

VOLUME I OF II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Union County

Honorable J. Derham Cole, Circuit Court Judge

PATRICK RICE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-001916

APPENDIX

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STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF UNION

2009-GS-44-232, 233, 234, 235
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THE STATE OF SOUTH CAROLINA

-VS-

PATRICK TROY RICE,

Defendant.

TRANSCRIPT OF RECORD

September 15, 16, & 17, 2009
Union, South Carolina

Ordered: October 14, 2009
Delivered: February 19, 2010

B E F O R E:

THE HONORABLE JAMES WILLIAMS, JR., Presiding Judge, and a jury.

A P P E A R A N C E S:

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Deputy Solicitor for the State

MR. JOHN RECKENBEIL, Esquire
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1 September 15, 2009

12:14 p.m.

2 (Whereupon, State's Exhibit Numbers 1 through 7 were
3 marked for identification.)

4 THE COURT: Thank you very much. You may be
5 seated.

6 (Everyone in the courtroom complied with the Court's
7 instructions.)

8 THE COURT: All right, Solicitor, call your case.

9 MR. ANTHONY: Your Honor, the next case for trial
10 would be *State vs. Patrick Troy Rice*. This is indictment
11 2009-GS-44-232. It's an indictment for murder.

12 Two, thirty-three (233), an indictment for first-
13 degree burglary; 234, an indictment for armed robbery; 235, an
14 indictment for kidnapping; and 236, an indictment for
15 kidnapping.

16 These have been true billed by the grand jury.

17 (Documents handed up to the Court.)

18 (Brief pause while the Court examines documents.)

19 THE COURT: All right. Ladies and gentlemen, as
20 you've heard, the State has called several charges for trial
21 against Mr. Patrick Troy Rice.

22 And you've heard the Solicitor as he named those
23 charges. And I'm going to go over them with you again in just
24 a minute.

25 The State has prepared these indictments

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1 (indicating), one indictment for each charge against Mr. Rice,
2 outlining the charges.

3 These indictments are not evidence. These
4 indictments are simply the documents drawn up by the State of
5 South Carolina to advise Mr. Rice of the charges he is facing,
6 so, he and his attorney can prepare -- prepare a proper
7 defense.

8 He has pled not guilty to the charges. That places
9 the burden on the State to prove him guilty beyond a
10 reasonable doubt.

11 A person charged with committing a criminal offense
12 is never required to prove themselves innocent. The burden is
13 always on the State to prove the defendant guilty beyond a
14 reasonable doubt.

15 I'm going to read to you the indictments, so, that
16 you will know what the charges are, remembering that these are
17 just the charges at this time. And these documents are not
18 evidence.

19 Both the State and the Defendant in this case have
20 the right to what we call a fair and impartial jury.. And by
21 that we mean a jury which can base its decision in this case
22 solely on the testimony and the evidence presented in this
23 courtroom;

24 A jury that will not be influenced by some knowledge
25 that you might have about this case that you received outside

1 of this courtroom; a jury that will not be influenced by some
2 experience that you may have had that might have some bearing
3 on your ability to give both the State and the defendant a
4 fair and impartial trial.

5 So, once I have read these indictments, then, I have
6 some questions I'm going to ask you to determine your ability
7 to serve on this jury. It is very important that you furnish
8 me complete answers to any questions I ask.

9 If it is of a personal or private nature, again,
10 you're free to come forward and speak with me privately about
11 it. But, please, do not withhold any information whatsoever
12 that might be required by any of these questions.

13 But, first, ladies and gentlemen, I'm going to read
14 you the indictments, so, that you will know what the charges
15 are.

16 The first indictment is number 2009-GS-44- 232. It
17 charges Mr. Rice with the crime of murder.

18 The indictment alleges that Patrick Troy Rice did,
19 in Union County, on or about August the 18th, two thousand and
20 eight (2008), with malice aforethought, acted together with
21 others to kill and murder Kelvin Davis by shooting the victim
22 with a handgun. And the victim died as a result thereof.

23 The second indictment is a burglary in the first-
24 degree indictment. And the indictment alleges that Patrick
25 Troy Rice did, in Union County, South Carolina, on or about

1 August the 18th two thousand and eight (2008), willfully and
2 unlawfully enter the dwelling located at
3 without consent and with the intent to commit a crime.

4 (To Mr. Anthony) Solicitor, you got everything here
5 listed? Which one of these are you alleging? Was -- was --
6 was it at night?

7 MR. ANTHONY: En -- en -- entry in the night time
8 and ---

9 THE COURT: And armed?

10 MR. ANTHONY: And -- and armed and a person was
11 injured.

12 THE COURT: All right. And, when he entered the
13 building, he was armed with a deadly weapon or explosive and
14 that he entered the building in the nighttime. Those are the
15 two allegations.

16 (To Mr. Anthony) And also displayed a pistol?

17 MR. ANTHONY: And -- and -- and displayed a weapon.

18 THE COURT: Used or threatened to use a dangerous
19 instrument and was armed with a deadly weapon?

20 MR. ANTHONY: Yes, sir.

21 THE COURT: The allegations are that he entered the
22 home under those conditions; he came in at night. He was
23 armed with a deadly weapon.

24 And he caused physical injury to a person who was
25 not a participant in the crime, and he used or threatened to

1 use of a dangerous instrument.

2 And he displayed what appeared to be a dangerous --
3 a dangerous instrument. And he did this in the nighttime.
4 Those are the allegations of burglary in the first-degree.

5 The third indictment, ladies and gentlemen, number
6 234, is an indictment for armed robbery.

7 The State alleges that Patrick Troy Rice did, in
8 Union County, on or about August the 18th two thousand and
9 eight (2008), while armed with a deadly weapon, of committing
10 the crime of robbery by taking from the person or presence of
11 Tinsley Davis, by means of force or intimidation, money,
12 United States currency.

13 The next indictment, ladies and gentlemen, is
14 indictment number 235. It charges Mr. Rice with the charge of
15 kidnapping.

16 And it alleges that Troy -- that Patrick Troy Rice
17 did, in Union County on or about August the 18th, two thousand
18 and eight (2008), acted together with others to unlawfully
19 seize, confine, inveigle, decoy, kidnap, abduct or carry away
20 the defendant (sic) Kelvin Davis without authority of law.

21 The second indictment for kidnapping is number 236.
22 And it alleges that in Union County, on or about August the
23 18th, two thousand and eight (2008), Mr. Rice acted with others
24 to unlawfully seize, confine, inveigle, decoy, kidnap, abduct,
25 or carry away the victim Tinsley Davis without authority of

1 law.

2 As I said, ladies and gentlemen, to each of these
3 indictments he has pled not guilty. And he is entitled to a
4 fair and impartial jury in this jury trial.

5 Mr. Rice, would you stand, please, and face the
6 jury, so, that they can identify you?

7 (Mr. Rice complied with Court's request.)

8 THE COURT: Ladies and gentlemen, this is -- this
9 is Mr. Patrick Troy Rice. Thank you, sir, you may be seated.

10 (Mr. Rice complied with the Court's request.)

11 THE COURT: Is any member the jury panel related by
12 blood, connected by marriage, a close personal friend, have
13 any knowledge or acquaintance with Mr. Patrick Rice?

14 If you know Mr. Rice in any capacity, whatsoever,
15 would you, please, stand?

16 (No Response)

17 THE COURT: Ladies and gentlemen, Mr. Rice is being
18 represented by Mr. John Reckenbeil. Mr. Reckenbeil, would
19 you, please, stand?

20 (Mr. Reckenbeil stood as requested.)

21 THE COURT: Mr. Reckenbeil is an attorney who lives
22 in Greenville and practices in Greenville and Spartanburg.
23 Thank you, sir, you may be seated.

24 (Mr. Reckenbeil complied with Court's request.)

25 THE COURT: Is any member the jury panel related by

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1 blood, connected by marriage, a close friend, have any
2 knowledge or acquaintance with Mr. Reckenbeil or you are now
3 or have ever been represented by him, would you, please,
4 stand?

5 (Juror stands in Response)

6 THE COURT: Yes, ma'am? Your name and number
7 please?

8 POTENTIAL JUROR: My name is Janet Arthur and I'm
9 juror number 7. And, with regard to the Defendant, I worked
10 with him at Outback Steakhouse in Spartanburg.

11 THE COURT: All right. And would that affect your
12 ability to be a fair and impartial juror to both the State and
13 the Defense?

14 POTENTIAL JUROR: No, sir.

15 THE COURT: You can put aside whatever relationship
16 you had and base your decision solely on what you hear in here
17 in the courtroom and my instructions on the law?

18 POTENTIAL JUROR: Yes, sir.

19 THE COURT: Thank you, ma'am. You're qualified to
20 serve. Thank you. Anyone else?

21 (No Response)

22 THE COURT: Ladies and gentlemen, the case is being
23 prosecuted by Mr. John Anthony -

24 (Mr. Anthony stood and faced the jury.)

25 THE COURT: --- who is standing before you at this

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1 time with the solicitor's office.

2 Is any member of the jury panel related by blood,
3 connected by marriage, a close personal friend, or have any
4 knowledge or acquaintance with Mr. Anthony or any other member
5 of the solicitor's office staff? If so, would you, please,
6 stand?

7 (Juror stands in response.)

8 THE COURT: Yes, ma'am? Your name and number,
9 please?

10 POTENTIAL JUROR: Leslie Owens, number 223. Mr.
11 Anthony represented me on a case where my house was broken
12 into.

13 THE COURT: All right. And is that case still
14 pending?

15 POTENTIAL JUROR: No, sir.

16 THE COURT: Would -- would that effect -- affect
17 your ability to be a fair and impartial juror in this case?

18 POTENTIAL JUROR: No, sir.

19 THE COURT: Thank you, ma'am. You are qualified to
20 serve. Anyone else?

21 (No Response)

22 THE COURT: Now, ladies and gentlemen, I'm going to
23 read you the names of some witnesses who might testify in this
24 case. There are a lot of them.

25 When I called their name, if that witness is present

1 in the courtroom, I would ask that witness to stand.

2 If the witness is behind you, ladies and gentlemen,
3 I will tell you that if they're standing and you won't have to
4 keep looking every time I call a name.

5 But they're probably not many of them here yet
6 because we probably won't take any testimony until after
7 lunch. But, when I call their name, if you would, please
8 stand if you think you might know this person.

9 First, Tinsley Davis?

10 (Jurors stand in response.)

11 THE COURT: S.S. (phonetic) -- all right.
12 Yes, ma'am, your name and number?

13 POTENTIAL JUROR: Laurie Henderson, juror number
14 138.

15 THE COURT: And how do you know Ms. Davis?

16 POTENTIAL JUROR: My husband's sister is her
17 father's wife.

18 THE COURT: All right. Would that affect your
19 ability to be a fair and impartial juror in this case?

20 POTENTIAL JUROR: No.

21 THE COURT: You can put that aside?

22 POTENTIAL JUROR: Yes.

23 THE COURT: Thank you, ma'am. You are qualified to
24 serve. Yes, sir, your name and number?

25 POTENTIAL JUROR: James Jeter, number 168.

1 THE COURT: Yes, sir?

2 POTENTIAL JUROR: Yeah, I know her and her family.

3 I dated her mama.

4 THE COURT: All right. And would that affect your
5 ability to be a fair and impartial juror in this case?

6 POTENTIAL JUROR: No, sir.

7 THE COURT: You can put that aside?

8 POTENTIAL JUROR: (No Response)

9 THE COURT: Is that right?

10 POTENTIAL JUROR: I couldn't hear you.

11 THE COURT: You can put that aside ---

12 POTENTIAL JUROR: Yes, sir.

13 THE COURT: All right. Thank you, sir. S.S.

14 S.S. ?

15 (No Response)

16 THE COURT: If you know these people, please,
17 stand.

18 (Juror stands in response.)

19 THE COURT: You know S.S. ?

20 POTENTIAL JUROR: Yes, sir.

21 THE COURT: All right. And would that affect your
22 ability to be a fair and impartial juror in this case?

23 POTENTIAL JUROR: No, sir.

24 THE COURT: And your name and number again?

25 POTENTIAL JUROR: James A. Jeter, 168.

1 **THE COURT:** All right. We have to keep our record
2 straight because somebody -- somebody might actually be
3 reading this record one day to figure out what we're doing
4 here today. Anyone else know Ms. S.S. ?

5 **(No Response)**

6 **THE COURT:** Miriam Dickert?

7 **(No Response)**

8 **THE COURT:** Amanda Dickert?

9 **(Juror stands in response.)**

10 **THE COURT:** Sierra -- yes, ma'am, your name and
11 number?

12 **POTENTIAL JUROR:** I know Miriam Dickert.

13 **THE COURT:** Ma'am?

14 **POTENTIAL JUROR:** I know Miriam Dickert through my
15 daughter.

16 **THE COURT:** And would that fact affect your ability
17 to be a fair and impartial juror in this case?

18 **POTENTIAL JUROR:** No, sir.

19 **THE COURT:** Thank you, ma'am.

20 **COURT REPORTER:** What is her number?

21 **MR. ANTHONY:** Can we get her number?

22 **THE COURT:** I'm sorry. We didn't get your number,
23 ma'am.

24 **POTENTIAL JUROR:** It's two, sixty-four (264) [sic].

25 **THE COURT:** Two sixty-four (264)?

1 POTENTIAL JUROR: Yes.

2 THE COURT: Have you got that number?

3 (Court reporter nods affirmatively.)

4 MR. ANTHONY: (Nods affirmatively.)

5 THE COURT: Thank you, ma'am. Yes, sir?

6 POTENTIAL JUROR: Michael Matthews, 205. Miriam

7 Dickert and Amanda are my neighbors.

8 THE COURT: All right. And would that affect your
9 ability to be a fair and impartial juror in this case?

10 POTENTIAL JUROR: No, sir.

11 THE COURT: Thank you, sir.

12 MR. ANTHONY: What was his number?

13 COURT REPORTER: Two oh five (205).

14 THE COURT: Two oh five (205).

15 (Off-the-Record Discussion)

16 THE COURT: All right. Ma'am, we got the wrong
17 number. What's your name?

18 POTENTIAL JUROR: Tracy Sinclair.

19 THE COURT: I can't hear her.

20 CLERK OF COURT: Tracy Sinclair.

21 COURT REPORTER: Number two sixty-five (265), two
22 sixty-five (265).

23 THE COURT: What is her number?

24 CLERK OF COURT: Two sixty-five (265).

25 THE COURT: Two, sixty-five (265)? All right. We

1 just got to keep that straight. Sierra Braswell?

2 (No Response)

3 THE COURT: Michael Rice?

4 (No Response)

5 THE COURT: Karit Naik, I guess, N-a-I-k.

6 MR. ANTHONY: It's pronounced "Nike."

7 THE COURT: Night (phonetic)?

8 MR. ANTHONY: Nike.

9 THE COURT: It's Karit, K-a-r-I-t is the first
10 name; the last name N-a-I-k.

11 (No Response)

12 THE COURT: Laquidra Eigner?

13 (No Response)

14 THE COURT: Dorothy (phonetic) Wytrisha Lemon?

15 (Juror stands in response.)

16 THE COURT: Yes, ma'am, do you know Ms. Lemon?

17 POTENTIAL JUROR: Yes.

18 THE COURT: And your name, please?

19 POTENTIAL JUROR: My name is Carrie Lemon.

20 THE COURT: All right. Are -- are you the lady
21 that told me this witness was your granddaughter?

22 POTENTIAL JUROR: Yes, sir.

23 THE COURT: And I've -- I have excused you from
24 service on this trial. So, you will not have to stand up
25 anymore. Thank you, ma'am.

1 (Whereupon, the potential juror was excused by the
2 Court.)

3 THE COURT: Michael Jonathan Jackson?

4 (No Response)

5 THE COURT: Agnes Rice?

6 (No Response)

7 THE COURT: David Jeter?

8 (No Response)

9 THE COURT: Now, ladies and gentlemen, the next
10 four are officers with the Union County Sheriff's Office:
11 Deputy Tim Gaston (phonetic)?

12 (Juror stands in response.)

13 THE COURT: Yes, sir, your name and number?

14 POTENTIAL JUROR: Juror number 117, Charles
15 Goodale. Deputy Gaston attends the church I pastor.

16 THE COURT: And would that affect your ability to
17 be a fair and impartial juror in this case?

18 POTENTIAL JUROR: No, sir.

19 THE COURT: Thank you, sir. You are qualified to
20 serve. Sergeant Whitney Childers (phonetic)?

21 (No Response)

22 THE COURT: Lieutenant Kenneth Riddle?

23 (No Response)

24 THE COURT: Lieutenant Terry Humphries (phonetic)?

25 (Jurors stand in response.)

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1 **THE COURT:** Ladies and gentlemen, the witnesses
2 -- yes, ma'am, you name and number?

3 **POTENTIAL JUROR:** Twenty-four (24), Diane
4 Blackwell. And I've known Terry Humphries for a long time.

5 **THE COURT:** Would that affect your ability to be a
6 fair and impartial ---

7 **POTENTIAL JUROR:** No, sir.

8 **THE COURT:** Wait a minute. Let me finish. The
9 court reporter has to write down what I say and, then, what
10 you say. And, so, if we're both talking at the same time, she
11 can't do that.

12 I know we do it all the time outside of the
13 courtroom, but we can't do it in the courtroom. So, would the
14 fact that you know Mr. Humphries, would that affect -- or
15 Lieutenant Humphries, would that affect your ability to be a
16 fair and impartial juror in this case?

17 **POTENTIAL JUROR:** No, sir.

18 **THE COURT:** Thank you. Thank you, ma'am. Now, the
19 State Law Enforcement -- All right. I'm sorry. Yes, ma'am,
20 your name and number?

21 **POTENTIAL JUROR:** Linda Malpass, number 201. Terry
22 Humphries is my neighbor.

23 **THE COURT:** Would that affect your ability to be a
24 fair and impartial juror for both the State and the Defense?

25 **POTENTIAL JUROR:** No, sir.

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1 THE COURT: Thank you ma'am. Yes, ma'am?

2 POTENTIAL JUROR: I know Terry and I know Kenneth.

3 THE COURT: Your name and number?

4 POTENTIAL JUROR: Two, eighty-nine (289), Louise
5 Tesner.

6 THE COURT: All right. And would that affect your
7 ability to be a fair and impartial juror in this case?

8 POTENTIAL JUROR: No, sir.

9 THE COURT: Thank you ma'am. Anybody else?

10 (No Response)

11 THE COURT: All right. We have four possible
12 witnesses from the State Law Enforcement Division or SLED:
13 Agent Scott Williams, Agent Josh Lindsey, Agent Kenny Kenzie,
14 Agent Adrian Riley?

15 (No Response)

16 THE COURT: And two witnesses from the Newberry
17 County Sheriff's Office: Captain Wesley Bolin (phonetic)

18 (No Response)

19 THE COURT: And Lieutenant Robert Dennis.

20 (No Response)

21 THE COURT: Dr. Janet Ross who is from Newberry
22 also, a pathologist from Newberry.

23 (No Response)

24 THE COURT: Mr. Robin Jones?

25 (No Response)

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1 THE COURT: Britney Rice?

2 (No Response)

3 THE COURT: Sherri Rice?

4 (No Response)

5 THE COURT: Ladies and gentlemen, these alleged
6 acts occurred here in Union County at in
7 Union on August the 18th, in two thousand and eight (2008).

8 I don't know whether there was anything in the
9 newspaper about it at that time; there probably was. It could
10 have been. It could have been on the radio.

11 You could've heard somebody talking about it at a
12 convenience store, barbershop, or beauty parlor or grocery
13 store. If you have any knowledge whatsoever about these
14 alleged acts, would you, please, stand at this time?

15 No matter what the source of your knowledge, if you
16 know anything whatsoever about this case, please, stand.

17 (Jurors stand in response.)

18 THE COURT: Yes, ma'am, your name and number?

19 POTENTIAL JUROR: Sir, Kevin Davis used to be
20 friends with my children.

21 THE COURT: Ma'am?

22 POTENTIAL JUROR: My children knew Kelvin. He was
23 friends with my children.

24 THE COURT: All right. And your name and number?

25 POTENTIAL JUROR: It's Tracy Sinclair, 265.

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1 THE COURT: And would that affect your ability to
2 be a fair and impartial juror in this case?

3 POTENTIAL JUROR: No, sir.

4 THE COURT: Thank you, ma'am. You qualified. Yes,
5 sir?

6 POTENTIAL JUROR: One, sixty-eight (168), James
7 Jeter.

8 THE COURT: Yes, sir? You've heard about the case?

9 POTENTIAL JUROR: Just what I read in the paper,
10 that's all.

11 THE COURT: Have you formed any opinion about the
12 case?

13 POTENTIAL JUROR: No, sir.

14 THE COURT: Have you discussed the case with
15 anyone?

16 POTENTIAL JUROR: No, sir.

17 THE COURT: And what little bit you knew about it
18 from the newspaper, or however much you knew about it, can you
19 put that aside ---

20 POTENTIAL JUROR: Yes, sir.

21 THE COURT: --- and can you base your decision
22 solely on what you hear in this courtroom and my instructions
23 to you on the law?

24 POTENTIAL JUROR: Yes, sir.

25 THE COURT: Thank you sir, you're qualified. Did

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1 you get his number?

2 CLERK OF COURT: Yes, sir.

3 COURT REPORTER: Yes, 168.

4 THE COURT: All right. Yes, ma'am, your name and
5 number?

6 POTENTIAL JUROR: Laurie Henderson, juror number
7 138. Through the newspaper and some from my daughter.

8 THE COURT: All right. And have you formed any
9 opinion about the case?

10 POTENTIAL JUROR: No.

11 THE COURT: Have you discussed it with anyone?

12 POTENTIAL JUROR: No, I have not.

13 THE COURT: Have you discussed any -- have you
14 heard anybody else discussing it?

15 POTENTIAL JUROR: No.

16 THE COURT: Can you put aside what you know about
17 the case?

18 POTENTIAL JUROR: Yes.

19 THE COURT: And base your decision solely on the
20 testimony and the evidence that you hear in this courtroom?

21 POTENTIAL JUROR: Yes, sir.

22 THE COURT: All right. Thank you ma'am. You
23 qualified to serve. I'm not sure if I asked if anybody -- all
24 right. Yes, ma'am? Your name and number?

25 POTENTIAL JUROR: One, eight, two (182), Jane

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1 Jordan. I have read information about it in the newspaper.

2 THE COURT: All right. And did you formed any
3 opinion about the case?

4 POTENTIAL JUROR: No, sir.

5 THE COURT: Have you discussed it with anyone?

6 POTENTIAL JUROR: No, sir.

7 THE COURT: Have you heard anyone else discuss it?

8 POTENTIAL JUROR: No, sir.

9 THE COURT: Can you put aside what you read in the
10 newspaper and base your decision solely on what you hear in
11 this courtroom?

12 POTENTIAL JUROR: Yes, sir.

13 THE COURT: Thank you, ma'am. You are qualified to
14 serve.

15 POTENTIAL JUROR: I'm juror number 220, Ed Morman.

16 THE COURT: Yes, sir?

17 POTENTIAL JUROR: I live over in the
18 Community and I read it in the newspaper.

19 THE COURT: All right. And have you formed any
20 opinion about the case?

21 POTENTIAL JUROR: No, sir.

22 THE COURT: Have you discussed it with anyone?

23 POTENTIAL JUROR: No, sir.

24 THE COURT: Have you heard anyone else discuss it?

25 POTENTIAL JUROR: No, sir.

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1 **THE COURT:** Can you put aside what you heard about
2 it the case and base your decision solely on the testimony and
3 the evidence you hear in this courtroom?

4 **POTENTIAL JUROR:** Yes, sir.

5 **THE COURT:** Thank you, sir. You're qualified to
6 serve. Anyone else?

7 **(No Response)**

8 **THE COURT:** Ladies and gentlemen, I am not sure
9 that I asked if anyone was acquainted with the victim whose
10 name was Kelvin Davis. If you knew Mister -- he was the
11 victim of the murder.

12 The victims of the kidnapping were Tinsley Davis and
13 Kelvin Davis. If you know any of those three individuals --
14 because I don't think I called Mr. Kelvin Davis's name --
15 would you, please, stand?

16 **(Jurors stand in response.)**

17 **THE COURT:** Yes, sir -- ma'am? All right. Let's
18 just go through it again. You knew Mr. Kelvin Davis also?
19 Your name and number?

20 **POTENTIAL JUROR:** Tracy Sinclair, number 265.

21 **THE COURT:** And would that affect your ability to
22 be a fair and impartial juror in this trial?

23 **POTENTIAL JUROR:** No, sir.

24 **THE COURT:** Thank you, ma'am. Yes, sir?

25 **POTENTIAL JUROR:** James Jeter, number 168.

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1 THE COURT: And you knew Mr. Kelvin Davis?

2 POTENTIAL JUROR: Yes, sir.

3 THE COURT: And would that affect your ability to
4 be a fair and impartial juror in this case?

5 POTENTIAL JUROR: No, sir.

6 THE COURT: Thank you, sir.

7 POTENTIAL JUROR: Yes, I knew Kelvin.

8 THE COURT: Your name and number?

9 POTENTIAL JUROR: Ashley Gault, and I'm 106.

10 THE COURT: All right. Would that affect your
11 ability to be a fair and impartial juror?

12 POTENTIAL JUROR: No, sir.

13 THE COURT: Thank you, ma'am. You're qualified to
14 serve. Yes, ma'am, in the black dress?

15 POTENTIAL JUROR: Laurie Henderson, juror 138.

16 Again, I think my husband is the sister of Ms. Tinsley's
17 mother-in-law -- I mean the brother of Ms. Tinsley's mother-
18 in-law. And Kelvin went to school with my daughter and my
19 niece and I know them all.

20 THE COURT: And what that affect your ability to
21 be a fair and impartial juror in this case?

22 POTENTIAL JUROR: No, sir.

23 THE COURT: Thank you, ma'am. Yes, ma'am, your
24 name and number?

25 POTENTIAL JUROR: Amy Green, number 121. I grew up

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1 with Tinsley Davis and I knew her brother Kelvin.

2 THE COURT: All right. And with any of those
3 facts affect your ability to be a fair and impartial juror in
4 this case?

5 POTENTIAL JUROR: No.

6 THE COURT: Thank you. Anyone else?

7 (No Response)

8 THE COURT: Ladies and gentlemen, has any member
9 of your -- have you or any member of your immediate family or
10 any close friend ever been a victim of a serious crime such
11 as these that are involved in this case today, but not
12 necessarily limited to those, or ever been accused of a
13 serious crime? If so, would you, please, stand?

14 If you or a member of your family or a close
15 personal friend has ever been a victim of or accused of a
16 serious crime, would you, please, stand?

17 (Juror stands in response.)

18 THE COURT: Yes, sir, your name and number?

19 POTENTIAL JUROR: Timothy Smith, number 275.

20 THE COURT: Was it you or someone else?

21 POTENTIAL JUROR: Someone else, it was my cousin
22 who was a victim of murder.

23 THE COURT: A victim?

24 POTENTIAL JUROR: Uh-huh (affirmative).

25 THE COURT: Would that affect your ability to be a

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1 fair and impartial juror in this case?

2 POTENTIAL JUROR: No, sir.

3 THE COURT: And has that matter ended or is it
4 still pending?

5 POTENTIAL JUROR: It's still pending.

6 THE COURT: It's still pending in Union County?

7 POTENTIAL JUROR: Yes, sir.

8 THE COURT: All right, sir. Thank you, sir.

9 POTENTIAL JUROR: You're welcome.

10 THE COURT: Anyone else?

11 (Juror stands in response.)

12 POTENTIAL JUROR: Two, twenty-one (221), I was the
13 victim of an attempted armed robbery.

14 THE COURT: All right, sir. And how long ago?

15 POTENTIAL JUROR: Maybe two months.

16 THE COURT: Two months?

17 POTENTIAL JUROR: Uh-huh (affirmative).

18 THE COURT: Is that matter still pending in the
19 court system?

20 POTENTIAL JUROR: No.

21 THE COURT: It's ended?

22 POTENTIAL JUROR: Excuse me?

23 THE COURT: It's over with?

24 POTENTIAL JUROR: It's over with?

25 THE COURT: All right. Would that affect ---

1 POTENTIAL JUROR: No, sir. It's pending.

2 THE COURT: Oh, it is pending?

3 POTENTIAL JUROR: Yes, sir.

4 THE COURT: Would that affect your ability to be a
5 fair and impartial juror in this case?

6 POTENTIAL JUROR: No, sir.

7 THE COURT: Thank you, sir. Anyone else?

8 (No Response)

9 THE COURT: Has any member of the jury panel or
10 any close family friend or personal friend or relative ever
11 been involved in any type of lawsuit against the Union County
12 Sheriff's Office or engaged in any type of litigation or
13 dispute with the Union County Sheriff's Office? If so, would
14 you, please, stand?

15 (No Response)

16 THE COURT: Ladies and gentlemen, as I've told
17 you, and of course, this not hard for you to recognize that
18 this is a very serious case.

19 And I've explained to you how important it is to
20 both the State and the Defendant to have a jury -- a fair and
21 impartial jury;

22 A jury who will base its decision in this case
23 solely on the testimony and the evidence that you hear in
24 this courtroom and a jury that can follow my instructions to
25 you on the law.

1 If you know of any reason whatsoever that you can't
2 give both the State and the Defendant in this case a fair and
3 impartial jury -- and it might be some reason that I
4 mentioned and it might be something I haven't even thought
5 about -- but, if you know of any such reason whatsoever, if
6 you would, come forward, please, at this time and share it
7 with me?

8 **(No Response)**

9 **THE COURT:** All right. Mr. Anthony, you need to
10 introduce the people that are at your table. I thought I
11 made a point that they were to stand up, so, they could be
12 recognized, but they didn't. So, how about introducing them.

13 **MR. ANTHONY:** Yes, sir. This is -- this is
14 Lieutenant Riddle (indicating).

15 **THE COURT:** That's who?

16 **MR. ANTHONY:** This is Lieutenant Kenneth Riddle
17 with the Sheriff's Office. He -- he is on the witness list.

18 **THE COURT:** Well, why didn't he stand up when I
19 told him -- when I called out his name?

20 **MR. ANTHONY:** I'm -- I'm sorry, Your Honor.

21 **THE COURT:** All right. Ladies and gentlemen, this
22 is Lieutenant Kenneth Riddle with the Union County Sheriff's
23 Office.

24 **(Lieutenant Riddle stands and faces the jury**
25 **panel.)**

1 THE COURT: He didn't understand while ago.

2 (Lieutenant Riddle sits down.)

3 THE COURT: All right. Who else?

4 MR. ANTHONY: This is -- this is -- this is
5 Tinsley Davis on my far right, who is also on the witness
6 list. If you would, stand up, please, Ms. Davis.

7 (Ms. Davis stands and faces the jury panel.)

8 THE COURT: All right.

9 MR. ANTHONY: And -- and, then, the lady sitting
10 beside me is a Michele Shugart. She is the Union County
11 victim advocate.

12 THE COURT: Dispatcher?

13 MR. ANTHONY: No, victim advocate.

14 THE COURT: Victims' advocate? Oh, all right. If
15 you know any of the individuals, ladies and gentlemen,
16 please, stand.

17 (Jurors stand in response.)

18 THE COURT: And I -- I think I -- I'm quite sure I
19 -- I said that, if any of the witnesses were present to,
20 please, stand when I called their name. So, if there are any
21 other witnesses that were present, when I called their names
22 and didn't stand, I need them to stand.

23 MR. ANTHONY: Well, the only other State's witness
24 is Deputy Gaston.

25 THE COURT: What was the name?

1 **THE WITNESS:** Deputy Gaston, Timothy Gaston.

2 **THE COURT:** All right. This is Deputy Timothy
3 Gaston. And I don't know if you can see him or not. Let him
4 come on down front.

5 (Deputy Gaston stepped forward and faced the jury
6 panel.)

7 **THE COURT:** This is Lieutenant Gaston [sic], Tim
8 Gaston with the sheriff's office.

9 (Jurors stand in response.)

10 **THE COURT:** All right. All right. Yes, sir?
11 Start by giving me your name and number.

12 **POTENTIAL JUROR:** Two, twenty (220), Ed Morman.

13 **THE COURT:** All right. And who do you know?

14 **POTENTIAL JUROR:** Tinsley Davis.

15 **THE COURT:** All right. And would that affect your
16 ability to be a fair and impartial juror in this case?

17 **POTENTIAL JUROR:** No, sir.

18 **THE COURT:** Thank you, sir. Yes, sir, your name
19 and numbers again?

20 **POTENTIAL JUROR:** James Jeter, number 168. I know
21 Tinsley Davis.

22 **THE COURT:** Will that affect your ability to be a
23 fair and impartial juror in this case?

24 **POTENTIAL JUROR:** No, sir.

25 **THE COURT:** Thank you, sir. Yes, ma'am, your name

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1 and number?

2 POTENTIAL JUROR: Teresa Hinson, juror 139. I know
3 Michele Shugart from my husband.

4 THE COURT: And where that affect your ability to
5 be a fair impartial juror?

6 POTENTIAL JUROR: No.

7 THE COURT: Thank you, ma'am. Yes, ma'am, on the
8 front in the green?

9 POTENTIAL JUROR: Tinsley Davis.

10 THE COURT: And would that affect your ability be
11 a fair and impartial juror in this case?

12 POTENTIAL JUROR: No, sir.

13 MR. ANTHONY: What's her number?

14 COURT REPORTER: What's the number?

15 THE COURT: I'm sorry, your name and number?

16 POTENTIAL JUROR: Two forty-eight (248).

17 THE COURT: And your name?

18 POTENTIAL JUROR: JoAnne Young.

19 THE COURT: Thank you ma'am. Yes, ma'am, your
20 name and number?

21 POTENTIAL JUROR: Shakelia Hill, I'm 141 and I know
22 Tinsley.

23 THE COURT: And would that affect your ability to
24 be a fair and impartial juror in this case?

25 POTENTIAL JUROR: No.

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1 **THE COURT:** Thank you, ma'am. Yes, ma'am?

2 **POTENTIAL JUROR:** Dawn Childers, number 57. I know
3 Michelle. She was my -- my supervisor. I've known her a
4 long time.

5 **THE COURT:** And would that affect your ability to
6 be a fair and impartial juror in this case?

7 **POTENTIAL JUROR:** No, sir.

8 **THE COURT:** Thank you. Yes, ma'am?

9 **POTENTIAL JUROR:** Laura Henderson, number 138, Ms.
10 Tinsley Davis.

11 **THE COURT:** And would that affect your ability to
12 be a fair and impartial juror in this case?

13 **POTENTIAL JUROR:** No.

14 **THE COURT:** Thank you, ma'am. Yes, ma'am?

15 **POTENTIAL JUROR:** Twenty-four (24), Diane
16 Blackwell, and I've known Michelle since she was born.

17 **THE COURT:** And would that affect your ability to
18 be a fair and impartial juror in this case?

19 **POTENTIAL JUROR:** No, sir.

20 **THE COURT:** Thank you, ma'am. Yes, sir?

21 **POTENTIAL JUROR:** Juror 117, Charles Goodale and
22 Michelle and I grew up together in Union County. Also, as I
23 stated earlier, I do know Officer Ken Gaston.

24 **THE COURT:** And would that affect your ability to
25 be a fair and impartial juror?

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1 POTENTIAL JUROR: No, sir.

