional rights?

16 **A** I did.

17 **Q** I'm going to show you what's been marked State's
18 No. 6. Do you recognize that?

19 **A** Yes, ma'am. It's Richland County Sheriff's
20 Department standard form or interrogation and advice
21 of rights or what we call our Miranda rights.

22 **Q** Okay. And is that the form you filled out with Mr.
23 Sanders on June the 12th?

24 **A** It is.

25 **Q** What time did you advise him of his Constitutional

1 rights?

2 **A** He was advised at 12:45 p.m. Myself and Investigator
3 Goff would have been present during the advisement.

4 **Q** Okay. And where were you?

5 **A** We were in Captain Smith's office which is on the
6 second floor of the Sheriff's Department.

7 **Q** And I believe Sergeant McDonald described the room.
8 But there is windows with blinds shut?

9 **A** Yes, ma'am.

10 **Q** And the door which you keep shut?

11 **A** Yes, ma'am.

12 **Q** And did you advise Mr. Sanders of his Constitutional
13 rights at that time?

14 **A** I did.

15 **Q** Can you please go over State's No. 6 exactly the same
16 way you went over it with Mr. Sanders at that date
17 and time?

18 **A** Ladies and gentlemen, this form is actually -- has
19 actually three parts, actually has three parts to it.
20 The top is the identifying -- has the name of the
21 person being interviewed, the location of the
22 interview, the officers present during the interview
23 or the advisement of the rights and the date and
24 time.

25 The second portion of the form is your rights.

1 As a matter of habit and experience, every time I
2 fill one of these out, I will read each line item.
3 I'll go through it with you the same way I do every
4 time I fill one of these out. I will fill the top
5 out and then I'll go: "Before we ask you any
6 questions you must understand your rights." On the
7 left of each right is a box. Before I check that I
8 will ask, "Do you understand that?" I will wait for
9 an affirmative response. Once I get an affirmative
10 response, I will check that block off.

11 I will go down to the next line. "You have the
12 right to remain silent", again ask, "do you
13 understand that?" Affirmative response. I will
14 check that block.

15 "Anything you say can be used against you." If
16 I get an affirmative response, I check the box.

17 "You have the right to talk to a lawyer before
18 we ask you any questions and to have a lawyer present
19 with you during any questioning." Again, affirmative
20 response, check the block.

21 "If you cannot afford a lawyer one will be
22 appointed to you before any questioning if you wish."
23 Affirmative response from the person being
24 questioned, check the block.

25 "If you decide to answer questions now without a

1 lawyer present, you will still have the right to stop
2 answering at any time. You also have the right to
3 stop answering at any time until you talk to a
4 lawyer." Affirmative response, check the block.

5 At this point I will again ask the person being
6 questioned, "Do you understand your rights as I have
7 read them to you?" They will say yes. If they say
8 yes, I will have them sign the top. I will then sign
9 it as being witnessed, and the second officer present
10 will also sign it as a witness.

11 Q Okay. And who witnessed this besides you?

12 A David Goff, Investigator David Goff, who is another
13 investigator with the Sheriff's Department.

14 Q Then after that, once Mr. Sanders indicated to you
15 that he understood these rights and you made him sign
16 the document, did he agree to waive his rights?

17 A He did.

18 Q And describe how it is that you explained his right
19 to waive them if he wants to?

20 A Again, the third part of this form is the waiver of
21 the rights. This statement is read to him. It
22 states: "I have read this statement of my rights and
23 understand what my rights are. I am willing to talk
24 and answer questions now. I understand and know what
25 I am doing. No promises have been made. No promises

1 have been made to me. No pressure or coercion of any
2 kind has been used against me."

3 In my experience I've run across some people not
4 understanding the word "coercion". If you notice on
5 this form, I have underlined the word "coercion".
6 And I explain the word "coercion" so they know what
7 they're signing. Once I explain the definition of
8 coercion I ask him, "Do you understand what you're
9 doing?" Again, affirmative response, check the
10 block, and have the person being questioned sign the
11 form.

12 Q And how did you define coercion to Mr. Sanders on
13 that day?

14 A The best way that I like to describe coercion which
15 usually everybody understands is, you're talking to
16 me under your own free will. I am not holding a gun
17 to your head making you answer any questions. That's
18 what I like to define as coercion.

19 **MS. SHIPLEY:** Your Honor, at this time the State
20 would seek No. 6 into evidence.

21 **MS. EVERHART:** No objection.

22 **THE COURT:** Without objection.

23 (WHEREUPON, State's Exhibit No. 6 is admitted
24 into evidence.)

25 Q And again, did Mr. Sanders agree to give up those

1 rights?

2 A He did.

3 Q How did he memorialize that document indicating he
4 wanted to waive his rights?

5 A He signed his name at the bottom of the form.

6 Q Did you sign it?

7 A I did as witnessing his signature. I signed,
8 witnessing the signature; and Investigator Goff also
9 signed, witnessing the signature, on the waiver of
10 his rights.

11 Q And I believe Sergeant McDonald already testified
12 about his educational background and ability to read
13 and write and so forth, correct?

14 A That's correct. Once the rights were read to -- once
15 the form was completed, Sergeant McDonald had
16 completed an interview of a female that was in the
17 house that Mr. Sanders was arrested at, [REDACTED]
18 Torrowood. There was another female in the house who
19 was identified as a girlfriend of Louis Sanders.

20 Q And so at that point when Investigator McDonald got
21 done talking to her, he joined you in the interview?

22 A He joined us in Captain Smith's office. At that
23 point Investigator Goff got up and left the interview
24 room.

25 Q And why is it that he left? Why didn't he remain in

1 the office?

2 **A** We never put more than two officers in an interview.
3 We never put more than two officers in an interview
4 not to intimidate anyone, not to become intimidating,
5 overpowering. However, two are required for our
6 safety.

7 **Q** Now, also I forgot to ask you about the age of Mr.
8 Sanders.

9 **A** Mr. Sanders was born November 5th 1970, which at the
10 time of this incident would have made him 37. And he
11 would have turned 37 that year. He would have turned
12 37. He was 36 at the time of the incident. I
13 apologize.

14 **Q** Now, once Investigator McDonald joined you and
15 Investigator Goff left, describe for this jury what
16 Mr. Sanders told you?

17 **A** After Sergeant McDonald came into the office, of
18 course Sergeant McDonald would introduce himself and
19 we would begin discussing the case with Mr. Sanders.
20 Mr. Sanders would immediately deny any involvement
21 with the incident. Mr. Sanders would admit to being
22 at the club and hanging out with Garry Green. Mr.
23 Sanders did not recall Justin Green. Sanders states
24 that he was at the club until closing time. He heard
25 three to four shots while he was in the parking lot.

1 Sanders tells us that he got a ride from the
2 club by a person he only knew as Twan. Mr. Sanders
3 told us that Twan drove him to his baby's mama's
4 house in the Winslow Subdivision. Sanders would give
5 us the name of Lashonda Downing. I'm sorry.
6 Lashonda Dowling (sic) and a phone number. Mr.
7 Sanders would also state that he got into an argument
8 with Dowling, left the residence and walked to [REDACTED]
9 William Harden Road.