2 THE COURT: Thank you, sir.

3 POTENTIAL JUROR: Juror number 307, John Williams,
4 and I know Lieutenant Riddle.

5 THE COURT: All right. And would that affect your
6 ability to be a fair and impartial juror?

7 POTENTIAL JUROR: No, sir.

8 THE COURT: Thank you, sir. Yes, ma'am?

9 POTENTIAL JUROR: Number seven (7), Janet Arthur. I
10 know -- I know Lieutenant Riddle also.

11 THE COURT: And would that affect your ability to
12 be a fair and impartial juror?

13 POTENTIAL JUROR: No.

14 THE COURT: Thank you, ma'am. Anyone else?

15 (No Response)

16 THE COURT: All right. Anything else from the
17 State?

18 MR. ANTHONY: No, sir.

19 THE COURT: From the Defense?

20 MR. RECKENBEIL: Nothing from the Defense, Your
21 Honor.

22 THE COURT: All right. Mr. Clerk, I'm going to
23 turn it over to you.

24 Ladies and gentlemen, under our system both the
25 State and the Defense has a right to excuse a certain number

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1 of people from servicing on the jury.

2 They can do this for any reason whatsoever. They
3 might not like your haircut or your shoes. They don't have to
4 give a reason for excusing you from servicing on the jury.

5 And, so, in just a couple of minutes, we're going to
6 draw -- we have all the jurors' names in this little rolling
7 basket up here and the clerk is going to draw the names out.

8 And, if the clerk calls your name, I need you to
9 come up, come all the way up to this bench (indicating), right
10 in front of the clerk's desk, and stand right there and face
11 the back of the courtroom, so, the lawyers can get one last
12 look at you before they make their decision.

13 I'm sure you'll probably feel a little self-
14 conscious as you stand there, but I've never lost a juror.

15 (Laughter)

16 THE COURT: So, nothing bad is going to happen to
17 you. You're just going to feel like you want to run for that
18 door back there, but you need to stand there.

19 And the State and the Defense will make a decision
20 about you serving on the jury. You will either be asked to
21 sit in the jury box or you will be allowed to return to your
22 seat.

23 So, if you have a coat or a hat or something with
24 you, bring that with you when you come up, please.

25 All right. Mr. Clerk, you may begin.

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1 CLERK OF COURT: Yes, sir. How many alternates do
2 you like to draw?

3 THE COURT: Two. Let's pick two alternates.

4 CLERK OF COURT: All right. Okay.

5 THE COURT: Is the State ready?

6 MR. ANTHONY: Yes, sir, we're ready.

7 THE COURT: Is the Defense ready?

8 MR. RECKENBEIL: Yes, sir, Your Honor.

9 THE COURT: All right. Mr. Clerk, if you're ready,
10 you may proceed.

11 CLERK OF COURT: Yes, sir.

12 JURY SELECTION 10:43 A.M.

13 CLERK OF COURT: A quick recap, when I call your
14 name, step down front. Face back towards the audience.
15 You'll stand right in front of me right here (indicating),
16 face back toward the audience.

17 I'll ask a couple of question of the attorneys. If
18 you're asked to sit in the jury box, Mr. Lawson will show you
19 where to go.

20 These chairs are old. I think they were installed
21 around the same time the courthouse was built. They will
22 rock.

23 They're really comfortable, but they will catch you
24 by surprise at first. Make sure you don't just throw yourself
25 in it because it will seem like it's throwing you out of it.

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1 So, just sit down and be careful doing it. And, for
2 those of you that are wondering why I'm saying this, you'll
3 find out in a minute because somebody is bound to do it.

4 But you've been warned. All right. Number 134,
5 Terry Harris.

6 (White male potential juror stepped forward.)

7 (Off-the-Record Discussion)

8 THE COURT: Come right around here and turn around
9 and face the other direction.

10 (Potential juror complied with the Court's request.)

11 THE COURT: Thank you, sir.

12 CLERK OF COURT: What says the State?

13 (Brief Pause)

14 MR. ANTHONY: Please excuse the juror.

15 CLERK OF COURT: Thank you, sir. Mr. Harris, you
16 can go back and have a seat. Number 265, Tracy Sinclair.

17 (White female potential juror stepped forward.)

18 CLERK OF COURT: What says the State?

19 (Brief Pause)

20 MR. ANTHONY: Please present the juror.

21 CLERK OF COURT: Thank you, sir. What says the
22 Defense?

23 MR. RECKENBEIL: Please excuse the juror from
24 service in this case.

25 CLERK OF COURT: All right. Thank you. Number 137,

1 Harry Helmes.

2 (White male potential juror stepped forward.)

3 CLERK OF COURT: What says the State?

4 (Brief Pause)

5 MR. ANTHONY: Please present the juror.

6 CLERK OF COURT: Thank you. What says the Defense?

7 MR. RECKENBEIL: Please excuse this juror from
8 service in this case.

9 CLERK OF COURT: Thank you. Number seven (7), Janet
10 Arthur.

11 (White female potential juror stepped forward.)

12 CLERK OF COURT: What says the State?

13 MR. ANTHONY: Please present the juror.

14 MR. RECKENBEIL: Please seat the juror.

15 CLERK OF COURT: Thank you. Ma'am you can go have a
16 seat in the jury box. Mr. Lawson will show you where to go.
17 Number 121, Amy Green.

18 THE COURT: One, twenty-one(121)?

19 CLERK OF COURT: Yes, sir, 121.

20 (Black female potential juror stepped forward.)

21 CLERK OF COURT: What says the State?

22 (Brief Pause)

23 MR. ANTHONY: Please present the juror.

24 CLERK OF COURT: Thank you. What says Defense?

25 MR. RECKENBEIL: Please seat the juror.

1 CLERK OF COURT: Thank you. Go have a seat in the
2 jury box. Number 264, Robert/Sinclair.

3 (White male potential juror stepped forward.)

4 CLERK OF COURT: What says the State?

5 (Brief Pause)

6 MR. ANTHONY: Please present the juror.

7 CLERK OF COURT: Thank you. What says the Defense?

8 MR. RECKENBEIL: Please seat the juror.

9 (Off-the-Record Discussion)

10 CLERK OF COURT: Juror Number 262, Ms. Naida
11 Shields.

12 (White female potential juror stepped forward.)

13 CLERK OF COURT: What says the State?

14 (Brief Pause)

15 MR. ANTHONY: Please present the juror.

16 CLERK OF COURT: Thank you. What says the Defense?

17 MR. RECKENBEIL: Please seat the juror.

18 CLERK OF COURT: Thank you.

19 (Brief Pause)

20 CLERK OF COURT: Number 291, Mary Thompson.

21 (Black female potential juror stepped forward.)

22 CLERK OF COURT: What says the State?

23 (Brief Pause)

24 MR. ANTHONY: Please excuse the juror.

25 CLERK OF COURT: Thank you. Ms. Thompson, you can

1 go have a seat back in the pool. Number 129, James Hance.

2 (Off-the-Record Comments)

3 THE COURT: Isn't that one I ---

4 CLERK OF COURT: Yes, sir.

5 THE COURT: Isn't that one that I excused?

6 MR. ANTHONY: Yes, sir.

7 THE COURT: He was excused by the Court.

8 CLERK OF COURT: All right.

9 (Off-the-Record Discussion)

10 CLERK OF COURT: Number 187, Danny Knox.

11 (White male potential juror stepped forward.)

12 CLERK OF COURT: What says the State?

13 (Brief Pause)

14 MR. ANTHONY: Please present the juror.

15 CLERK OF COURT: Thank you. What says the Defense?

16 MR. RECKENBEIL: Please seat the juror.

17 CLERK OF COURT: Thank you.

18 (Brief Pause)

19 CLERK OF COURT: Number 317, John Young.

20 (Black male potential juror stepped forward.)

21 CLERK OF COURT: What says the State?

22 (Brief Pause)

23 MR. ANTHONY: Please present the juror.

24 CLERK OF COURT: Thank you. What says the Defense?

25 MR. RECKENBEIL: Please seat the juror.

1 CLERK OF COURT: Thank you.

2 (Brief Pause)

3 CLERK OF COURT: Number 83, Donald G. Duckett.

4 (Black male potential juror stepped forward.)

5 CLERK OF COURT: What says the State?

6 MR. ANTHONY: May -- may we approach, Your Honor?

7 THE COURT: Yes, sir.

8 (Whereupon, a bench conference was had with both
9 attorneys present.)

10 THE COURT: You can have a seat.

11 (Off-the-Record Comments)

12 CLERK OF COURT: Number 279, Aaron Stevens.

13 (White male potential juror stepped forward.)

14 CLERK OF COURT: What says the State?

15 (Brief Pause)

16 MR. ANTHONY: Please present the juror.

17 CLERK OF COURT: Thank you. What says the Defense?

18 MR. RECKENBEIL: Please seat the juror.

19 CLERK OF COURT: Thank you.

20 (Brief Pause)

21 CLERK OF COURT: Number 52, Christie Casey.

22 (White female potential juror stepped forward.)

23 CLERK OF COURT: What says the State?

24 (Brief Pause)

25 MR. ANTHONY: Please present the juror.

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1 CLERK OF COURT: Thank you. What says the Defense?

2 MR. RECKENBEIL: Please seat the juror.

3 CLERK OF COURT: Thank you.

4 (Brief Pause)

5 CLERK OF COURT: Number -- number 106, Ashley Gault.

6 (White female potential juror stepped forward.)

7 CLERK OF COURT: What says the State?

8 (Brief Pause)

9 MR. ANTHONY: Please present the juror.

10 CLERK OF COURT: Thank you. What says the Defense?

11 MR. RECKENBEIL: Please excuse this juror from
12 service in this case.

13 (Brief Pause)

14 CLERK OF COURT: Number 71, Karen Crocker.

15 (White female potential juror stepped forward.)

16 CLERK OF COURT: What says the State?

17 (Brief Pause)

18 MR. ANTHONY: Please present the juror.

19 CLERK OF COURT: Thank you. What says the Defense?

20 MR. RECKENBEIL: Please seat the juror.

21 CLERK OF COURT: Thank you.

22 (Brief Pause)

23 CLERK OF COURT: Number 66, Joel Konard -- Joel
24 Conard.

25 (White male potential juror stepped forward.)

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1 CLERK OF COURT: What says the State?

2 (Brief Pause)

3 MR. ANTHONY: Please present the juror.

4 CLERK OF COURT: Thank you. What says the Defense?

5 MR. RECKENBEIL: Please seat the juror.

6 CLERK OF COURT: Thank you.

7 (Brief Pause)

8 CLERK OF COURT: Number 204, Ms. Jane Martin.

9 (White female potential juror stepped forward.)

10 CLERK OF COURT: What says the State?

11 (Brief Pause)

12 MR. ANTHONY: Please present the juror.

13 CLERK OF COURT: Thank you. What says the Defense?

14 MR. RECKENBEIL: Please excuse this juror from
15 service in this case.

16 CLERK OF COURT: Thank you. You can go back and
17 have a seat.

18 (Brief Pause)

19 (Off-the-Record Discussion)

20 CLERK OF COURT: Number 198, Donnie Lunsford.

21 (White male potential juror stepped forward.)

22 CLERK OF COURT: What says the State?

23 (Brief Pause)

24 MR. ANTHONY: Please present the juror.

25 CLERK OF COURT: Thank you. What says the Defense?

1 MR. RECKENBEIL: Please seat the juror.
2 CLERK OF COURT: Thank you.
3 (Brief Pause)
4 CLERK OF COURT: Number 87, Kayla Edwards.
5 (White female potential juror stepped forward.)
6 CLERK OF COURT: What says the State?
7 (Brief Pause)
8 MR. ANTHONY: Please present the juror.
9 CLERK OF COURT: Thank you. What says the Defense?
10 MR. RECKENBEIL: Please seat the juror.
11 THE COURT: Seat two alternates, please. The
12 strikes are one and two for each.
13 CLERK OF COURT: Number 271, Lucille Smith.
14 (Black female potential juror stepped forward.)
15 CLERK OF COURT: What says the State?
16 (Brief Pause)
17 MR. ANTHONY: Please present the juror.
18 CLERK OF COURT: Thank you. What says the Defense?
19 MR. RECKENBEIL: Please seat the juror.
20 CLERK OF COURT: Thank you.
21 (Brief Pause)
22 CLERK OF COURT: Number 299, James Walton.
23 (Black male potential juror stepped forward.)
24 CLERK OF COURT: What says the State?
25 (Brief Pause)

1 MR. ANTHONY: Please present the juror.

2 CLERK OF COURT: Thank you. What says the Defense?

3 MR. RECKENBEIL: Please seat the juror.

4 CLERK OF COURT: Thank you.

5 THE COURT: Any matters regarding jury selection
6 from the State?

7 MR. ANTHONY: No, sir.

8 THE COURT: From the Defense?

9 MR. RECKENBEIL: Nothing from Defense, Your Honor.

10 THE COURT: All right. Ladies and gentlemen who
11 were not selected on this jury, I'm going to excuse you at
12 this time and ask you to call back -- call that number after
13 six o'clock this afternoon.

14 Now, we expect this case will take a few days to
15 try, but as I told you earlier, we can never be absolutely
16 certain of anything.

17 So, we very well may need you back in the morning.
18 I just don't know yet. But I need you to call back after six
19 o'clock (6:00) and follow whatever instructions you find on
20 the machine.

21 It may ask you to call back after six o'clock
22 tomorrow. Or it may tell you to be here in the morning. I
23 don't know. We'll find out when we put that message on there
24 this afternoon. Just remain seated for one minute.

25 Ladies and gentleman, we're going to start this

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1 trial back at 2:30. Now, the bailiff will take you out back
2 and show you the jury room.

3 And he'll tell you how to come back into the jury
4 room this afternoon when you come back at 2:30. You will not
5 come back through the courtroom. You will come straight back
6 to the jury room.

7 Please do not talk about this case. Don't talk
8 about it among yourselves, with anybody else that you see
9 during the lunch hour.

10 If they want to know what you're doing, tell them
11 you been selected on a jury and the judge said you can't even
12 tell them anything about this case. And I'll explain the
13 reason for that more fully when you come back after lunch.

14 Do not try to find out anything about this case.
15 You forget about the case until you come back here at 2:30
16 this afternoon.

17 Please, follow the bailiff out this way
18 (indicating). You, ladies and gentlemen, are excused. Thank
19 you very much for coming.

20 (Whereupon, the jury and the jury panel were excused
21 and exited the courtroom at 1:08 p.m.)

22 THE COURT: All right. Anything from the State
23 before we break for lunch?

24 MR. ANTHONY: No, sir.

25 THE COURT: From the Defense?

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1 MR. RECKENBEIL: Nothing from Defense, Your Honor.

2 THE COURT: All right, let's go off the record
3 until two thirty (2:30). Court will be in recess until two
4 thirty (2:30).

5 (Whereupon, a luncheon recess was taken from 1:09
6 p.m. until 2:31 p.m.)

7 (Off-the-Record Discussion)

8 PRETRIAL MOTIONS

9 THE COURT: All right. Madam clerk, I need to note
10 for the record, please, that I excused Juror James Hance
11 Number 129. He had a criminal record. I excused 161, Loretta
12 Jennings, for the same reason.

13 We initially thought Mr. Spears (phonetic) was here,
14 but we were mistaken. So, he was not here.

15 And I excused Number 195 from the trial of this case
16 because she has a granddaughter who is a witness.

17 I excused Number 315 from this term of court for
18 medical reasons. He says he can just barely hear. He could
19 not hear anything that was going on.

20 So, we just need to make a note of that for the
21 record. All right. Is the State ready to proceed?

22 MR. ANTHONY: Yes, sir, we are.

23 THE COURT: Is the Defense ready?

24 MR. RECKENBEIL: Your Honor, I think the only thing
25 that we would have is that we would ask that all witnesses be

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1 sequestered.

2 THE COURT: Okay.

3 MR. RECKENBEIL: I informed my witnesses to be back
4 here at two thirty (2:30) which they are not, but to adhere to
5 any of the Court's instructions if you granted my motion that
6 they're not to consult anyone inside the courtroom or hear the
7 testimony. And, you know, I will cover with them whatever
8 Your Honor instructs.

9 THE COURT: All right, sir. All the facts
10 witnesses should be excluded and all of the officers I guess
11 except the case officer.

12 MR. ANTHONY: Yes, sir. We're -- we're asking that
13 Lieutenant Riddle be allowed to stay in. And we're asking the
14 -- we're asking -- we're asking that the victim, Ms. Davis,
15 who is the sister of the decedent ---

16 THE COURT: Yes.

17 MR. ANTHONY: --- be allowed to stay in and her
18 daughter, S.S. , although I don't -- I don't think S.S.
19 will be in the courtroom.

20 But we -- we do believe that she would be exempt
21 from sequestration under the victim's rights.

22 THE COURT: What about S.S. ?

23 MR. ANTHONY: Miss -- we believe she is exempt from
24 sequestration because she's the niece of the decedent.

25 THE COURT: She's the what?

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1 MR. ANTHONY: The niece of the victim that was
2 murdered.

3 (Brief Pause)

4 MR. ANTHONY: But if I could just have a moment.

5 (Off-the-Record Discussion)

6 MR. ANTHONY: We don't -- we don't intend to have
7 her here.

8 HE COURT: Okay.

9 MR. ANTHONY: So, we don't object to her being
10 outside.

11 THE COURT: They will be sequestered at this time.

12 MR. ANTHONY: Okay. All right. We need -- if
13 you're a State's witness, the bailiffs are going to show you
14 back to the grand jury room, okay? So, that's where you need
15 to go until we call you to testify.

16 (Off-the-Record Discussion)

17 THE COURT: If you're going to be a witness in the
18 trial, you cannot sit in the trial. You have to go out to the
19 grand jury room and you cannot talk about the case. You
20 cannot talk with anybody who comes out of the courtroom about
21 the case.

22 (Potential witnesses exited the courtroom.)

23 THE COURT: All right. Bring the jury in.

24 MR. RECKENBEIL: Your Honor, I'd just -- I'm sorry,
25 I just ---

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1 THE COURT: Wait a minute. Wait a minute.

2 MR. RECKENBEIL: --- have one other issue. I don't
3 think Mr. Anthony will discuss it in the opening argument, but
4 if Your Honor goes right into opening arguments, I do think
5 there are significant issues that we need to deal with, an
6 evidentiary issue on the hearsay.

7 THE COURT: On what?

8 MR. RECKENBEIL: The hearsay -- the hearsay issues
9 of -- of the possible testimony. I'm just asking if -- if the
10 State is going to go into that on opening argument.

11 I would hope that he would -- I would hope that he
12 would hold off on that because I have significant objections
13 as to certain testimony to include testimony coming from Mr.
14 Ruff through that -- that witness that we talked about in
15 chambers.

16 So, I would just hope that -- I'll hold my
17 objections as long as the State is not going to go into it on
18 opening argument, about what people have said, that could be
19 possible issues dealing with not only the hearsay issue but
20 also the fact of the bolstering of testimony.

21 And also *Bruton* (phonetic) because I read that over
22 lunch and I think that there are some significant issues that
23 we need to talk about when Mr. Collins arrives this afternoon.

24 THE COURT: Mr. Anthony?

25 MR. ANTHONY: I won't talk about what Derrick Ruff

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1 told anybody.

2 **THE COURT:** All right. I -- I don't think it would
3 be appropriate to talk about it your opening because I'm not
4 really -- I've not ruled it as admissible, so... Anything
5 else?

6 **MR. RECKENBEIL:** No, sir. Thank you.

7 **THE COURT:** All right, sir, bring in the jury.

8 (The jury was summoned.)

9 (The jury entered the courtroom at 2:36 p.m.)

10 **THE COURT:** All right, ladies and gentleman, would
11 you stand, please, and I'll administer to you the jurors'
12 oath. Please stand and raise your right hand.

13 (Whereupon, the jury was impaneled at 2:37 p.m.)

14 **PRELIMINARY INSTRUCTIONS**

15 **THE COURT:** All right. Now, ladies and gentlemen,
16 as I told you before lunch, I didn't want you to talk about
17 this case. And I want to tell you why.

18 First thing I told you was that you must make your
19 decision based solely on the testimony and the evidence that
20 you hear in this courtroom and not be influenced by anything
21 outside of this courtroom.

22 If you start talking with the case -- about the case
23 to some stranger, there's a chance that you might get some
24 information. And, of course, you need to tell them to stop.

25 If somebody knows about the case or thinks they know

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1 something about the case, they can give you some information
2 that you receive outside of this courtroom and you would be
3 disqualified to serve as a juror in the case.

4 That is the reason why you don't talk about it with
5 any strangers to the courtroom.

6 Now, the law provides only that you limit your
7 decision and consideration to the evidence and the testimony
8 that you hear in the courtroom, but the law provides that you
9 must consider everything that you hear in this courtroom.

10 That's the first witness and the last witness and my
11 instructions to you on the law. And, until you have all of
12 that information, you do not know everything you need to know
13 to start making a decision in the case.

14 You don't have all the facts until the last witness
15 testifies. You don't have the law until I explain to you the
16 law. And that will be the last thing that we will do before
17 you begin your deliberations.

18 And, if you start talking about the case and
19 discussing the case after you've heard one witnesses or two
20 witnesses, you will start making up your mind; we all would do
21 that.

22 And, so, we just don't want that to happen. So,
23 that's the reason I ask you not to talk about the case.
24 That's very important.

25 I don't know if there will be anything in the

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1 newspaper about it tomorrow. If there is, you should not read
2 it. If you see that, put the paper down immediately. And you
3 can read it after the trial.

4 All you need to know about the case you will receive
5 in the courtroom. And anything else would be improper.

6 Now, I don't know if you all have ever served on a
7 jury before, but, in these days we all think we have become
8 experts in the law and legal matters because of television
9 that we watch.

10 Well, television doesn't have much bearing on what
11 goes on in real life. The real world does not operate like
12 some television script.

13 You need to forget about anything you've seen on
14 television. This is real life.

15 As I told you, the State has brought the charge.
16 And the State has the burden of proving those charges. And
17 the State goes first.

18 So, they'll put up their witnesses. And they'll
19 call all the witnesses and they'll sit on this stand
20 (indicating) under oath and testify.

21 I imagine they'll have some exhibits. You know
22 almost as much about the cases I do at this point in time, but
23 that is generally the way we get evidence is through
24 witnesses and exhibits.

25 Once the State finishes putting up its case, the

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1 Defendant has an opportunity to put up a case and testify if
2 he wants to do so. But he does not have to testify.

3 He does not have to call any witnesses. As I've
4 told you, the burden is on the State. He doesn't have a thing
5 to prove, the Defendant.

6 If he chooses to testify or offer any testimony, he
7 would do that once the State finishes.

8 Then, when you've heard all of the testimony and the
9 evidence that you're going to hear, the attorneys will make
10 their closing arguments to you.

11 And they will try to persuade you to see the facts
12 in this case in favor of their respective positions in the
13 case.

14 You are the judges of the facts. That means you
15 determine what's the truth about the matters about which
16 you're going to hear in this courtroom.

17 I'm the judge of the law. That means that I
18 preside. I rule on evidentiary matters. I take up legal
19 questions.

20 I might have to ask you to step out while I take up
21 a legal matter with the attorneys. And don't be offended by
22 that if I need to do that.

23 I'm the only judge of the law and the legal matters
24 really don't concern you at all. So, sometimes I may need to
25 ask you to step out while we deal with legal matters.

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1 You're the only judges of the facts. When you begin
2 your deliberations, you will be the only ones that can decide
3 the facts in the case.

4 The first thing we are going to do is to have
5 opening statements. And the attorneys will tell you very
6 briefly what they think the evidence is going to show in this
7 case just to give you a brief outline; the State first,
8 followed by the Defendant.

9 And, then, after you have heard the closing
10 arguments, I will charge you on the law. I will explain to
11 you what the law is in South Carolina that might affect your
12 decision in this case based upon what you find the facts to be
13 in this case.

14 Then, you will begin your deliberations. But not
15 until that time.

16 As I said, we expect the case to take -- take a
17 couple of days to try. And we're not going -- we'll try not
18 to waste any time; we're not going to hurry about it because
19 it's a very important case for everyone involved. But we'll
20 try to keep moving right along and not waste any time.

21 So, please, give the attorneys your attention at
22 this time as they address you; the attorney for the State
23 first followed by the attorney for the Defendant.

24 And, then, we'll begin our testimony.

25 All right, Mr. Anthony, you may proceed.

OPENING STATEMENTS - MR. ANTHONY

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1 MR. ANTHONY: Thank you, Your Honor.

2 OPENING STATEMENTS

3 (Mr. Anthony's opening statement began at 2:43 p.m.)

4 MR. ANTHONY: Good afternoon. My name is John
5 Anthony. I'm a deputy solicitor here in Union County and I'm
6 the man that will be representing the State in the trial of
7 this case.

8 The judge just got through telling you all not to
9 talk to anybody about the case. And there's a reason for you
10 all to do that because jurors, aren't suppose to discuss the
11 case with anybody except for other jurors when the case is
12 over.

13 So, you are asked not to go home and talk about what
14 happened here and call your friends up and talk about what's
15 going on in court.

16 But, there's a reason you can't really talk about
17 the case, and the reason you have to be told that is because
18 it's human nature. It's human nature that, when there's
19 something goes on or you're doing something a little bit
20 different, something out of the ordinary, it's human nature to
21 want to go home and talk your husband or your wife or your
22 family about it or call your friends up on the phone and talk
23 to them about it.

24 It's just what people do when they've got something
25 going on that's a little bit different than what their normal

OPENING STATEMENTS - MR. ANTHONY

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1 routine is.

2 Well, back on August the 18th of 2008, the Defendant
3 in this case, Mr. Rice, he did something that was a little out
4 of the ordinary. And just like any other regular person he --
5 he wanted to talk about it.

6 Mr. Rice, along with a man by the name of Derrick
7 Ruff, and at least one other man, went to this residence in
8 Union on .

9 And they did what's -- what's commonly known as a
10 home invasion. There was this young man named Kevin Davis who
11 was sitting outside in a car and they snuck up on him and they
12 pulled a gun on him and forced him inside the house.

13 And they went into the house and Mr. Davis's sister
14 was in the house. She was sitting in her bed with her three-
15 year-old daughter in her bedroom and they were watching T.V.

16 And these guys went into her bedroom. They tied
17 them up and they stole money and -- and drugs from the house.

18 And, on their way out of the house, they shot -- one
19 of the three of them shot Kelvin Davis in the back and killed
20 him.

21 So, hopefully, none of you all engage in the kind of
22 activities that Patrick Rice engaged in, but just like
23 everybody else, once Patrick Rice did this, he wanted to talk
24 about it. He wanted to -- he wanted to tell some people what
25 had happened.

OPENING STATEMENTS - MR. ANTHONY

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1 So, Patrick Rice at this time was living in
2 Whitmire. He was living with his girlfriend, a girl by the
3 name of Miriam Dickert and his cousin, a young man by the name
4 of Michael Rice, and his cousin's girlfriend, a young woman by
5 the name of Sierra Braswell.

6 And he went back to that residence in Whitmire, and
7 over the next few days, he told all three of them about going
8 and doing this robbery and about Kelvin Davis being shot
9 during the course of the burglary and robbery.

10 Now, Patrick Rice is kind of like everybody else in
11 another way too, in a way that you can probably relate to
12 again from your experiences because I bet everyone of us, when
13 you got that jury summons, you got to thinking about, "Well,
14 do I really have to go do this? Is there something I can do
15 where I don't have to come up here and be a juror?"

16 Well, that would be -- that would be just human
17 nature when you've been told you've got to come and do
18 something like jury service. Most people give at least a
19 little bit of thought whether they really have to do it or
20 not.

21 And we're very glad that you all came to do this,
22 but most people think about it; think about, "Well, is there
23 some way I can get out of this?"

24 Well, Patrick Rice had that same kind of thought
25 himself. And what he did was -- well, that morning he decided

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1 that he needed to get out of town.

2 So, this home invasion occurred real early on Monday
3 morning. That Monday morning, later on in the morning, Mr.
4 Rice and his girlfriend, Ms. Dickert, went to Clinton. And a
5 little longer on in the day that Monday Mr. Rice and Ms.
6 Dickert got in touch with Michael Rice and Sierra Braswell and
7 they all went to Clinton.

8 They were together in Clinton until the following
9 evening. And, then, that night they all went to Charlotte.
10 And Michael and Miriam Dickert -- Michael Rice and Miriam
11 Dickert and Sierra Braswell all left Patrick Rice up in
12 Charlotte that Monday night.

13 A couple days later they went back to Charlotte and
14 they took him up Thomasville, North Carolina. And Patrick
15 Rice stayed up in Thomasville, North Carolina until the next
16 week. And he -- he surrendered himself the next week.

17 So, in this case, we're going to present witnesses
18 who are basically going to present the facts that I just --
19 just outlined to you.

20 We'll have Tinsley Davis testify and her daughter
21 testify about the actual robbery that occurred.

22 She had a 12-year-old daughter -- well, an 11-year-
23 old daughter at the time who was in the house as well.
24 They'll testify about the robbery.

25 We'll have the people that Patrick Rice was with

OPENING STATEMENTS - MR. RECKENBEIL

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1 over the days after this robbery. He talked about it and
2 they'll testify and they'll tell you about what Pat Rice told
3 them about what he did.

4 We'll have investigators from the sheriff's office
5 who will tell you about the course of the investigation. And
6 we'll have the pathologist who performed the autopsy on Kelvin
7 Davis's body who will testify to you about the wounds he
8 suffered and his cause of death.

9 So, we would ask that you just be patient with us.
10 Listen to the evidence as it is presented. And we believe
11 that, once you've heard all the evidence that we're going to
12 present in this case, you're going to find Patrick Rice is
13 guilty of what he is charged with.

14 He is guilty of armed robbery. He's guilty of
15 first-degree burglary. He's guilty of kidnapping Kelvin Davis
16 and Tinsley Davis. And he's guilty of the murder of Kelvin
17 Davis. Thank you all very much.

18 (Mr. Anthony's opening statement concluded at 2:49
19 p.m.)

20 THE COURT: Thank you, sir. Yes, sir?

21 MR. RECKENBEIL: May it please the Court, Your
22 Honor?

23 (Mr. Reckenbeil's opening statement began at 2:49
24 p.m.)

25 MR. RECKENBEIL: Good afternoon, ladies and

OPENING STATEMENTS - MR. RECKENBEIL

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1 gentlemen. My name is John Reckenbeil. As you've heard, I'm
2 an attorney from Spartanburg; I live in Greenville.

3 You will probably notice that my accent is probably
4 not South Carolinian, but I've been here for seventeen (17)
5 years and I'm a proud resident of Greenville County.

6 Today I am here to defend Mr. Patrick Rice. Now,
7 I'm going to be the third person telling you that it is
8 imperative to wait until you hear everything before you make a
9 decision. And that's no more important than this case.

10 You heard the Solicitor, who represents -- who
11 represents the State of South Carolina, stand up here and tell
12 you a nice compact, precise order of what they think they're
13 going to show.

14 Well, if you're like me who sits there with a remote
15 control and sits there and watches the first two minutes of a
16 show or reads the blurb on it to make up your mind right away
17 whether or not you want to sit there and watch that show.

18 Well, I can tell you that is not what has happened
19 in this case. Because the Defense is going to put up
20 witnesses. And what we intend to show is that Patrick Rice
21 was not there that night.

22 There is not going to be one shred of evidence to
23 show any hair samples, to show any blood, to show any
24 fingerprints, to show any shoe prints, or anything that proves
25 that Patrick Rice was at that scene.

OPENING STATEMENTS - MR. RECKENBEIL

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1 We're going to have his sister, his mother, and his
2 father come and testify before you and tell you where he was
3 that evening the murder occurred on August 18th, two thousand
4 and eight (2008).

5 Now, you're going to hear a bunch of other people
6 that the State is going to bring up to that witness stand
7 (indicating).

8 Now, we know that there is a slogan that we have in
9 America, there ain't nothing for free in America.

10 Ladies and gentlemen, it's going to be your job to
11 listen to what these people have to say, to listen to why
12 they're coming on this witness stand because I tell you
13 nothing is for free.

14 There is going to be a reason these people are
15 coming up to this witness stand and telling you their story.
16 And now it's going to be your job to determine whether or not
17 these people, with the reason why they're coming up to this
18 witness stand, are they telling the truth?

19 You're going to have the opportunity to hear the
20 Defense. And that's why it is so important that you wait to
21 make up your minds. And that's why the judge has instructed
22 to do there is no discussion of this case until you hear
23 everything.

24 And we submit to you that, once you've had an
25 opportunity to hear the full account of this case, to hear

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1 everything, we're going to ask you to return a verdict of not
2 guilty on every single count that the State has brought forth.

3 THE COURT: Thank you, sir.

4 (Mr. Reckenbeil's opening statement concluded at
5 2:52 p.m.)

6 THE COURT: All right. You may call your witness.

7 MR. ANTHONY: We'd call Deputy Gaston.

8 (Deputy Gaston stepped forward to be sworn.)

9 (Off-the-Record Comments)

10 THE COURT: Officer, if you would, place your left
11 hand on that Bible and -- place your left hand on that Bible
12 and raise your right.

13 (Whereupon,

14 DEPUTY TERRY GASTON

15 having been first duly sworn, testified as follows:)

16 THE COURT: Thank you. Have a seat right there and
17 state your full name.

18 THE WITNESS: My name is Timothy Garnell Gaston
19 (phonetic).

20 THE COURT: All right, Counselor.

21 DIRECT EXAMINATION by MR. ANTHONY: 2:52 P.M.

22 Q. Mr. Gaston, how are employed?

23 A. I work at the Union County Sheriff's office as a
24 deputy sheriff.

25 Q. How long have you worked with the sheriff's office

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1 here in Union?

2 A. I've been employed with the sheriff's office since
3 August of two thousand, three (2003).

4 Q. I want to take you back to August of two thousand
5 and eight (2008). What was your job at the Sheriff's office
6 at that time?

7 A. I was a road deputy.

8 Q. Were you working in the early morning of August 18th,
9 2008?

10 A. Yes, sir.

11 Q. And who were you working with at that time?

12 A. Sergeant Dan Gibson (phonetic).

13 Q. And did you receive a call out to
14 ?

15 A. Yes, we did.

16 Q. Is that in Union County?

17 A. Yes, sir.

18 Q. And what time did you get dispatched out to
19 ?

20 A. Twelve, thirty-six (12:36).

21 Q. In the morning?

22 A. Yes, sir.

23 Q. When you got to , what did you see?

24 A. When we arrived there at , we could
25 see a vehicle sitting in the driveway with the door open. And

PAMELA FAUCETTE, CVR - PHONE: 864-574-9534 CELL: 336-260-2864

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1 you could see a phone laying there beside the -- on the
2 sidewalk.

3 And, then, as we approached the house, Ms. Tinsley
4 came to the door and she was very distraught and telling us
5 that her brother had been -- had been shot.

6 Q. And, as she's telling you that her brother had been
7 shot, Ms. Davis is ---

8 A. Yes, sir.

9 Q. --- what did you do at that time?

10 A. At that time, me and Sergeant Gibson, we entered the
11 house and we found Mr. Davis lying in the dining room area of
12 the kitchen -- the kitchen and dining room area.

13 Q. And that's Kelvin Davis?

14 A. Yes, sir.

15 Q. All right. And did you notice anything about where
16 -- where he was lying?

17 A. He was lying on the floor in -- in the dining room
18 area.

19 Q. I'm sorry?

20 A. He was lying on the floor in the dining room area.

21 Q. All right. And did you notice any substance around
22 where his body was lying?

23 A. The -- there was a large amount of blood, yes, sir.

24 Q. Were you able to determine if he had any injuries?

25 A. Yes, sir. We could see an apparent wound to his

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1 chest.

2 Q. And what condition was Mr. Davis in at that time?

3 A. He was kind of moaning, but no -- no response as far
4 as verbal.

5 Q. No response as far as what?

6 A. Verbal, no verbal responses coming from him. But he
7 was still breathing at the time we arrived.

8 Q. And, once you made these observations about Mr.
9 Davis, what was the next thing you did in responding to the
10 call?