10 Sanders continued to tell myself and McDonald
11 that he arrived at the house on William Harden around
12 8 a.m., left between 12 and 1 p.m. He would also
13 admit that Garry Green was at the house also. I
14 would ask him if he remembered seeing me out the
15 residence when I --

16 Q Who is I.O.?

17 A I'm sorry?

18 Q Investigating officer?

19 A Yes. I would ask Mr. Sanders if he remembered seeing
20 me parked in front of the residence at [REDACTED] William
21 Harden Road. He would indicate no, he didn't
22 remember seeing me there --

23 Q Okay.

24 A -- and again would deny seeing me. But Garry Green
25 would confirm that he was the subject, was the person

1 at [REDACTED] William Harden Road.

2 Q Was he asked if he was ever inside of a black Volvo
3 in the early morning hours of June 3rd, 2007?

4 A Mr. Sanders would provide a statement saying that he
5 was inside a black Volvo inside the club drinking a
6 beer.

7 Q But he still denied leaving in that vehicle, correct?

8 A That's correct.

9 Q Did he indicate how long he stayed at the club after
10 he heard gun fire?

11 A He said he left the club five minutes -- he left the
12 club at about five minutes after the shot was fired.

13 Q And did he say whether or not, who he left with?

14 A Again he said he left with Twan. He said he left in
15 a black and gray Cutlass.

16 Q Was he asked whether or not he knew Pam Cannon in any
17 way?

18 A He was asked if he knew Pam Cannon and he denied
19 knowing her.

20 Q At that point did you conclude your interview with
21 Mr. Sanders?

22 A We did.

23 **THE COURT:** All right. Counsel, let me see you.
24 Let's take a break.

25 (Whereupon, a bench conference is had)

1 **THE COURT:** All right, ladies and gentlemen.
2 We'll continue the direct examination of the officer
3 after lunch. I'm going to excuse you now until 2:30,
4 ask you to be back in the jury room at 2:30 at which
5 time we'll continue with the testimony. Again don't
6 discuss the case among yourselves when you return to
7 the jury room or with anyone else over the lunch
8 hour. We'll see you at 2:30. Thank you very much.

9 (Jury out at 1:20 p.m.)

10 **THE COURT:** All right. We'll stand at ease
11 until 2:30. Ms. Shipley, see if you can streamline
12 this testimony.

13 **MS. SHIPLEY:** Yes, sir. It will speed up after
14 that.

15 **THE COURT:** Because it's getting a little bit
16 repetitive.

17 **MS. SHIPLEY:** Yes, sir. Also I'm going to
18 withdraw 97 altogether, State's No. 97, the
19 photograph. I do have case law that supports our
20 introduction of it, but I'm not going to do it.

21 **THE COURT:** It's close. Thank you. The purpose
22 for which it's being used.

23 (Whereupon, a lunch break is taken)

24 **THE COURT:** The State ready to proceed?

25 **MS. SHIPLEY:** Yes.

1 **THE COURT:** Is the defense ready to proceed?

2 **MR. O'NEIL:** Yes, Your Honor.

3 **THE COURT:** Bring the jury, please.

4 (Jury in at 2:38 p.m.)

5 **THE BAILIFF:** The jury is all present, Your
6 Honor.

7 **THE COURT:** Thank you. All right, Solicitor.
8 You may continue.

9 **MS. SHIPLEY:** Thank you, Your Honor.

10 **Q** (By Ms. Shipley) Investigator McRae, we left prior to
11 the lunch break finishing, wrapping up with what Mr.
12 Sanders told you, correct?

13 **A** Yes, ma'am. Correct.

14 **Q** After that -- that was on June 12th, correct?

15 **A** That's correct.

16 **Q** On June 13th of 2007, did you go up to Charlotte,
17 North Carolina?

18 **A** I did.

19 **Q** All right. And what was the purpose of going up
20 there?

21 **A** The purpose for that was to take a written statement,
22 to talk with Ms. Tracey Caldwell.

23 **Q** And was she one of the females that was with Ricardo
24 Guilbert?

25 **A** Yes, ma'am. She was the waitress who was leaving and

1 who they were there celebrating her departure for.

2 Q And again, did you corroborate -- was her statement
3 corroborated by the witnesses?

4 A Yes, ma'am.

5 Q And were these people excluded from your
6 investigation?

7 A Yes, ma'am.

8 Q As suspects?

9 A Yes, ma'am.

10 Q All right. I'm going to bring your attention to June
11 the 18th of 2007. Do you recall being approached by
12 an attorney for Justin Green?

13 A Yes, ma'am. Ms. Betsy Franklin from Jack Swerling's
14 office.

15 Q And did they indicate to you whether or not they
16 wanted you to talk to their client?

17 A They did.

18 Q And did you agree to talk to their client?

19 A I did.

20 Q Was this the first time you ever heard anything from
21 Justin Green?

22 A It is.

23 Q Because he exercised his right to remain silent?

24 A That's correct. His right to an attorney.

25 Q Now, once you talked to Justin Green, did you present

1 him with photos?

2 **A** I did.

3 **Q** And obviously you'd already talked to Garry. So you
4 knew to put a photo of Mr. Sanders in an array?

5 **A** Yes, ma'am.

6 **Q** I'm going to show you what's been marked State's 53
7 and ask you if you recognize that?

8 **A** I do.

9 **Q** When you presented that to Mr. Justin Green, what did
10 you ask him to do with these pictures?

11 **A** I asked him to take a look at the pictures and if he
12 saw anybody he recognized from the evening of the
13 incident please point them out.

14 **Q** And did he point someone out?

15 **A** He did.

16 **Q** Which photograph did he point out?

17 **A** He chose picture number 3 which he circled and
18 signed.

19 **Q** Did he take a long time to pick out that picture?

20 **A** It was an immediate identification.

21 **Q** You indicated he circled and signed it?

22 **A** Yes, ma'am.

23 **Q** Did you suggest to him in any manner which photograph
24 to pick out?

25 **A** No, ma'am.

1 Q And did he report to you that he had actually seen
2 Mr. Sanders on the news?

3 A He did.

4 Q Subsequently?

5 A Yes, ma'am.

6 Q So he did not know this person's name, except what
7 did he refer to him as?

8 A He was introduced to him at the bar by Garry as
9 Scooter.

10 Q But once he saw him on the news, then he knew that
11 his name was Louis Sanders?

12 A Yes, ma'am.

13 Q Okay. Did he then give you an oral statement at the
14 courthouse with his lawyer present?

15 A He would indicate to myself --

16 Q I'm just going to show you something real quick.
17 State's 63, did you advise him of his rights?

18 A I did.

19 Q What time?

20 A 8:44 a.m.

21 Q Is that when he gave a verbal statement?

22 A Verbal statement and the showing of the line-up.

23 Q Okay. And then does he identify the third subject in
24 the vehicle?

25 A He does.

1 Q Okay. Now, after that did you make arrangements to
2 meet with him at headquarters with his lawyer?

3 A Yes, ma'am.

4 Q And did you put everything he told you in writing?

5 A We did.

6 Q And he gave you a lengthy statement and signed it,
7 correct?

8 A Yes, ma'am.

9 Q Did he also agree to take you to where he had dropped
10 his brother and Louis Sanders off that early morning?

11 A He agreed to show me the route he had taken. He was
12 unclear whether he could actually get to the house
13 that dropped him off or not, but he had agreed to go
14 from Richland County headquarters and drive me in the
15 direction that he drove him early that morning.