11 A. Oh, we checked -- we checked the rest of the house
12 to make sure that everything was clear.

13 Q. All right. Was anyone else in the home beside Mr.
14 and Ms. Davis?

15 A. There was two young children in a bedroom.

16 Q. Okay. And did anyone else respond to -- to deal
17 with this shooting situation?

18 A. Later on Whitney Childers (phonetic) and Todd Carter
19 (phonetic), they arrived at the scene.

20 Q. They're -- they're deputies?

21 A. Yes, sir.

22 Q. Did any medical personnel arrive?

23 A. Yes, sir. EMS did respond.

24 Q. All right. How long did it take EMS to get there
25 from the time you arrived?

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1 A. I would say around four or five minutes.

2 Q. Once -- once EMS got there, what did they do to
3 assist Mr. Davis?

4 A. They provided local medical service and then they
5 transported him to Spartanburg Regional or that's where --
6 well, apparently they were taking him to Spartanburg.

7 Q. All right. It's your understanding that's where
8 they were headed with him?

9 A. Yes, sir.

10 Q. All right. Now, after Mr. Davis was taken by the
11 ambulance, was Ms. Davis still at the residence?

12 A. Yes, sir.

13 Q. And what was the next thing you and Sergeant Gibson
14 did in regards to dealing with her?

15 A. We tried to get the information as far as to what
16 had happened and any description of any of the suspects.

17 Q. Okay. And were any other personnel from the
18 sheriff's office called to the scene?

19 A. Yes, sir, Lieutenant Riddle.

20 Q. And what was -- what was his role out there at the
21 scene?

22 A. He was the detective, the investigator that was over
23 -- would be in charge of the scene once he got there.

24 Q. When Lieutenant Riddle arrived, what did you do?

25 A. We assisted him in collecting evidence and making

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1 sure the house was secure.

2 (Brief pause while Mr. Anthony retrieves exhibits.)

3 Q. I'm going -- I'm going to hand up what has been
4 marked for identification as Exhibits 1 through 7. I would
5 ask that you look at these photos and tell me if you recognize
6 what they're of.

7 A. Yes, sir.

8 Q. All right. Just go through them, if you would, just
9 one-by-one and make sure you recognize them.

10 (Brief Pause while witness examines documents.)

11 A. Yes, sir.

12 Q. And what are those pictures of?

13 A. That's the incident ---

14 Q. That's ---

15 A. -- scene.

16 Q. Those -- those are pictures of the incident
17 location?

18 A. Yes, sir.

19 Q. And do those pictures fairly and accurately depict
20 how the incident location appeared on -- in the early morning
21 of August 18th?

22 A. Yes, sir.

23 MR. ANTHONY: We would move one (1) through seven
24 (7) into evidence.

25 MR. RECKENBEIL: No objection, Your Honor.

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1 THE COURT: One (1) through seven (7) admitted
2 without objection.

3 (Whereupon, State's Exhibit Numbers 1 through 7 were
4 admitted into evidence without objection.)

5 MR. ANTHONY: Your Honor, I'd -- I'd ask to publish
6 these to the jury on the screen at this time.

7 THE COURT: All right.

8 (Brief pause while overhead is readied.)

9 Q. I'm going to show you first of all Exhibit Number 7.
10 (State's Number 7 shown on overhead.)

11 MR. ANTHONY: (To the Bailiff) Can you -- can you
12 turn those lights down just a little bit?

13 (Bailiff did as instructed.)

14 (Off-the-Record Comments)

15 Q. Okay. What is -- what is that a picture of?

16 A. That is the actual location where the -- the victim
17 was lying on the right.

18 Q. Okay. And, then, just to try to make sure that the
19 jury understands where things are, what -- what is this right
20 here (indicating)?

21 A. That is the base of the refrigerator.

22 Q. Okay.

23 A. The bottom of the refrigerator.

24 Q. The bottom of the refrigerator?

25 A. Yes, sir.

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1 Q. Okay. Now, I'm going to show you Exhibit Number 1
2 and ask you what ---

3 A. That's the refrigerator there in the picture and ---

4 Q. Right here (indicating)?

5 A. Yes, sir.

6 Q. Okay. All right. And, then, what is -- what is
7 this here (indicating)?

8 A. That's a door that leads out to the carport.

9 Q. Okay. And, then, this substance here (indicating),
10 what is that?

11 A. That's the blood where he had come in from the
12 carport area.

13 Q. Okay. All right. And I'm going to show you now
14 Exhibit Number 2.

15 (State's 2 shown on overhead.)

16 Q. What is that a photograph of?

17 A. That's outside of the carport. That's the step
18 where it leads back to -- back into the kitchen.

19 Q. So -- and -- and this substance here (indicating),
20 what is that?

21 A. That's blood again, sir.

22 Q. So, this -- this door right here (indicating), is
23 that -- going back to Exhibit Number 1.

24 (State's 1 shown on overhead again.)

25 A. Could you repeat that?

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1 Q. The -- the door, on Exhibit Number 2, right there
2 (indicating) ---

3 A. Yes, sir.

4 Q. --- what's the correlation between it and this
5 (indicating)?

6 A. That is the same door.

7 Q. Okay. Okay, we got a corner of the door. I didn't
8 realize you got the corner. All right. And, then, if you
9 would -- I'll go back to Number 7.

10 (State's 7 shown on overhead.)

11 Q. Where was -- where was the body?

12 A. The body was laying right in this area (indicating).

13 Q. Okay. All right. Now, if you -- if you're in the
14 residence, and you're -- just to try to give the jury a little
15 more sense of how the residence lays out -- and you want to go
16 towards the -- the living room area of the residence, which
17 direction would that be?

18 A. There is an entranceway right about right in here
19 (indicating) that goes to the living room.

20 Q. Okay. All right. And where -- where is the actual
21 dining area?

22 A. That's the dining area (indicating). That's pretty
23 much where he was -- he was laying was in the dining area.

24 Q. And where would -- and where would the bedroom area
25 be?

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1 A. The bedroom area would be back in -- there's a
2 hallway back to this side (indicating). That's the wall that
3 goes down the hallway.

4 Q. Okay. And I'm going to show you now Exhibit Number
5 4.

6 (State's 4 shown on overhead.)

7 Q. And what is that a -- a photograph of?

8 A. That's the items that she stated she was tied up
9 with. It's a shirt and like a sheet.

10 Q. Okay. And where were those photographed?

11 A. That was in the bedroom.

12 Q. And I'm going to show you Exhibit Number 5.

13 (State's 5 shown on overhead.)

14 A. That's a purse that was located in the living room
15 floor. That's where we found it.

16 Q. And, then, I want to show you Exhibit Number 6.

17 (State's 6 shown on overhead.)

18 (Brief Pause)

19 Q. Let's try to brighten that up a little. What --
20 what is that a photograph of?

21 A. That's the car with the driver's door open and right
22 in there (indicating) is the -- the telephone that we found
23 laying in the -- on the sidewalk.

24 Q. All right. And, so -- and, so, when you testified
25 about seeing the car with the door open, that's what ---

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1 A. Yes, sir.

2 Q. That's that car?

3 A. Yes, sir.

4 Q. And I'll show you now Exhibit Number 3.

5 (State's 3 shown on overhead.)

6 Q. And what -- what is that a photograph of?

7 A. That's the -- that's just the telephone that we
8 found lying right there at the door of the car and the lid to
9 the light.

10 Q. And this, this right here (indicating), what's that?

11 A. That appears to be a car door.

12 (Brief Pause)

13 MR. ANTHONY: If I could have a moment.

14 (Brief Pause)

15 MR. ANTHONY: Thank you. That's everything direct.

16 THE COURT: Cross exam?

17 CROSS EXAMINATION by MR. RECKENBEIL:

3:05 P.M.

18 Q. Deputy, do you know on Exhibit Number 4, that shirt
19 and sheet, were they taken into evidence?

20 A. I'm not for sure.

21 MR. RECKENBEIL: Okay. That's all the questions I
22 have.

23 THE COURT: Redirect?

24 MR. ANTHONY: No redirect.

25 THE COURT: Thank you, sir. You may step down.

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1 (Whereupon, the witness stepped down from the
2 witness stand at 3:06 p.m.)

3 THE COURT: Next witness?

4 MR. ANTHONY: The next witness will be Ms. Davis.

5 (Brief Pause)

6 THE COURT: Ms. Davis, come forward, please, ma'am.

7 (The witness stepped forward to be sworn.)

8 THE COURT: Would you, please, place your left hand
9 on that Bible right there and raise your right?

10 (Whereupon,

11 MS. TINSLEY DAVIS

12 having been first duly sworn, testified as follows:)

13 (Off-the-Record Comments)

14 THE COURT: State your full name, please.

15 THE WITNESS: Tinsley Davis.

16 THE COURT: Thank you. All right, Counsel.

17 DIRECT EXAMINATION by MR. ANTHONY:

3:06 P.M.

18 Q. Ms. Davis, where do you live?

19 A. , Union.

20 Q. And are you employed?

21 A. Yes.

22 Q. And where are you employed?

23 A. Georgia Pacific.

24 Q. I want to take you back to August of -- of two
25 thousand and eight (2008). Where -- where were you living at

1 that time?

2 A. [REDACTED].

3 Q. And who were you living with at that time?

4 A. My two daughters and their father and my brother.

5 Q. And who was your brother?

6 A. Kelvin Davis.

7 Q. And the father of your two daughters, what is his
8 name?

9 A. Chauncy Sims (phonetic).

10 Q. And what are your two daughters names?

11 A. C.S. (phonetic) and S.S. (phonetic)

12 Q. And, at that time, how old was S.S. ?

13 A. Eleven (11).

14 Q. And, at that time, how old was C.S. ?

15 A. Three (3).

16 Q. Now, your brother was -- was Kelvin Davis?

17 A. Yes.

18 Q. Did -- did he go by another name?

19 A. Plute (phonetic).

20 Q. And how old was Kelvin?

21 A. Nineteen (19).

22 Q. And, Mr. Sims, does he -- does Mr. Sims have another
23 name that he's commonly known by?

24 A. Jake.

25 Q. I want to take you back to Sunday, August the 17th.

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1 Where had you been in the week or so prior to August 17th?

2 A. Well, we had been gone two weeks prior. One week we
3 was in Atlanta. And the week before it happened, we was at
4 Myrtle Beach.

5 Q. So, you had just gotten home from vacation?

6 A. Yes.

7 Q. All right. And that night, of the 17th, where did
8 you go?

9 A. Wal-Mart.

10 Q. And, when you came home that night, who was there?

11 A. Plute and my two daughters.

12 Q. What was Plute doing when you got home?

13 A. When I got home, he was washing my car -- he was
14 washing my car.

15 Q. And what did -- what did Kelvin do later on that
16 evening once you got home?

17 A. He started cooking.

18 Q. What was he cooking?

19 A. Fish, fries, and hush puppies -- fish, fries, and
20 hush puppies.

21 Q. Did -- did he ask you if anybody could come to the
22 house that night?

23 A. Yes.

24 Q. Who -- who did he ask if -- if she could come to the
25 house that night?

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1 A. His girlfriend, Wytrisha.

2 Q. And what did you tell him?

3 A. It was fine with me.

4 Q. What -- what -- what relationship had Kelvin
5 developed with him Wytrisha?

6 A. They was dating.

7 Q. All right. Did -- when -- when the fish got fried
8 up, had Wytrisha come yet?

9 A. No.

10 Q. Okay. So, what did you all do?

11 A. We eventually ate. And the whole time he was on the
12 phone. We got settled in.

13 It was -- the next morning was the first day of
14 school and my oldest daughter had to go to school. So, I put
15 her to bed, and me and my baby girl got situated.

16 Q. Now you and -- you and your three-year-old?

17 A. My three-year-old.

18 Q. What -- you say you got situated. What did you and
19 your three-year-old do?

20 A. Like take a bath, straighten up the kitchen.

21 Q. Okay. And, then, where -- you had -- you had S.S.
22 go to bed?

23 A. Yes.

24 Q. Okay. And, after S.S. got in bed, and you had
25 kind of gotten things sort of straightened up at the house,

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1 what did you and your three-year-old do?

2 A. We went to bed, laid in bed watching T.V., playing.

3 Q. And about what time was that?

4 A. It was after ten (10:00).

5 Q. And, when you went to bed, where was Kelvin Davis,
6 your brother?

7 A. He was outside in my car listening to music.

8 Q. And, what -- what was he expecting as far as
9 Wytrisha coming over at that time?

10 A. He thought she was coming.

11 Q. Now, after you laid down, did you have some contact
12 with -- with Kelvin?

13 A. Yes.

14 Q. And how did you contact him?

15 A. I called him from my cell phone. He had the house
16 phone and I called the house phone and told him to come in.

17 Q. And what did you ask him to do?

18 A. I asked him to go into my bathroom and get something
19 out of there for me, which he did.

20 Q. All right. And, after he -- he came and retrieved
21 something out of the bathroom, where -- where did he go?

22 A. He went back outside.

23 Q. And what time did you have contact -- this contact
24 with him, approximately what time?

25 A. Approximately -- repeat that.

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1 Q. Approximately what time would you have called him on
2 the phone and have him come back in the house?

3 A. I don't know, maybe eleven (11:00). I'm not sure.

4 Q. Okay. All right. Well, after -- after he came back
5 in the house and then went back outside, what was the next
6 thing that happened that night?

7 A. Well, me and my baby girl was playing in the bed and
8 just talking, my three-year-old. And I notice someone walking
9 down my hallway in a mask.

10 And the first thing that went through my head was it
11 was just some of my cousins just playing around. But this
12 person got closer and closer.

13 And, when he came into my bedroom, I noticed he had
14 on a camouflage mask that covered everything. And I guess I
15 came to my senses then and I knew, you know, something wasn't
16 right because I knew -- I knew my brother wouldn't let nobody
17 just come into my room at that time of night like that.

18 So, he walked around the bed, you know, looking and
19 I'm looking and I jumped up and I grabbed my three-year-old
20 and I just started holding her.

21 Q. Well, when the man came in your room and walked
22 around your bed, did he say anything?

23 A. He said, "Where the money at?"

24 Q. He said what now?

25 A. "Where's the money?"

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1 Q. All right. And how did you respond?

2 A. I asked him, "What money? What are you talking
3 about?"

4 Q. And what did he say back to you?

5 A. "You know what I'm talking about." And I was just
6 looking, and we just passed words back and forth like, "I
7 don't know what you're talking about."

8 Q. I'm sorry, you said what now? You need to speak up,
9 so, everybody can hear you.

10 A. He just kept telling me I knew where the money was;
11 "Where the money at," is what he kept asking me.

12 And while he was asking me those questions, he was
13 fumbling around on my dresser, just looking.

14 Q. And, while this man was fumbling around on your
15 dresser, what -- what else did you observe?

16 A. Another man walking down the hallway with the same
17 type ski mask, camouflage mask, he had on pointing a gun at me
18 and my three-year-old in our face.

19 Q. All right. Where -- where did he come to in the
20 house?

21 A. He stood between my door and my -- S.S. 's room, my
22 oldest daughter, room.

23 Q. And you said this man had a gun?

24 A. Yes.

25 Q. All right. Did this man say anything to you?

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1 A. Yes. He asked, "Where the money at?" And I told
2 him, "I don't know what you're talking about." And he was
3 like -- cursing me, calling me all these names, telling me I
4 do know what he's talking about.

5 (Brief Pause)

6 A. He asked -- the first guy that entered my room told
7 him to tie me up.

8 Q. Well, the two -- two men that were in -- in the hall
9 -- the first two men you saw, did they have anything that
10 prevented you from seeing their faces?

11 A. Yes. They both had on camouflage masks that covered
12 their whole head and face and come about down here
13 (indicating).

14 Q. And were you able to -- how were you able to see
15 them? What -- what allowed you to see them there in the hall
16 and in the bedroom?

17 A. Well, I've got a 52-inch TV in my bedroom. And
18 there -- there was a light on up the hallway.

19 Q. All right. Now, while this was going on and these
20 -- these -- this man is in the hall and this other man is in
21 your bedroom, could you hear anything being said by Kelvin?

22 A. Well, I heard him like hollering at first. I
23 couldn't really make out what he was saying.

24 And the dude with the gun in my face -- or the guy
25 with the gun in my face, I don't know if he knew what he was

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1 saying. He started saying, "Man, that nigger tripping. That
2 nigger tripping. Shoot that nigger."

3 And I'm thinking to myself what could he be saying
4 because I don't really hear him saying nothing. And, then, I
5 hear Plute; he said something about the box.

6 Q. Now, did -- while this was being said, the first man
7 who came in -- as he walked in the room, what did he do?

8 A. He went up the hallway and he came back down the
9 hallway and then ---

10 Q. Once he came back in -- in -- down the hallway, what
11 did the man standing there in the hall -- the second man you
12 saw -- what did he say to the first man?

13 A. He told him to tie me up.

14 Q. And what did the first man -- the first man you saw,
15 what did he do?

16 A. He grabbed a shirt off my bed and a sheet off my bed
17 and tied my arms behind my back and tied my legs. And I had
18 my baby girl sitting in my lap.

19 (Brief Pause)

20 Q. Now, while this is going on, what else -- what was
21 the next thing that happened; the next person you saw?

22 A. The one who tied me up, I told my baby girl just to
23 drop her head. And I dropped mine beside her head.

24 But I was looking out the corner of my eye corner
25 and I seen another dude -- another guy come down my hallway

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1 like squatting.

2 (Witness becomes emotional.)

3 A. He had on a baseball cap covering everything, all
4 the way down his nose.

5 Q. And the fact that he was squatting, how did that --
6 how did that affect your ability to see the man?

7 A. I couldn't see him because I got a sleigh bed and
8 the footboard of my bed sit up high. The only thing I could
9 see was like this (demonstrating), just this part.

10 Q. And were you able to -- to recognize any of the
11 three men that night?

12 A. No.

13 Q. So, once the man comes who's got the cap on, who's
14 kind of -- who's kind of bent over, what -- what is said to
15 that man and by whom?

16 A. The guy who was at the door with a gun in our face,
17 there was words passed between them. I could tell he was
18 supposed to be down the hallway.

19 He came in and he wasn't in there but just a few
20 seconds but he was like -- he came in and I'm still looking
21 out the corner of my eye and I heard him like fumbling in my
22 closet.

23 Q. Now, this -- this is the man with the cap?

24 A. The cap.

25 Q. Okay.

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1 A. He started fumbling in my closet. I got shoe boxes
2 and stuff in my closet. And he went back up the hallway. And
3 about that time -- I remember at one time there were three of
4 them in my room. And the first guy that came in, he goes up
5 the hall and he comes back.

6 And he was talking but still I really couldn't make
7 out because my head was still down. I saw that he had a gun.
8 This is the first guy that entered my room.

9 And the other guy, he went -- the one that was
10 squatting down, he went back up the hallway. And the first
11 guy he came back in my room and come back around the bed.

12 Just -- I couldn't see what he was doing because he
13 was behind me. And I seen him go out of my room with like a
14 box in his hand.

15 And he goes back up the hall. And he wasn't up
16 there no time. And he comes back down the hall and tells the
17 guy who is standing there the whole time, and he was like
18 telling him what to do and everything and he said -- that's
19 what they were doing.

20 He was -- told the man, "I see a light. Man, come
21 on, I see a light." And he'd just kind of backed away from
22 me, like walking back down my hallway. I thought they were
23 going on and leaving.

24 Q. All right. Let me -- let me just back up just a
25 minute.

1 You said that -- you said that the man with the cap
2 was looking through some shoe boxes in your closet. And,
3 then, he left; is that correct?

4 A. Yes.

5 Q. Okay. And, at the same time, where was -- at the
6 time he was doing this, where was the first man who had come
7 in?

8 A. He was in my room, but he went back up the hall.

9 Q. And, at some point, you saw that first man who came
10 in -- who was wearing a mask -- you saw him with a box?

11 A. Yes.

12 Q. Okay. And was the third man still in your room when
13 you saw the first guy with a box?

14 (Brief Pause)

15 A. No.

16 Q. Okay. The third guy had left?

17 A. Yes.

18 Q. All right. And where -- where in your room was the
19 first guy to -- to where he would have had -- might have had
20 access to a box?

21 A. Under my bed.

22 Q. Okay. All right. And, once he got the box, where
23 did the first man go?

24 A. Back up the hall.

25 Q. All right. So, at this point, both the guy with the

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1 cap ---

2 A. He was still ---

3 Q. --- and the first guy are out ---

4 A. Had went up the hall.

5 Q. Okay. And, then, which one of them came back?

6 A. The first guy.

7 Q. Okay. When you -- when you saw the first guy, did
8 you notice anything in his hand?

9 A. Yes. Like he had a -- I'm assuming it was a gun
10 because he wouldn't do no movement. He was just like this
11 (demonstrating). But, when he first came down the hallway, he
12 -- he was moving.

13 Q. All right. And the first man told the second --
14 said what said to the second man?

15 A. "Come on, man. I see a light. I see a light."

16 Q. And -- and, once this happened, what did they do?

17 A. The first guy took off up the hallway, and the
18 second guy, he just started walking back.

19 And, then, once they got I guess in the kitchen area
20 or going out the door, I heard a shot. Then, I heard my
21 brother hollering like. And I sat there for a couple of
22 seconds til I didn't hear no more movement.

23 And I broke loose from the sheets and that shirt and
24 I ran up the hallway. And my brother was coming out of the
25 garage. And there was blood everywhere.

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1 (Witness becomes emotional.)

2 A. And he said, "Hurry up, Tin, hurry up. Call an
3 ambulance." And I told him, "Don't talk. Come and lay down."

4 (Witness is emotional.)

5 A. Then, my oldest daughter, I don't know if she was
6 right up the hall or what, but I told her to call 911 on the
7 cell phone because they had two of my phones. She couldn't do
8 it. I called 911 and told her and her sister to go down the
9 hallway and shut the door.

10 Q. All right. And did the sheriff's office and EMS
11 people come?

12 A. Yes.

13 Q. And did you talk to them and explain to them what
14 had happened?

15 A. I tried, yeah -- yes.

16 Q. What became -- you said you couldn't call 911 on
17 your cell phone. What happened to your cell phone?

18 A. They took my cell phone and the house phone.

19 Q. And was anything else missing from your -- from your
20 personal -- your personal possessions?

21 A. My keys.

22 Q. Keys to what?

23 A. To the car.

24 Q. All right. And where -- where had your purse been?

25 A. In the kitchen.

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1 Q. And where -- where was it once they left the house?

2 A. Laying by the door in the living room.

3 Q. And was this ---

4 A. They threw it out in the front.

5 Q. Okay. And was any cash taken out of house?

6 A. Yes.

7 Q. And approximate how much cash?

8 A. About seventeen hundred dollars (\$1,700).

9 Q. And where -- where had that cash been?

10 A. Under my bed.

11 Q. And, at the time this was going on, did you know
12 that?

13 A. No.

14 (Brief Pause)

15 (Whereupon, State's Exhibit Number 8 and 9 were
16 marked for identification.)

17 Q. I'm showing you what's been marked for
18 identification as State's Exhibit Number 8 and also State's
19 Exhibit Number 9. I -- I would ask that you just look at
20 these two items and tell me if you know what they are.

21 A. This is what they tied me up with.

22 Q. Okay. All right. And Number -- Number 8, what --
23 what is this (indicating)?

24 A. That's my sheet that came off my bed.

25 Q. All right. And Number 9, what is this (indicating)?

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1 A. A shirt that was laying on my bed.

2 Q. All right. And do they still appear to be in the
3 same condition today as they were when this incident happened?

4 A. Yes.

5 MR. ANTHONY: Okay. We'd move 8 and 9 into
6 evidence.

7 MR. RECKENBEIL: No objection, Your Honor.

8 THE COURT: Admitted without objection. All right.

9 (Whereupon, State's Exhibit Numbers 8 and 9 were
10 admitted into evidence without objection.)

11 Q. If you would -- there is still a knot in the sheet.
12 If you would -- and if you need to stand up to do this, that
13 would be fine -- just show the jury how you were tied up, Ms.
14 Davis.

15 (Witness stands and demonstrates.)

16 A. He told me to put my hands behind my back and that's
17 what I did. And he took this shirt and tied it in a knot and
18 tied -- he took my feet and tied another knot, but it wasn't
19 nothing I couldn't get loose from it. When I broke loose I
20 just broke loose.

21 Q. So, he tied -- tied your feet up with which item?

22 A. My feet was tied up with the shirt. And my arms was
23 tied up with the sheet.

24 (Brief Pause)

25 MR. ANTHONY: If I could have one moment, please.

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1 (Brief Pause)

2 MR. ANTHONY: All right. Thank you. That's
3 everything on direct.

4 THE COURT: Cross examine?

5 CROSS EXAMINATION by MR. RECKENBEIL: 3:30 P.M.

6 Q. Ms. Davis, you said that you didn't know how that
7 money got underneath your bed, didn't you?

8 A. Correct.

9 Q. Do you know how much it was?

10 A. No, not exactly. I found out after.

11 Q. After the fact?

12 A. Yes.

13 Q. About how much money was down there?

14 A. Yes.

15 Q. Do you know what it was encased in, or was it just
16 sitting there plainly?

17 A. What do you mean?

18 Q. In other words, was it -- do you know if it was just
19 sitting under your bed just open or was it in a box or where
20 was the money?

21 A. It was in a box.

22 Q. And you had no idea that money was underneath your
23 bed?

24 A. No.

25 MR. RECKENBEIL: Thank you very much.

MS. S.S.

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1 THE COURT: Redirect?

2 MR. ANTHONY: No redirect.

3 THE COURT: Thank you, ma'am. You may step down.

4 (Whereupon, the witness stepped down from the
5 witness stand at 3:31 p.m.)

6 THE COURT: Call your next witness, please.

7 MR. ANTHONY: We'd call S.S. . . She's back there
8 in the grand jury room, S.S. . .

9 (S.S. was summoned.)

10 (The witness stepped forward to be sworn.)

11 THE COURT: Come on down, please, ma'am, right over
12 here (indicating).

13 (The witness complied with the Court's request.)

14 THE COURT: You need to get rid of that gum.
15 There's a trash can right there (indicating).

16 (Witness complied with the Court's request.)

17 THE COURT: Now, put your left hand on the Bible and
18 raise your right.

19 (Whereupon,

20 S.S.

21 having been first duly sworn, testified as follows:)

22 (Off-the-Record Comments)

23 THE COURT: Tell us your full name.

24 THE WITNESS: S.S. (phonetic).

25 THE COURT: All right. Young lady, you'll have to

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1 talk loudly, so, everybody can hear you, okay?

2 THE WITNESS: (Nods affirmatively.)

3 THE COURT: All right.

4 THE WITNESS: S.S.

5 THE COURT: That's good.

6 DIRECT EXAMINATION By MR. ANTHONY:

3:32 P.M.

7 Q. S.S. , how old are you?

8 A. I'm twelve (12).

9 Q. And where do you go to school?

10 A. C. S. Middle School (phonetic).

11 Q. What grade are you in?

12 A. Seventh.

13 Q. And who is your mom?

14 A. Tinsley Davis.

15 Q. And you have a sister?

16 A. Yes, C.S. (phonetic).

17 Q. I want to take you back to early in the morning on

18 August 18th of -- of two thousand, eight (2008). Did

19 something happen that night to wake you up?

20 A. Yes, I was awoken by loud talking and yelling.

21 Q. And where -- where were you when you woke up that
22 morning?

23 A. I was in my room asleep.

24 Q. And, once you heard this loud talking, what did you
25 do?

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MS. S.S.

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1 A. I pretended to be asleep.

2 Q. Did you see anybody when you woke up?

3 A. Yes. I seen a man. He was standing in my doorway.

4 Q. And what was over the man's face?

5 A. A camouflage mask.

6 Q. And what was the man doing?

7 A. He was pointing a gun at my mom and my sister.

8 Q. And did you hear the man in the hall -- the man with
9 the gun -- say anything?

10 A. Yes. He was yelling at my mom and my sister.

11 Q. What -- what was he yelling?

12 A. He was asking for money and calling her all kinds of
13 words.

14 Q. Okay. All right. And how did your mom -- how did
15 your mom respond? What was she saying back to him?

16 A. She said she didn't know what he was talking about.

17 Q. And did you see another man, at any point in time,
18 while this was going on?

19 A. I seen a man. He was crawling -- well, squatting on
20 the floor.

21 Q. And where did he go? Where - where -- where did you
22 see him?

23 A. He was going into my mama's room.

24 Q. Now, while -- while this is going on, these people
25 outside, out in the hall outside your mom's bedroom, did you

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1 ever hear your -- Kelvin Davis talking?

2 (Brief Pause)

3 A. I heard him say a box was unlocked.

4 Q. A box ---

5 A. Yeah, a box was unlocked.

6 Q. All right. And did you -- did your mom respond to
7 that in any way?

8 A. She said the box was locked.

9 (Brief Pause)

10 Q. And what did you hear -- hear the man out in the
11 hall saying anything to any of the other -- other men -- to
12 the other two men?

13 A. I don't remember.

14 (Brief Pause)

15 Q. What was -- what was the next thing you remember
16 seeing or hearing?

17 A. I heard a gunshot, and then, like my uncle screamed.
18 And, then, the man in the doorway was backing up. I could --
19 he started running from -- after the gun -- after he heard the
20 shots, he started running toward the door.

21 Q. And, once you heard this gunshot, and you heard --
22 heard your uncle scream, what did you do then?

23 A. I waited until my mama got up.

24 Q. And, when -- when she got up, what -- what happened
25 then?

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1 A. I walked up behind her, when she was up the hallway,
2 me and my baby sister.

3 Q. All right. Did your mom ask you to do anything?

4 A. She told me to go get my cell phone and to call the
5 police.

6 Q. And were you able to do that?

7 A. I was not able to dial the number.

8 Q. Okay. So, what happened instead?

9 A. I gave my mom the phone.

10 Q. And did your mom call the police?

11 A. Yes.

12 Q. And what did your mom tell you and -- what did your
13 mom have you and C.S. to do?

14 A. She told me to -- to take me and my sister into my
15 room and close the door.

16 (Brief Pause)

17 Q. And, so, did the police come to your house that
18 night?

19 A. Yes.

20 Q. And did you talk to them about what had happened?

21 A. Yes.

22 Q. And, then, after that, where did you go that night?

23 A. I went across the street to my neighbor's house.

24 (Brief Pause)

25 MR. ANTHONY: All right. Thank you. That's

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1 everything on direct.

2 THE COURT: Cross examination?

3 MR. RECKENBEIL: No questions, Your Honor.

4 THE COURT: Thank you, ma'am. You can step down.
5 Thank you for coming.

6 (The witness stepped down from the witness stand at
7 3:37 p.m.)

8 THE COURT: Call your next witness.

9 MR, ANTHONY: May we approach a minute?

10 THE COURT: Yes, sir.

11 (Whereupon, a bench conference was had with both
12 attorneys present.)

13 THE COURT: Ladies and gentlemen, we're going take a
14 break at this time. Please, retire to your jury room and do
15 not discuss the case.

16 (Whereupon, the jury exited the courtroom at 3:38
17 p.m.)

18 THE COURT: All right. We'll be at ease for about
19 ten (10) minutes.

20 (Whereupon, a recess was taken from 3:38 p.m. until
21 4:02 p.m.)

22 THE COURT: Thank you very much. You may be seated.

23 (Whereupon, everyone in the courtroom complied with
24 the Court's request.)

25 (Brief Pause)

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1 THE COURT: All right. Are we ready for the jury?
2 Is the State ready?

3 MR. ANTHONY: Yes, sir.

4 THE COURT: The Defense?

5 MR. RECKENBEIL: Yes, sir, Your Honor.

6 THE COURT: Bring in the jury.

7 (The jury was summoned.)

8 (The jury entered the courtroom at 4:03 p.m.)

9 THE COURT: Mr. Anthony, will you all approach the
10 bench for a minute?

11 (Whereupon, a bench conference was had with both
12 attorneys present.)

13 THE COURT: All right. Ladies and gentlemen, I'm
14 sorry. We're not quite ready. My fault. Please retire to
15 your jury room. It'll only be a couple of minutes this time.
16 I need to take up a matter of law.

17 (Whereupon, the jury exited the court room at 4:04
18 p.m.)

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20 THE COURT: All right, Mr. Anthony, who is your
21 next witness?

22 MR. ANTHONY: Our next witness is Miriam Dickert,
23 Your Honor.

24 THE COURT: And what is her relationship to this
25 case?

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1 MR. ANTHONY: Ms. Dickert was Mr. Rice's girlfriend
2 at the time of the incident. She's one of the witnesses who
3 was with him after the incident occurred and gave a statement
4 saying -- saying that he admitted his involvement in the
5 incident to her.

6 THE COURT: She was Mr. Rice's, the Defendant's,
7 girlfriend?

8 MR. ANTHONY: Yes, sir.

9 THE COURT: All right. Counsel, I guess you knew
10 all about this?

11 MR. RECKENBEIL: Yes, sir, Your Honor. It's --
12 this -- this has been with us before.

13 The problem that I have is that I understand the
14 fact of what the hearsay exception is going to be; the fact
15 that it's an admission of a party opponent.

16 But what I think the Bruton (phonetic) report was
17 talking about was especially -- and she's going to get on the
18 witness stand, and I'm anticipating she's going to tell all.
19 But, what if she doesn't tell all?

20 Then, the cat out of the bag and I think that's what
21 the Bruton report was protecting upon is the fact that I have
22 to have full disclosure and full opportunity to cross examine
23 this witness.

24 So, the only suggestion that I think, Your Honor,
25 that I think I could lend is that we do this outside the --

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1 the presence of the jury. And, then, she testifies.

2 And if Your Honor is -- is satisfied with the -- the
3 testimony and the opportunity to cross examine this witness
4 because I -- I think what the Bruton report was talking about
5 is that even an instruction to the jury, to disregard some of
6 what they've already heard, the cat is out of the bag.

7 If I don't get a full chance to cross examine this
8 witness, if she finds some reason, if Mr. Frost [sic] is
9 sitting here and she looks at him and she says, "I ain't
10 testifying no more," but she's already said some things, then,
11 my client has lost that ability, under the Sixth Amendment to
12 confront this witness.

13 And, then, I think he she would be excluded from --
14 from testifying. So, the only thing that I would caution you
15 about, and I'm thinking that I might need to say, is that, if
16 -- if we could take her testimony outside the jury's presence,
17 and, then, if it meets the requirements, then, she would be
18 able to testify.

19 THE COURT: Well, now, she was the Defendant's
20 girlfriend and -- and she's going to testify -- what I
21 understand -- as to what the Defendant told her?

22 MR. ANTHONY: Yes, sir.

23 THE COURT: And certainly you have the right to
24 cross-examine her. I don't see a Bruton issue involved.

25 MR. RECKENBEIL: Well, she's a co-defendant. She's

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1 charged in the same exact crime. She's charged with accessory
2 after the fact. She's -- I would -- I would think she's a co-
3 defendant.

4 (Brief Pause)

5 THE COURT: Well -- stand up, sir. You represent
6 Ms. Dickert?

7 MR. FROST: I do, Your Honor.

8 THE COURT: And what's your name?

9 MR. FROST: Miriam Dickert.

10 THE COURT: Cross?

11 MR. FROST: Oh, I'm sorry, Gary Frost.

12 THE COURT: Come on up this way. I'm having
13 trouble hearing you.

14 (Mr. Frost complied with the Court's request.)

15 THE COURT: Yes, sir, now, what was your name?

16 MR. FROST: Gary Frost, F-r-o-s-t.

17 THE COURT: All right. And you represent Ms.
18 Dickert?

19 MR. FROST: I do, Your Honor.

20 THE COURT: And you have certainly advised her of
21 her constitutional rights?

22 MR. FROST: Yes, sir.

23 THE COURT: And it's your belief that she intends
24 to testify fully and truthfully?

25 MR. FROST: Yes, sir. I have no reason to think

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1 otherwise.

2 (Brief Pause)

3 THE COURT: Well, I'm going to take you at your
4 word. And, if she decides to testify but not fully, if she
5 does not submit herself to full cross-examination, I
6 understand your dilemma, Counselor, and we'll just have to
7 deal with it at that time.

8 And if you're so prejudiced that it requires a
9 mistrial, you'll get it. I can assure you of that.

10 MR. RECKENBEIL: Yes, sir.

11 THE COURT: But, once she takes the stand, and
12 waives her right to remain silent, I expect her to testify
13 truthfully. And I expect her to testify fully.

14 And, if she decides she's going to testify what she
15 wants to and then stop testifying and not subject herself to
16 cross examination, she's going to have a real problem. And I
17 want you to explain that to her too.

18 MR. FROST: Yes, sir.

19 THE COURT: Do you understand what I'm saying?

20 MR. FROST: Yes, sir.

21 THE COURT: Because, if she testifies on direct,
22 she's going to be subject to cross-examination. And she's
23 going to have to answer Counsel's questions or she's going to
24 have to deal the Court.

25 MR. FROST: Would you like me to take her outside

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1 for a moment and reiterate that with her?

2 THE COURT: Well, if you think she doesn't
3 understand that, I want you to take her out and tell her that,
4 yes.

5 MR. FROST: I think she does, but I would like to
6 reiterate that to her, Your Honor.

7 THE COURT: That would be fine. Well take about
8 two minutes while you take her out and tell her. If you need
9 more time than that, you let me know. But it shouldn't take
10 but a second.

11 MR. FROST: Thank you, Your Honor.

12 (Brief Pause)

13 THE COURT: Now, Counsel, Mr. Anthony, have you
14 fully disclosed to the Defense any agreement that been made
15 for her testimony?

16 MR. ANTHONY: There are no -- there is no specific
17 agreement. She's -- she's testifying and that will be
18 considered in the disposition of her case.

19 THE COURT: Okay.

20 (Brief Pause)

21 THE COURT: Do you all have a copy of Bruton? I
22 don't want it now, but I want a copy before we leave because
23 I ---

24 MR. RECKENBEIL: Yes, sir. And I'll be able to
25 photocopy it right back there (indicating). And we can --

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1 and we can get that.

2 THE COURT: Sure.

3 MR. RECKENBEIL: And I'll be more than happy to
4 get it right now.

5 THE COURT: Well, let's do it later. I don't need
6 it right now I don't think.

7 MR. RECKENBEIL: Yes, sir.

8 THE COURT: I just don't have it with me.

9 MR. RECKENBEIL: Yes, sir.

10 MR. FROST: Your Honor, I spoke with Ms. Dickert
11 again, and we've talked about this before. I believe she
12 fully understands what her -- what her obligations are in
13 testifying. She has to give the whole ---

14 THE COURT: All right.

15 MR. FROST: --- story.

16 THE COURT: That's fine. We'll proceed. Bring in
17 the jury.

18 (Whereupon, the jury was summoned.)

19 (The jury entered the courtroom at 4:10 p.m.)

20 THE COURT: All right. All of the jury is seated.
21 You may call your witness.

22 MR. ANTHONY: We'd call Miriam Dickert.

23 THE COURT: Come around, please, ma'am. If you
24 would, come right around this way (indicating).

25 (The witness stepped forward to be sworn.)

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1 THE COURT: Ma'am, if you would, place your left
2 hand on the Bible and raise your right.

3 (Whereupon,

4 MIRIAM DICKERT

5 having been first duly sworn, testified as follows:)

6 THE COURT: Thank you, ma'am. Have a seat right
7 there and state full name, please.

8 THE WITNESS: Miriam Elizabeth Dickert.

9 THE COURT: All right. Speak with a clear voice,
10 so, that everybody can hear you. All right, Counsel?

11 MR. ANTHONY: Thank you.

12 DIRECT EXAMINATION by MR. ANTHONY:

4:11 P.M.

13 Q. Ms. Dickert, where do you live?

14 A. .

15 Q. At how old are you now?

16 A. Eighteen (18).

17 Q. And are you employed?

18 A. Yes, sir.

19 Q. Where -- where do you work?

20 A. Arby's (phonetic) in Newberry.

21 Q. Do you know the Defendant in this case, Patrick
22 Rice?

23 A. Yes, sir.

24 Q. And back, in August of 2008, what was your
25 relationship with Patrick Rice?

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1 A. He was my boyfriend.

2 Q. And where -- where were you and he living?

3 A. On (phonetic) in Whitmire, South
4 Carolina.

5 Q. All right. And you lived together at that time?

6 A. Yes, sir.

7 Q. And, in August of 2008, how long had the two of you
8 been living together?

9 A. We was living together for about a month and a half.

10 Q. And who else was living with you on
11 with Patrick Rice?

12 A. Sierra Braswell and Michael Rice.

13 Q. I want to take you now to August -- the night of the
14 17th of August of last year. Was -- was Patrick with you at
15 the house for a time that night?

16 A. Yes, sir.

17 Q. And, at some point that night, did he leave?

18 A. Yes, sir.

19 Q. And what happened before he left?

20 A. He had got a phone call from -- from Derrick Ruff.

21 Q. And did he tell you where he was going?

22 A. No, sir.

23 Q. And, after he left the house at night, where did you
24 -- where did you stay that night?

25 A. At my house.

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1 Q. And what -- what were you doing at that time?

2 A. Playing cards.

3 Q. Okay. Who with?

4 A. Sierra Braswell.

5 Q. Okay. Now, during the -- the night of the 17th of
6 August, did you hear any more from Mr. Rice after he left the
7 house?

8 A. No, sir.

9 Q. And when did you next see him?

10 A. Probably about five (5:00), five-thirty (5:30) in
11 the morning.

12 Q. Okay. And what were you doing when he got home that
13 morning?

14 A. Asleep.

15 Q. And who was there at the house with you when he came
16 in?

17 A. Sierra Braswell and Michael Rice.

18 Q. All right. When -- when he came in, did he show you
19 anything?

20 A. Yes, sir.

21 Q. What did Patrick Rice showed you?

22 A. A book bag full of money and another book bag full
23 of marijuana.

24 Q. And how was the -- the money organized?

25 A. Like what do you mean?

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1 Q. Was it grouped any particular way?

2 A. Yeah, it was wrapped up.

3 Q. Did you see at that time how many stacks of cash
4 there were?

5 A. I'm not really sure.

6 Q. Okay. And what did he tell you had happened that
7 night for him to get this money and this marijuana?

8 A. He said that they had robbed somebody.

9 Q. At that time, did he give you any kind of details
10 about what had happened?

11 A. No, sir.

12 Q. But, when -- when he came in that morning, and he
13 had these items, what did he want to do that -- later on that
14 morning?

15 A. He wanted to go to Clinton and get a hotel room.

16 Q. And what did you do to try to make arrangements for
17 that to happen?

18 A. I called my sister-in-law.

19 Q. And who is that?

20 A. Amanda Dickert.

21 Q. And where did she take you?

22 A. To the Howard Johnson in Clinton.

23 Q. And who -- who got the room at the Howard Johnson?

24 A. My sister-in-law, Amanda Dickert.

25 Q. And how was the room paid for?

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1 A. With the money that Pat Rice gave her.

2 Q. What happened once you all you got checked in to the
3 -- the Howard Johnson in Clinton? What happened that morning?

4 A. We just laid around, just did really nothing.

5 Q. Okay. And -- and did anything occur that caused you
6 all to move on to somewhere else?

7 A. Yes, sir.

8 Q. And what was that?

9 A. Pat had -- had watched the twelve o'clock (12:00)
10 news and seen where they had robbed somebody and it was on TV.

11 Q. Was that came on the TV, what did Patrick want to
12 do?

13 A. He wanted to leave.

14 Q. So, what did you all do, you and Patrick?

15 A. He called one of his friends to come get us.

16 Q. Okay. To come get you?

17 A. Yes, sir.

18 Q. Okay. Who was that?

19 A. Michael Epps (phonetic).

20 Q. All right. And where did Mr. Epps take you and Mr.
21 Rice?

22 A. To the Hampton Inn in Clinton.

23 Q. All right. What happened there?

24 A. We got a room. And, then, from -- we went to
25 Newberry.

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1 Q. And who took you to Newberry?

2 A. Michael Epps.

3 Q. Okay. Where did you go to in Newberry?

4 A. To some of his cousins' house.

5 (Brief Pause)

6 Q. Once you -- well, let me -- at some point in time,
7 did you leave Newberry?

8 A. Yes, sir. We left Newberry and brought Pat back to
9 the Hampton Inn in Clinton.

10 Q. Okay. And, when you got back to the Hampton Inn,
11 what -- what did you do there?

12 A. We took a nap.

13 Q. When you woke up from the nap, had anyone been
14 trying to contact you?

15 A. Yes, sir.

16 Q. And who was that?

17 A. Sierra Braswell.

18 Q. And did -- did either one of you, either you or
19 Patrick, try to get in touch with Sierra?

20 A. Yes. Pat called her back.

21 Q. And what kind of arrangement was made after you made
22 contact with Sierra?

23 A. Sierra and Mike had come up there and got us.

24 (Brief Pause)

25 Q. So, where did -- where did Sierra and Mike come to?

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1 A. They come and got us from the Hampton Inn.

2 Q. And, after they came to the Hampton Inn, did you
3 make a decision about going anywhere else?

4 A. Yes, sir.

5 Q. Where was that?

6 A. We was going to go to the Howard Johnson because it
7 was a bigger room.

8 Q. And, when you got to the Howard Johnson, did you and
9 Sierra go somewhere?

10 A. Yes, sir. We had to go back to the Hampton --
11 Hampton to get a -- a pizza we had left over there.

12 Q. Okay. And after you went and got the pizza, where
13 did you go?

14 A. To the -- back to the Howard Johnson.

15 Q. What happened when you got back to the Howard
16 Johnson?

17 A. We sat around and watched TV for little bit. And,
18 then, they decided to leave again.

19 Q. And where -- you said "they decided to leave."
20 Where -- who wanted to go somewhere?

21 A. Mike and Pat Rice.

22 Q. All right. Well, where -- where did Pat and Mike
23 Rice want to go?

24 A. Charlotte, North Carolina.

25 Q. And did they -- did either one of them say why they

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1 wanted to go to Charlotte?

2 A. No, sir.

3 Q. I mean, are you aware of any -- any reason or any
4 connections that Patrick Rice would have in Charlotte?

5 A. He has kin people up there.

6 Q. All right. And, so, they -- after you talked about
7 going to Charlotte, how -- how was it arranged to get to
8 Charlotte?

9 A. Sierra's friend's car.

10 Q. And who -- who drove?

11 A. I did.

12 Q. And why were you driving?

13 A. Because I'm the only one that had a license.

14 Q. Where did you go to in Charlotte?

15 A. To his cousin Richard's house.

16 Q. And -- and did you stay there at the cousin's house
17 or did you move on to somewhere later?

18 A. We took him and got a room at the Microtel.

19 Q. All right. And who -- who got the room at the
20 Microtel?

21 A. Sierra Braswell.

22 Q. So, when -- once you checked -- checked into the
23 Microtel, what -- what decision was made about who was going
24 to stay up there in Charlotte and who was coming back to
25 Whitmire and that type of thing?

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1 A. Me and Michael Rice and Sierra Braswell came back to
2 Whitmire for my grandpa's funeral.

3 Q. Now, this is all -- everything that you've talked
4 about, being in Clinton and going to the place in Charlotte
5 and, then, going to the Microtel, all this occurred on what
6 day?

7 A. (No Response)

8 Q. I mean, what day of the week, Monday?

9 A. It had to be Monday, yes, sir.

10 Q. Okay. And, then, you said there was a -- a funeral
11 on Tuesday?

12 A. Yes, sir.

13 Q. And whose funeral was that?

14 A. My grandpa's.

15 Q. So, did you talk to Patrick that Tuesday?

16 A. No, sir.

17 Q. When was the next time that you heard something from
18 Patrick?

19 A. Wednesday morning.

20 Q. And what did Patrick want you to do?

21 A. He wanted me to get some of his clothes and for me
22 to come back up there.

23 Q. So, how was that arranged?

24 A. I got his clothes up and we used the same car we
25 used the same car as last time to get back up there.

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1 Q. And who all went?

2 A. Me, Michael Rice, Sierra Braswell, and David Jeter
3 (phonetic).

4 Q. So, you go back to Charlotte on Wednesday. And --
5 and where -- where did you go to initially in Charlotte?

6 A. Richard Epps' house.

7 Q. And that was the same place you had been on Monday
8 night; is that correct?

9 A. Yes, sir.

10 Q. Okay. And where was -- where was Patrick?

11 A. He was at Richard's House.

12 Q. So, what did you do in regards to -- to picking
13 Patrick up there at Richard's house?

14 A. From there we went to -- we went and got another
15 room at the Microtel.

16 Q. Was it the same -- was it the same Microtel or a
17 different one?

18 A. No, sir.

19 Q. Okay. So, once you checked into that Microtel on
20 Wednesday, what did you and anybody else do?

21 A. Me and Sierra was going to the mall to buy a pair of
22 shoes.

23 Q. And, when you went to the mall, what happened?

24 A. Mike had called us telling us to come back.

25 Q. And did you do that?

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1 A. No, sir. We went -- we still continued to go to the
2 mall.

3 Q. Did you eventually finish shopping and -- and go
4 back ---

5 A. Yes, sir.

6 Q. --- to the Microtel? Okay. What -- what happened
7 when you got back to the Microtel?

8 A. They had all the stuff packed and we left.

9 Q. All right. When you say, "they" who was -- who was
10 at the Microtel?

11 A. Me, Michael Rice, Sierra Braswell, David Jeter, and
12 Pat Rice.

13 Q. So, where did the five of you go?

14 A. We went to Thomasville, North Carolina.

15 Q. And where did you go to in Thomasville?

16 A. His uncle's house, Pat's uncle.

17 Q. Okay. And where was that?

18 A. On

19 Q. And, once you got to Thomasville, what decision was
20 made as far as who was going to stay in Thomasville and who
21 was going back to Whitmire?

22 A. Me and Pat stayed in Thomasville and Sierra Braswell
23 and Michael Rice and Black -- David Jeter went -- came back to
24 Whitmire.

25 Q. I didn't understand you. What now?

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1 A. They come back to Whitmire.

2 Q. And you used -- you said who came back to Whitmire?

3 A. Mike, Sierra, and David.

4 Q. Okay. And you -- you used a nickname for David.

5 What is it?

6 A. Black.

7 Q. Okay. I just wanted to make sure that was clear who
8 was who. All right. And why didn't you stay up in
9 Thomasville with Patrick?

10 A. Because I was scared.

11 (Brief Pause)

12 Q. Okay. And -- and why were you scared?

13 A. Because I know what he is capable of doing.

14 Q. And that -- when was the next time -- after you went
15 to Thomasville, when was the next time you went anywhere?

16 A. We went -- that's -- in Thomasville?

17 Q. No. When was the next time you -- you left

18 Thomasville ---

19 A. We left that Saturday and went back to Charlotte.

20 Q. All right. Where did you go to in Charlotte?

21 A. Richard's house.

22 Q. Okay. And that's the same house you had been to on
23 Monday and Wednesday, right?

24 A. Yes, sir.

25 Q. All right. And did -- did Patrick give you a reason

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1 why he wanted to go back to Charlotte?

2 A. No, sir.

3 Q. Once you got back to Charlotte, did you and Patrick
4 have any kind of conversation about what had happened?

5 A. Yes, sir.

6 Q. All right. And what -- what did he tell you had
7 happened back late that -- or early that Monday morning on the
8 18th?

9 A. He told me that they had robbed somebody and
10 somebody had got shot.

11 Q. And who -- when you say "they," who did he say had
12 done it?

13 A. Him, Derrick Ruff, and two other guys from Columbia.

14 Q. And where did he say the robbery had occurred?

15 A. In Union.

16 Q. All right. At whose residence?

17 A. I'm not sure.

18 Q. Did he give you the name of the person ---

19 A. No, sir.

20 Q. -- whose house was robbed?

21 A. No, sir.

22 Q. All right. Did he tell you how -- how they had gone
23 about actually doing the robbery?

24 A. Yes, sir.

25 Q. How -- how did he say that had happened?

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1 A. He said that they were in the bushes and that Kelvin
2 Davis was sitting in his car. And one of the guys from
3 Columbia snuck up on him and got him in the house

4 And that Derrick Ruff had tied two people up. And
5 he said he was in the living room looking out the window.

6 Q. All right. And what he tell you he had -- that he
7 and Derrick had done as far as taking stuff out of the house?

8 A. They got the money and stuff and they walked out the
9 house. And Pat said he heard one of the guys say, "Shoot that
10 motherf'er," and he said they heard a gunshot. And they just
11 kept on walking.

12 Q. And what did he tell you happened after that?

13 A. He said that they had went to Spartanburg, and from
14 Spartanburg, they went to Newberry.

15 Q. And the other -- the other two guys who were
16 involved with him and Derrick, did he say where they were
17 from?

18 A. Columbia.

19 Q. Okay. And, once he went to Newberry, did he tell
20 you how he got back home?

21 A. He had bought a taxi back to Whitmire.

22 Q. And did he tell you how much -- how much money and
23 how much -- and what quantity of drugs had been taken out of
24 the house?

25 A. No, sir.

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1 Q. Now, after you had this conversation with him on
2 Saturday, what -- what was the next thing you decided to do as
3 far as getting back to Whitmire?

4 A. I wanted to leave.

5 Q. All right. And how did you arrange to do that?

6 A. This guy named Deebo brought me back to Whitmire.

7 Q. All right. And this guy named Deebo, where had you
8 met him?

9 A. He was in Charlotte.

10 Q. And how did you get him to give you a ride back to
11 Whitmire?

12 A. I gave him fifty dollars (\$50) for gas.

13 Q. And where did you have him take you?

14 A. To Pat's grandma's house.

15 Q. When you got to Pat's grandmother's house, what did
16 you do?

17 A. I went to sleep.

18 Q. And did anyone else -- did you become aware that
19 anybody else was there at the home?

20 A. Could you say that again?

21 Q. Did -- did anybody else come to the house after you
22 got there?

23 A. Oh yes, when I got there, Pat was there.

24 Q. And did Patrick tell you how this was arranged?
25 How the robbery had been arranged?

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1 A. Yes, sir.

2 Q. And what -- what did he tell you that Monday about
3 how the robbery was arranged?

4 A. He said that Wytrisha and Plute were talking and
5 that Plute had set it up to make it look like it was a robbery
6 to Jake, but he was supposed to get half of whatever they got
7 from Jake.

8 Q. All right. So, what did -- did Patrick do that
9 morning?

10 A. He came to Union and turned himself in.

11 Q. And -- and what did you do while he was doing that?

12 A. I went to my sister-in-law's house.

13 Q. All right. Did you go to Union with him?

14 A. Yes, sir.

15 Q. Okay. All right. And did you speak to law
16 enforcement that ---

17 A. No, sir.

18 Q. --- Monday morning?

19 A. No, sir.

20 Q. Okay. Where were you when he was -- when he was
21 surrendering himself to the sheriff's office?

22 A. I was sitting in the car.

23 Q. All right. And, after -- after he went to the
24 sheriff's office, where did you go?

25 A. Back to his grandma's house.

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1 Q. Okay. And, then, where did you go?

2 A. To my sister-in-law's house.

3 Q. And, when you got back to your sister-in-law's
4 house, did anybody come wanting to talk to you?

5 A. Yes, sir.

6 Q. And who was that?

7 A. The police.

8 Q. And where did you go after that?

9 A. I come to the courthouse.

10 Q. You came here?

11 A. Yes, sir.

12 Q. Okay. To the sheriff's office downstairs?

13 A. Yes, sir.

14 Q. All right. And did you give a statement at that
15 time?

16 A. Yes, sir.

17 Q. All right. And were you charged with any crimes?

18 A. Yes, sir.

19 Q. What -- what crime were you charged with?

20 A. Accessory after the fact of murder.

21 Q. And, since this incident occurred, have you been
22 charged with any crimes ---

23 A. Yes, sir.

24 Q. --- any other crimes? All right. What have you
25 been charged with?

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1 A. Distributing of a narcotic.

2 Q. And have you been to court yet on either the
3 accessory after the fact charge or the drug charge?

4 A. No, sir.

5 MR. ANTHONY: If I could have one moment.

6 THE COURT: Yes, sir.

7 (Brief Pause)

8 MR. ANTHONY: Okay. That's all on direct.

9 THE COURT: Cross exam?

10 MR. RECKENBEIL: Yes, Your Honor.

11 CROSS EXAMINATION by MR. RECKENBEIL: 5:04 P.M.

12 Q. Ms. Dickert, you are charged in Union County for
13 distribution of a controlled substance. What controlled
14 substance are you charged with?

15 A. Klonopines.

16 Q. So, you are charged with a -- do you know if it's a
17 Schedule I or a Schedule IV or a Schedule III or a Schedule
18 II?

19 A. I'm not sure.

20 Q. You're not sure what that is?

21 A. No, sir.

22 Q. Do you know how much jail time you're looking at
23 with those distributions of Klonopines?

24 A. No, sir.

25 Q. Okay. Do you know how many pills you had?

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1 A. Four (4).

2 Q. You had four (4)? Do you know that, that is an
3 intent to distribute charge; in other words, the law of the
4 state says that you had an intent to distribute those because
5 you had more than one.

6 MR. ANTHONY: Well, I object. He's actually asking
7 for speculation ---

8 MR. RECKENBEIL: I'm asking her if she knows it.

9 MR. ANTHONY: --- and I object to that.

10 THE COURT: Do you have an objection?

11 MR. ANTHONY: Yes. I would object to the
12 speculation. He's asking the witness to come to a legal
13 conclusion. And he's asking her ---

14 THE COURT: Well, if she knows the answer she can
15 answer the question. If she doesn't know it, you can't answer
16 of course. You have to say you don't know.

17 Q. (By Mr. Reckenbeil) Ma'am, are you familiar with
18 the law of the state that there is an inference that you were
19 distributing those?

20 A. What do you mean?

21 Q. Meaning the fact that you are a drug dealer, you
22 were selling those pills?

23 A. Yes, I know.

24 Q. Okay. And you were selling those drugs, weren't you
25 ma'am?

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1 A. Yes, sir.

2 Q. Okay. How much money did you get for them?

3 A. I don't remember.

4 Q. Who did you sell them to?

5 MR. ANTHONY: I'd object as irrelevant.

6 A. Well, I can't say.

7 MR. ANTHONY: Object -- objection to relevance.

8 THE COURT: Well, I think it would be irrelevant
9 unless you have some reason that it is relevant who she was
10 selling them to. She has admitted she was selling them.

11 MR. RECKENBEIL: Well, Your Honor, she is
12 testifying in open court. She is charged with a crime. I do
13 believe the fact that these charges are pending here in Union
14 County.

15 I think I would have the ability to get into the
16 fact of, if she is testify she's looking for the good graces
17 of the solicitor's office to, in fact, cut her a deal.

18 So, I think I'm allowed to get into the bias or the
19 truth and veracity of this witness's testimony.

20 THE COURT: Well, do you -- do you have any reason
21 to think the that the identity of the person to whom she was
22 selling is relevant?

23 MR. RECKENBEIL: No, Your Honor. I'll -- I'll --
24 I'll -- I'll strike that question.

25 THE COURT: Thank you. I will sustain the

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1 objection as to the identity of the persons.

2 MR. RECKENBEIL: Thank you, Judge.

3 THE COURT: Of course, she -- she has already
4 admitted she was selling. Go ahead.

5 Q. And you were selling these drugs in Union County,
6 South Carolina?

7 A. Yes, sir.

8 Q. Okay. And you didn't have a prescription to have
9 those pills, did you, ma'am?

10 A. Yes, sir.

11 Q. You did have a prescription to have those pills?

12 A. Yes.

13 Q. But, did you have a controlled substance license,
14 such as a pharmacist or a doctor, to, in fact, sell those
15 drugs?

16 MR. ANTHONY: Well, objection. Once, again, this
17 is irrelevant. She's admitted ---

18 THE COURT: No, sir, I'll allow that. I overrule
19 that objection. You can ask that question.

20 Q. Ma'am, do you have a license in the State of South
21 Carolina to sell controlled substances?

22 A. No.

23 Q. Okay. You're also charged, in the State of South
24 Carolina, Union County, for accessory after the fact; isn't
25 that true, ma'am?

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1 A. Yes.

2 Q. Okay. Do you know how much jail time you're looking
3 at?

4 A. Yes, sir.

5 Q. How much are you looking at?

6 A. Fifteen (15) years.

7 Q. Fifteen (15) years in prison?

8 A. Yes, sir.

9 Q. And, ma'am, you have written a couple of letters to
10 Patrick Rice, have you not?

11 A. Yes, sir.

12 Q. And, in those letters, you've said that you can't go
13 to jail because you're not strong enough to go to jail?

14 A. Yes, sir.

15 Q. And you said, in those letters to Patrick Rice, that
16 the only way you won't go to jail, according to your lawyer,
17 is that if you testify against Patrick Rice; isn't that true,
18 ma'am?

19 A. Yes, but I did it for one reason.

20 Q. Okay. But it's true, ma'am, that you wrote a letter
21 to Patrick Rice and in those letters you said the only reason
22 that you won't go to jail, according to your lawyer, who
23 sitting in court, was that if you testified against Patrick
24 Rice? That's your own words, ma'am, in your letter; is that
25 not correct?

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1 A. That's correct, but I did it to see if he really
2 loved me and to see what he had to say about it. That's why.
3 Nobody has told me nothing. It was a test.

4 Q. Okay. But, you would agree, ma'am, that that is in
5 your letter that you wrote to ---

6 A. Yes, sir, that is in my letter ---

7 Q. --- Patrick Rice; is that right?

8 A. --- that I wrote.

9 Q. Right. That, in fact, that the only way you won't
10 go to jail is, in fact, if you testify against him?

11 A. Yes, sir.

12 Q. All right.

13 (Brief pause while Mr. Reckenbeil retrieves
14 document.)

15 Q. And one other thing I -- I just want to clear up
16 with your letter. The Solicitor asked you why you didn't stay
17 with him in North Carolina. And I think your response was --
18 one time because you -- you're coming back, you're going
19 there, and you're coming back.

20 And I think your one response was that you -- you
21 knew what he was capable of; that's why you didn't stay with
22 him?

23 A. Yes, sir.

24 Q. Okay. And would I be correct, ma'am, if you signed
25 both of these letters (indicating), "Love always, your wife"?

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1 A. Uh-huh (affirmative).

2 Q. Okay.

3 A. Yes, sir.

4 Q. All right. So, in these letters you're signing to
5 Mr. Rice is that fact that you love him always?

6 A. And I do.

7 Q. But you were afraid of him to stay with him that
8 day?

9 A. Yes, sir.

10 Q. Okay. All right. Now, you first testified that, as
11 soon as Patrick got back to where you were sleeping, he showed
12 you a duffel bag full of money and marijuana; isn't that true
13 what you testified to about thirty (30) minutes ago?

14 A. Yes, sir.

15 Q. And isn't it true, ma'am, then, on August 26, two
16 thousand and eight (2008), some four or five, six, seven days
17 after the incident, you gave a statement?

18 A. Yes, sir.

19 Q. Do you remember doing that?

20 A. Yes, sir.

21 Q. Okay. Did you write this (indicating), or did the
22 police write it for you?

23 A. I wrote it.

24 Q. So, you wrote it?

25 A. Yes, sir.

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1 Q. And, ma'am, nowhere in this statement does it say,
2 that as soon as he got back that morning, and you woke up,
3 that Patrick Rice showed you a duffel bag full of marijuana
4 and cash, does it?

5 A. At the end of it, it does say something like that.

6 Q. Right, "stacks of cash," correct.

7 A. Uh-huh (affirmative).

8 Q. But in your statement, ma'am ---

9 THE COURT: Just a minute. Ma'am, the court
10 reporter has to write it down, so, if you just mumble or say
11 "uh-huh," it's hard so ---

12 THE WITNESS: Okay.

13 THE COURT: -- you need to say "yes" or "no."

14 THE WITNESS: All right.

15 THE COURT: All right. Thank you.

16 Q. (By Mr. Reckenbeil) At the end of your statement it
17 says about stacks of cash, correct?

18 A. Yes, sir.

19 Q. Right, "stacks of cash."

20 A. Yes, sir.

21 Q. But nowhere in here (indicating) does it say
22 anything about a duffel bag full of money that he showed you
23 or, in fact, marijuana that he showed you from a duffel bag;
24 isn't that right?

25 A. Yes, sir.

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1 Q. It doesn't say it?

2 A. No, sir.

3 Q. And, in fact, at the first time when you are leaving
4 this area, you put in your statement that you don't even know
5 why -- the reason why you're leaving?

6 A. (No Response)

7 Q. Is that true?

8 A. Yeah.

9 Q. Okay. So, you testify in open court that you have a
10 duffel bag of marijuana and you have a duffel bag full of
11 cash, but you put in your written statement, "I do not know
12 why at the time, but we left." In that context, of what
13 you're talking about, is when you're originally leaving this
14 area?

15 A. (No Response)

16 MR. ANTHONY: May I see the part of the statement
17 that you're referring to?

18 THE COURT: Sir?

19 MR. ANTHONY: I was -- I was just asking to see
20 part of the statement he's referring to.

21 (Brief pause while Mr. Anthony examines document.)

22 Q. (By Mr. Reckenbeil) Do you want to look at your
23 statement?

24 A. I know what it says. I've read it plenty of times.

25 Q. Okay. So, just agree with me or disagree with me

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1 that your statement says, in the very beginning of when you're
2 leaving, you didn't know why you're leaving?

3 A. That's true. That's what I wrote.

4 (Brief Pause)

5 Q. Now, you also testified, as well as put something in
6 your statement, that Patrick told you that Kelvin Davis was a
7 party to this set up to steal money from Tinsley Davis's
8 boyfriend?

9 A. Yes, sir.

10 Q. So, the man who was killed was going to steal from
11 her [sic] sister's boyfriend?

12 A. Yes, sir.

13 Q. Okay. And he was a part of this group or this
14 action to do this according to what you heard?

15 A. Yes, sir that's what I was told.

16 Q. According to what you were told?

17 A. Yes, sir.

18 Q. And Mr. Davis is no longer with us, is he?

19 A. No, sir.

20 MR. RECKENBEIL: Your Honor, if I might have one
21 second to speak to my client.

22 THE COURT: Yes, sir.

23 (Brief pause while Mr. Reckenbeil speaks to Mr.
24 Rice.)

25 (Off-the-Record Discussion)

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1 MR. RECKENBEIL: Your Honor, that's all the
2 questions I have for this witness.

3 THE COURT: Redirect?

4 MR. ANTHONY: Yes, sir.

5 REDIRECT EXAMINATION by MR. ANTHONY:

5:04 P.M.

6 Q. Ms. Dickert, you testified you gave a statement to
7 the sheriff's office the morning that you got back to
8 Whitmire?

9 A. Yes, sir.

10 Q. And I'm ---

11 MR. ANTHONY: If I may approach the witness?

12 THE COURT: Yes, sir.

13 Q. I'm handing you a three-page document and ask if you
14 can tell me what that is I just handed you?

15 (Brief pause while witness examines document.)

16 A. This is my statement.

17 Q. All right. If you would, just read that statement.

18 A. Out loud or to myself?

19 Q. No, just read it out loud.

20 MR. RECKENBEIL: Your Honor, I think this is
21 improper rehabilitation. I think there has got to be a
22 question specifically pointing to point that -- in cross
23 examination.

24 I don't think she's just allowed to read a
25 statement.

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1 THE COURT: Well, it needs to be in response to
2 something that -- to some matter on his cross. So, are you
3 thinking she must read the entire thing in response to his
4 cross?

5 MR. ANTHONY: Yes, sir, I do because he -- he
6 implied that her -- her statement or that her testimony was
7 given because of pending charges against her. And this
8 statement was given before she was ever approached about
9 testifying.

10 So, we believe it would be in reply to cross
11 examination under 801(d)(1)(b).

12 THE COURT: Do you have some particular part of the
13 statement that you object to?

14 (Brief pause while Mr. Reckenbeil examines
15 document.)

16 MR. RECKENBEIL: Actually, no, Your Honor. She can
17 -- I -- she can read it. Is just going to be redundant. But,
18 again ---

19 THE COURT: All right. I'll overrule the
20 objection.

21 MR. RECKENBEIL: --- I won't have a problem with
22 it.

23 THE COURT: She can read -- you can read it.

24 A. "On Monday, August the 18th, I, Miriam Dickert, was
25 at home asleep. When I went to sleep, Patrick Rice was in the

1 bed with me.

2 "When I woke up he was also there. We left the
3 house Tuesday morning about 9 a.m. We went to Clinton to the
4 Howard Johnson Inn.

5 "I watched the 12 o'clock news and seen what had
6 happened in Union County when a guy got shot. Patrick Rice
7 was jumping up saying, "Let's go."

8 "I didn't know why at the time but we left. Then,
9 we went to the Hampton Inn. We stayed there a little while,
10 while -- then, that night Michael Rice and Sierra Braswell
11 came to the room and chilled.

12 "Then, Mike Rice got a phone call talking about they
13 kicked his grandma's door in looking for Mike and Pat, so, we
14 left the hotel and went to Charlotte, North Carolina, and got
15 a room at the Microtel."

16 (Brief Pause)

17 A. "We stayed at the Microtel for one night. We left
18 there and went to Thomasville, North Carolina. It was me,
19 Mike, Sierra Braswell, and Pat.

20 "Me and Pat got dropped off at his uncle's house.
21 We stayed there Tuesday and Friday. We left there Saturday
22 morning and went to his cousin Monica's.

23 "Then, we left and went back to Charlotte, North
24 Carolina. When we got to Charlotte, he told me what was
25 really going on.

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1 "Pat -- Pat Rice told me that on Monday, eight --
2 August the 18th, him, Derrick, and two other guys from Columbia
3 went to Union, South Carolina, to a guy named Jake's house.

4 "When the four men got there, they was in the bushes
5 and seen Kelvin Davis sitting in his car. So, the 17-year-old
6 guy from Columbia snuck up on Davis and made him go inside the
7 house.

8 "Derrick and the other guy from Columbia tied the
9 mama up. Patrick Rice was looking out the window. They told
10 him to grab the stuff. And Pat and Derrick walked out the
11 door. And the two guys from Columbia was left inside.

12 "Pat heard them say, "Shoot that motherf'er," and he
13 heard a gunshot. From there they went to Spartanburg and from
14 there they went to Newberry.

15 "After he told me this I was ready to come home.
16 But we stayed in Charlotte for two days.

17 "Then, at about 1:00 a.m. Monday, August the 26th,
18 Jeter (phonetic) brought me to Whitmire to Pat's grandma's
19 house. I went to sleep, and when I woke up, Pat was there.
20 And he went and turned himself in.

21 "Patrick Rice showed me three stacks of money, which
22 probably was like at least a thousand dollars (\$1,000). Pat
23 told me that it had to be a set up;

24 "That Laquidra, Wytrisha, Plute, and Derrick had it
25 all set up. The plan was to make it look like it was a

1 robbery to Jake, but really Plute had it set up the whole
2 time.

3 "Patrick Rice told me, Sierra Braswell, Mike Rice
4 about the robbery. Pat told me that the only guys that had
5 guns was the two guys from Columbia.

6 "Plute and Wytrisha was messing around. Laquidra
7 was Wytrisha's best friend and Derrick is her boyfriend.
8 Patrick's sister, Britney, and Derrick are brother and sister.

9 "Me and Patrick Rice was boyfriend and girlfriend.
10 He lived with me the four months we was -- we have been
11 together. I believe everything that Patrick Rice told me
12 about the robbery.