16 Q You have the map right there next to you?

17 A I do.

18 Q Can you just briefly summarize for the jury how he
19 drove you from the headquarters?

20 A We left headquarters and he had indicated to me they
21 got on Interstate 77 towards Charlotte which would
22 have been northbound. At that point in time I left
23 headquarters and headed towards Interstate 77. I got
24 on interstate 77 from Richland County headquarters
25 off of 277 which turns into 77 north.

1 Q And from there?

2 A From there he told me to drive north on 77. We
3 approached the Killian exit which is Exit 22. He
4 told me to take that exit, told me to go up to the
5 end of the off ramp. At that point Justin did
6 indicate to me that on the morning of the incident he
7 did turn left onto Killian Road but was advised to
8 turn around.

9 Q Who advised him?

10 A Louis Sanders.

11 Q Okay.

12 A And he was advised to turn around because he had
13 turned the wrong direction onto Killian Road. I
14 headed in the direction that he ended up going onto
15 Killian Road which would have been away from
16 interstate 77 in towards Hard Scrabble. Killian Road
17 becomes Clemson Road after about maybe less than a
18 half a mile. It turns into Clemson Road. I told
19 Justin to just give me directions and just tell me
20 where you turned. We continued to drive Killian
21 which turned into Clemson. We continued to drive
22 down Clemson Road. On the left-hand side of Clemson
23 Road, a good ways down, probably estimate maybe a
24 mile and a half, two miles, on the left-hand side is
25 a subdivision by the name of Whitehurst. Next to

1 that subdivision is the Winslow Subdivision. As we
2 drove by the Winslow Subdivision Justin had indicated
3 to me that he turned there into the Winslow
4 Subdivision off of Clemson Road.

5 **Q** And he wasn't able to drive you directly to the
6 residence where he dropped him off?

7 **A** No, ma'am. Justin actually had indicated that after
8 he had dropped him off he had actually got lost
9 inside the Winslow Subdivision as he was leaving.
10 Therefore, he knew that he could not find the house
11 again.

12 **Q** Okay. Now, in preparation did you have an
13 opportunity to meet with Dr. John Barron with your
14 DNA lab in a homicide review meeting?

15 **A** It's standard practice for the Sheriff's Department
16 in a case such as these to meet with all the
17 investigators involved, the Solicitor's Office and
18 the DNA office to review the case before we go to
19 trial.

20 **Q** And did Dr. Barron then indicate to you which items
21 of evidence he felt was necessary to test?

22 **A** He did.

23 **Q** Okay. Now at that point did you in preparation --
24 let's see. On July 1st, 2008, what is it that you
25 did next in this case?

1 **A** On July 1st of 2008 I was given a subpoena for
2 Ms. Lashonda Downing by the Solicitor's Office and I
3 was asked to serve that subpoena on Ms. Downing for
4 this trial.

5 **Q** And prior to that did you have an opportunity to
6 receive a written statement from Sergeant McDaniels
7 that he had taken from an Anthony Smith?

8 **A** Yes, ma'am.

9 **Q** Did you have an opportunity to review Anthony Smith's
10 statement?

11 **A** I did.

12 **Q** When is the first time that you learned that the
13 grandmother went to Lashonda Downing's house?

14 **A** The first time that I had actually learned it was
15 when I reviewed Anthony Smith's statement.

16 **Q** Had you ever heard that before you read Anthony
17 Smith's statement?

18 **A** No, ma'am.

19 **Q** Not from any witness?

20 **A** No, ma'am.

21 **Q** Not even Garry Green?

22 **A** No, ma'am.

23 **Q** When is the first time that you hear someone describe
24 where the pay phone booths are in the parking lot?

25 **A** The first time --

1 Q When is the first time you hear or you are informed
2 of the location of the phone booths in the parking
3 lot?

4 A I am familiar with that club.

5 Q Right. But was it in anybody's statement?

6 A No, ma'am. No, ma'am.

7 Q Did Pam Cannon tell you where the phones were?

8 A No. No. Not in relation to the building, no.

9 Q When is the first time you hear that Mr. Sanders put
10 his hands on Lashonda Downing?

11 A Put his hands on Lashonda Downing?

12 Q Yes.

13 A Today in court.

14 Q And did you review that in the statement of Anthony
15 Smith?

16 A Yes.

17 Q Garry Green never mentioned anything about that, did
18 he?

19 A No. No. No.

20 Q So since you had an opportunity to view Anthony
21 Smith's statement and you went to go talk to
22 Lashonda, did you make contact with Lashonda's
23 mother?

24 A I did.

25 Q And what's her name?

1 **A** It is Mary (sic) Jackson.

2 **Q** Maria Jackson?

3 **A** Maria Jackson.

4 **Q** And at that time is that the very first time that you
5 ever had any contact with Maria Jackson concerning
6 this case?

7 **A** It is. On the date that I served the subpoena.

8 **Q** Okay. And what date was that?

9 **A** That was July 1st, 2008.

10 **Q** And did you take a written statement from her a few
11 days later?

12 **A** On Saturday, July 5th. Yes, ma'am.

13 **Q** And was Ms. Downing also there when you took a
14 written statement from her mother?

15 **A** She was. They came together. However, when I took
16 the statement from Ms. Jackson, Lashonda Downing was
17 placed in a waiting room area. It's common practice
18 for us not to interview two people at the same time.

19 **Q** After getting a statement from Justin Green for the
20 first time, June 18th, 2507, that statement, was it
21 consistent or inconsistent in your experience as a
22 law enforcement officer with what Garry Green had
23 told you?

24 **A** It was consistent.

25 **Q** And was the statement from Mr. Sanders consistent or

1 inconsistent with what Justin Green or what Garry
2 Green told you?

3 **A** It was extremely inconsistent, starting with Mr.
4 Sanders had indicated that there were three to four
5 shots fired in the parking lot at the H&J Club and
6 all the witnesses interviewed that were at the club
7 at the time of the shooting all indicate only one
8 shot was fired.

9 **Q** Okay. And so in preparation for trial did you take
10 indictments to the Richland County Grand Jury against
11 Garry Green and Justin Green?

12 **A** I did.

13 **Q** And for what charge?

14 **A** Accessory after the fact of murder.

15 **Q** And so you were never preparing for trial against a
16 charge of murder against either one of those
17 individuals?

18 **A** No.

19 **Q** And I believe you testified earlier just because you
20 make an arrest, it doesn't end your investigation?

21 **A** No. Absolutely not.

22 **Q** The individual who gave you this, about hearing three
23 to four shots on the 18th or the 12th of June of
24 2007, do you see him in the courtroom today?

25 **A** On the 3rd of June?

1 Q No. I'm sorry. The individual who told you that he
2 heard three to four shots on June 12th, 2007, do you
3 see him in the courtroom today?