13 Q. Now, I want to address one thing on the first page
14 of the statement. You were asked about the -- the -- the line
15 there that says that you watched the 12:00 a.m. news and that
16 Patrick jumped saying, "Let's go," and you wrote, "I didn't
17 know why at the time, but we left." Is that correct?

18 A. Yes.

19 Q. That's what the statement says?

20 A. Yes, sir.

21 Q. Now, at that point in time, did -- did -- had
22 Patrick told you that anybody had been shot?

23 A. No, sir.

24 Q. Okay. So, when you say, "I didn't know why at the
25 time," what was -- what was the reason for you writing that?

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1 A. Because I was in the hot tub at the time the news
2 was on.

3 Q. All right. But what I mean is, when you said
4 Patrick didn't -- when you say that you didn't know why
5 Patrick wanted to go at the time, what does that refer to?

6 A. Like why he wanted to leave and like nobody knew
7 where we was at anyway, so why would we leave?

8 Q. Okay. All right. And at the time -- at the time
9 that you saw that on the news and he wanted to leave, had he
10 told you somebody had been shot in this robbery?

11 A. No.

12 Q. All right. And that -- that statement that you just
13 read, at -- at the time that it was read -- or, at the time
14 that you -- you wrote that statement, had anybody approached
15 you about testifying in this case?

16 A. No, sir.

17 Q. All right. Had you been charged at that time with
18 distribution of narcotics?

19 A. No, sir.

20 Q. And had you written any letters to Patrick at that
21 time?

22 A. Yes, sir.

23 Q. All right. Well, the -- the letters that you are
24 asked about, had those letters been written before this
25 statement was given or after this statement was given?

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1 A. After.

2 Q. After? Okay. And -- and you had not written to him
3 anything about testifying against him because he had only been
4 charged at that point; is that correct?

5 A. What do you mean?

6 Q. I mean, you gave this statement the same day he
7 turned himself in; is that right?

8 A. Yes, sir.

9 Q. All right.

10 (Brief Pause)

11 MR. ANTHONY: If I could have one moment.

12 (Brief Pause)

13 MR. ANTHONY: Thank you. That's -- that's
14 everything on redirect.

15 THE COURT: Recross?

16 MR. RECKENBEIL: Yes, sir.

17 RECROSS EXAMINATION by MR. RECKENBEIL: 5:03 P.M.

18 Q. Ma'am, tell me what time that statement says it's
19 written.

20 A. What time it's written?

21 Q. Yeah, look in the corner.

22 (Brief pause while witness examines document.)

23 A. Right here (indicating)?

24 Q. Yes, ma'am.

25 A. One, twenty-five (1:25) p.m.

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1 Q. And, ma'am, I'm going to show you a waiver of your
2 rights. Tell me what time that was signed.

3 (Brief pause while witness examines document.)

4 A. Twelve oh six (12:06).

5 Q. Okay. Is that your signature on that waiver of
6 rights?

7 A. Yes, sir.

8 Q. Okay. And, ma'am, are you familiar with the *Miranda*
9 warnings that you received that day?

10 A. Say that again.

11 Q. Are you familiar with the *Miranda* warnings that you
12 received that day?

13 A. That paper?

14 Q. Yes, ma'am.

15 A. Yes, sir.

16 Q. You understand that you were being interrogated,
17 weren't you?

18 A. I guess so, yes.

19 Q. Right on the top of this piece of paper
20 (indicating), ma'am, it says "Interrogation: Advising of
21 Rights."

22 A. Okay.

23 Q. Does it say that?

24 A. Yeah.

25 Q. Okay. You understand the fact that you were told

1 that you could remain silent?

2 A. Yes, sir.

3 Q. And you were told that you would have the right to a
4 lawyer?

5 A. Yes, sir.

6 Q. You were even told the fact that you didn't have to
7 answer those questions, you could ask for a lawyer and have
8 the advice of that lawyer before you answered any questions?

9 A. Yes, sir.

10 Q. Are you familiar with that?

11 A. Yes, sir.

12 Q. And, if you decided to answer any of those
13 questions, you could stop at any time and ask for a lawyer if
14 you wanted to?

15 A. Yes, sir.

16 Q. Okay. And the police officers, an hour before you
17 wrote this statement, made you sign a waiver of your
18 Constitutional Rights saying that you would give a statement
19 in this case?

20 A. Yes, sir.

21 (Brief Pause)

22 MR. RECKENBEIL: Your Honor, nothing further.

23 (Brief Pause)

24 MR. RECKENBEIL: Thank you very much, Miriam.

25 That's all the questions we have.

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1 THE COURT: All right. Ma'am, you may step down.
2 Thank you.

3 (The witness stepped down from the witness stand at
4 5:05 p.m.)

5 THE COURT: All right, ladies and gentlemen, we're
6 going to stop here for the day and we're going to start back
7 at nine thirty (9:30) in the morning.

8 Please, remember what I asked you not to talk about
9 the case to anyone; don't read anything in the newspaper and
10 don't try to read up or do any research on the Internet about
11 this case.

12 I'm serious. Don't do anything in regard to this
13 case at all. You come back in at nine thirty (9:30) in the
14 morning and we'll take up right then.

15 Everything that you need to know about the case you
16 will learn in the courtroom.

17 Please retire now to the jury room -- well, you're
18 excused for the night and be back in the jury room at nine
19 thirty (9:30) in the morning. Thank you very much. You are
20 excused. Everybody else remain seated.

21 (The jury was excused for the day and exited the
22 court room at 5:06 p.m.)

23 THE COURT: All right. Do we need to have a
24 conference in chambers before we proceed? I think we have
25 another witness we need to examine; is that right?

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1 MR. RECKENBEIL: Yes, sir.

2 THE COURT: All right. We'll take about a ten (10)
3 minutes recess. Officer, don't let anybody out of the
4 courtroom for ten (10) minutes just, so, the jury has time to
5 get out here and out off -- away from the courthouse.

6 If anybody wants to leave, they can do so after ten
7 (10) minutes. Court will be in recess.

8 (Whereupon, a recess was taken from 5:05 p.m. till
9 5:15 p.m.)

10 THE COURT: All right, solicitor, you may call your
11 next witness.

12 MR. ANTHONY: Is Mr. Ruff up here?

13 DEPUTY: He's back there.

14 MR. ANTHONY: All right. Well, we -- we would
15 call Mr. Ruff to the stand.

16 (Brief pause while Mr. Ruff is brought into the
17 courtroom.)

18 THE COURT: Sir, can -- can you reach -- reach that
19 Bible and place your left hand on the Bible? If you would,
20 hold the Bible out for him, please. And kind of raise your
21 right the best you can.

22 (Whereupon,

23 DERRICK RUFF

24 having been first duly sworn, testified as follows:)

25 THE COURT: Thank you, sir. State your full name,

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1 please.

2 THE WITNESS: Derrick Ruff.

3 THE COURT: How do you spell that?

4 THE WITNESS: D-e-r-r-i-c-k R-u-f-f.

5 THE COURT: Thank you, sir. All right, Counsel.

6 DIRECT EXAMINATION by MR. ANTHONY: 5:15 P.M.

7 Q. Is your name -- just, so, I call you the right thing
8 -- do you pronounce your name Rough (phonetic) or Roof
9 (phonetic)?

10 A. Roof (phonetic).

11 Q. Roof? Okay. Well, Mr. Ruff, were you at 147
12 early in the morning of August 18th of last
13 year?

14 A. I want to -- I ain't planning to testify no more.
15 (Brief Pause)

16 THE COURT: You say you ain't going to testify?

17 A. No.

18 THE COURT: Why?

19 A. I wasn't there. I don't know what you all are
20 talking about.

21 THE COURT: You say you weren't there?

22 A. (Witness shakes head negatively.)

23 THE COURT: Well, he answered the first question.
24 He says he wasn't there.

25 MR. ANTHONY: All right.

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1 Q. (By Mr. Anthony) Were you -- at the time, in August
2 of 2008, were you seeing Laquidra Eigner?

3 A. What did you say now, sir?

4 Q. Back in August of 2008, did you have a romantic
5 involvement with Laquidra Eigner?

6 A. Yes, sir.

7 Q. All right. And were -- were you -- the two of you,
8 in fact, living together?

9 A. (Witness nods affirmatively.)

10 (Brief Pause)

11 Q. And on Wednesday, the 20th of August, did -- did you
12 go buy a car?

13 A. I ain't going to answer no more questions, sir.

14 THE COURT: Why?

15 THE WITNESS: I don't want to.

16 THE COURT: Well, you don't have the right to not
17 answer questions just because you don't want to answer
18 questions.

19 THE WITNESS: It's just I don't know what he's
20 talking about, you know?

21 THE COURT: He asked you if you bought a car.

22 THE WITNESS: A car?

23 MR. ANTHONY: Yes, sir.

24 A. Yeah, I bought a car, but what's that got to do with
25 anything?

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1 Q. And ---

2 THE COURT: Just answer his questions.

3 Q. And did you buy that car from Michael Jackson's?

4 A. Yes, sir.

5 Q. And, then, that Thursday, did you and Ms. Eigner go
6 to Converse, Georgia?

7 A. Yes, sir.

8 Q. All right. And, at some point that Thursday --
9 well, or Friday, did you become advised that law enforcement
10 was wanting to talk to you?

11 A. Say what now, sir?

12 Q. Either on that Thursday or Friday, did you become
13 -- did somebody tell you that law enforcement was looking for
14 you?

15 A. No, sir.

16 Q. You never -- you never found out -- never were told
17 that law enforcement was looking for you?

18 A. No, I was -- it was -- it was like a week after that
19 someone told me the police were looking for me.

20 Q. The week after you went to Converse?

21 A. Yes, sir.

22 Q. All right. Well, where had you gone that week?
23 Where -- where did you -- where did you go after you left
24 Converse?

25 A. I went back to South Carolina.

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- 1 Q. Where in South Carolina?
- 2 A. I went to my cousin's house.
- 3 Q. Whose?
- 4 A. My cousin's.
- 5 Q. And who's -- what's his name?
- 6 A. Keith.
- 7 Q. Keith who?
- 8 A. Samuels (phonetic).
- 9 Q. Samuels?
- 10 A. Yes, sir.
- 11 Q. All right. All right. And how did you get back to
- 12 -- where does your cousin live?
- 13 A. (No Response)
- 14 Q. Where does your cousin live, Mr. Samuels?
- 15 A. He live on 34, Highway 34.
- 16 Q. All right. How did you get back to Newberry?
- 17 A. I caught a ride with Quidra.
- 18 Q. With who?
- 19 A. Laquidra.
- 20 Q. And when was this?
- 21 A. When we left from Converse, Georgia.
- 22 Q. So, your testimony is you and Laquidra left
- 23 Converse, Georgia together?
- 24 A. Yes, sir.
- 25 Q. She didn't leave Converse by herself?

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1 A. No, sir.

2 Q. Leaving you there at the motel?

3 A. No, sir.

4 Q. She took you back with her?

5 A. Yes, sir.

6 Q. Okay.

7 (Brief Pause)

8 Q. And who -- and so, did she take you to Mr. Samuel's
9 house?

10 A. No, sir. She dropped me off on 34.

11 Q. She just dropped you off on the highway?

12 A. It's in a trailer park and I walked down.

13 Q. You did what now?

14 A. It's in a trailer park.

15 Q. And he dropped -- she dropped you off in a trailer
16 park?

17 A. Yes, sir.

18 (Brief Pause)

19 Q. All right. Now, were you and Ms. Eigner having --
20 did you have any more contact with her after she dropped you
21 off?

22 A. Yes, sir.

23 Q. Okay. I mean, did you see her again after she
24 dropped you off?

25 A. No, sir.

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1 Q. You never saw her after she dropped you off?

2 A. Except here.

3 Q. All right. And your -- you and Patrick Rice have
4 sort of a common relation; is that right?

5 A. His sister is my sister.

6 Q. All right.

7 (Brief Pause)

8 Q. When was the last time you saw Patrick before August
9 the 18th?

10 A. I seen him at the store. I seen him at Lil Cricket.
11 Because I used to be at Lil Cricket because Quidra worked
12 there. And I used to see him. He used to come in Lil
13 Cricket.

14 Q. All right. And when was the last time you saw him?

15 A. I can't remember.

16 Q. Did you -- did you and he -- were you and he
17 friends?

18 A. Yeah we were friends, but we didn't really hang
19 together.

20 (Brief Pause)

21 Q. All right. Well, what were you doing on the night
22 of -- on the night of the 18th of August?

23 A. I was at home.

24 Q. All right. Well, were you with anybody?

25 A. I was with my -- I was babysitting my nephew and

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1 niece.

2 Q. I'm sorry?

3 A. I was helping my mama babysit my nephew and niece.

4 (Brief Pause)

5 Q. All right. And who -- what's your mom's address?

6 A.

7 Q. what?

8 A.

9 Q. ?

10 A. (Witness nods affirmatively.)

11 Q. Okay. And who -- who -- you say you were
12 babysitting your nephew and niece. What are their names?

13 A. Te.E. (phonetic).

14 Q. Te.E. ?

15 A. Yes.

16 Q. That your niece?

17 A. Yes.

18 Q. What is her last name?

19 A. Te.E. .

20 Q. Te.E. ?

21 A. Te.E. .

22 Q. Te.E. ?

23 A. Yes.

24 Q. All right. And how old is she?

25 A. She's eight or nine. I can't remember.

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- 1 Q. All right. And what is your nephew's name?
- 2 A. T.E. (phonetic).
- 3 Q. What now?
- 4 A. T.E. .
- 5 Q. T.E. , T.E. ?
- 6 A. (Witness nods affirmatively.)
- 7 Q. And what is his last name?
- 8 A. It's T.E. too -- T.E. .
- 9 Q. Oh, his last name is T.E. too? How old is he?
- 10 A. He's three.
- 11 Q. All right. And what -- what -- is -- are they the
- 12 children of a brother of yours or a sister ---
- 13 A. My sister's.
- 14 Q. Your sister's children?
- 15 A. Yes.
- 16 Q. All right. And what is your sister's name?
- 17 A. Brandy Ruth (phonetic).
- 18 Q. Huh?
- 19 A. Brandy Ruth.
- 20 Q. Okay. Brandy Ruth?
- 21 A. Uh-huh (affirmative).
- 22 Q. Okay. And was Brandy's there?
- 23 A. No.
- 24 Q. Okay. So, it was just you and your mom?
- 25 A. (Witness nods affirmatively.)

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1 THE COURT: You need to say "yes" or "no."

2 A. Yes, sir.

3 THE COURT: This lady has to write it down
4 (indicating), so, you can't just nod your head.

5 A. All right.

6 Q. So, you and your mother were the only two adults
7 there?

8 A. Yes.

9 Q. Okay. And that's where you were on like Sunday
10 night, August 17th, and Monday morning, August the 18th?

11 A. Yes, sir.

12 Q. At your mother's house?

13 A. Yes, sir.

14 Q. Now, did you talk to Wytrisha Lemon that night?

15 A. Yes, sir. I talked to her on Friday.

16 Q. All right. Did you talk to her on Sunday?

17 A. On Sunday? I can't remember.

18 Q. Okay. Did you -- do you recall having a -- a phone
19 call with Ms. Lemon on Sunday night, the 17th of August, of
20 last year?

21 A. I don't remember what day it was, but I know I had a
22 phone call with her because we all sold drugs together, me and
23 Wytrisha and Quidra. And we were selling them out of Lil
24 cricket.

25 And they got fired for selling drugs out of Lil

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1 Cricket. So, she gave me her drugs to sell for her. And I
2 was calling her and telling her I have the money for her and
3 all that.

4 Q. You called Laquidra -- or you called Wytrisha and
5 told her that?

6 A. Yeah. I -- I -- I called her and told her I had her
7 money for her.

8 Q. And what night -- when was this?

9 A. I don't remember what night it was. But I know
10 around that time they got fired from their jobs.

11 Q. Okay.

12 A. We all were selling drugs.

13 Q. All right. Well ---

14 A. And I had her drugs for her and I had her money, so,
15 I called her and told her I had her money.

16 Q. All right. Well, did -- did you ever -- do you know
17 who Jake is?

18 A. No, sir.

19 Q. Do you know who Chauncy Sims is?

20 A. No, sir.

21 Q. Do you know who Plute is?

22 A. No, sir.

23 Q. Kelvin Davis?

24 A. No, sir.

25 Q. You never saw Kelvin Davis there at the Lil Cricket?

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1 A. No, sir.

2 Q. All right. Did you know Wytrisha was dating a guy
3 named Kelvin Davis or Plute?

4 A. No, sir.

5 Q. You never -- never had a any conversation with
6 Wytrisha Lemon about Plute ---

7 A. No, sir.

8 Q. --- or Kelvin Davis?

9 A. No, sir.

10 Q. Or about Jake?

11 A. No, sir.

12 (Brief Pause)

13 Q. And when -- when was the last time you had seen
14 Patrick Rice before all before August 18th of two thousand,
15 eight (2008)?

16 A. I don't even know that I seen him on August the 18th.
17 I -- II don't know. I don't believe it was August 18th. I
18 would just see him at the store because he would come in and
19 out of the store because in Whitmire there ain't but one
20 store, Lil Cricket.

21 And I would just be out there with the girls,
22 helping them sell them drugs. So, you know, he'd come up
23 there. So, a lot of time I would see him at the store.

24 Q. Okay. All right.

25 A. I ain't never really sat down and talked with him or

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1 went out with him or anything.

2 Q. All right. Well, did -- did you and -- you said you
3 don't recall talking to Wytrisha that Sunday night or -- or
4 early that Monday morning?

5 A. No, I don't. I talked to her. She had called and
6 said that -- she -- she called us and told us that someone got
7 shot, the dude. What did you say his name was, Plute?

8 Q. Plute, Kelvin Davis.

9 A. I know she called telling us something about him.
10 And I told her to -- to come to the house and she came up to
11 the house.

12 Q. Okay. So she called -- she called ---

13 A. That was the only time I heard something about it.

14 Q. All right. Well, who -- whose house did she go to?

15 A. Laquidra. She came to Quidra's house.

16 Q. Okay. And when was that?

17 A. I don't -- I don't really remember if it was on
18 Monday or Tuesday. I don't know.

19 Q. All right.

20 A. It's been so long ago.

21 Q. All right. Well, what did she have to say about --
22 about Plute?

23 A. She said something went wrong.

24 Q. All right. So, she told you that?

25 A. Yeah, she told me that.

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1 Q. And you were at Quidra's house when she did this?

2 A. Yes.

3 Q. Okay.

4 (Brief Pause)

5 Q. And had you -- had you talked to her about Plute
6 getting shot early that Monday morning?

7 A. No, sir.

8 Q. You never had any conversation with her about that
9 early that Monday morning?

10 A. Not until she came to the house. She came to the
11 house and was telling us about her friend got robbed and shot
12 and died.

13 Q. Okay.

14 A. That was the only time I really had -- had a
15 conversation with her.

16 Q. All right. And you never -- you never had a
17 conversation with her where you told her that you were -- you
18 were wanting to rob Plute or rob -- rob Jake?

19 A. No, sir.

20 Q. All right. You never -- never told her that you
21 were -- you were wanting to -- you are wanting to rob the --
22 the house at in Union?

23 A. No, sir.

24 (Brief Pause)

25 Q. And...

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1 (Brief Pause)

2 Q. And did she ever ask you if you were involved in
3 it ---

4 A. No, sir.

5 Q. --- in the actual robbery of the house? Did
6 Wytrisha ever ask you if you had been involved in it?

7 A. No, sir.

8 (Brief Pause)

9 Q. All right. And she never -- she never -- well,
10 strike that. I'm sorry. And going -- and going down to
11 Laquidra, did you ever have a conversation with Laquidra
12 where...

13 (Brief Pause)

14 Q. Did you ever -- ever have a conversation with
15 Laquidra where you told her that you had been involved in the
16 robbery of Plute's house?

17 A. No, sir.

18 Q. And did you ever tell her that you all had gotten
19 seventeen hundred dollars (\$1,700) out of the house and around
20 four (4) pounds of marijuana?

21 A. No, sir.

22 Q. Did you ever tell her that Patrick Rice and Short
23 Dog were the two guys who were with you when you did the
24 robbery?

25 A. No, sir.

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1 (Brief Pause)

2 Q. And where -- where were you from the -- the time you
3 left -- the time you came back to Newberry till the time you
4 got arrested, Mr. Rice [sic]?

5 A. What did you say now?

6 Q. Where were you?

7 A. I ain't hear you. What did you say now?

8 Q. Where were you, from the time you came back to
9 Newberry from Converse, Georgia, to the time you got arrested?

10 A. Oh, I had went up to Detroit to visit a friend.

11 Q. Who did you go to Detroit to see?

12 A. I went to see one of my home boys that I was locked
13 up with.

14 Q. And what was his name?

15 A. What did you say now?

16 Q. What was his name?

17 A. I done forgot his real name. I just call him -- we
18 just call him Black. I don't even know his real name.

19 Q. They just call him Black?

20 A. Yeah.

21 Q. Well, that's what they call you, right?

22 A. Yeah.

23 Q. All right.

24 (Brief Pause)

25 Q. Do you know who Short Dog is?

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1 A. No, sir.

2 Q. You don't have any idea who Short Dog is?

3 A. I never heard of him.

4 Q. All right.

5 MR. ANTHONY: If I could have one moment.

6 (Brief Pause)

7 (Off-the-Record Discussion)

8 Q. Why -- why did you all go to Converse?

9 A. What did you say, sir?

10 Q. You and Laquidra, why did you go to Converse?

11 A. We went to the outlets.

12 Q. Okay. And, so, did you just went to Converse just
13 for a shopping trip?

14 A. We just went up there. She wanted to go buy some
15 shoes. We had went up there like a week before that and she
16 had seen some shoes she wanted. And we just went up there.

17 (Brief Pause)

18 Q. And your -- your testimony is that you didn't know
19 the police were after you, wanted -- wanted to question you
20 about this homicide until the next week? You came back to
21 Newberry and didn't have any idea the police wanted to talk to
22 you?

23 A. I didn't have no idea.

24 (Brief Pause)

25 MR. ANTHONY: All right. Your Honor, that's

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1 basically -- I -- I think I've questioned him about the
2 statements that I would seek to elicit tomorrow.

3 So, I -- I -- as far as the proffer goes, I don't
4 have anything else to ask.

5 THE COURT: Any cross exam?

6 MR. RECKENBEIL: None, Your Honor.

7 THE COURT: All right. Sir, you can step down.
8 You all can take him back.

9 (Whereupon, the witness step down from the witness
10 stand at 5:24 p.m.)

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12 THE COURT: All right. Is there anything else we
13 need to do today?

14 MR. ANTHONY: No, sir. He obviously -- he did not
15 take the Fifth on -- on the questions that I thought he would
16 be unavailable on.

17 So, I -- what I -- if I could just have a moment to
18 try to think this through.

19 THE COURT: You want to it up at nine o'clock
20 (9:00) in the morning?

21 MR. ANTHONY: That -- that would be fine, Your
22 Honor, just --

23 THE COURT: Well, it's up to you. I've got all
24 night. I've got nothing else to do when I get there ---

25 MR. RECKENBEIL: Well ---

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1 THE COURT: -- at Days Inn. There's not a whole
2 lot going on around Union. But I ---

3 MR. RECKENBEIL: I don't want to interrupt you.
4 Go ahead. I'm sorry.

5 MR. ANTHONY: Well, I -- I think we would be -- in
6 a -- in a spot. He's not going to take the Fifth.

7 I think we would be in a spot where I would call him
8 to testify and he would deny making the statements that -- and
9 not take the Fifth, assuming he does tomorrow what he did just
10 now.

11 He wouldn't take the Fifth; he just denied making
12 the statements. And, then, at that point, I think I would be
13 entitled to ask to call the -- his girlfriend to impeach the
14 -- the statement he denied making.

15 So, I think that's where -- that's where we would
16 be. That would be the posture we would be left in tomorrow;
17 rather than him taking the Fifth, then, trying to get the
18 statement -- as a statement against penal interest with him
19 being unavailable. It would just be a matter of proving a --
20 a prior inconsistent statement.

21 THE COURT: What is your position on that?

22 MR. RECKENBEIL: So, you're -- you want to have an
23 individual get a hearsay -- a hearsay exception, but he denies
24 even saying it?

25 And, so, then, we're going to be left with a

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1 situation where the statement that he's going to try to
2 impeach, the last person that was on the witness stand is an
3 inculpatory statement saying that my client was with the guy
4 who lied on the witness stand doing the robbery?

5 I've got to research that issue, Judge, because I
6 just can't see how you're going to -- you're going to allow
7 him -- and I understand where he wants to say prior
8 inconsistent statements -- but you're going to allow him to
9 impeach on a statement that is an inculpatory statement.
10 And he was sitting there on the witness stand here saying, "I
11 didn't say that."

12 THE COURT: I didn't say I was going to allow it.

13 MR. RECKENBEIL: But, I'm just -- I'm just -- I'm
14 just putting it out there in my mind, framing the issue ---

15 THE COURT: Oh, I'm sorry. Okay.

16 MR. RECKENBEIL: --- of what we're going to be
17 dealing with at nine o'clock (9:00) tomorrow morning or nine
18 thirty (9:30) tomorrow morning because I just can't see where
19 you're...

20 (Brief Pause)

21 MR. RECKENBEIL: First of all, if you can't --
22 then, you can't get past the hearsay exception because it's
23 not an issue of a party opponent because he never said it.

24 So, therefore, there's no way to get to the first
25 prong of hearsay within hearsay -- and I'm just kind of

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1 thinking out loud -- because he says the statement never
2 happened.

3 So, then, the second prong of the hearsay test is,
4 well, how does John Anthony get that statement in as a prior
5 inconsistent statement?

6 Well, my position would be, then, the first prong is
7 not met of hearsay within hearsay because it's not an issue of
8 a party opponent because it was never said.

9 (Brief Pause)

10 I wish I knew the great answer here, but I don't
11 know ---

12 THE COURT: Well, we'll deal with that in the
13 morning.

14 MR. RECKENBEIL: Yeah, but I would like to ---

15 THE COURT: Impeachment evidence is generally not
16 offered to prove the truth of it; it's offered for whatever
17 effect it might have on the truth or veracity of the witness
18 who is testifying.

19 So, if it is not offered for the truth of it, and I
20 have to tell the jury it's not offered for the truth of it,
21 then, it has no relevance and no bearing on this case.

22 So, my inclination -- and I'm thinking out loud like
23 the two of you are -- is that he would not be allowed to call
24 her to testify. She lied -- or if he lied because it has no
25 relevance to the issue the jury has to decide in this case.

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1 You're trying to, then, get what would obviously be
2 hearsay in to prove the truth of the matter asserted without
3 any foundation, without any bearing in this case, except it's
4 relevant to show that he lied.

5 Well, if he lied, that really doesn't have any
6 bearing on the facts of this case. So, my inclination is that
7 you could not do that.

8 **(Brief Pause)**

9 **THE COURT:** You -- you can't call a witness knowing
10 that witness is going to lie and try to set up a situation
11 where you can call another witness to show that that witness
12 lied.

13 And really it's a collateral matter because it's not
14 -- it's not admissible to prove that this defendant was there
15 and did it. So, you've got all night to research that.

16 **MR. ANTHONY:** Yes, sir. Well, it's to corroborate
17 what Mr. Rice told them. Mr. Ruff told people he was involved
18 in the robbery.

19 And Mr. Rice telling people that Mr. Ruff was
20 involved in the robbery lets the jury know that Mr. Rice gave
21 accurate confession to the witnesses in this case.

22 **(Brief Pause)**

23 **MR. ANTHONY:** And ---

24 **THE COURT:** Well, what ---

25 **MR. ANTHONY:** --- and the prior -- the prior

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1 statement by mister -- by Mr. Ruff actually would not be
2 hearsay because I'll put Mr. Ruff up and he'll be asked if he
3 ever told Ms. Eigner that he -- that he committed this
4 robbery. And he'll say no.

5 And, at that point, under 801(d)(1)(a) (phonetic), I
6 can have Ms. Eigner say that he did say it. And that would be
7 inconsistent with his testimony.

8 And under 801(d)(1)(a), "Prior statements from a
9 witness that are inconsistent with the declarant's testimony
10 are not hearsay."

11 So, my -- my position would be that -- that his
12 statement to her, she can testify that his statement -- as to
13 the content of his statement to her that, that would be
14 admissible for the truth of the matter asserted.

15 Because 801(d)(1)(a) said -- says 'those statements
16 are not hearsay. Also, as to the statements to Ms. Lemon that
17 he denies making, that is a co-conspirator statement.

18 It is not just -- it doesn't just hinge on
19 unavailability. That -- that is a statement where -- where he
20 called Ms. Lemon up and told Ms. Lemon he -- he's planning to
21 rob Jake.

22 That is a -- a -- and that is a co-conspirator
23 statement. It's part of the conspiracy he had with Mr. Rice.

24 And that should come in independent of -- of any
25 kind of unavailability, of any kind of unavailability

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1 requirement.

2 (Brief Pause)

3 THE COURT: Let me get the Rule book. It won't
4 take but a second.

5 (Brief pause while the Court retrieves and reads
6 document.)

7 (Off-the-Record Comments)

8 THE COURT: All right. It wouldn't come in under
9 the co-conspirator exception because that's an admission by a
10 party opponent. And he's not the party opponent.

11 MR. ANTHONY: Well, but if you're -- if you're a --
12 a co-conspirator with the defendant, that's -- that's the same
13 as being a party opponent.

14 THE COURT: You're talking about 801 what now?

15 MR. ANTHONY: I'm -- I'm talking about
16 801(d)(2)(b).

17 THE COURT: "If the statement is offered against a
18 party..." And it would be offered against him. He is not a
19 party.

20 MR. ANTHONY: No, sir. It would be offered against
21 Mr. Rice.

22 THE COURT: But, it's not his statement.

23 MR. ANTHONY: No. It's a statement of a co-
24 conspirator of Mr. Rice, Mr. Ruff.

25 (Brief Pause)

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1 **THE COURT:** If Mr. Ruff admitted that Mr. Ruff
2 participated in the robbery, it would not be a statement
3 offered against Mr. Rice.

4 **MR. ANTHONY:** Yes, it -- we would argue that it is
5 offered against Mr. Rice because it goes to corroborate the
6 confession Mr. Rice gave his co-defendant -- or gave to the
7 witnesses to his statement.

8 So, it is offered against Mr. Rice because Mr. Ruff
9 admitted he was a part of this. It's -- it is relevant to a
10 determination Mr. Rice gave an accurate confession he -- he
11 was there at the house that night.

12 **THE COURT:** But I think that gets you squarely back
13 under the Rule.

14 **MR. ANTHONY:** No -- no, sir, because Mr. Ruff will
15 not say -- I will not have Mr. Ruff testify that Mr. Rice
16 participated in the robbery.

17 I will just have Mr. Ruff testify that he
18 participated in the robbery. And, then, the jury can draw an
19 inference from the fact that Mr. Rice was naming Mr. Ruff as
20 one of the people that he committed the robbery with.

21 And the jury can draw an inference that Mr. Rice was
22 -- was there with Mr. Ruff and that -- that Mr. Rice was
23 giving people who he confessed to accurate information.

24 **(Brief Pause)**

25 **MR. ANTHONY:** So, it -- it is not a -- a *Bruton*

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1 situation where I'm -- I'm going to be having Mr. Rice -- or
2 well, I would not have the person that Mr. Ruff made the
3 statements to testify about Mr. Rice and what Mr. Ruff said
4 Mr. Rice's role was because that would fall outside of the --
5 that -- that would fall within what *Bruton* prohibits.

6 So, I know I can't do that. But, I think -- I think
7 I can have somebody say, "Mr. Ruff told me that he robbed this
8 house with Short Dog, the guy and that they got various --
9 these items out of the house that are consistent with what Mr.
10 Rice tells people -- he confesses to.

11 So, the jury will know what Mr. Rice was saying to
12 those people is accurate and what those people related was
13 accurate because it is consistent with what Mr. Ruff himself
14 admitted to doing.

15 Is just corroboration. I'm just basically trying to
16 elicit what Mr. Ruff said to corroborate Mr. Rice.

17 And -- and since my task in this case is to make
18 sure that the jury thinks Patrick Rice told the truth, and the
19 way the jury knows Patrick Rice told the truth, when he was
20 talking to these people, and that these people accurately
21 relayed what Patrick Rice told them, is to prove -- to prove
22 the various aspects of things Patrick Rice said were correct.

23 Well, probably the key thing Patrick Rice said was,
24 "I did this with Derrick Ruff." Well, one way that the jury
25 can know that what Patrick Rice said was accurate, that he

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1 really was there and really telling these people what he did,
2 is for somebody to say, "Well, Derrick Ruff told me he did
3 it."

4 (Brief Pause)

5 THE COURT: You want to be heard now or wait until
6 the morning? Or both?

7 MR. RECKENBEIL: Both. But, I -- I think what he
8 is trying to do is bolster witness testimony by I think a
9 violation of six oh -- 608 and 609 -- well, 608 more than
10 anything because he's trying to say specific incidences of
11 conduct to bolster somebody's credibility.

12 And I think that is disallowed under our rules.

13 THE COURT: Well, I'm not sure if it's bolstering.
14 We talked about bolstering. I think it's probably more
15 accurately described as corroboration.

16 So, I think we need to look at it in that respect
17 because it's not really bolstering.

18 (Brief Pause)

19 THE COURT: Because he's disagreeing with what the
20 witness said. He's trying to prove the witness lied.

21 (Brief Pause)

22 MR. RECKENBEIL: But he's not on trial. Mr. Ruff
23 is not on trial. And because he's lying, again, I don't see
24 the -- I don't see the point of that.

25 And I think what the judge -- what Your Honor was

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1 saying is that it's starting to fall back under *Bruton* because
2 he's the one that opening Pandora's box and bringing in these
3 statements that my client apparently said.

4 And ultimately that's where I think Derrick Ruff's
5 testimony given to somebody else falls under the Rule and
6 doesn't allow us to get into.

7 But, Your Honor, I would be more than happy to
8 research this issue tonight if -- if I may be heard tomorrow
9 morning.

10 But, from what I'm hearing from Mr. Anthony, is that
11 we're dealing with an issue of whether or not these people can
12 come and now, with prior inconsistent statements that are not
13 hearsay, which I would -- I would argue under 801 is hearsay.

14 (Brief Pause)

15 THE COURT: All right.

16 MR. RECKENBEIL: Because, then, you're talking
17 about an out-of-court assertion going to prove the truth of
18 the matter asserted. It's hearsay.

19 So, what Derrick Ruff states to people out in bars
20 or wherever he is, that's hearsay because it's not under oath;
21 is not given -- he's not giving a statement to the police.

22 It's not, in any way, shape, or form testifying
23 before the Court on these other inconsistent statements. And
24 I think that would be hearsay.

25 So, what these people are going to come in and say

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1 would be hearsay. But, again, I -- I -- I would like to
2 address that tomorrow morning before the Court.

3 (Brief Pause)

4 THE COURT: All right. Let's -- let's take it up
5 at nine o'clock (9:00) in the morning.

6 MR. RECKENBEIL: Okay. Thank you, judge.

7 THE COURT: All right. Court will be in recess
8 until nine o'clock (9:00).

9 (Whereupon, court adjourned for the day at 5:45
10 p.m.)

11 (Court reconvened on Wednesday, September 16, 2009,
12 at 9:42 a.m.)

13 (Off-The-Record Comments)

14 THE COURT: Good morning. Thank you very much.
15 You may be seated.

16 (All in the courtroom complied with the Court's
17 request.)

18 (Off-The-Record Comments)

19 THE COURT: All right. Is the state ready to
20 proceed?

21 MR. ANTHONY: Yes, sir.

22 THE COURT: Well, we got to get the Defendant.

23 (Brief pause while Mr. Rice is brought into the
24 courtroom.)