4 A I do, ma'am.

5 Q And where is he?

6 A He is sitting at this table here. He's wearing a
7 blue shirt.

8 THE COURT: The record will reflect the witness
9 identified the defendant.

10 MS. SHIPLEY: Thank you, Your Honor. Thank you.
11 No further questions.

12 WITNESS: Thank you.

13 THE COURT: Cross examination.

14 MS. EVERHART: Thank you, Your Honor.

15 CROSS EXAMINATION

16 BY MS. EVERHART

17 Q Hi, Investigator McRae.

18 A Ms. Everhart, how are you?

19 Q I'm doing fine. All right. I just have a few
20 questions for you. So bear with me.

21 A Yes, ma'am.

22 THE BAILIFF: Your Honor, they can't hear.

23 MS. EVERHART: Sorry. I'll try to speak up.

24 Q Now, the first night, the night that this occurred,
25 the first time you spoke with Kim Goins and Pam,

1 neither one of them mentioned a guy with dreads,
2 correct?

3 **A** She -- Ms. Goins describes a black male, 30 to 40,
4 five-ten, 170, brown skinned, Geri curl hair, Geri
5 curl hair.

6 **Q** Geri curl would be different than dreads?

7 **A** I'm not a hairdresser, ma'am. I took it as the same.

8 **Q** Okay. I believe that you put in your statement that
9 Ms. Goins couldn't give you any information about the
10 third suspect involved in this case. She could only
11 describe two people?

12 **A** That's correct.

13 **Q** And it was only the following day that someone
14 mentions a guy with dreads. And that was Ms. Bowers?

15 **A** Yes, ma'am.

16 **Q** She had indicated that at some point that night at
17 the club some guy with dreads had been chatting her
18 up, trying to get her phone number?

19 **A** Yes, ma'am.

20 **Q** And that he had also been engaged in some kind of
21 angry argument with Pam Cannon inside the club?

22 **A** Giving Pam a hard time.

23 **Q** And during the course of your investigation you
24 learned that there were other people that night at
25 the club that could have had dreads?

- 1 **A** Yes, ma'am.
- 2 **Q** And one of those individuals was Ricardo Guilbert?
- 3 **A** Yes, ma'am.
- 4 **Q** You all actually had an opportunity to speak with
5 Mr. Guilbert?
- 6 **A** Yes. Myself and Lieutenant McDonald went to Red
7 Robin and spoke with Ricardo in the parking lot.
- 8 **Q** He let you know he had spent part of his evening
9 talking with a girl who fit the description of Kim
10 Bowers?
- 11 **A** That is correct.
- 12 **Q** And that he also did have an altercation with Pam?
- 13 **A** I don't know if it would be defined as an
14 altercation. I know that there was a beer bottle
15 broke.
- 16 **Q** That she had knocked a beer bottle out of his hand?
- 17 **A** Yes, ma'am. I don't know if that was in passing.
18 There was no indication of an argument between Pam
19 and Rico.
- 20 **Q** But there was definite interaction between these
21 individuals?
- 22 **A** Whether it in passing or actual talking to each
23 other, I don't know.
- 24 **Q** But he did indicate he talked with Ms. Bowers?
- 25 **A** Yes.

- 1 Q On the dance floor?
- 2 A Yes.
- 3 Q And I believe you learned from him that he did not
- 4 leave until the club turned on the lights?
- 5 A Yes.
- 6 Q And you did have the opportunity to meet with some of
- 7 his friends who were with him that night?
- 8 A There were several. If you'll give me an opportunity
- 9 to get to that page.
- 10 Q Jamal Baker?
- 11 A Jamal Baker. Yes, ma'am.
- 12 Q Alex Williams?
- 13 A Yes, ma'am.
- 14 Q And they corroborated his story?
- 15 A That is correct.
- 16 Q And none of these people have testified this week,
- 17 have they?
- 18 A No.
- 19 Q Investigator McRae, sometimes you get Crimestoppers
- 20 tips in a case?
- 21 A We do.
- 22 Q And you rely on those?
- 23 A We take into consideration what they are.
- 24 Q And part of that is because people in the community
- 25 may know things that you don't know yet?

1 **A** Yes.

2 **Q** And you received a Crimestoppers tip in this case?

3 **A** I did.

4 **MS. SHIPLEY:** Your Honor, may we approach?

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

6 (Whereupon, a bench conference is had)

7 **THE COURT:** The objection is overruled.

8 **Q** So you did receive a Crimestoppers tip in this case?

9 **A** Yes, ma'am.

10 **Q** And this Crimestoppers tip involved an individual
11 named Billy Myers?

12 **A** Do you have the Crimestoppers tip handy?

13 **Q** I do. If this will refresh your memory.

14 **A** Thank you.

15 **Q** And that he may have been involved in the
16 altercation?

17 **A** Yes, ma'am.

18 **Q** Do you want to hang onto that?

19 **A** May I? If you've got any more --

20 **Q** No more questions about that. Did you have an
21 opportunity to speak with him? Mr. Myers?

22 **A** No. No. There was no contact information for the
23 tipster, no contact information for Mr. Billy Myers.
24 I'm sure there are more than one Billy Myers in this
25 great nation of ours. So --

1 Q But you didn't follow up with that?

2 A Not to any great extent because within a few days we
3 started receiving breaks in this case. In my
4 experience we get a lot of Crimestoppers tips that
5 don't pan out. Some people brag to other people
6 about committing something that they didn't have
7 anything to do with just to take a little glory.

8 Q But did you also learn that another individual, an
9 Eric Sanders, might have been involved?

10 A When Ms. Bowers and her husband initially came in the
11 first time, her husband had indicated to me again
12 through the grapevine he had heard the name of Eric
13 Sanders. Again, however, our indication revealed
14 that Eric Sanders had nothing to do with this case
15 either.

16 Q You also got information about Eric Sanders from an
17 informant in Fairfield during the course of the
18 investigation?

19 A When I received the word, when I received the name
20 Eric Sanders from Ms. Bowers' husband, I contacted a
21 detective at Fairfield County Sheriff's Department
22 and asked him about an Eric Sanders. There was made
23 mention of some information that he had gained
24 through an informant. I don't know if it was from
25 this case or not. I don't recall.

1 Q You've also testified that there were other people in
2 the cul-de-sac that night who saw what went down?

3 A In the cul-de-sac or in their homes?

4 Q In their homes surrounding the cul-de-sac.

5 A We knew two or three maybe that had called 911 and
6 may have witnessed something, yes.

7 Q Kevin Eubanks?

8 A Kevin Eubanks.

9 Q Keith Eubanks?

10 A Yes, ma'am.

11 Q Melissa Capel?

12 A Yes.

13 Q And William Patterson?

14 A Yes.

15 Q And Ms. Capel and Mr. Patterson didn't testify this
16 week?

17 A No, ma'am. Ms. Capel was not cooperative after the
18 initial contact by Sergeant McDonald. There were
19 further attempts to interview her. She would not
20 keep their interview.

21 Q Now, there has been some talk about the phone booths
22 in the H&J parking lot?

23 A Mm-hmm (affirmative).

24 Q If you were standing in the parking lot, the phone
25 booths are not located to the left. They would be

1 located to the right?