25 MR. ANTHONY: I'm just going to step back to make

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1 sure my two witnesses are here.

2 THE COURT: All right.

3 (Brief pause while Mr. Anthony steps out of the
4 courtroom.)

5 (Off-The-Record Comments)

6 THE COURT: All right. Is the State ready to
7 proceed?

8 MR. ANTHONY: Yes, sir, we are.

9 THE COURT: Is the Defense ready?

10 MR. RECKENBEIL: Yes, Your Honor.

11 THE COURT: All right. Bring the jury in, please.

12 (The jury was summoned.)

13 (The jury into the courtroom at 9:43 a.m.)

14 THE COURT: Good morning, ladies and gentlemen.

15 Have any of you received any information about this case from
16 any source -- from any source whatsoever since you left the
17 courtroom it yesterday?

18 (Negative responses heard.)

19 THE COURT: All right. There was a little blip on
20 Channel 7. See I can watch it, but you can't. But it was so
21 quick you would've almost missed it.

22 But -- so, be careful when you go home tonight. I
23 don't know if there be anything else on the TV or not. But be
24 careful and don't expose yourself to any TV news about the
25 case tonight. All right, Counsel?

MS. AMANDA DICKERT - DIRECT by MR. ANTHONY

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1 MR. ANTHONY: We'd call Amanda Dickert.

2 THE COURT: Come around, Ms. Dickert, please.

3 MR. ANTHONY: She's outside. If you could, get
4 her, Amanda Dickert.

5 (Brief pause while witness is summoned.)

6 THE COURT: Come on down this way it please, ma'am,
7 right over here (indicating).

8 Ms. Dickert, if you would, place your left hand on
9 the Bible and raise your right.

10 (Whereupon,

11 AMANDA DICKERT

12 having been first duly sworn, testified as follows:)

13 THE COURT: Thank you, ma'am. Have a seat and
14 state your full name. Be sure you talk loud enough, so, that
15 everybody can hear you.

16 THE WITNESS: Amanda Elizabeth Dickert.

17 THE COURT: Thank you, ma'am. All right,
18 Counselor.

19 DIRECT EXAMINATION by MR. ANTHONY:

9:45 A.M.

20 Q. Ms. Dickert, where do you live?

21 A. I live at , Whitmire, South Carolina
22 (phonetic).

23 Q. And what is your relation to the -- to Miriam
24 Dickert, the young woman that testified yesterday?

25 A. I'm her sister-in-law.

PAMELA FAUCETTE, CVR - PHONE: 864-574-9534 CELL: 336-260-2864

MS. AMANDA DICKERT - DIRECT by MR. ANTHONY

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1 Q. I want to take you back to August 18th, 2008. Did
2 you -- did Miriam make contact with her you that morning?

3 A. Yes, sir.

4 Q. And how did she make contact with you?

5 A. She called me on my cell phone.

6 Q. And did she ask you to do anything?

7 A. Yes, sir. She asked me what I come pick her up and
8 take her to Newberry to get clothes.

9 Q. And how did you respond after she made that request?

10 A. I told her that I had to drop my kids off at school
11 and then, I would be there.

12 Q. And did you do that?

13 A. Yes, sir.

14 Q. Where was she living at the time?

15 A. I think it's .

16 Q. In -- in Whitmire?

17 A. Yes, sir.

18 Q. All right. At approximately what time did you pick
19 her up?

20 A. It was about seven, forty (7:40), seven, forty-five
21 (7:45).

22 Q. Now, once you got to the -- to the residence there
23 on , what happened?

24 A. Mimi (phonetic) told me that she had changed her
25 mind and wanted to go to Clinton.

PAMELA FAUCETTE, CVR - PHONE: 864-574-9534 CELL: 336-260-2864

1 Q. All right. And who -- who came out to get in the
2 car?

3 A. Patrick Rice.

4 Q. All right. And who else?

5 A. Mimi Dickert.

6 Q. All right. And, at the time, did you know, when --
7 when you got there, that you were going to be picking up Mr.
8 Rice as well?

9 A. No, sir.

10 Q. And where did you take them?

11 A. Mimi and him had said that they wanted to get out of
12 the house. And they wanted to go stay at a motel room.

13 And Patrick didn't have an ID and Mimi wasn't old
14 enough. So, I signed for them to get a motel room at the
15 Howard Johnson in Clinton.

16 Q. How did you pay the Howard Johnson's?

17 A. Cash.

18 Q. And who gave you the cash?

19 A. Patrick.

20 Q. And, after you checked them in at the Howard Johnson
21 that morning, did you have any other contact with them?

22 A. No, sir.

23 Q. In the -- in the two or three days after that?

24 A. No, sir.

25 Q. All right. When -- when was the next time you heard

MS. AMANDA DICKERT - DIRECT by MR. ANTHONY

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1 from Miriam?

2 A. It was about -- I'm not exactly sure. It was maybe
3 a week later.

4 Q. And what -- what was going on when you heard from
5 her a week later?

6 A. She called me crying.

7 MR. ANTHONY: Wait a minute.

8 MR. RECKENBEIL: Objection, Your Honor. This is
9 going to be hearsay and this is getting far outside of her
10 involvement in this case.

11 So, anything that she's been told after about a week
12 or so from an individual, is hearsay. Plus, the relevancy, I
13 can't see what we're getting into.

14 THE COURT: Well, it is hearsay. And probably --
15 well -- so, what's your response to his objection?

16 MR. ANTHONY: Well, it has relevance because it's
17 going to collaborate the testimony Ms. Dickert gave yesterday.
18 And it's -- I -- I only have about two more questions.

19 MR. RECKENBEIL: Right. But he's going to want to
20 go into what somebody else told her. And clearly that's
21 hearsay and there's no exception to that.

22 THE COURT: That would be hearsay.

23 Q. (By Mr. Anthony) Did -- did you receive a -- a --

24 MR. ANTHONY: Well, if -- if I could just rephrase
25 the question.

1 THE COURT: All right. Try again.

2 Q. (By Mr. Anthony) Did you -- did you receive a call
3 from -- from Miriam about a week later?

4 A. Yes, sir.

5 Q. And -- and based on that call, what did you do?

6 A. I went and picked her up at Patrick Rice's
7 grandmother's house.

8 Q. And where did you take her?

9 A. I brought her back to my house.

10 Q. And, once you got back to your house, did anybody
11 come trying to find her?

12 A. Yes, sir. The law come and picked her up.

13 MR. ANTHONY: If I could have just one moment.

14 (Brief Pause)

15 MR. ANTHONY: Thank you. That's everything on
16 direct.

17 THE COURT: Cross exam?

18 MR. RECKENBEIL: No cross examination, Your Honor.

19 THE COURT: Thank you, ma'am. You may step down.

20 Thank you for coming. Next witness?

21 (The witness stepped down from the witness stand at
22 9:50 a.m.)

23 MR. ANTHONY: We call Mr. Naik. He's out there in
24 the grand jury room.

25 (Brief pause while witness is summoned.)

MR. NACIK - DIRECT by MR. ANTHONY

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1 (Whereupon, State's Exhibit Number 10 was marked for
2 identification.)

3 THE COURT: Come on down this way, please, sir.

4 (Witness stepped forward to be sworn.)

5 THE COURT: Right over here (indicating). Sir, if
6 you would, place your left hand on the Bible and raise your
7 right.

8 (Whereupon,

9 KARIT B. NACIK

10 having been first duly sworn, testified as follows:)

11 THE COURT: State your full name.

12 THE WITNESS: My name is Karit B. Naik.

13 THE COURT: And would you spell that for the court
14 reporter?

15 THE WITNESS: It's K-a-r-i-t, "B" as in "Boy," N-a-
16 c-i-k.

17 THE COURT: All right. Thank you, sir. Please,
18 answer any questions that he has and speak loud enough, so,
19 that everyone can hear you. Thank you, sir. All right,
20 Counsel?

21 DIRECT EXAMINATION by MR. ANTHONY:

9:51 A.M.

22 Q. Mr. Nacik, how are you employed?

23 A. I'm self-employed. I own a hotel in Clinton.

24 Q. Which hotel do you own?

25 A. It's the Howard Johnson's in Clinton.

MR. NACIK - DIRECT by MR. ANTHONY

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1 Q. Did you own that hotel in August of last year?

2 A. Yes, sir, I did.

3 Q. Could you just explain the process that a customer
4 goes through or that your hotel goes through when somebody
5 checks into a room?

6 A. Okay. What we normally do is, when they check in,
7 we asked them what kind of a room they would like.

8 And we ask them for a driver's license, a form of
9 payment, and we record the -- the address, how the payment was
10 made. And we note down their driver's license number.

11 Q. And you say you record that. How would it be
12 recorded?

13 A. We just put it in the computer.

14 Q. And who -- who is normally the person who puts it in
15 the computer?

16 A. The front desk clerk.

17 Q. Whoever is working there?

18 A. Yes, sir.

19 Q. All right. And is that -- is that information
20 maintained in the course of your business, running the Howard
21 Johnson?

22 A. Yes, sir.

23 Q. All right. I want to show you what's been marked
24 for identification as State's Exhibit Number 10 and ask if you
25 recognize this document?

PAMELA FAUCETTE, CVR - PHONE: 864-574-9534 CELL: 336-260-2864

MR. NACIK - DIRECT by MR. ANTHONY

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1 (State's Number 10 handed to witness.)

2 A. Yes, sir. It's a form from a -- from a guest check-
3 in on August the 18th.

4 Q. And is that ---

5 A. And it's registered to Amanda Elizabeth Dickert.

6 Q. All right, sir. Just let me ask you a couple
7 questions first.

8 A. Yes, sir.

9 Q. Is that a -- is that a record that is kept on your
10 computer system for that Howard Johnson's in Clinton you own?

11 A. Yes, sir.

12 MR. ANTHONY: All right. Your Honor, at this time
13 we'd -- we'd move the exhibit into evidence.

14 MR. RECKENBEIL: No objection, Your Honor.

15 THE COURT: All right. It's admitted without
16 objection.

17 (Whereupon, State's Exhibit Number 10 was admitted
18 into evidence without objection.)

19 Q. And what does that record indicate about somebody
20 renting a room there at the Howard Johnson's?

21 A. Okay. It tells us that they had checked in at 8:39
22 on August the 18th, two thousand and eight (2008). It's ---

23 Q. Now, who -- who took out a room?

24 A. It's registered to Amanda Elizabeth Dickert, with
25 the driver's license number , expires . She

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MR. NACIK - DIRECT by MR. ANTHONY

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1 lives at -- (phonetic), Whitmore,
2 SC

3 Q. And does the record indicate how the room was paid
4 for?

5 A. It was paid by cash.

6 Q. And does -- does the record indicate whether anybody
7 physically came to the front desk the next day and checked
8 out?

9 A. Nobody came to check out.

10 Q. All right. And that -- that wouldn't be necessary
11 in the case ---

12 A. It's not necessary. A lot of people leave the room
13 keys in the room.

14 Q. All right. And that's -- that's not necessary when
15 somebody pays cash?

16 A. No.

17 Q. All right.

18 (Brief Pause)

19 MR. ANTHONY: Thank you. That's everything on
20 direct.

21 THE COURT: Cross examination?

22 MR. RECKENBEIL: No cross exam.

23 THE COURT: Thank you, sir. You may step down.
24 Thank you for coming. You may be excused.

25 THE WITNESS: Oh, you're welcome.

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1 (The witness stepped down from the witness stand and
2 was excused at 9:54 a.m.)

3 THE COURT: Yes, sir. The next witness?

4 MR. ANTHONY: The next witness is Michael Rice.

5 (Brief pause while the witness is summoned.)

6 MR. RECKENBEIL: May we approach, Your Honor?

7 THE COURT: Yes, sir.

8 (Whereupon, a bench conference was had with both
9 attorneys present.)

10 MR. RECKENBEIL: Your Honor, just for the record I
11 object to the testimony based on the grounds stated in
12 chambers.

13 THE COURT: All right. We'll put that on the
14 record later. I overrule your objection.

15 MR. RECKENBEIL: Thank you, sir.

16 MR. ANTHONY: And, Your Honor, also, if -- I would
17 ask that Mr. Nacik and Ms. Dickert be excused.

18 THE COURT: Yes, you can be excused.

19 (Whereupon, the witnesses were excused by the
20 Court.)

21 THE COURT: Is somebody getting the witness?

22 DEPUTY: Yes, sir.

23 THE COURT: Thank you.

24 (Brief Pause)

25 (Off-The-Record Comments)

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1 THE COURT: All right.

2 (Brief Pause)

3 THE COURT: It's a long way to the basement. And I
4 hope he's not riding the elevator; that will be an extra five
5 minutes.

6 (Mr. Rice is escorted into the courtroom.)

7 THE COURT: Put your left hand on the Bible first
8 and raise your right hand.

9 (Whereupon,

10 MICHAEL RICE

11 having been first duly sworn, testified as follows:)

12 THE COURT: All right, sir. State your full name,
13 please?

14 THE WITNESS: Michael Jeff Rice (phonetic).

15 THE COURT: Good. Thank you, sir. Please speak
16 loudly enough for everybody to hear you. You can put your
17 hand down. All right, Counsel.

18 DIRECT EXAMINATION by MR. ANTHONY:

9:58 A.M.

19 Q. Mr. Rice, where are you from?

20 A. Union, South Carolina.

21 Q. I want to take you a now back to August of two
22 thousand, eight (2008). Where -- where were you living at
23 that time?

24 A. (phonetic) in Whitmire.

25 Q. And who were you living with?

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1 A. My grandmother.

2 Q. And were you involved with a -- a woman at that
3 time?

4 A. Yes, Sierra Braswell.

5 Q. And where did Ms. Braswell live?

6 A. I think she lived in Whitmire. I think it was on
7

8 Q. Where would you usually spend the night back in
9 August of two thousand, eight (2008)?

10 A. At her house.

11 Q. How long had you and Ms. Braswell been involved back
12 in August of two thousand, eight (2008)?

13 A. A couple of months.

14 Q. And who else lived with -- with Ms. Braswell in this
15 residence where you spend the night at?

16 A. Miriam Dickert.

17 Q. And who else?

18 A. Patrick Rice.

19 Q. And what -- what was your relationship with Patrick
20 Rice?

21 A. He's my cousin.

22 Q. And what was Miriam and Patrick's relationship?

23 A. They were boyfriend and girlfriend.

24 Q. And do you know Derrick Ruff?

25 A. Yes, I know him, but not that well.

1 Q. All right. What was -- was the relationship between
2 Derrick Ruff and Sierra Braswell?

3 A. They had a kid together.

4 Q. Now, I want to take you back to August 16th of two
5 thousand eight (2008). Did you see Mr. Ruff that night?

6 A. Yes, sir.

7 Q. All right. Where did you see him?

8 A. At his girl named Ashley's house on Highway 34 in
9 Newberry.

10 Q. All right. And did Mr. Ruff tell you he intended to
11 do anything that night?

12 A. Yes. He told me that he and ---

13 MR. RECKENBEIL: Objection, Your Honor. This would
14 be hearsay.

15 MR. ANTHONY: It's a -- it's a statement in
16 furtherance of a conspiracy.

17 THE COURT: Well, let me get... Ladies and
18 gentlemen, how about stepping back to the jury room for a
19 minute. I need to take up the matter of law. Please, do not
20 talk about the case.

21 (Whereupon, the jury exited the courtroom at 10:01
22 a.m.)

23 THE COURT: All right. Ask him your questions.

24 IN CAMERA DIRECT EXAMINATION by MR. ANTHONY: 10:02 A.M.

25 Q. When -- when you saw Mr. Ruff, at the girl's house

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1 in Newberry, what did -- what did he say he intended to do?

2 A. They were going to rob this guy that I knew.

3 Q. All right. And who was the guy?

4 A. A guy named Jake.

5 Q. And where did the guy live?

6 A. In Union.

7 Q. And -- and what did you tell him about robbing Jake?

8 A. It wasn't a very good idea.

9 Q. All right. And did you have any other conversation
10 with him that night about the robbery?

11 A. No, sir.

12 Q. What -- did -- did he tell you why he was mentioning
13 this to you?

14 A. I mean, no, sir. I -- I guess he wanted me to -- I
15 don't know.

16 Q. Well, I mean, what -- what do you believe -- why did
17 you believe he was telling you this?

18 A. I think so I could join him.

19 (Brief Pause)

20 MR. ANTHONY: Thank you. That -- that would be the
21 questioning about this conversation.

22 MR. RECKENBEIL: Judge, the objection would be
23 based on hearsay. I think that is just the very essence of
24 the hearsay rule.

25 We have an out-of-court statement that they're

1 trying to go to show the proof of -- of the matter asserted.

2 Ruff is not on trial. He's not charged with
3 conspiracy. So, they're trying to show that this other
4 gentleman is guilty of committing robbery. Fine.

5 But that makes no sense whatsoever to Patrick Rice.
6 So, just under the plain doctrine of hearsay: Out-of-court
7 statement, not admissible.

8 (Brief Pause)

9 THE COURT: How is that statement -- you're trying
10 to get it admitted as a statement of a co-conspirator?

11 MR. ANTHONY: Yes, sir.

12 THE COURT: How is that statement in furtherance of
13 the conspiracy?

14 MR. ANTHONY: It can be taken as a recruitment.

15 THE COURT: Well ---

16 MR. ANTHONY: He lets him know he's planning on
17 doing it, and there -- there is an inference there that he was
18 trying to -- trying to talk him into it.

19 (Brief Pause)

20 THE COURT: Yes, sir? Anything else?

21 MR. RECKENBEIL: Ill will -- so what?

22 THE COURT: Sir?

23 MR. RECKENBEIL: So what? If he's actually trying
24 to talk him into committing a robbery with Derrick Ruff, okay.
25 But, again, you're -- number one, it's hearsay, but then, the

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1 prejudicial effect substantially outweighs any sort of
2 relevancy;

3 That he's trying to have the jury jump three or four
4 hoops to get over to come in and infer that he was with him.

5 I still think, Your Honor, the hearsay issue is that
6 you have an out-of-court statement. Plus, you're not going to
7 have an individual that's going to come in here from yesterday
8 that's going to admit to anything. So ---

9 **THE COURT:** Well, he's offering it under the
10 statement of a co-conspirator. What -- the only question that
11 I have is was it actually made in furtherance of a conspiracy?

12 **(Brief Pause)**

13 **MR. RECKENBEIL:** Well...

14 **THE COURT:** Other than -- I mean, if it is made in
15 furtherance of the conspiracy, I think it's admissible;
16 clearly admissible.

17 And the testimony has already been entered that the
18 Defendant told his girlfriend that he and Mr. Ruff had
19 committed the robbery.

20 And this gentleman is testifying that Mr. Ruff told
21 him, prior to the robbery being committed, that he was going
22 to commit the robbery and this witness took it as a
23 recruitment basically.

24 So, I overrule your objection. I find it meets the
25 requirements under the Rules.

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1 MR. RECKENBEIL: Okay.

2 THE COURT: Bring the jury back in. Well, wait a
3 minute. Wait a minute. What -- is this all you're going to
4 get from him? Or is there something else we need to go
5 through and deal with it now?

6 MR. ANTHONY: Well, this is the only time he talked
7 to Derrick Ruff. So, there won't be any more statements that
8 I'll seek to elicit from Derrick Ruff.

9 THE COURT: All right. Bring the jury back.

10 (The jury was summoned.)

11 (The jury entered the courtroom at 10:06 a.m.)

12 THE COURT: All right. You can ask your questions.

13 CONTINUED DIRECT EXAMINATION by MR. ANTHONY: 10:06 A.M.

14 Q. It was -- just stepping back a moment, Mr. Rice.
15 Mr. Rice, did you have a -- you -- you were asked about a
16 conversation you had with Derrick Ruff in Newberry; is that
17 correct?

18 A. Yes, sir.

19 Q. All right. And what did Mr. Ruff ask you?

20 A. What did he ask me?

21 Q. Or what did Mr. Ruff tell you?

22 A. He told me he was going to rob this guy named Jake.

23 Q. All right. Where did Jake live?

24 A. In Union.

25 Q. All right. And how did you respond to that?

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1 A. I told him it was a bad idea.

2 Q. And did you tell him why you thought it was a bad
3 idea?

4 A. Because the man -- I told him that he would probably
5 get himself killed.

6 Q. And did you express any interest in being a part of
7 this?

8 A. I told him I didn't want any part of it.

9 Q. Did -- did he express any interest in having you as
10 a part of it?

11 A. It was more like he was -- like him directly asking
12 me to join him or something; like he wanted me to do it with
13 him.

14 Q. And taking you now to the next day -- that was
15 August 16th -- taking you now to the next day, where did you go
16 to on the 17th of August, that Sunday?

17 A. Over to a friend's house, Crystal Welch (phonetic).

18 Q. All right. And did -- had you -- and where did she
19 live?

20 A. In Union.

21 Q. All right. And after you went to Union on Sunday,
22 where did you go after that?

23 A. Back to Whitmire.

24 Q. And, when you got back to Whitmire, where -- where
25 did you go to in Whitmire?

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1 A. I went to Sierra's house.

2 Q. And what happened between you and Sierra when you
3 got back to Whitmire?

4 A. We had an argument.

5 Q. So, after you had that argument with -- with Sierra,
6 where did you go?

7 A. I went to my friend Dana's house.

8 Q. All right. I need you speak up, so, everybody can
9 hear you. Whose -- whose house did you go to again?

10 A. To my friend Dana's house.

11 Q. All right. And how long did you stay there?

12 A. Until about 4:30, five o'clock (5:00) in the
13 morning.

14 Q. And, when you left the house, after you had the
15 fight with Sierra, was Patrick there?

16 A. No, sir.

17 Q. He was gone?

18 A. Yes, sir.

19 Q. And, after you left the house, at any point in time
20 that -- that morning, early on the 18th of August, did you hear
21 from Patrick?

22 A. No, sir -- what did you say now? Say it again.

23 Q. I said did you hear from Patrick? Did he make
24 contact with you after you the -- the house that night?

25 A. No, sir, till like about five o'clock (5:00) that

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1 morning.

2 Q. Okay. And when -- when -- how did he get in touch
3 with you that morning at five o'clock (5:00)?

4 A. He called me.

5 Q. And what did he want you to do?

6 A. Come to Sierra's house.

7 Q. Okay. So, what did you do?

8 A. I went to Sierra's house.

9 Q. When you got to Sierra's house, who was there?

10 A. Patrick, Miriam, and Sierra.

11 Q. And once you -- once you got there, did you talk to
12 Patrick?

13 A. Yes.

14 Q. And what did Patrick tell you had happened?

15 A. That he was involved in the robbery and someone got
16 shot.

17 Q. And did he have any -- anything there? Did he show
18 you anything?

19 A. Yes, he showed me some money and some marijuana.

20 Q. All right. And, at that time, were you aware of how
21 much money?

22 A. It was probably about thirty-five hundred dollars
23 (\$3,500).

24 Q. All right. And how much marijuana?

25 A. About a pound or so, a large amount, a big bag full,

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1 a really big bag.

2 Q. All right. What did you do once you got to the
3 house and talked to Patrick about this?

4 A. Smoked and went to sleep.

5 Q. And, when you woke up that morning, who was there?

6 A. Nobody but me and Sierra.

7 (Brief Pause)

8 Q. So, Patrick and Miriam were gone?

9 A. Yes, sir.

10 Q. All right. Well, once -- after you got up that
11 morning, how did you come to hear from Patrick again?

12 A. He called Sierra's phone.

13 Q. And ---

14 A. And I talked to him.

15 Q. You talk to him?

16 A. Yes, sir.

17 Q. And what -- what did he want?

18 A. A ride.

19 Q. And how did you -- what did you decide to do after
20 he called you and asked for a ride?

21 A. I made arrangements to give him a ride.

22 Q. And how did you arrange for that?

23 A. I went to a friend of mine's house and borrowed his
24 car.

25 Q. All right. And who was that?

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1 A. Bobby Isom (phonetic).

2 Q. And does -- does Mr. Isom live with anybody?

3 A. His wife named Michelle (phonetic).

4 Q. Okay. All right. And, once you made arrangements
5 to get the car, what -- what did you do?

6 A. First, we went back to Sierra's house. And she
7 called him. And they told her they were no longer in
8 Newberry.

9 (Crying heard in courtroom.)

10 Q. All right. Go ahead.

11 A. That they were I think in Clinton.

12 Q. So, once you heard that Patrick and Miriam were in
13 Clinton, what did you decide to do?

14 A. Drove to Clinton.

15 Q. Well, how did you find out where to go to in
16 Clinton?

17 A. Sierra called them back and they told her where they
18 was -- they told her where they were.

19 Q. Told Miriam?

20 A. (Shakes head negatively.)

21 Q. Or told Sierra?

22 A. Told Sierra.

23 Q. Told Sierra? I'm sorry. All right. And so, once
24 you had this conversation, where did you go?

25 A. To the -- the Howard Johnson's.

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1 Q. When you got to the Howard Johnson, what happened?

2 A. We went in, went to their room, and we were just
3 sitting there just talking.

4 Q. And, at some point, did -- did Miriam and Sierra
5 leave?

6 A. Yes. They went to pick up some pizza.

7 Q. And was there any conversation between you and
8 Patrick after they left?

9 A. Yes, sir.

10 Q. And -- and what -- what did Patrick tell you about
11 what had happened the night before?

12 A. He told me he and some of his friends had committed
13 a crime against Kelvin Davis. And he said somebody shot
14 Kelvin Davis and he died.

15 (Brief Pause)

16 Q. All right. And did he tell you anything else about
17 the incident at that time?

18 A. No, sir.

19 Q. All right. Mr. Rice, if you would, you might want
20 to just lower that microphone just a bit a little bit. That
21 way you can speak into it.

22 (Witness complied with the request.)

23 Q. Okay. There you go. Thank you.

24 (Brief Pause)

25 Q. Did Mimi and Sierra come back to the hotel room?

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1 A. Yes, sir.

2 Q. And, when they came back, what -- what did Patrick
3 want to do at that time?

4 A. Leave.

5 Q. And where did he want to go?

6 A. To North Carolina.

7 Q. And how did you respond when he asked about leaving?

8 A. Okay.

9 Q. All right. And so, where did you -- where did you
10 head off to?

11 A. To Charlotte.

12 Q. And how did you get to Charlotte?

13 A. In the car that I had gotten from Bobby Isom. And
14 Miriam drove the car.

15 Q. And where did you go to in Charlotte initially?

16 A. To a friend's house.

17 Q. All right. And what was his name?

18 A. Esko (phonetic).

19 Q. And how did you -- and how did you know Esko?

20 A. He used to live in Whitmire.

21 Q. And where -- where did you go to after that; after
22 you went to Esko's house on Monday night?

23 A. Home I think.

24 Q. All right. Did you go -- did you go anywhere after
25 that? Did you take Mike -- or Patrick anywhere besides

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1 Esko's?

2 A. Oh, we went to the motel.

3 Q. Okay. Do you know what kind of motel it was?

4 A. It was a Microtel I think.

5 Q. And, when you got to the -- to the Microtel, what
6 happened -- what happened then?

7 A. We were sitting around doing drugs. And -- and
8 Patrick told us what happened.

9 Q. What did he tell you had happened?

10 A. He said that he and three other guys had planned to
11 robbed Jake, but Jake wasn't there. So, they -- somehow a
12 girl named Wytrisha was contacted and she got Kelvin Davis to
13 come outside.

14 And they -- they basically drove Kelvin Davis back
15 in the house and someone tied up his sister. And Kelvin Davis
16 basically told them where the drugs were. And they went and
17 got the drugs and brought them back to the kitchen area.

18 But some words were exchanged and one of the guys
19 shot Kelvin Davis after he gave them the drugs.

20 Q. I'm sorry, what?

21 A. One of the guys shot Kelvin Davis after he -- after
22 Kelvin Davis gave them the drugs.

23 (Brief Pause)

24 Q. And, when -- when were you told this, Mr. Rice?

25 A. At the Microtel room.

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1 Q. All right. What -- what date? When were you told
2 -- what date were you told this?

3 A. I think it was on Wednesday, the following Wednesday
4 after.

5 Q. It was on Wednesday that you were told?

6 A. Yes, sir.

7 Q. All right. Well, let's not get too far ahead, okay?
8 But going back to Monday, you went to the Microtel on Monday,
9 correct, after you had gone to Esko's?

10 A. Yes.

11 Q. Okay. And did he tell you anything about what had
12 happened on Monday?

13 A. (No Response)

14 Q. At the Microtel?

15 A. Yes.

16 Q. All right. What did he tell you on Monday?

17 A. What I just told you.

18 Q. All right. He -- he said it on Monday too?

19 A. Yes.

20 Q. All right. All right. And, then, what happened
21 after -- after you went to the Microtel and checked in at the
22 Microtel?

23 A. Miriam and Sierra left.

24 Q. No, I mean on that Monday, that Monday night?

25 A. Oh, we left and came back to -- we left and came

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1 back to Whitmire.

2 Q. All right. And who -- who came back to Whitmire?

3 A. Me and Miriam and Sierra.

4 Q. All right. And when was the next time any kind of
5 arrangement was made to go see Patrick?

6 A. Wednesday morning.

7 Q. And how -- how did you arrange to go see Patrick?

8 A. I got the same guy's car again. And Miriam drove.

9 Q. And how did you make arrangements to see him, to see
10 Patrick? Who did you -- how did you find out where he was?

11 A. We went back to Esko's house.

12 Q. And, when you went back to Esko's, what did you find
13 out about Patrick's location?

14 A. That he had went to DeWayne's (phonetic) house,
15 Deebo's.

16 Q. And after -- after finding out he had gone to
17 Deebo's, what did you do then?

18 A. We just sat there and waited on him.

19 Q. All right. And that was -- all right. And how did
20 you come back into contact with him?

21 A. He came to Esko's house.

22 Q. And when -- when he came to Esko's house, had
23 anything changed about his appearance?

24 A. Yes, he had a brand -- a brand new pair -- brand new
25 shoes on.

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1 Q. All right. Well, once you -- once he came back to
2 Esko's house, what did you all do?

3 A. Got in the car and went and got a hotel room.

4 Q. All right. What -- what kind of hotel did you go
5 to?

6 A. A Microtel again.

7 Q. All right. And who all -- who all had gone to
8 Charlotte on this date?

9 A. Me, Miriam, Sierra, and David.

10 Q. Okay. And David -- what is David's last name?

11 A. Jeter (phonetic).

12 Q. All right. And, when you got to the Microtel on
13 Wednesday -- the day you took him from Esko's on Wednesday to
14 Microtel, what happened then?

15 A. Me and David and Patrick stayed at the motel while
16 Sierra and Miriam went to the mall.

17 Q. And what happened while you were there at the
18 Microtel?

19 A. Sat around doing -- smoking and he told -- he told
20 me -- well, he told me and David about what happened.

21 Q. All right. And is -- is what he told you basically
22 what you just told the jury about a few minutes ago?

23 A. Yes, sir.

24 Q. All right. And who did -- who did he tell you had
25 been involved?

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1 A. Black Jesus and Derrick Ruff.

2 Q. Okay. And who else?

3 A. And him and two other guys from Columbia.

4 Q. And what did he -- did he tell you who had actually
5 shot Mr. Davis?

6 A. Someone he told, but he didn't give no name.

7 Q. Did he give you any kind of nickname?

8 A. Short Dog.

9 Q. He used the nick -- he used the nickname, "Short
10 Dog"?

11 A. Yes.

12 Q. All right. And did he tell you how much -- about
13 how much drugs they took?

14 A. Yes.

15 Q. And about how -- how much drugs did he say they
16 took?

17 A. Approximate one or two keys of cocaine and about
18 seventeen thousand dollars (\$17,000) and a couple of pounds of
19 weed and some pills.

20 Q. And did he tell you where they -- where they had
21 gone? Where did he say they had gone after they did the
22 robbery?

23 A. To Spartanburg.

24 Q. Well, after you're -- after you're at this hotel on
25 Wednesday, and Mr. Rice told you these things, what -- what

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1 was the next place that he wanted to go? Or where was the
2 next place you'd go?

3 A. High Point.

4 Q. And what -- what did you all do? Well, why did he
5 want to go to High Point?

6 A. Because someone called and told -- a whole lot of
7 people was calling the phone and said that the Union County
8 Sheriff's Department was looking for me and him for the
9 involvement in the murder of Kelvin Davis.

10 Q. So -- and you had passed that on to Patrick?

11 A. Yes, sir.

12 Q. That the police were hunting him?

13 A. Yes, sir.

14 Q. All right. And, so, what did you do once -- what --
15 what did Patrick want to do when you passed this information
16 on to him?

17 A. To tell Miriam to come right back. He wanted to go
18 to North Carolina to High Point.

19 Q. And what's -- is that what you did?

20 A. Yes.

21 Q. And where -- where did Patrick go to in North
22 Carolina?

23 A. We went almost to High Point. And, then, we made a
24 turn and went back towards Thomasville.

25 Q. And why did you go to Thomasville instead of High

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1 Point?

2 A. Because Patrick couldn't -- couldn't remember where
3 his family was located.

4 Q. And where did you take Patrick?

5 A. To his uncle's house in Thomasville.

6 Q. And who -- who stayed with Patrick in Thomasville?

7 Who was dropped off in Thomasville?

8 A. Miriam and Patrick.

9 Q. And where did you go?

10 A. Back to Whitmire.

11 Q. And, once you got back to Whitmire, what did you
12 decide to do?

13 A. Turned myself in to the authorities in Whitmire.

14 Q. What did you do before you did that?

15 A. I went to my ex-girlfriend's house and gave her my
16 money and my telephone. And I went up the street to the
17 Chief's house and turned myself in to the Chief of Whitmire.

18 Q. Once you turned yourself in to the Chief of Whitmire
19 Police, where were you taken?

20 A. First, I was taken to Sierra's house to watch the
21 rest of the house burn down.

22 Q. And where were you taken after that?

23 A. To Newberry County Detention Center.

24 Q. And, when you got to Newberry, were you served with
25 any warrants?

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1 A. Yes, sir.

2 Q. What were you charged with at that time?

3 A. Manufacturing crack cocaine.

4 Q. And, after you were taken into custody in Newberry,
5 were you interviewed about this incident?

6 A. Yes, sir.

7 Q. And when were you interviewed?

8 A. The following morning.

9 Q. That morning?

10 A. Yes.

11 Q. Okay. And, when you gave that statement, what did
12 you say about where Patrick was?

13 A. I told Lieutenant Riddle he was in North Carolina --
14 I mean Rock Hill.

15 Q. And, when you said that, did you know where he
16 really was?

17 A. Yes, sir.

18 Q. All right. And... All right. And, Mr. Rice, were
19 you convicted in two thousand (2000) of possession of crack
20 cocaine?

21 A. Yes, sir.

22 Q. And, in September, were you charged with any crimes
23 in relation to this incident?

24 A. Last September?

25 Q. In September of two thousand, eight (2008), yes,

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1 sir.

2 A. Yes, sir. I was charged with accessory after the
3 fact of murder.

4 Q. And since this incident, have you been charged with
5 any other crimes?

6 A. Yes, distribution of crack cocaine.

7 Q. All right. And how many counts of that have you
8 been charged with?

9 A. Two.

10 Q. And have either of those cases, either the accessory
11 after the fact of murder or the distribution of crack cocaine,
12 come to court yet?

13 A. No, sir.

14 MR. ANTHONY: All right. If I could have one
15 moment.

16 (Brief Pause)

17 MR. ANTHONY: All right. Thank you. That's
18 everything on direct.

19 THE COURT: Cross exam?

20 CROSS EXAMINATION by MR. RECKENBEIL:

10:30 A.M.

21 Q. Mr. Rice, it is true that Patrick has family up in
22 North Carolina; is that right?

23 A. Yes, sir.

24 Q. And they live up in the Charlotte/Thomasville/High
25 Point area?

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1 A. Yes, sir.

2 Q. Okay. You stated on direct examination that Derrick
3 Ruff called you and said that they were going to rob Jake; is
4 that true?

5 A. No, sir.

6 Q. All right. What did he tell you?

7 A. He told me in person he was going to rob Jake.

8 Q. Oh, I'm sorry. He told you in person that they were
9 going to go rob Jake?

10 A. (Nods affirmatively.)

11 Q. And this was when?

12 A. The night before Jake was robbed.

13 Q. Did you think about calling the police and telling
14 them that?

15 A. No, sir.

16 Q. Did you think about telling the police in your
17 statement, when you gave your voluntary statement on August
18 21st, two thousand, eight (2008), about that?

19 A. No, sir.

20 Q. You didn't tell them that, did you?

21 A. No, sir.

22 Q. No. Okay. Also you said, on your direct
23 examination, that you told my client, Patrick, that the cops
24 were looking for him, right?

25 A. Yes, sir.

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1 Q. And that's why he went to North Carolina?

2 A. Yes, sir.

3 Q. Again, did you ever think about putting that in your
4 statement?

5 A. No, sir.

6 Q. You had already charged with accessory?

7 A. No, I wasn't.

8 Q. You weren't charged with accessory at that point in
9 time?

10 A. No, sir.

11 Q. Okay. Well, let's talk about your pending charges.
12 Did you ever have a conversation with the solicitor's office
13 about a bond reduction?

14 A. No, sir.

15 Q. Did you ever talk about with your lawyer the fact of
16 trying to get a bond reduction for the charges that you're
17 facing right now?

18 A. No, sir.

19 Q. Never talked about that?

20 A. No, sir.

21 Q. Where are you residing right now?

22 A. The Union County Jail.

23 Q. The Union County Jail? How long have you been
24 there?

25 A. Since July the 28th.

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1 Q. Of this year?

2 A. Yes, sir.

3 Q. Now, the prosecutor talked to you about the fact
4 that in two thousand (2000), you had a prior drug conviction.
5 Is that right, you had one in two thousand (2000)?

6 A. Yes, sir.

7 Q. Then, you also have a prior drug conviction in two
8 thousand, five (2005)?

9 A. I do.

10 MR. ANTHONY: Objection, that's irrelevant.

11 MR. RECKENBEIL: Your Honor, this ---

12 MR. ANTHONY: It's outside the scope of direct.

13 THE COURT: You all approach the bench.

14 (Whereupon, a bench conference was had with both
15 attorneys present.)

16 Q. (By Mr. Reckenbeil) Sir, you know you're looking at
17 your third drug offense? Right now you're sitting in jail
18 waiting for that; is that right?

19 A. Yes, sir.

20 Q. Has your lawyer, Mr. Brannon -- has your lawyer
21 discussed with you the possible penalties and punishments as a
22 result of a third drug offense?

23 A. No, sir.

24 Q. Do you know the fact that you having prior drug
25 offenses and drug convictions that the penalty is more severe

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1 the third time around?

2 A. Yes, sir.

3 Q. And you don't know how much time you looking at in
4 jail?

5 A. No, sir.

6 Q. And you've had no discussions with the solicitor or
7 with your lawyer about the possibility of you getting some
8 time cut off or you getting good favor for you coming in and
9 testifying this morning, are you?

10 A. No, sir.

11 Q. Never had any discussions about that?

12 A. No, sir.

13 Q. But you're looking at your third drug offense?

14 A. Yes.

15 (Brief Pause)

16 MR. RECKENBEIL: Thank you, Judge. That's all the
17 questions I have.

18 THE COURT: Redirect?

19 (Brief Pause)

20 MR. ANTHONY: I'm sorry, Your Honor. If I could
21 have just one second.

22 (Off-the-Record Discussion)

23 REDIRECT EXAMINATION by MR. ANTHONY: 10:35 A.M.

24 Q. Mr. Rice, I'm going to show you a document and ask
25 that you take a look at that and just let me know if you

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1 recognize it.

2 (Brief pause while witness examines document.)

3 A. Yes, sir. I recognize it.

4 Q. All right. And what -- what is that, Mr. Rice?

5 A. It's my voluntary statement.

6 Q. Okay. And is that -- is that the statement that you
7 gave to the Union County officer that you referred to when you
8 testified?

9 A. Yes, sir.

10 Q. All right. And, in -- in that statement -- well,
11 let me -- I'd ask that you -- you start reading the statement
12 and that you read down to right there (indicating) where it
13 says, "...some crack and powder."

14 (Witness looking at document.)

15 Q. If you would, read it out loud, please.

16 A. "On Monday morning, I heard that Plute had been
17 shot. I was with Patrick in Whitmire and I asked him about
18 it.

19 "Patrick said that he was there when the shooting
20 took place. Patrick said that him and a dude named Black from
21 Newberry and two guys from Columbia went to rob Jake.

22 "They waited in the bushes waiting on Jake for about
23 an hour. Patrick said they learned that Jake was in
24 Louisville.

25 "Patrick said Plute was in a car outside."

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1 MR. ANTHONY: Judge?

2 (Document handed up to the Court.)

3 A. "And they came out of the bushes and one of the
4 dudes put a gun to Plute's head and took him in the house.
5 They asked Plute where the money was. Plute took them and
6 showed them where the dope and the money was.

7 "Patrick said they were leaving out the door and one
8 of the guys from Columbia said, he's got a smart mouth anyway.
9 And he heard a shot."

10 (Brief Pause)

11 A. I don't understand this right here. I can't -- it
12 looks like some scribbling, "...but he don't know which ---

13 Q. Is that "which one"?

14 A. -- "...one of the guys shot him."

15 Q. Is that not -- Mr. Rice, is that not, "and he don't
16 know which one"?

17 A. Yes.

18 Q. Okay. Go ahead and read.

19 A. "He don't know which one of the guys shot him. They
20 left in I believe a Jeep. Patrick said they met the police
21 after they left and ended up back in Whitmire.

22 "Patrick said he got -- he got thirty-three hundred
23 dollars (\$3,300) out of seventeen thousand dollars (\$17,000)
24 that was taken from the house. And he got about a pound and a
25 half of weed and some crack and powder."

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1 Q. All right. Thank you.

2 (Mr. Anthony retrieves document.)

3 Q. And, Mr. Rice, in -- in that statement you said --
4 you said you were with Patrick in Whitmire and you asked
5 Patrick's about it; is that correct?

6 A. Yes, sir.

7 Q. But that -- you weren't told about this in Whitmire;
8 is that correct?

9 A. No, sir.

10 Q. And your -- your testimony today is that you were
11 told basically the facts that you just put in the statement on
12 Wednesday at the Microtel?

13 A. Yes, sir.

14 Q. All right. And were you told about those facts any
15 other time by Patrick Rice?

16 A. Yes, on Monday.

17 Q. Okay. All right.

18 (Brief Pause)

19 Q. And -- and have you had a -- A conversation with me
20 prior to testifying today?

21 A. No, sir, I haven't.

22 Q. You've met with me before, correct?

23 A. Yes, sir, at the jail.

24 Q. Okay. And you've met with Lieutenant Riddle; is
25 that correct?

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1 A. Yes, sir.

2 Q. All right. And, in -- in those conversations, you
3 -- you told us that he only told you about it one time; is
4 that correct?

5 A. Yes, sir.

6 Q. Okay. But what you're saying today is that he told
7 you about it more than one time?

8 A. Yes, sir.

9 Q. All right. And, in regards to your bond situation,
10 you -- you have -- you're in jail right now; is that correct?

11 A. Yes, sir.

12 Q. And are -- are unable to make bond?

13 A. Yes, sir.

14 Q. All right. After you were arrested, for access --
15 for accessory after the fact, how -- how -- how did you go
16 about making bond?

17 A. Contacted my lawyer and got a bond reduction
18 hearing.

19 Q. All right. And, at that point in time, there was an
20 agreement between your lawyer and the state to reduce your
21 bond?

22 A. Yes, sir.

23 Q. All right. And you were able to get out on a
24 recognizance bond; is that correct?

25 A. Yes, sir.

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1 (Brief Pause)

2 MR. ANTHONY: All right. Thank you. That's --
3 that's everything on redirect.

4 THE COURT: Recross?

5 RECROSS EXAMINATION by MR. RECKENBEIL: 10:43 A.M.

6 Q. What about my question about a conversation with
7 your lawyer and the prosecution for a bond reduction; didn't
8 you understand that I asked you on cross examination?

9 A. I don't understand what you mean.

10 Q. Meaning the fact that you now admitted, when the
11 prosecutor asked you was there a conversations or was there
12 any sort of agreement for a bond reduction, what was it on
13 cross examination that I asked you that you didn't understand?

14 A. I -- I thought you were talking about right now.
15 The solicitor was talking about -- what he was talking about
16 was the accessory after the fact bond.

17 Q. Right.

18 A. I thought you was talking about my drug charges, not
19 the accessory after the fact charge.

20 Q. Okay. So, there was an agreement for you to walk
21 out of jail by you putting a signature on a piece of paper
22 saying that you were going to show up for court? Is that what
23 your understanding of a personal recognizance bond is?

24 A. No, sir.

25 Q. Okay. Did you have to put up any money to get out

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1 of jail for a P.R. bond?

2 A. Five hundred dollars (\$500).

3 Q. Five hundred dollars (\$500)?

4 A. Yes, sir.

5 Q. Accessory after the fact of murder, five hundred
6 dollars (\$500) to walk out of jail?

7 A. Yes.

8 Q. You had a little trouble reading this statement
9 (indicating), didn't you?

10 A. Yes, sir.

11 Q. Yeah. It's not your handwriting, is it?

12 A. No, sir.

13 Q. It was written out for you, wasn't it?

14 A. Yes, sir.

15 Q. By the cops?

16 A. Yes, sir.

17 Q. And you just signed it?

18 A. Yes, sir.

19 MR. RECKENBEIL: Thank you.

20 THE COURT: Thank you, sir. You can step down.

21 (Whereupon, the witness stepped down from the
22 witness stand at 10:44 a.m.)

23 THE COURT: Call your next witness.

24 MR. ANTHONY: May we approach?

25 THE COURT: Yes, sir.

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1 (Whereupon, a bench conference was had with both
2 attorneys present.)

3 THE COURT: All right, ladies and gentlemen, we'll
4 take about a two-minute break at this time. Please, retire to
5 your jury room. Please, do not talk about the case.
6 Everybody else remain seated.

7 (The jury exited the courtroom at 10:45 a.m.)

8 THE COURT: Do you need to hold Mr. Michael Rice
9 here at the courthouse?

10 MR. BRANNON: Your Honor, I would ask that he stay
11 until -- I just wanted him to stay until the next break. And
12 we've got that break now, so, if we could, have just a few
13 minutes so I could speak with him. Then, he can go back.

14 THE COURT: Can he stay for his lawyer to talk to
15 him?

16 DEPUTY: Yes, sir.

17 THE COURT: All right. That's fine. You can talk
18 with him.

19 MR. BRANNON: All right.

20 THE COURT: And we will be at ease for about ten
21 minutes.

22 (Whereupon, a recess was taken from 10:45 a.m. until
23 10:57 a.m.)

24 THE COURT: You may be seated.

25 (All in courtroom complied with the Court's

1 request.)

2 THE COURT: All right. Is the State ready to
3 proceed?

4 MR. ANTHONY: Yes, sir. I just have to ---

5 THE COURT: Is your witness in here?

6 MR. ANTHONY: Just to advise the Court, the witness
7 I think I'll call next hasn't appeared yet. She's the one I
8 asked the Court to sign a bench warrant on this morning.

9 My next -- my next witness while I'm holding this
10 one, I think I'll go ahead and call -- call and she's here.

11 THE COURT: All right.

12 MR. ANTHONY: And after that I was planning on
13 calling Mr. Ruff. I plan on calling Ms. Lemon, which is the --
14 the young lady I advised the Court about that Mr. Ruff has
15 allegedly made a phone call to on her involvement. And -- and,
16 then, I would call Ms. Eigner, the girlfriend.

17 THE COURT: All right. Bring in the jury.

18 MR. RECKENBEIL: Judge ---

19 THE COURT: Wait a minute. Wait a minute. Hold up
20 a second.

21 MR. RECKENBEIL: I wanted to try to speed up
22 things.

23 (Off-the-record discussion between Mr. Anthony and
24 Mr. Reckenbeil.)

25 MR. RECKENBEIL: Judge, I just want to stipulate

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1 for the record is that we do stipulate to the fact that she is
2 an expert. And, again, we really are not contesting the cause
3 of death.

4 We will stipulate as much as the State wants to
5 speed through this to get to the -- whatever they need to get
6 to the jury. We're not going to contest any issue based upon
7 the expertise of this next witness.

8 THE COURT: Will that shorten your examination?

9 MR. ANTHONY: It will. And -- and just to -- just
10 to advise the Court, we -- we want to get to the girlfriend
11 before we take another break.

12 Her attorney is here and we're -- anything the Court
13 wants to do in camera on that we can -- we're ready to do.

14 THE COURT: All right.

15 MR. RECKENBEIL: And I should say that I discussed
16 that with my client about the stipulation and he agreed.

17 THE COURT: All right. Thank you, sir. All right.
18 Bring in the jury.

19 MR. ANTHONY: (To the bailiffs) Can you all get
20 Dr. Ross?

21 (The jury was summoned.)

22 (The jury entered the courtroom at 11:01 a.m.)

23 THE COURT: All right. You may call your witness.

24 MR. ANTHONY: The next witness will be Dr. Ross.

25 THE COURT: Come on down this way, ma'am, please.

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1 (The witness stepped forward to be sworn.)

2 THE COURT: Right over here (indicating). How are
3 you today? Place your left hand on that Bible and raise your
4 right.

5 (Whereupon,

6 DR. JANICE E. ROSS

7 having been first duly sworn, testified as follows:)

8 THE COURT: Thank you, ma'am. Have a seat and
9 state your full name, please.

10 THE WITNESS: Janice Edwards Ross (phonetic).

11 DIRECT EXAMINATION by MR. ANTHONY: 11:02 A.M.

12 Q. Dr. Ross, how are you employed?

13 A. I am a -- a forensic pathologist and work in
14 Newberry, South Carolina with Newberry Pathology Associates.

15 Q. And tell me if -- if you would, tell the jury what
16 does a pathologist do?

17 A. A pathologist is a physician. I have an M.D. Degree
18 from Upstate Medical Center in Syracuse, New York.

19 We do further training in pathology, which is the
20 study of diseases. We learn how to identify diseases by
21 looking at tissues, just looking at it and also using a
22 microscope. And we learned how to do an autopsy.

23 A forensic pathologist does autopsies, uses their
24 medical knowledge for -- for legal matters such as homicides,
25 suicides, and accidents.

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1 Q. And how long have you been employed as a physician
2 with Newberry Pathology?

3 A. For nine (9) years.

4 Q. And have you testified in court as an expert in the
5 field of pathology?

6 A. Yes, I have.

7 Q. And how many times have you done that?

8 A. Over sixty (60) times.

9 MR. ANTHONY: Your Honor, at this time we would ask
10 that the Court -- and we -- we would tender Dr. Ross to the
11 Court as an expert in the field of pathology.

12 THE COURT: All right. The Defense has
13 stipulated ---

14 MR. RECKENBEIL: Yes, sir.

15 THE COURT: --- that she is an expert in the field
16 of pathology. And what that means, ladies and gentlemen, is
17 this: Ordinarily, a witness can not give you an opinion.

18 Ordinarily a witness can only tell you what they
19 know of their own first-hand knowledge and experience. But
20 certain witnesses, because of that knowledge and experience,
21 can be qualified in order to give you an opinion in -- within
22 that field of expertise.

23 And we call those people expert witnesses. That
24 simply means that they'll be allowed to give you opinions about
25 matters within their area of expertise. And the reasons for

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1 those opinions if they are asked those questions.

2 All right, sir.

3 MR. ANTHONY: Thank you, Your Honor.

4 Q. (By Mr. Anthony) What is the relationship between
5 your -- your practice in Newberry Pathology and Union County,
6 as far as arranging to perform autopsies?

7 A. The coroner calls us and requests and authorizes us
8 to do an autopsy on persons they deem it necessary to have an
9 autopsy.

10 We do this for almost thirty (30) counties of the
11 State of South Carolina.

12 Q. And I want to take you back now to August 18th, two
13 thousand, eight (2008). Did you perform an autopsy on Kelvin
14 Davis at that -- on that date?

15 A. Yes.

16 Q. And where did you performed the autopsy?

17 A. In the morgue at Newberry County Memorial Hospital.

18 Q. And how did you begin the autopsy?

19 A. We -- generally the body is received to us in a body
20 bag. And we open the body bag and look at the body externally
21 and take photographs and identify any injuries.

22 And, then, we do a specific type of internal
23 examination.

24 Q. And, when you did your external examination of
25 Kelvin Davis's body, did you observe any -- any wounds?

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1 A. Yes.

2 Q. And what -- where were those wounds located?

3 A. Okay. There was an entrance gunshot wound in the
4 left upper back. And an exit wound of that same bullet was in
5 the anterior chest at the left -- on the left.

6 Q. And how is it you're able to tell the difference
7 between an entrance wound and an exit wound?

8 A. By the -- the appearance of the outside. An
9 entrance wound is usually very round because the bullet goes
10 through, and as the bullet goes through the skin, it pushes the
11 skin in and abrades or causes an abrasion around the edge of
12 the wound. So, we know that that is an entrance wound.

13 The exit wound usually is more slit like and
14 irregular. And, as -- as it pushes the skin out, you don't
15 have an abrasion unless it's against something.

16 Q. And what was the projectory of the wound or the
17 shot?

18 A. It went from -- slightly from left to right and from
19 back to front and downward.

20 Q. What injuries did the shot cause Mr. Davis?

21 A. It caused a lot of laceration of major arteries
22 going into the left arm.

23 They are inside the chest coming off the major
24 artery, the aorta, going into the arm. And it caused a lot of
25 laceration. And then, of course, it caused a lot of bleeding

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1 internally.

2 Q. And were there any other injuries or anything else
3 remarkable about Mr. Davis's autopsy other than the bullet
4 wound to his back?

5 A. No injuries. There was evidence of surgery. He had
6 had an thoracotomy, an opening of the chest cavity, which is a
7 surgery they -- they did in an attempt to save his life.

8 (Whereupon, State's Exhibit Numbers 11 through 15
9 were marked for identification.)

10 Q. I'm showing you what's been marked for
11 identification as Exhibits 11 and 12 and ask if you could
12 identify these two diagrams?

13 (Exhibits handed to witness.)

14 A. Uh-huh (affirmative), yes.

15 Q. All right. What are those?

16 A. They are diagrams that I've made after reviewing the
17 -- the autopsy findings on Mr. Kelvin Davis.

18 Q. And do those diagrams fairly and accurately depict
19 the location of the wounds on Mr. Davis's body?

20 A. Yes.

21 Q. All right.

22 MR. ANTHONY: We'd move 11 and 12 into evidence.

23 MR. RECKENBEIL: No objection, Judge.

24 THE COURT: Admitted without objection.

25 MR. ANTHONY: And I'd ask to publish them at this

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1 time.

2 (Whereupon, State's Exhibit Numbers 11 and 12 were
3 admitted into evidence without objection.)

4 MR. ANTHONY: I would ask to publish them at this
5 time, Your Honor.

6 THE COURT: All right, sir.

7 (State's 11 shown on overhead.)

8 Q. I'm showing you -- I'm showing you Exhibit -- first
9 of all, I'll show you Exhibit Number 11.

10 All right. And this -- what is it? What are you
11 pointing out with this notation here, this drawing here
12 (indicating)?

13 A. This shows the back of the body. It shows the
14 entrance wound in the left upper back there. And the dotted
15 line and arrow are showing the direction of the wound ---

16 Q. Now, I'll show you ---

17 A. --- of the bullet.

18 Q. All right. And I'll show you now the other drawing,
19 the other picture here (indicating). What -- what --- what is
20 -- is this notation meant to illustrate?

21 A. That is the exit wound on that front of the chest.

22 Q. All right. And, then, I'll show you Item Number 12.

23 (State's 12 shown on overhead.)

24 Q. And what -- what does that illustrate?

25 A. That is just a view from the side of the body. And

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1 it's showing the direction of the -- the bullet path from the
2 back to the front and downward.

3 (Brief Pause)

4 Q. And, Dr. Ross, in performing this autopsy, did you
5 come to an opinion as to the cause of Kelvin Davis's death?

6 A. Yes.

7 Q. And what was that opinion?

8 A. It's ecsanguination, which means bleeding out due
9 to the laceration of blood vessels due to the gunshot wound to
10 the back.

11 Q. And you can tell -- what -- what specifically about
12 the amount of blood Mr. Davis lost would cause his death?

13 A. The shock basically, loss of blood takes away the --
14 the blood supply to the organs, the heart, and the brain and
15 oxygen. And tissue just can't work without that oxygen. So,
16 the heart would stop and the brain would stop working.

17 MR. ANTHONY: Thank you. That's everything on
18 direct.

19 MR. RECKENBEIL: No cross, Your Honor.

20 THE COURT: Thank you, ma'am. Thank you for coming
21 in. You may be excused.

22 (Whereupon, the witness was excused and stepped down
23 from the witness stand at 11:11 a.m.)

24 THE COURT: All right, sir, your next witness?

25 MR. ANTHONY: The next witness will be Mr. Ruff.

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1 (Brief pause while Mr. Ruff is brought into
2 courtroom.)

3 THE COURT: Do you solemnly swear or affirm the
4 testimony you're about to give will be the truth, the whole
5 truth, and nothing but the truth so help you God?

6 THE WITNESS: Yes, sir.

7
8 (Whereupon,

9 DERRICK RUFF

10 having been first duly sworn, testified as follows:)

11 THE COURT: Thank you, sir. State your full name
12 for the record.

13 THE WITNESS: Derrick Ruff.

14 THE COURT: Thank you, sir. All right, Counsel.

15 THE WITNESS: Excuse me, sir. I don't want to
16 testify. I want to take the Fifth Amendment.

17 THE COURT: Well, he hasn't asked you any questions
18 yet.

19 THE WITNESS: Yes, sir.

20 DIRECT EXAMINATION by MR. ANTHONY:

11:13 A.M.

21 Q. Mr. Ruff, where are you from?

22 A. I don't want to testify. I want to ---

23 THE COURT: Well, it is not a violation of any
24 rights that you have to tell the man where you're from. So,
25 you have to answer that question.

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1 A. I'm from Newberry, South Carolina.

2 THE COURT: Okay.

3 Q. (By Mr. Anthony) And do you go by the name of
4 "Black"?

5 A. I plead the Fifth Amendment.

6 THE COURT: I suppose he can. I don't know; that
7 might be incriminating. I don't know. I'll let him take the
8 fifth on that.

9 Q. (By Mr. Anthony) In August of two thousand, eight
10 (2008), who were you living with?

11 A. I want to take the Fifth on that.

12 THE COURT: Do you think that would incriminate you
13 to answer that question?

14 A. I plead the Fifth Amendment on that.

15 THE COURT: All right, sir. I will allow him to
16 take the Fifth on that question.

17 Q. (By Mr. Anthony) Do you know Wytrisha Lemon?

18 A. I'll plead the Fifth and not answer.

19 THE COURT: All right, sir. Do you intend to
20 answer any of the solicitor's question about the -- do you know
21 why -- do you know what case we're trying here today?

22 THE WITNESS: Yes, sir.

23 THE COURT: Do you intend to answer any questions
24 about that, this case?

25 THE WITNESS: No, sir.

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1 THE COURT: Why?

2 THE WITNESS: I want to plead the Fifth Amendment.
3 I think it would incriminate me later on when I go to trial.

4 THE COURT: All right, sir. He's invoking the
5 Fifth Amendment, so, I don't think there is any use to continue
6 your examination. You can take him back.

7 (Whereupon, the witness stepped down from the
8 witness stand and was escorted out of the courtroom at 11:14
9 a.m.)

10 THE COURT: Yes, sir, your next witness?

11 MR. ANTHONY: My next witness is Ms. Lemon. She's
12 out back.

13 THE COURT: All right. Bring her in, please.

14 (The witness was summoned.)

15 (Witness stepped forward to be sworn.)

16 (Off-the-Record Discussion)

17 THE COURT: Come on down this way, please, ma'am.
18 Right over here (indicating). If you would, place your left
19 hand on the Bible and raise your right.

20 (Whereupon,

21 WYTRISHA LEMON

22 having been first duly sworn, testified as follows:)

23 THE COURT: All right. I think we better take a
24 short break and discuss some legal matters at this time.
25 Ladies and gentlemen, please retire to the jury room. Please,

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1 do not talk about the case.

2 (Whereupon, the jury exited the courtroom at 11:15
3 a.m.)

4 THE COURT: All right. What is the substance of
5 this witness's testimony?

6 MR. ANTHONY: Ms. Lemon is the young lady that,
7 before the robbery, Mr. Rice -- or, I'm sorry, Mr. Ruff, called
8 her and asked her if she knew anything about Mr. Davis having
9 any money and told her that he intended to rob Mr. Davis.

10 THE COURT: And your position is that it's admitted
11 as a statement against penal interest?

12 MR. ANTHONY: My -- my position would be that it is
13 both a statement against penal interest and a -- a statement by
14 a co-conspirator in furtherance of the conspiracy.

15 THE COURT: Do you -- do you want to hear the
16 testimony first outside the presence of the jury?

17 MR. RECKENBEIL: Yes, sir. Let's -- let's do that
18 because I'm thinking that we've already argued the ---

19 THE COURT: All right. Ask your questions.

20 MR. RECKENBEIL: Yeah, just proffer it. I -- I
21 won't object to it.

22 THE COURT: As briefly as you can.

23 MR. ANTHONY: Okay. Well, I'll -- I'll probably
24 just kind of limit it to the part that involves the hearsay.

25 THE COURT: All right.

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1 DIRECT EXAMINATION by MR. ANTHONY: 11:17 A.M.

2 Q. Ms. Lemon, back in August of two thousand, eight
3 (2008), where did you live?

4 A. I lived at (phonetic) in
5 Whitmire.

6 Q. And did you the victim in this case, Mr. Davis?

7 A. Yes, sir.

8 Q. And how did you know him?

9 A. We were friends.

10 Q. All right. What kind relationship did you have with
11 Mr. Davis?

12 A. We were just friends. We talked on the phone every
13 day. He would call me. He would ask me how I was doing every
14 day and check up on my little boy and just that.

15 Q. All right. Had you been to Union to his residence
16 before?

17 A. Yes, sir.

18 Q. All right. And did you know Derrick Ruff?

19 A. Yes, sir.

20 Q. And how did you know -- what -- did he have another
21 name that he went by?

22 A. He went by "Black."

23 Q. All right. And how had you met Mr. Ruff?

24 A. Through Laquidra, my coworker.

25 Q. All right. And Laquidra was Mr. Ruff's girlfriend?

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1 A. Yes. Well, they called each other like "home boy"
2 and "home girl."

3 Q. All right. Now, I want to take you back to the
4 night of the 17th of August of two thousand, eight (2008). Did
5 you have a conversation with Mr. Davis that night?

6 A. Yes, I did.

7 Q. And did he ask you to do anything?

8 A. Yes. He asked me to come eat fish with him because
9 he were cooking fish. And he told me to come over and just
10 came -- come and hang out with him.

11 Q. And how did you respond to that?

12 A. I told him I would come. But I told him I had to
13 put my son to sleep -- to sleep first. And, then, I would get
14 dressed and then come up there.

15 Q. And, then, did you also hear something that night
16 from Mr. Ruff?

17 A. Yes, sir.

18 Q. And how did you get in touch with or how -- how did
19 that communication occur?

20 A. He called me. And he asked me, he was like, "Do you
21 know about Plute having any money?" I told him, "You know,
22 Plute didn't work. I didn't know of him having any money."

23 And then he told me, he was like "Well, it must be
24 the guy that he stays with that has the money or whatever in
25 the house."

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1 And then, I was like, "Well, you know, I don't know.
2 I don't know anything about them having money or anything like
3 that."

4 Q. And -- and did he tell you why he was asking this?

5 A. Yes.

6 Q. Why did he say he was asking?

7 A. He told me that he was thinking about robbing him.

8 Q. And what did you ask Mr. Ruff to do when he told you
9 this?

10 A. Told him, I said, "You know, it's -- it's not right
11 for you to go into the house. That's my friend and, you know,
12 there's kids in the house. You know, anything could go wrong.
13 Someone could end up getting hurt," like they did.

14 And I told him, you know, "If he did want to do that
15 to anybody, you know, don't do it while there's people in the
16 house. Go like when there's no one there."

17 Q. And did he say anything about trying to get people
18 together to do this robbery and where he was with that?

19 A. Well, he just told me, he said, you know, after I
20 discussed with him, you know, not go in there and not to do it,
21 he told me that, you know, "I won't do it out of respect for
22 you."

23 And, then, he was like, "Well, I wasn't going to do
24 it anyway because I didn't have a third person with me."

25 Q. And, basically after that, that night, you found out

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1 later on that Mr. Davis had been shot and killed?

2 A. Yes, sir.

3 Q. And you -- you did have another conversation with
4 Mr. Ruff, as I understand it the next day, but that he never
5 admitted to you that he actually participated in this ---

6 A. Yes, sir.

7 Q. --- is that correct?

8 A. Yes, sir.

9 MR. ANTHONY: All right. Your Honor, that's -- I
10 think that's -- that part of the proffer covers what I intend
11 to ask her about that Defense counsel has objected to.

12 THE COURT: Do you want to cross examine the
13 witness?

14 (Brief Pause)

15 CROSS EXAMINATION by MR. RECKENBEIL: 11:20 A.M.

16 Q. Ms. Lemon, are you facing any -- any sort of charges
17 that are pending against your record right now?

18 A. No, sir.

19 Q. Okay. Do you have ---

20 MR. RECKENBEIL: And this is a proffer, Judge, so I
21 know -- I know I couldn't ask this if the jury was here.

22 Q. (By Mr. Reckenbeil) Do you have any convictions in
23 the last ten years that you could go to jail for?

24 A. No, sir.

25 Q. Okay.

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1 (Brief Pause)

2 Q. And Mr. Ruff was ---

3 MR. RECKENBEIL: You know what, strike that, Judge.
4 I'm not going to ask any questions at this time.

5 THE COURT: All right, sir. I'll be glad to hear
6 your arguments if you have any.

7 MR. RECKENBEIL: Judge, what we have, I think now
8 goes toward the case that we were talking about this morning,
9 *South Carolina vs. Mr. Shuttles* (phonetic), in which the Court
10 discusses proffering situation.

11 Well, now we have a situation where the declarant is
12 unavailable to testify; then, we have no opportunity to cross
13 examine mister -- Mr. Ruff, this witness.

14 So, therefore, the hearsay I don't think exception
15 can -- can now apply because, again, you've got hearsay coming
16 from an individual that we don't have an opportunity to
17 confront. And the confrontation clause I think kicks in.

18 So, therefore, anything that this witness is going
19 to testify as to what Mr. Ruff has said would thus be hearsay.
20 And I don't think would fall under any exception.

21 THE COURT: Why wouldn't it fall under the 804
22 9(b)(3)?

23 (Brief pause while Mr. Reckenbeil reviews document.)

24 MR. RECKENBEIL: Right, it's a statement against
25 Mr. Ruff's interest.

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1 THE COURT: Sir?

2 MR. RECKENBEIL: What -- I think the exception and
3 what we're looking at here is 804(b)(3) would be a statement
4 against interest.

5 THE COURT: Yes, sir.

6 MR. RECKENBEIL: Okay. And that would be a
7 statement against Mr. Ruff's interest.

8 THE COURT: Yes, sir.

9 MR. RECKENBEIL: Why not then do the Defense not
10 have the opportunity to cross examine Mr. Ruff as to the
11 veracity of the statements that he made to Ms. Lemon?

12 And, thus, that's where I think the confrontation
13 clause kicks in. And, thus, it wouldn't give her the
14 opportunity to talk about it.

15 I think it would -- I think it would trump that.

16 THE COURT: All right, sir. Do you want to be
17 heard?

18 MR. ANTHONY: Well, it's -- it's not a
19 confrontation clause issue because there are no more testimony
20 or statements that she's testified about.

21 And it obviously falls under 804 (b)(3) because one
22 of the prerequisites to -- to that, that Rule specifically is
23 made for situations where the declarant -- the declarant is
24 unavailable.

25 And it's based on what Mr. Ruff has just said in the

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1 courtroom; he is unavailable.

2 And, so, now, the statements he made that are
3 relevant, which this statement is, are -- are allowed into
4 evidence. If they're -- if they are against his penal
5 interest, which obviously making a call to somebody in an
6 attempt -- advising them that you are considering committing a
7 robbery, it obviously is.

8 THE COURT: Very briefly.

9 MR. RECKENBEIL: Very, very briefly. While I agree
10 with Mr. Anthony, no question they're against the penal
11 interests of Mr. Ruff, but I think the Constitution of the
12 United States trumps all of this.

13 It says that my client's right to cross examine Mr.
14 Ruff, as to his veracity of what he stated to Ms. Lemon,
15 supercedes all of this. And that's why I think it should be
16 kept out for a confrontation clause.

17 THE COURT: Well, I -- I think that that the -- the
18 exception to the right of confrontation has always been a
19 firmly rooted exception to the hearsay rule.

20 This is one that is a firmly rooted exception to the
21 hearsay rule. And I don't think it's affected by cross under
22 any circumstances and I think it meets the requirement of the
23 rule, the unavailability of the witness.

24 The witness was called and he said he refused to
25 testify. And I found that he had rightfully invoked the -- his

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1 Fifth Amendment rights in this case because he is charged in
2 this same crime, and it's the same crime that I think the
3 Defendant is charged with.

4 And, so, I think this is an firmly grounded
5 exception to the hearsay rule and so I would overrule your
6 objection. Anything else?

7 MR. ANTHONY: No, sir.

8 THE COURT: All right. Bring the jury in. Wait a
9 minute. Wait a minute. Hold on a minute. Hold on a minute.

10 Now, you've got some other witnesses along this same
11 line?

12 MR. ANTHONY: I -- I do. My -- my next witness
13 will be quite similar to this, yes, sir. The next witness will
14 be the girlfriend, Mr. Ruff's girlfriend, who would -- who has
15 given a statement to law enforcement that Mr. Ruff admitted he
16 committed the robbery.

17 (Brief Pause)

18 THE COURT: Well, are you familiar with the
19 girlfriend's proposed testimony?

20 MR. RECKENBEIL: Yes, sir.

21 THE COURT: And you have the same objection?

22 MR. RECKENBEIL: It would be the same thing.

23 THE COURT: Okay. I guess I probably have to hear
24 that in camera also. I don't know of any other way to do it.
25 So, we'll just do this one at a time. Bring the jury back.

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1 (Whereupon, the jury entered the courtroom at 11:17
2 a.m.)

3 THE COURT: Okay. All right. Go ahead.

4 MR. ANTHONY: Yes, sir.

5 THE COURT: Ma'am, you need -- when you speak, you
6 need to be sure you speak loud enough so that everyone can hear
7 you.

8 THE WITNESS: Okay.

9 THE COURT: All right, Counsel.

10 DIRECT EXAMINATION by MR. ANTHONY:

11:28 A.M.

11 Q. Miss, you're Wytricia Lemon?

12 A. Yes, sir.

13 Q. Okay. Ms. Lemon, where do you live?

14 A. I live in Columbia, South Carolina.

15 Q. And are you employed?

16 A. Yes, sir.

17 Q. Where are you employed?

18 A. I work at Dillard's. And I work at -- I'm a
19 healthcare nurse.

20 Q. In August of two thousand, eight (2008), where were
21 you living?

22 A. I lived at (phonetic) in
23 Whitmire.

24 Q. And did you -- and where were you employed in August
25 two thousand, eight (2008)?

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1 A. At Lil Cricket in Whitmire.