2 **A** It's how you orient yourself to the phone booths,
3 ma'am. Whether they're on the left or the right,
4 they could be indicated on the left and the right.

5 **Q** But if you're in the parking lot as opposed to Hard
6 Scrabble Road, they would be located in a different
7 position?

8 **A** To answer your question, yes, the phone booths would
9 be on the right. However, if you are facing the
10 club, they are on your left.

11 **Q** And you did have an opportunity to talk to
12 Ms. Downing shortly around the time that Mr. Sanders
13 was arrested? Or your office did?

14 **A** Sergeant McDonald had attempted to contact her a
15 couple of times on the telephone. That is correct.

16 **Q** She didn't end up reporting that Mr. Sanders had
17 pulled out a gun at that time?

18 **A** No, she did not.

19 **Q** And when were the Green brothers indicted for
20 accessory after the fact again?

21 **A** July. I need to see the indictment.

22 **Q** Of this year?

23 **A** Yes.

24 **Q** So for an entire year they were charged with murder?

25 **A** Yes, ma'am.

1 Q And on the day of his arrest Mr. Sanders had his hair
2 in corn rows, correct?

3 A Describe corn row. I mean, yeah, like that. Yes,
4 ma'am.

5 Q Not in dreads?

6 A Corn rows, braids, dreads. Again, I don't know the
7 difference of the technical terms for hair styles.

8 Q But it was this hair style?

9 A Yes, ma'am.

10 Q Correct. One moment. It's a good thing you hung on
11 to that Crimestoppers tip. I wanted to ask you one
12 other thing.

13 A Yes, ma'am.

14 Q The Crimestoppers tip does have an address on it,
15 does it not?

16 A Can I see it?

17 Q Take it back.

18 A Yes, ma'am.

19 Q So you all could have followed up with that address?

20 A Yes, ma'am.

21 Q And also when you talked with Ms. Capel, she had
22 indicated that she heard one shot?

23 A I didn't talk with Ms. Capel.

24 Q You didn't talk with her?

25 A According to -- I believe Lieutenant McDonald

1 testified to that. Yes, ma'am.

2 Q And that she went inside after that one shot?

3 A That's correct. She was helping her husband who they
4 had just got home from the emergency room.

5 Q And that the person who shot jumped in the car
6 immediately after the first shot?

7 A I don't know. Whatever Lieutenant McDonald testified
8 to because he is the one who interviewed her.

9 Q Further questions. Thank you.

10 THE COURT: Redirect?

11 MS. SHIPLEY: Yes, sir, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. SHIPLEY

14 Q Ms. Everhart asked you about Ricardo Guilbert?

15 A Yes, ma'am.

16 Q If you would please read the highlighted portion of
17 your notes of your conversation with him?

18 A This is my notes from when I talked to Rico. He
19 remembers dancing with a girl and after that he
20 remembers a short black female who was very
21 obnoxious. She knocked a beer bottle out of his hand
22 while he was dancing. The same black female would
23 later break a bottle at the bar for some unknown
24 reason. Rico said that the black female's husband
25 would later buy him a beer to replace the one his

1 wife had broken.

2 Q So there is two beer bottles broken this night?

3 A Yes, ma'am.

4 Q One inadvertently on the dance floor?

5 A Yes, ma'am.

6 Q And Mr. Cannon bought Mr. Guilbert another beer to
7 replace it?

8 A Yes, ma'am.

9 Q And then one intentionally later on which caused the
10 club to close down?

11 A That is correct.

12 Q Okay. Did Ricky Jacobs ever report to you other than
13 Ricardo Guilbert that a Billy Myers or an Eric
14 Sanders were present at the H&J Club that night?

15 A No, he did not.

16 Q And I'm going to show you State's No. 42 and ask you,
17 do you see the photograph of Eric Sanders in that
18 photographic line-up that was presented to Kim
19 Bowers?

20 A I do.

21 Q Did she identify anyone in those photos?

22 A She did not.

23 Q So Mr. Eric Sanders was not identified?

24 A No, ma'am.

25 Q Who did she identify?

1 **A** In this photo?

2 **Q** No.

3 **A** Who did she identify? She identified Louis Sanders
4 in a photo line-up and in court.

5 **Q** And Lashonda at the beginning of the investigation
6 was not cooperative. Is that right?

7 **A** That is correct.

8 **Q** She did not want to be involved?

9 **A** That is correct.

10 **Q** And then lastly, Melissa, one of the neighbors, she
11 described -- isn't it true she described a
12 dark-skinned black male get into a dark colored car?

13 **A** Yes, ma'am.

14 **Q** And she reported that that was after the first --
15 that she only saw the first shot?

16 **A** Again, yes.

17 **Q** And that she was inside when the second shot
18 happened?

19 **A** That is correct.

20 **Q** And could you please describe to this jury the length
21 of Mr. Sanders' hair?

22 **A** Shoulder length.

23 **MS. SHIPLEY:** No further questions, Your Honor.

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

25 **MS. EVERHART:** Just briefly, Your Honor.

RECROSS EXAMINATION

BY MS. EVERHART

Q Investigator McRae.

A Yes, ma'am.

Q To your knowledge, does Ricky James know Billy Myers or Eric Sanders?

A Ricky Jacobs?

Q Ricky Jacobs.

A To my knowledge, I don't know if he is familiar with him or not. However, I do know through my dealings with Mr. Jacobs and the H&J Club that Mr. Jacobs being the owner of that establishment and being there every night, if those two patron that club, he would know them.

Q And he does know Louis Sanders?

A Yes.

Q But he didn't give you Louis Sanders' name that night?

A No, ma'am.

Q No further questions. Thank you.

THE COURT: All right, sir. You may come down.
Thank you very much.

MS. SHIPLEY: Your Honor, may we approach before I call the next witness?

THE COURT: Yes, ma'am.

1 (Whereupon, a bench conference is had)

2 **THE COURT:** All right, ladies and gentlemen.

3 There's a matter of law I need to take up with the
4 attorneys. I ask you to go to the jury room just
5 for -- this may take about 30 minutes or so. So just
6 relax and we'll call you when we're ready. Don't
7 discuss the case among yourselves while you're in the
8 jury room.

9 (Jury out at 3:10 p.m.)

10 **MS. SHIPLEY:** Your Honor, for the record, there
11 is no objection as far as I understand to photo
12 numbers 7, 8, 11, 12 and 16. There is an objection
13 to the following exhibit numbers: 15, 14, 13 and 9.
14 And so we would at this time we call Dr. Nichols to
15 the stand to explain why he needs these photographs
16 to --

17 **THE COURT:** Let me see them first.

18 **MS. SHIPLEY:** Yes, sir, Your Honor.

19 **THE COURT:** So I can make a note. Come on
20 around, Doctor. These are the objected ones?

21 **MS. SHIPLEY:** Those are the objected ones; yes,
22 sir.

23 **THE COURT:** Objectionable?

24 **MS. SHIPLEY:** Objectionable.

25 DR. CLAY A. NICHOLS, after being duly sworn,

1 testifies as follows:

2 **THE CLERK:** Please have a seat. State your full
3 name for the record.

4 **WITNESS:** Clay Allen Nichols, N-I-C-H-O-L-S.

5 DIRECT EXAMINATION

6 **BY MS. SHIPLEY**

7 **Q** Dr. Nichols, did you have an opportunity to view some
8 photographs of the autopsy of Israel Cannon?

9 **A** Yes, I did.

10 **Q** In preparation for trial?

11 **A** Yes.

12 **Q** And did you select some photographs that would assist
13 you in your testimony in describing your observations
14 to this jury?

15 **A** Yes, I did.

16 **MS. SHIPLEY:** Your Honor, may I have the photos
17 that were objected to?

18 **THE COURT:** I'm making notes.

19 **MS. SHIPLEY:** Yes, sir.

20 **THE COURT:** So I'll know what he's talking
21 about.

22 **MS. SHIPLEY:** Yes, sir.

23 **THE COURT:** All right.

24 **MS. SHIPLEY:** Thank you, Your Honor.

25 **THE COURT:** Show him the ones that are not

1 objectionable.

2 **MS. SHIPLEY:** Show him the ones that are not
3 objected to?

4 **THE COURT:** Well, I don't know. When is the
5 last time he looked at all these?

6 **Q** These are photographs the defense does not object to.
7 Are those helpful to your testimony?

8 **A** Yes.

9 **Q** Now, these photographs, and I'm specifically
10 referring to State's 14, 15, 13 and 9; could you
11 please go through each photograph and explain to
12 Judge Cooper why it is you need that photo admitted
13 in order to demonstrate and explain your findings to
14 the jury?

15 **A** State's Exhibit 9 shows an overall picture and the
16 location of the fatal injury. It's a hard contact
17 gunshot wound to the right forehead.

18 **Q** Also -- I hate to interrupt you, Doctor. But is
19 there a -- did you describe in your notes stellate,
20 something stellate?

21 **A** A stellate wound, yes.

22 **Q** Does that photo depict the stellate wound you were
23 describing?

24 **A** It does. But Exhibit No. 13 is a better photograph
25 of that.

1 Q Okay.

2 A It's a closer view showing the stellate nature,
3 indicating it was a hard contact gunshot wound.

4 Q And I apologize. But I believe No. 9 depicts the
5 cheek or the mouth injury as well; is that correct,
6 on State's No. 9?

7 A It does.

8 Q Okay. Some this photograph has both injuries in it?

9 A That's correct.

10 MS. SHIPLEY: And, Your Honor, for the record,
11 we purposefully chose that photograph because it
12 depicts both injuries, whereas there are other
13 photographs that only depict one injury.

14 Q And what is the significance of the next photo,
15 Doctor?

16 A The next photograph is State's Exhibit 15 which is
17 the exit wound to the left back of the head. The
18 nature of the injury depicted definitely shows it to
19 be an exit wound rather than an entrance wound, as
20 opposed to State's Exhibit No. 14 which is also a
21 picture of a skull, but that shows not only the
22 entrance wound nature of the injury but also
23 demonstrates soot and powder stippling, once again
24 indicating an extremely close contact range gunshot
25 wound to the head.

1 Q Okay. And so what is depicted in No. 14, does that
2 demonstrate which injury?

3 A This is the entrance wound to the forehead around the
4 hole or the entrance wound and skull. You can see a
5 black discoloration in several areas. That is the
6 actual soot deposition from the hard contact gunshot
7 wound.

8 Q And does that help explain that this was indeed a
9 contact wound?

10 A Yes, it does.

11 Q And then State's No. 15 would be the exit wound?

12 A That's correct.

13 Q And does that depict the -- explain what that depicts
14 one more time?

15 A It depicts the exit wound and it completes the wound
16 picture pattern, that you have the entrance wound to
17 the left cheek, you have the hard contact gunshot
18 wound to the right forehead and the exit wound to the
19 back of the left head.

20 Q Thank you, Dr. Nichols. Would all of these photos
21 then assist you in your testimony to this jury?

22 A Yes.

23 Q And there are a significant amount of other
24 photographs that we are not seeking to introduce. Is
25 that correct?

1 **A** That's my understanding.

2 **MS. SHIPLEY:** No further questions, Your Honor.

3 **THE COURT:** Go ahead, Mr. Secor.

4 **MR. SECOR:** Thank you, Your Honor.

5 CROSS EXAMINATION

6 **BY MR. SECOR**

7 **Q** Good afternoon, Dr. Nichols.

8 **A** How you doing today?

9 **Q** All right, sir. How are you?

10 **A** Great.

11 **Q** Good. I'm kind of running out of room up here. Can
12 I just see them? These are all of them right here?

13 **A** Yes.

14 **Q** Okay. Now, I think you said that it was important
15 for you to be able to look at 15 which is that
16 photograph right there?

17 **A** Yes, sir.

18 **Q** And I think you said primarily to establish that as
19 being an exit wound?

20 **A** That's correct.

21 **Q** Okay. Now, that would be the same photograph
22 basically as this, would it not, other than the fact
23 that the --

24 **THE COURT:** What are you referring to?

25 **MR. SECOR:** Oh. I'm sorry. State's 12, Your

1 Honor.

2 Q Which would be prior to the removal of the scalp?

3 A That's correct. Now, the difference between the two
4 is that both those wounds associated with the fatal
5 gunshot wound to the right forehead are not your
6 typical wounds. The entrance wound is stellate with
7 torn edges. That's a lacerated exit wound. What
8 establishes them definitely is the bone injury
9 pattern depicted in two of the photographs
10 demonstrated. I forget which ones. 13 and 14 or 14
11 and 15.

12 Q Yeah. I think it's 14 and 15. So you're saying the
13 injury to the bone structure shows the close contact
14 nature of the shot?

15 A They show not only the close contact but which one is
16 the entrance and which one is the exit.

17 Q Okay. And the other thing that you mentioned was
18 some I think you said soot deposition. That was a
19 term you used. That's indicative of close contact,
20 right?

21 A Yes.

22 Q Now, there is soot deposition, stippling. I know
23 they aren't necessarily the same thing but they're
24 indicative of the same thing, are they not?

25 A Well, indicative of a closeness of origin, yes.

1 Q There was stippling found on Mr. Cannon's forehead I
2 would assume where the entry wound is?

3 A No. Actually this was a hard contact gunshot wound,
4 so the stippling would not be there. The stippling
5 which comes from unburned gunpowder actually went
6 into the wound tract. What you see in the photograph
7 of the entrance wound with the black discoloration is
8 the actual soot from the muzzle flash.

9 Q That would be this one?

10 A Yes.

11 Q State's 14?

12 A Yes, sir.

13 Q Okay. I'm sorry. I'm just trying to keep track of
14 all these. Can you just tell me the purposes of
15 these x-ray photos which is 7, State's 7 and 16, what
16 these show?

17 A State's Exhibit 16 demonstrates centrally the
18 anterior frontal view of Mr. Cannon's skull.

19 Q Yes, sir.

20 A That shows the bullet fragment from gunshot wound to
21 the left cheek lodged there. Now, usually with
22 x-rays you take two views to actually establish that
23 the bullet fragment is in the skull.

24 Q Yes, sir.

25 A Because that fragment on that picture can be

1 anyplace, even outside the skull or on the gurney.

2 Q Right.

3 A So you take a lateral view or side view, and it shows
4 the bullet fragment once again lodged in the ear bone
5 or petrous ridge right here. So that these two views
6 definitely locate the bullet fragment within the
7 skull.

8 Q Okay. Now, 16 does show both wounds via an x-ray
9 image, does it not?

10 A It does. But the lateral view or the side view is
11 cut off.

12 Q Okay. But you can establish both injuries by that,
13 can you not?

14 A Yes. But I believe that State's Exhibit 7 is a
15 better view of that.

16 Q Okay. All right, Dr. Nichols. I think that's all
17 the questions I have to ask.

18 MR. SECOR: Your Honor, I would like to put my
19 objection overall on the record now, if that's all
20 right with you.

21 THE COURT: Well, let me ask Dr. Nichols a
22 couple of questions before you do that.

23 MR. SECOR: Yes, sir.

24 EXAMINATION

25 BY THE COURT

1 Q Dr. Nichols, you say these four photographs would
2 assist you in presenting your testimony. Let me ask
3 you first, are you prepared to testify as to cause of
4 death?

5 A Yes, I am.

6 Q All right. And it appears we have two wounds here.
7 Have you identified which of those two wounds is the
8 source, shall I say, of the cause of death?

9 A Yes, I have. May I qualify that answer, please?

10 Q Sure.

11 A That the gunshot wound to the cheek is a potentially
12 fatal injury here. The gunshot wound to the forehead
13 is a definite fatal injury, and this is the one I
14 listed as the cause of death.

15 Q All right. Now, you testified with Ms. Shipley that
16 the use of these four photographs would assist you in
17 your testimony. I certainly understand that.
18 Because of the graphic nature of them -- and I think
19 sometimes we overprotect a jury; but, nevertheless,
20 that is a consideration -- it is your opinion -- and
21 I certainly don't question your opinion because you
22 are the expert -- that the use of these four
23 photographs; that is, 9, 13, 14 and 15 are all
24 necessary to your testimony and your ultimate
25 conclusions?

1 **A** I think they would be helpful and they would assist
2 me.

3 **Q** You can't say that they're absolutely necessary, that
4 you could give your opinion without one or more of
5 those four photographs?

6 **A** Yes, sir.

7 **THE COURT:** All right. Mr. Secor.

8 **MR. SECOR:** Thank you, Your Honor. First and
9 foremost, I don't intend to challenge Dr. Nichols'
10 testimony.

11 **THE COURT:** Well, you can't testify.

12 **MR. SECOR:** I'm sorry?

13 **THE COURT:** That's because you can't testify.

14 **MR. SECOR:** Well, I'm just saying I don't
15 anticipate that there would be anything that I would
16 question about his testimony. I mean, there are eye
17 witnesses to this incident and it's clear from those
18 eye witnesses that he was shot twice and shot at
19 least a second time at close range.

20 Now, based on the photographs the State wants to
21 submit which includes 9, State's 9, State's 13, 14
22 and 15, the basis of our objection would be rooted in
23 Rule 403 is in that they're far more prejudicial than
24 probative.

25 In terms of case law that I've read relating to

1 this issue, Your Honor, and I've got copies if Your
2 Honor or the State would like to review these cases
3 that I'd like to just briefly discuss, the first
4 being State v. Patrick, 289 SC 301 which dealt with a
5 case in which there was a picture of an entry wound
6 on a victim, the victim on the autopsy table which is
7 very similar to State's 9 and State's 13, with a
8 considerable amount of blood present.

9 The picture did not show the crime scene. And
10 the court pointed out that the State did not need to
11 introduce the photograph to show material facts or
12 condition, which I think is the same situation we
13 have in this case. And the court said that the
14 photograph was not substantially necessary and it was
15 highly prejudicial. And I don't think it could be
16 said that these photographs are not highly
17 prejudicial.

18 That was a death penalty case. And the
19 admission of those photographs was part of the reason
20 why that death sentence was reversed and remanded for
21 another sentencing phase in that case, Your Honor.

22 The second case would be State v. Middleton, 288
23 SC 21 which also of course dealt with autopsy photos.
24 In that case the defense was not challenging the
25 findings made by the pathologist. And again, I don't

1 anticipate there being any challenge to what Dr.
2 Nichols' findings are in this case.

3 In that case the photo showed no disputed
4 information and that what the photographs established
5 could be proven through the testimony of the
6 pathologist, which is what I think we have in this
7 case as well.

8 In that case the court said the photographs were
9 calculated to arouse the sympathies and prejudices of
10 the jury. And -- I'm sorry. That the photographs
11 calculated to arouse the sympathies and prejudices of
12 the jury are to be excluded if they are irrelevant or
13 unnecessary to the issues at trial.

14 Now, by Dr. Nichols' own admission, these
15 photographs are not absolutely necessary. And the
16 court in that case specifically said they should be
17 excluded if they're irrelevant or unnecessary.

18 In that case the court also pointed out that the
19 testimony of the forensic pathologist negated any
20 arguable evidentiary value of the photographs, which
21 I think is the case here. I think that Dr. Nichols
22 is perfectly capable of explaining these injuries and
23 explaining his findings as they relate to the
24 injuries. In that case the admission of the photos
25 was part of the reason that the murder conviction in

1 State v. Middleton was reversed and remanded.

2 Your Honor, with regards to State's 14 and 15, I
3 think that the lay person could probably derive
4 almost nothing from these photographs on their own;
5 but, however, could probably learn a get deal from
6 Dr. Nichols' explanation of it. I don't see how the
7 admission of these is necessary to their
8 understanding. I think that the pictures would mean
9 absolutely nothing to them on their own. And I would
10 certainly say that they don't indicate anything to me
11 without putting in-depth explanation by Dr. Nichols.

12 I believe that that is the extent of the
13 information. I just wanted to put on the record that
14 would be the basis of my objection. And we would
15 request that Your Honor exclude photographs State's
16 9, 13, 14 and 15 from being admitted during Dr.
17 Nichols' testimony.

18 **THE COURT:** The State's position.

19 **MS. SHIPLEY:** Your Honor, my reading of State v.
20 Bank, which is 577 SE2d 225 and State v. Fletcher
21 which is cited at 609 SE2d 572, is that the relevant
22 materiality and admissibility are matters within the
23 Court's sound discretion. It tests to determine
24 whether a trial judge abuses his discretion in
25 admitting photographic evidence which serves to -- it

1 basically if it corroborates the testimony of the
2 witness offered at trial. If the photograph serves
3 to corroborate testimony, it is not abuse of
4 discretion to admit it.

5 The test is not necessary, as Mr. Secor
6 indicated. Also in that case, State v. Payne, Your
7 Honor, the issue raised on appeal was whether or not
8 the trial judged erred by allowing the admission of a
9 photograph depicting a shell casing of the fatal shot
10 close to the head of the victim.

11 Again, here, Your Honor, it's going to be pretty
12 hard for a jury to understand what stellate means,
13 exactly what Dr. Nichols is trying to describe
14 concerning where the soot goes when it's a close
15 shot, that it actually goes -- and you're not going
16 to have stippling around the surface of the skin,
17 that it's going to be internal. It's just, these
18 photographs serve just to depict what he is trying to
19 describe, and it would assist him.

20 **THE COURT:** Well, but he's trying -- his purpose
21 in testifying is probably two-fold. The first is to
22 establish cause of death. And, secondly, is to
23 describe factually as best he can, to recreate what
24 happened at the scene interpreting from the
25 photographs. And that's why I asked the question as

1 to the necessity of all four of these photographs and
2 whether they assist him in establishing those two
3 goals; that is, cause of death and the method by
4 which either was administered.

5 Now, I'm not the expert. He is the expert. If
6 he says he needs all four, then he needs all four.
7 And of course, Doctor, you've been here before and
8 you understand I am certain the objection of the
9 defendant and the State's position. You are called
10 as a neutral arbiter and expert in the field in which
11 you practice.

12 So I guess I ask again if all four of those
13 photographs not just assist you -- I mean, it's easy
14 to say, well, this is stippling. But stippling may
15 not have a whole lot to do with the basis for your
16 testimony. It's an observable fact, but does it go
17 to the heart of the testimony? In other words, do
18 you need both skull pictures and do you need both
19 entrance wounds to accomplish -- in your own mind
20 now. I mean, I certainly can't put words in your
21 mouth -- but to accomplish the purpose for which
22 you've been qualified.

23 **WITNESS:** May I look at the photographs again,
24 Your Honor?

25 **THE COURT:** Absolutely. And again, I'm not so

1 sure why we're sensitive about jurors because jurors
2 are grown up people.

3 **MS. SHIPLEY:** I've seen more serious on TV.

4 **THE COURT:** That was a gratuitous comment.

5 **WITNESS:** State's Exhibit 13 and 14 I think
6 would be the most beneficial in assisting and
7 clarifying my report to the jury. State's 9 and 15
8 do document the injuries as I specified before. I
9 also admit that these tend to be somewhat bloody.
10 And I prefer if we're going to get anything to the
11 jury, it be these two as opposed --

12 **THE COURT:** You could get along without the
13 other two?

14 **MS. SHIPLEY:** Fair enough.

15 **THE COURT:** All right. That's what we'll do. I
16 will grant the defendant's motions. And again, what
17 are they, Doctor? 13 and 14?

18 **MS. SHIPLEY:** He says 13 and 14 are too graphic,
19 Your Honor.

20 **WITNESS:** No, no. These two.

21 **MS. SHIPLEY:** These two?

22 **WITNESS:** Yeah.

23 **MS. SHIPLEY:** So you do not need these?

24 **WITNESS:** No, ma'am.

25 **THE COURT:** Motion is granted as to State's 9

1 and State's 15. Anything further?

2 **MR. SECOR:** Just briefly, Your Honor. I just
3 wanted just to make clear that Dr. Nichols said that
4 13 and 14 would be most beneficial. Is that correct?

5 **WITNESS:** The most beneficial in clarifying my
6 report to the jury. Yes, sir.

7 **MR. SECOR:** But still not necessary?

8 **WITNESS:** I think that they're necessary in
9 order to demonstrate certain findings. And I'm
10 always grateful to have such photographs available to
11 present to the jury.

12 **MR. SECOR:** I understand that. But I just want
13 to make it clear, that it will be establishing
14 information that is going to be uncontested and that
15 Mr. Cannon received a close range gunshot wound.

16 **THE COURT:** I overrule your objection as to 13
17 and 14, grant your objection as to 9 and 15.

18 **MR. SECOR:** Thank you, Your Honor.

19 **THE COURT:** Ready for the jury?

20 **MS. SHIPLEY:** Yes, sir.

21 **MR. SECOR:** Can I just ask one quick question?
22 In terms of objections, can I just state at the time
23 that they're admitted subject of my previous
24 objections, or do I need to detail it?

25 **THE COURT:** No. That's all you have to say.

1 **MR. SECOR:** Thank you, Your Honor.

2 **THE COURT:** That's what Mr. O'Neil says all the
3 time. Bring the jury, please. Doctor, we've got to
4 just for the record --

5 **WITNESS:** Be sworn in again?

6 (Jury in at 3:37 p.m.)

7 **THE BAILIFF:** The jury is all present, Your
8 Honor.

9 **THE COURT:** The State calls its next witness.

10 **MS. SHIPLEY:** Thank you, Your Honor. The State
11 calls Dr. Clay Nichols.

12 DR. CLAY A. NICHOLS, after being duly sworn,
13 testifies as follows:

14 **THE CLERK:** Please have a seat. State your full
15 name for the record.

16 **WITNESS:** Clay Allen Nichols, N-I-C-H-O-L-S.

17 DIRECT EXAMINATION

18 **BY MS. SHIPLEY**

19 **Q** Dr. Nichols, can you please tell the jury where
20 you're employed?

21 **A** I am the chief medical examiner for Richland County.
22 I'm also staff pathologist at Richland Memorial
23 Hospital.

24 **Q** And what is a pathologist?

25 **A** A pathologist is a physician who has training in the

1 laboratory, methods and diagnosis of diseases. One
2 of the things that a pathologist does is the
3 performance of an autopsy which is the dissection of
4 a person in order to determine cause and manner of
5 death.

6 Q Have you ever testified in a court of law in this
7 state as an expert in the field of forensic
8 pathology?

9 A Numerous times.

10 Q Approximately how many?

11 A In this state, hundreds.

12 **MS. SHIPLEY:** Okay. Your Honor, at this time we
13 would offer Dr. Nichols as an expert.

14 **THE COURT:** Objection?

15 **MR. SECOR:** No, Your Honor.

16 **THE COURT:** Thank you.

17 Q Dr. Nichols, did you have -- were you involved in the
18 autopsy of one Israel Cannon?

19 A Yes, I was.

20 Q And what date was that autopsy performed?

21 A That was June 3rd, 2007 at 8:25 a.m.

22 Q Can you tell the jury what it is you do when you
23 first get a -- deal with a deceased person's body?

24 A The first thing that happens is it starts with a
25 phone call that someone has died, an autopsy needs to

1 be performed. The body is then transported usually
2 to Richland Memorial Hospital's morgue. The body is
3 then examined with the clothes on and the clothes off
4 looking for any sort of injury or absence of injury
5 which may indicate the cause and manner of death.

6 After that a dissection is performed where all
7 the major internal organs are removed, examined,
8 inventoried, also once again looking for the presence
9 or absence of any disease process.

10 Small pieces of these organs are submitted for
11 microscopic examination as necessary, and also fluids
12 are drawn, such as blood and/or urine for a
13 toxicologic evaluation.

14 Q Okay. And did you issue a report in this case?

15 A Yes, I did.

16 Q And does that report reflect all of your findings in
17 this case?

18 A Yes, it does.

19 Q Did you begin your report with a clinical summary?

20 A Yes, I did.

21 Q And please share that with this jury?

22 A The clinical summary, I received Israel Cannon. He
23 was a 32-year-old black male who was found dead in a
24 cul-de-sac near Hard Scrabble Road on the morning of
25 June 3rd, 2007. He was the apparent victim of two