2 Q. Now, do you know Kelvin Davis -- or did you know
3 Kelvin Davis?

4 A. Yes, sir.

5 Q. And how did you know him initially?

6 A. I knew him from school. We went to high school
7 together and we ran -- ran track together.

8 Q. And when did you graduate high school?

9 A. Two thousand, five (2005).

10 Q. And, some -- some time later, after you graduated
11 high school, did you become reacquainted with Mr. Davis?

12 A. Yes, sir.

13 Q. And how did that happen?

14 A. That happened because of my manager, my manager from
15 Lil Cricket, she knew Kelvin.

16 And, then, one day she was on the phone, and she
17 told him that -- that she knew me. And, then, that's how we
18 ended up on the phone talking to each other.

19 Q. All right. and, then, after -- after you started
20 talking to him on the phone, did you start seeing him every now
21 and then?

22 A. Well, I didn't see him every now and then, but I
23 went up there a couple of times.

24 Q. Okay. Well, I mean, did -- did he start showing up
25 at the Lil Cricket?

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1 A. Yes, he had.

2 Q. Okay. All right. And what kind of relationship did
3 you develop with -- with Mr. Davis?

4 A. He and I were just friends.

5 Q. And had you been to Mr. Davis's residence?

6 A. Yes, sir.

7 Q. Okay. And that was in Union?

8 A. Yes, sir.

9 Q. On ; is that correct?

10 A. I'm not sure of the name of the road.

11 Q. Okay. But you made -- you went to his residence?

12 A. Yes.

13 Q. Who -- who did he live with?

14 A. He lived with his sister and his sister's boyfriend
15 and his two nieces.

16 Q. Now, did -- did you also know Patrick Rice?

17 A. Yes.

18 Q. And how did you come -- come to know him?

19 A. I knew him from working at Lil Cricket. He used to
20 come in.

21 Q. And did you know Derrick Ruff?

22 A. Yes, sir.

23 Q. And did Derrick Ruff -- was there a kind of a
24 nickname for Derrick Ruff?

25 A. Yes, sir, "Black".

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1 Q. And how had you met Derrick Ruff?

2 A. I met him through Laquidra.

3 Q. And you say "Laquidra." What was Laquidra's full
4 name?

5 A. Laquidra Eigner.

6 Q. And where did -- how did you and Laquidra become
7 friends?

8 Q. We came -- we became friends from working together.
9 She was my coworker.

10 Q. And that was at the Lil Cricket?

11 A. Yes, sir.

12 Q. All right. Now, I want to take you now to August
13 17th of two thousand, eight (2008). Did -- did you hear from
14 Kelvin Davis that night?

15 A. Yes, sir.

16 Q. And did he ask you to do anything?

17 A. Yes.

18 Q. What did he ask you to do?

19 A. He asked me to come to the house because they were
20 having a fish fry, a cookout, or whatever. And he told me to
21 come up there and come hang out and have fish with them.

22 Q. And how did you respond?

23 A. I told him I would come as soon as I got my little
24 boy to bed and as soon as I got dressed.

25 Q. And did -- at some point that night, did you also

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1 have a conversation with Derrick -- Derrick Ruff?

2 A. Yes.

3 Q. And how did you come to talk to him?

4 A. He called me and he asked me did Plute have any
5 money or anything of that nature. And I told him ---

6 Q. Now, when -- just -- just back that up. You said he
7 called him "Plute." Who -- who are you talking about when you
8 say, "Plute."

9 A. Kelvin.

10 Q. Okay. And he asked you if Kelvin had any money?

11 A. Yes.

12 Q. All right. And how did you respond to that?

13 A. I told him that I didn't know anything about Plute
14 having any money. As far as I know he didn't have a job, he
15 didn't work. So, unfortunately, he didn't have any

16 And, then, he was like, "Well, it must be the guy
17 that he stays with that has the money then." And, then, I was
18 like, "You know, I don't know. I don't know anything about
19 that."

20 Q. And did he tell you why he was asking this?

21 A. Yes.

22 Q. Why did he say he was asking you that?

23 A. He told me that because he -- well, he asked me
24 because he -- he told me that he was thinking about robbing
25 him.

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1 Q. Oh, about robbing Plute?

2 A. (Nods affirmatively.)

3 Q. Okay. And what did you tell Derrick when he told
4 you he was thinking about robbing Plute?

5 A. I told him not to do it, you know, because Plute was
6 my friend. Then, on top of that, you know, there was a family
7 and there was kids in the house.

8 And I didn't want them to see that. So, I told him
9 not to do it.

10 Q. And how did he respond?

11 A. He told me, he was like, "Well, out of respect for
12 you, I won't do it." And, then, he was like, "Well, on top of
13 that, you know, I don't have a third person with me."

14 Q. And did you -- did you say anything else to him,
15 during this conversation, about robbing Mr. Davis or robbing or
16 sticking up the house?

17 A. No.

18 Q. All right. Did you -- after he told you this, did
19 you do anything to get in touch with Mr. Davis?

20 A. No.

21 Q. And -- and why was that?

22 A. Because he told me that he wasn't going to do it.
23 And he promised me that he wouldn't.

24 Q. Well, after you had this conversation with Mr. Ruff,
25 what was the next thing you heard in -- in regards to something

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1 happening at Mr. Davis's residence?

2 A. Yes. After -- after I talked to him, I want to say
3 like thirty (30) minutes later I got a call from Deebo, and
4 Deebo told me that Plute had been shot.

5 Q. All right. And who is Deebo just so we're ---

6 A. Deebo was someone that I used to talk to in high
7 school.

8 Q. All right. What is his real name?

9 A. Donald Duckett (phonetic).

10 Q. Okay. All right. And Deebo called you and told you
11 that Mr. Davis had been shot?

12 A. Yes, sir.

13 Q. And once -- once you got that call, what did you do?

14 A. I met with -- with Blake (phonetic) on a cell phone
15 call. I got off the phone with -- with him, and then, I called
16 his phone. I called Black's phone.

17 Black didn't answer. His phone was cut off because
18 it went straight to voice mail.

19 And then, I called Laquidra and I asked her had she
20 talked to Black. And I asked her where he was and she said
21 that she didn't know.

22 Q. And did you find out anything else about Mr. Davis's
23 condition?

24 A. Yes. Quidra called me back and told me that he had
25 passed

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1 (Brief Pause)

2 Q. And where were you when -- when he -- when you
3 received this news?

4 A. I was on the way up there to the hospital.

5 Q. And what happened? What did you do after that?

6 A. After that, after she told me what had happened, I
7 pulled over and I cried. And, then, I went to this guy's house
8 that I was talking to.

9 Q. And did you have any more contact with Mr. Ruff the
10 next day?

11 A. Yes.

12 Q. And how did you call -- how did you get touch with
13 him the next day?

14 A. I think I called him -- yeah, I called him. And I
15 asked him -- I was like, "Black, did you have anything to do
16 it?" I was like, "Tell me. Tell me."

17 And he was like, "No, Trish, because I promised you.
18 I promised you I wouldn't do anything." And, then, he was
19 like, "Well, just get your mind off of it. Come -- come chill
20 with me and Quidra and get your mind off of it."

21 So, I went, you know, to see like if there would be
22 any change in his body language or anything like that. And
23 there wasn't. He was calm like nothing ever happened.

24 Q. All right. This is all when you went over to his
25 residence?

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- 1 A. Well, I went to Laquidra's house.
- 2 Q. I'm -- I'm sorry?
- 3 A. I went to Laquidra's.
- 4 Q. You went to -- you went to Laquidra's house?
- 5 A. Yes.
- 6 Q. And you saw Mr. Ruff?
- 7 A. Yes.
- 8 Q. And he told you he hadn't been involved in it?
- 9 Q. Yes, sir.
- 10 Q. All right. And, after that Monday, did you ever
- 11 have another conversation with Mr. Ruff?
- 12 A. No.
- 13 Q. All right. Did you ever see Mr. Ruff again after
- 14 that Monday?
- 15 A. No.
- 16 Q. All right. I mean did you ever -- I don't mean talk
- 17 to him, just physically see him again after that Monday?
- 18 A. Well, I seen him after they got the car, after they
- 19 -- after they got in the car. Then I seen him.
- 20 Q. All right. You said, "them." Who are you referring
- 21 to?
- 22 A. Him and Laquidra.
- 23 Q. All right, Derrick and Laquidra?
- 24 A. Yes.
- 25 Q. All right. What kind of car was it?

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1 A. It was a Crown Victoria.

2 Q. All right. And when was the next time you talked to
3 Laquidra?

4 A. The next time I talked to her maybe -- I think it
5 was that day. It was the day I seen them in the car.

6 Q. All right.

7 A. Yeah, it was the day I seen them in the car.

8 Q. And were you contacted for questioning about this
9 incident?

10 A. Yes.

11 Q. All right. And you gave a statement to the police
12 on August the 25th; is that correct?

13 A. Yes.

14 Q. And did you mention Mr. Ruff's phone call to you in
15 the first statement?

16 A. No, sir.

17 Q. All right. Why was that?

18 A. Because I was afraid to tell anybody. I was afraid
19 something might happen to me.

20 Q. And did you give a -- another statement two days
21 later?

22 A. Yes, sir.

23 Q. And, in that statement, what did you say about Mr.
24 Ruff at that time?

25 A. I told them that he had contacted me and asked me

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1 about, you know, having money.

2 Q. All right. And why did you decide to -- to tell
3 them that happen?

4 A. Because I felt like it was the right thing to do.

5 Q. And, Ms. Lemon, have you been charged with any
6 crimes from ---

7 A. No, sir.

8 Q. --- from this incident?

9 A. No, sir.

10 Q. Okay.

11 MR. ANTHONY: If I can have one minute.

12 THE COURT: All right, sir.

13 (Off-the-Record Discussion)

14 MR. ANTHONY: All right. That's -- that's
15 everything on direct.

16 MR. RECKENBEIL: No questions, Your Honor.

17 THE COURT: Thank you, ma'am. You may step down.

18 (Whereupon, the witness stepped down from the
19 witness stand at 11:28 a.m.)

20 THE COURT: All right. You may call your next
21 witness.

22 MR. ANTHONY: The next witness will be Ms. Eigner.

23 THE COURT: All right.

24 (Brief pause while witness is summoned into the
25 courtroom.)

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1 THE COURT: Ms. Eigner?

2 MR. ANTHONY: Laquidra Eigner.

3 (Brief Pause)

4 THE COURT: Come on down this way, please, ma'am,
5 right around the side (indicating).

6 (Witness complied with the Court's request.)

7 THE COURT: If you would, place your left hand on
8 the Bible and raise your right.

9 (Whereupon,

10 LAQUIDRA EIGNER

11 having been first duly sworn, testified as follows:)

12 THE COURT: Thank you ma'am. Have a seat right
13 there and state your full name.

14 THE WITNESS: Laquidra Monique Eigner (phonetic).

15 THE COURT: All right. Counsel?

16 MR. ANTHONY: Do you want -- you want me to go
17 ahead, Your Honor?

18 THE COURT: You all approach the bench.

19 (Whereupon, a bench conference was had with both
20 attorneys present.)

21 THE COURT: All right, ladies and gentlemen, please
22 step to the jury room a few minutes. I need to take up a
23 matter of law with the attorneys. Please do not talk about
24 the case.

25 (Whereupon, the jury exited the courtroom at 11:41

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1 a.m.)

2 THE COURT: All right. Counsel, ask -- ask her the
3 questions only about the hearsay concerns.

4 MR. ANTHONY: All right.

5 IN CAMERA DIRECT EXAMINATION by MR. ANTHONY: 11:41 A.M.

6 Q. Ms. Eigner, in August of two thousand, eight (2008),
7 what was your relationship with Derrick Ruff?

8 A. Me and him was close friends.

9 Q. All right. And, I mean, were you all involved in a
10 romantic relationship?

11 A. Yes, sir.

12 Q. Okay. Did you live together at that time?

13 A. Yes, sir.

14 Q. Okay. I want to take you first of all to the week
15 before the incident. Did you and -- did Mr. Ruff make a
16 statement to you that he had a -- a lick set up?

17 A. No, sir.

18 Q. All right. He never -- he never told you that?

19 A. No, sir.

20 Q. Okay. Going to the morning of the -- of the
21 incident -- well, did he ever -- the week before, aside from
22 telling you that he had a lick set up, did he ever tell you
23 that he talked to Wytrisha about Plute and that he had asked
24 Wytrisha to -- to set Plute up?

25 A. No, sir.

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1 Q. He never told you that?

2 A. No, sir.

3 Q. Okay. And going to the morning of the incident --
4 or the morning after this incident, on -- on August 18th of --
5 of two thousand, eight (2008), did Mr. Ruff make a statement
6 to you that he had participated in this robbery?

7 A. No, sir.

8 Q. He never told you that?

9 A. No, sir.

10 Q. And did he tell you that he had gone in and it was
11 him and -- and I will ask the question this way on -- for the
12 proffer. I understand I will not ask the question this way
13 before the jury -- but did he tell you that it was him and
14 Patrick Rice and Short Dog?

15 A. No, sir.

16 Q. He never told you that?

17 A. No, sir.

18 Q. Okay. And did he tell you that his role in the
19 offense was tying up the woman and the baby?

20 A. No, sir.

21 Q. And did he tell you that Short Dog had shot Mr.
22 Davis?

23 A. No, sir.

24 Q. Okay. Did he tell you the Friday -- well, just as a
25 little background, you and Mr. Ruff bought a car that week,

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1 correct?

2 A. Yes, sir.

3 Q. You did do that?

4 A. Yes, sir.

5 Q. Okay. And that Thursday, after this incident, you
6 and Mr. Ruff went to Converse, Georgia?

7 A. Yes, sir.

8 Q. All right. And, then, that Friday you came back to
9 Newberry?

10 A. Yes, sir.

11 Q. And you came back by yourself?

12 A. Yes, sir.

13 Q. And you came back by your -- when you came back by
14 yourself, did you and Mr. Ruff have a conversation?

15 A. No, sir.

16 Q. He never told you that -- that Friday he never told
17 you that he had gotten seventeen hundred dollars (\$1,700) out
18 of the house and four (4) pounds of marijuana?

19 A. No, sir.

20 Q. Okay. And he never told you that he would kill you
21 if you said anything about it?

22 A. No, sir.

23 Q. All right. Now, when you got back to Newberry, you
24 were contacted about giving a statement about this incident;
25 is that correct?

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1 A. Yes, sir.

2 Q. And you gave a statement of August the 28th of last
3 year?

4 A. Yes, sir.

5 Q. And that was given at the Newberry County Sheriff's
6 office?

7 A. Yes, sir.

8 Q. Is that right? All right. And it was -- you were
9 talking to a SLED agent and also to Investigator Riddle; is
10 that correct?

11 A. Yes, sir.

12 Q. All right. Now, in that statement, you said,
13 "Derrick told me that he had a lick set up to make. He said
14 that he asked Treat about a guy named Plute.

15 "She told him, yeah, she knew the guy. Derrick
16 asked her if she thought she could set him up."

17 "Treat said yeah, but a couple of days after the
18 conversation, Treat asked Black not to do it. He told her
19 that he wouldn't."

20 Now, that's what you said in your statement; is that
21 correct?

22 A. Yes, sir.

23 Q. Okay. And you admit you wrote that in a statement?

24 A. Yes, sir.

25 Q. All right. And, then -- and, when you get to the

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1 part in the statement about that morning, you say -- say, "I
2 went back to Black's house around 6:00 a.m. or 6:30 a.m. and
3 we smoked and went to sleep.

4 "So, when I got up -- so, when we got up, I asked
5 him again, and he told me, yeah, they went in. They went in
6 there, but it wasn't supposed to go down like that.

7 "He said that him, Pat, and a guy named Short Dog
8 went in. He said he tied up the woman and the baby. And the
9 other two boys had Plute get the money.

10 "Black said the next thing he knew, somebody said,
11 'Oh, this N trying to be funny,' and Short Dog shot him.

12 "And he said they got out of the house and, then,
13 the rest of that day we just sat at the house."

14 Now, that's what your statement says; is that
15 correct?

16 A. Yes, sir.

17 Q. And that's -- you don't deny that you gave the
18 statement; that you wrote that down on a piece of paper?

19 A. Yes, sir.

20 Q. Okay. And, then, you also talk in the statement
21 about going to Converse; is that correct?

22 A. Yes, sir.

23 Q. All right. And going to the part of the statement
24 that talks about going to Converse, it says, "The next day,
25 Friday, August 27th, my mother called me saying that I needed

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1 to get down the road because the police wanted to talk to me.

2 "Before Black let me leave, he made it very clear
3 that, if I told anybody what I knew, that he knew where I'm at
4 and he would come back and f'ing kill me.

5 "So, I assured him that I would not tell anybody.
6 And I rushed out to get down the road."

7 Now, you're saying that that never -- that
8 conversation did not occur?

9 A. No, sir.

10 Q. All right. Your testimony today is he did not make
11 a threat to kill you?

12 A. Yes, sir.

13 Q. But that is in your statement?

14 A. Yes, sir.

15 Q. Okay. And, then, the last part of the statement it
16 says, "On Friday before I left Converse, Georgia, he said that
17 they got seventeen hundred dollars (\$1700) out of the house
18 and about four (4) pounds of weed.

19 "He also confessed to me that Pat and Short Dog was
20 the guys -- was the ones with the gun. Black did have
21 possession of a double barreled shotgun.

22 "The last time I saw the gun was about two to three
23 weeks ago under the mattress at his house." So, that in your
24 statement, correct?

25 A. Yes, sir.

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1 Q. And you -- you freely admit you told the police that
2 on August the 28th?

3 A. Yes, sir.

4 Q. And but you -- you now -- you're not denying saying
5 it; you just deny that it was true?

6 A. Yes, sir.

7 Q. Okay.

8 (Brief Pause)

9 MR. ANTHONY: All right. Thank you, Your Honor.
10 That's -- I think that covers the parts that I would seek to
11 introduce testimony.

12 THE COURT: Any cross exam?

13 MR. RECKENBEIL: Judge, yes.

14 IN CAMERA CROSS EXAMINATION by MR. RECKENBEIL: 11:49 A.M.

15 Q. Ma'am, you gave a statement back in August of two
16 thousand and eight (2008), correct, to the police?

17 A. Yes, sir.

18 Q. You had -- do you admit now that, in that statement,
19 you were not truthful?

20 A. Yes, sir.

21 Q. Okay. And the fact that what Derrick told you, you
22 didn't actually hear from it Derrick. You heard it on the
23 street, am I right?

24 A. Yes, sir.

25 MR. RECKENBEIL: All right. That's all the

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1 questions that I would have.

2 (Brief Pause)

3 MR. RECKENBEIL: But I do have an issue. I don't
4 think this witness nor the prosecutor can ask that question
5 of, "Well, didn't Black tell you that Pat and Short Dog were
6 involved?"

7 Again, we're talking about a situation where she's
8 hearing from an individual, back in August of two thousand and
9 eight (2008), and that person is Black.

10 MR. ANTHONY: I -- I agree. This is -- I mean, I
11 would concede. I mean, as I said, I do not intend to ask her
12 what Mr. Ruff said Mr. Rice did.

13 I mean, that would clearly fall outside of the Rule.
14 So, I -- so, I'm not going to going to do that. I'm just
15 going to ask her what Mr. Ruff said what Mr. Ruff and -- and
16 what Short Dog did.

17 MR. RECKENBEIL: Okay. So, just -- I just want to
18 make sure this is proper and I just don't want ---

19 MR. ANTHONY: Well, I'll just think the proffer ---

20 THE COURT: So, do you object to her testimony?

21 MR. RECKENBEIL: Do I object her testimony? No.
22 Unless he brings in the *Bruton* stuff, I -- I have no
23 objection.

24 THE COURT: Sir?

25 MR. RECKENBEIL: I said I have no objection to her

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1 testimony if she is now going to -- she's now obviously giving
2 another statement that is inconsistent with her other
3 statement.

4 THE COURT: All right.

5 MR. RECKENBEIL: That's fine.

6 THE COURT: Bring the jury in.

7 (The jury was summoned.)

8 (Whereupon, the jury entered the courtroom at 11:28
9 a.m.)

10 THE COURT: Ladies and gentlemen, I need to give
11 you a brief explanation. As I told you, I'm the judge of the
12 law.

13 And one of my jobs is to rule on the admissibility
14 of evidence; that's what people can say from the witness stand
15 and what exhibits can be introduced. That's a legal question
16 or decision that I have to make.

17 Sometimes, to make that decision, I have to hear
18 that testimony. Not always, but sometimes I - I can't really
19 make that decision without hearing exactly what that testimony
20 is going to be.

21 And, then, I can decide whether I'll allow it to be
22 admitted, which basically means whether -- whether I'll allow
23 the jury to hear it or not.

24 And, so, that's why we've had to take some of these
25 breaks because if -- if the witness testifies and you hear

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1 something, and then, I determine that, well, that's not
2 legally admissible -- we have certain rules and regulations
3 that we have to go by that been developed over hundreds of
4 years.

5 And, after the testimony is out, I decide this
6 testimony didn't comply with one of those rules, then, I've
7 got to tell you to forget what you heard. And lawyers have a
8 way of saying it's impossible to un-ring the bell.

9 And, so, that's the reason I've been having to take
10 some of these breaks.

11 Now, let me tell you one other thing, and I'll tell
12 you more about that when I charge you at the end of this case.
13 The fact that I make the decision that something is admissible
14 that just means that you get to hear it.

15 I make no decision about whether it's true or how
16 much weight you should give it. And so -- and I'll tell you
17 this later on -- you and only you can decide what you want to
18 believe and how much weight you want to believe -- to give to
19 that testimony.

20 So, just because I say it's admitted doesn't mean
21 that I'm saying this is true, this is the gospel. I'm just
22 saying it meets the legal requirement for you to hear it.

23 And I'll explain more about that a little bit later.
24 But, since I've been jerking you in and out of the courtroom,
25 I thought I needed to tell you what we're doing.

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1 We're not drinking coffee and doughnuts out here
2 when I send you back there. All right, Counsel. You can
3 proceed.

4 DIRECT EXAMINATION by MR. ANTHONY:

11:58 A.M.

5 Q. You're Laquidra Eigner?

6 A. Yes, sir.

7 Q. All right. Ms. Eigner, where do you live?

8 A. (phonetic), Newberry.

9 Q. And, back in August of two thousand, eight (2008),
10 who were you living with?

11 A. I was living with Derrick Ruff.

12 Q. And does Mr. Ruff also have a nickname?

13 A. Black Jesus.

14 Q. All right. And some people just call him Black; is
15 that right?

16 A. Yes, sir.

17 Q. And what was your relationship with Mr. Ruff?

18 A. We was real good friends. We was in a romantic
19 relationship.

20 Q. All right.

21 THE COURT: Could you speak up a little bit louder?
22 And also, rather than saying "uh-huh" and "huh-uh," this lady
23 (indicating) has to write down what you're saying.

24 So, say "yes," or "no." It's a lot easier for her
25 to keep it straight that way.

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1 THE WITNESS: Okay.

2 THE COURT: And just speak loud enough so everybody
3 can hear you, okay, because you have a real quiet voice. All
4 right, sir.

5 Q. (By Mr. Anthony) And how long had the two of you
6 been in a romantic relationship?

7 A. For about five (5) or six (6) months.

8 Q. All right. Now, I want to take you to the week
9 before the 18th of August, two thousand, eight (2008). Did
10 Derrick have a -- a conversation with you that week about
11 possibly robbing somebody?

12 A. No, sir.

13 Q. All right. He -- he never told you that he had a --
14 a lick set up ---

15 A. No, sir.

16 Q. --- that week? Okay. And did he ever tell you that
17 he had talked to Wytrisha Lemon about -- about what he called
18 this lick, this robbery?

19 A. No, sir.

20 Q. All right. But you do know Wytrisha Lemon though;
21 is that correct?

22 A. Yes, sir.

23 Q. And how do you know her?

24 A. We worked together at Lil Cricket.

25 Q. All right. And that's the Lil Cricket where?

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1 A. In Whitmire.

2 Q. And did you know Kelvin Davis?

3 A. I didn't know him. I knew of him. He stopped by
4 the store a couple of times.

5 Q. All right. You -- you knew that he and Ms. Lemon
6 had a relationship?

7 A. She just said he was her friend.

8 Q. Okay. Well, they -- they was -- they were friends?

9 A. Yes.

10 Q. All right. And I want to take you now to August 17th
11 of two thousand, eight (2008), that Sunday before this
12 incident occurred. Where -- where were you that day?

13 A. On Sunday, I was shopping with Miriam.

14 Q. All right. And did you hear anything from Mr. Ruff
15 that day?

16 A. Yes, sir.

17 Q. All right. When -- when did you hear something from
18 him?

19 A. I left his house around 9:30, 10:00. And he called
20 me probably about 12:00, 12:30.

21 Q. And what did he want you to do?

22 A. He wanted me to come home.

23 (Brief Pause)

24 Q. And did you do that?

25 A. No, sir.

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1 Q. You didn't go home?

2 A. No, sir.

3 Q. Okay. Did you hear anything from Wytrisha that
4 night?

5 A. Yes, sir.

6 Q. All right. And what did you -- what did you hear
7 from her?

8 A. She called to tell me that Plute had been shot and
9 if had I talked to Black. I told her no.

10 Q. All right. So -- so, Wytrisha called and -- and
11 asked you if you had talked to Black about Plute being shot?

12 A. Yes.

13 Q. Okay. All right. And when did you go -- well, did
14 you eventually hear something else from Treat about Plute
15 dying?

16 A. Yes. She called me back and told me that he had
17 died and that she was going to go up to the hospital.

18 Q. All right. And was she wanting to know if you
19 talked to Black about it?

20 A. She didn't ask me again.

21 Q. But -- Okay. All right. But she asked you about
22 the first time?

23 A. Yes, sir.

24 Q. Okay. And what time did you get back to your house?

25 A. About six (6:00) or 6:30 that morning.

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1 Q. All right. And was Derrick there when you got
2 there?

3 A. Yes, sir.

4 Q. All right. And what was Derrick doing?

5 A. He was up smoking.

6 Q. All right. What was he smoking?

7 A. Marijuana.

8 Q. All right. And did the two of you go to bed that
9 morning?

10 A. Yes, sir. We smoked and then we went to bed.

11 Q. All right. So, both of you were smoking marijuana?

12 A. Yes, sir.

13 Q. All right. Had he just brought in some marijuana?

14 A. No, he had already had it.

15 Q. All right. And later that morning did Mr. Ruff talk
16 to you about this robbery at Mr. Davis's house?

17 A. No. I asked him did he go do it, and he told me he
18 didn't know what I was talking about.

19 Q. Okay. So, he just told you he didn't know what you
20 were talking about?

21 A. Yes, sir.

22 Q. And he never -- that morning you were there at your
23 house and you never talked -- you never had a conversation
24 with him where he told you he participated in the robbery?

25 A. No, sir.

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1 Q. And he never told you that he had gone in and he had
2 been the one who tied up the woman and the baby?

3 A. No, sir.

4 Q. And he never told you that the person who shot Mr.
5 Davis was a guy named Short Dog?

6 A. No, sir.

7 Q. Now, did you know Patrick Rice?

8 A. Yes, sir.

9 Q. And how did you know him?

10 A. Through Whitmire, at the Lil Cricket.

11 Q. Okay. So -- so, would you see him at the Lil
12 cricket as well?

13 A. Yes, sir.

14 Q. All right. And had you ever seen Mr. Ruff
15 communicate with Mr. Rice?

16 A. No, sir.

17 Q. All right. You never had seen them to speak to each
18 other to say ---

19 A. I'd seen them speak.

20 Q. Okay. You had seen them speak to each other at the
21 Lil Cricket?

22 A. Yes, sir.

23 Q. All right. As if they knew who each other was?

24 A. Yes, sir.

25 Q. All right. And when -- when he made -- well, strike

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1 conversation, Treat asked Black not to do it. He told her
2 that he wouldn't."

3 So, is that -- that is in the statement you wrote?

4 A. Yes, sir.

5 Q. Is that correct? Now, you're saying now that that's
6 not true?

7 A. Yes, sir.

8 Q. Okay. But you -- you wrote that out in your own
9 hand ten (10) days after this happened?

10 A. Yes, sir.

11 Q. Okay. And...

12 (Brief Pause)

13 Q. Going now to the bottom of the first page, you say
14 -- say, "I went back to Black's house around six (6:00) or
15 6:30 a.m. and we smoked and went to sleep."

16 And, then, you say, "So, when I got up, I asked him
17 again..." that's -- that's correct?

18 A. Yes, sir, it is in the statement.

19 Q. Okay. Okay. And the statement says -- says, "He
20 told me, yeah, they went in there but it wasn't supposed to go
21 down like that"; is that correct?

22 A. Yes, sir.

23 Q. Okay. And it says -- going down to the -- the third
24 line, it says "He said...." -- that being Derrick --
25 "...Derrick said he tied up the woman and the baby,"; is that

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1 correct?

2 A. Yes, sir. That's in the statement.

3 Q. Okay. And, then, the statement also says -- says,
4 "Short Dog," -- going down one, two, three -- going down to
5 the seventh line it says, "Short Dog shot him. He said they
6 got out -- after they got out the house"; is that correct?

7 A. Yes, sir.

8 Q. And that's -- that's -- the statement says -- what
9 you were saying in the statement is that Derrick told you that
10 Short Dog had shot the -- had shot Kelvin Davis, Plute?

11 A. Yes, sir.

12 Q. Okay. And Derrick told -- had told to you that he
13 was the one who tied the guys up?

14 A. Yes, sir.

15 Q. Okay. Now, going to the bottom of the second page,
16 it says, "The next day, Friday, August 22nd, my mother called
17 me saying that I needed to get down the road because the
18 police wanted to talk to me."

19 And, then, it says, "Before Black let me leave, he
20 made it very clear that, if I told anybody what I knew, that
21 he know where I'm at and that he would come back and f'ing --
22 f'ing kill me.

23 "So, I assured him that I wouldn't tell anybody.
24 And, then, I rushed out to get down the road." Is that
25 correct?

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1 A. Yes, sir, that's in the statement.

2 Q. And that's what the statement says?

3 A. Yes, sir.

4 Q. Okay. And, then, it says on the very -- on the last
5 page, it says, "On Friday before I left Converse, Georgia,
6 he..." -- meaning Derrick -- Derrick Ruff -- "...said that
7 they got seventeen hundred dollars (\$1,700) out of the house
8 and about four (4) pounds of weed." Is that correct?

9 A. Yes, sir, that's in the statement.

10 Q. Okay. All right. And he told you that he had
11 possession of a -- of a shotgun in the statement; is that
12 correct?

13 A. Yes, sir.

14 Q. All right.

15 (Brief Pause)

16 MR. ANTHONY: If I could have one moment.

17 (Off-the-Record Discussion)

18 Q. (By Mr. Anthony) All right. Oh, and Ms. Eigner,
19 where did you leave the car?

20 A. At my momma's house.

21 Q. In -- in Fairfield County?

22 A. Yes, sir.

23 Q. Okay. And, after you left Converse that Friday
24 morning, did you hear from Mr. Ruff again?

25 A. No, sir.

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1 Q. Okay.

2 (Brief Pause)

3 Q. And you haven't -- have you seen him since?

4 A. Yes, sir.

5 Q. Okay. You seen him since ---

6 A. (Nods affirmatively.)

7 Q. Okay. How -- how much time passed from the time you
8 left Converse till the time you saw him again?

9 A. Almost a year.

10 Q. Almost a year? Okay. All right. And, Miss -- Ms.
11 Eigner, were you charged with a crime for this ---

12 A. Yes, sir.

13 Q. --- for this situation? Okay. And -- and you were
14 charged with accessory after the fact of murder; is that
15 correct?

16 A. Yes, sir.

17 Q. And -- and your -- you have not been to court on
18 this; is that correct?

19 A. No, sir.

20 (Brief Pause)

21 MR. ANTHONY: And if I could have one moment.

22 (Off-the-Record discussion)

23 MR. ANTHONY: All right. Thank you. That's --
24 that's everything on direct.

25 THE COURT: Cross examination?

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CROSS EXAMINATION by MR. RECKENBEIL

12:10 P.M.

1 Q. Ms. Eigner, you learned, when you were in Georgia,
2 that Union County was looking for you, didn't you?

3 A. Yes, sir.

4 Q. And you learned that from your mother or your
5 grandmother?

6 A. My mother.

7 Q. And she told you that -- what?

8 A. That they had kicked in Black's door and that I
9 needed to come down the road.

10 Q. Okay. So they're looking for you?

11 A. Yes, sir.

12 Q. All right. You come back to South Carolina?

13 A. Yes, sir.

14 Q. Do you go to the sheriff's department or how do you
15 go make arrangements to meet with Union County?

16 A. I went to Newberry Sheriff's Department and Newberry
17 County talked to me first.

18 Q. So, Newberry County -- did they transfer you up here
19 to Union?

20 A. No.

21 Q. Okay. Then, you came back up here to Union and
22 talked with them?

23 A. No. A week later Union County came down to Newberry
24 to talk to me.
25

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1 Q. So, are you in jail down there or are you just there
2 voluntarily?

3 A. I was just out.

4 Q. Okay. Down in Newberry?

5 A. Yes, sir.

6 Q. And they came to talk to you?

7 A. Yes, sir.

8 Q. All right. Now, at that point in time, did you give
9 a statement?

10 A. To Newberry County, no, sir.

11 Q. To Union County?

12 A. A week later, yes, sir.

13 Q. When you were down in Newberry? I just want to make
14 sure. I'm trying to set the scene here.

15 A. Yes, down in Newberry.

16 Q. Down in Newberry?

17 A. Yes, sir.

18 Q. And Union County comes down there and talks to you?

19 A. Yes, sir.

20 Q. All right. You, then, give a statement?

21 A. Yes, sir.

22 Q. Okay. Ultimately, you're charged with accessory
23 after the fact of murder?

24 A. Yes, sir.

25 Q. Do you know how much time you looking at?

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1 A. About ten (10).

2 Q. Okay. Now, after all of this goes down, and you
3 give a statement to Union County, you, then, write something
4 and said that you weren't truthful in your statement; is that
5 right?

6 A. Yes, sir.

7 Q. And that, in fact, what you said to Union County in
8 your statement wasn't what Derrick told you?

9 A. Yes, sir.

10 Q. Is that true?

11 A. Yes, sir.

12 Q. And that, in fact, you heard -- that you just heard
13 it on the street?

14 A. Yes, sir.

15 (Brief Pause)

16 Q. Now, are you telling the truth today?

17 A. Yes, sir.

18 Q. Why would it be that some year and a half later you
19 finally come clean?

20 A. I found out that I would have to testify in this
21 case and I can't get up on the stand and lie.

22 Q. Okay. Were you telling the truth in this statement
23 on August 28th (indicating), or are you telling the truth on
24 this letter that you wrote (indicating)?

25 A. On the letter that I wrote.

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1 MR. RECKENBEIL: All right. Okay.

2 (Brief Pause)

3 MR. RECKENBEIL: That's all the questions, Judge.

4 THE COURT: Redirect?

5 REDIRECT EXAMINATION by MR. ANTHONY:

12:13 A.M.

6 Q. The letter that he just showed you, you -- you could
7 recognize it from sitting up there on the stand?

8 A. Yes, sir.

9 Q. All right. And who did you send that letter to?

10 A. Derrick.

11 Q. You sent it to Derrick Ruff?

12 A. Yes, sir.

13 Q. Okay. And how -- how did you know where to find
14 him?

15 A. He wrote me.

16 Q. Oh, he wrote you?

17 A. Yes, sir.

18 Q. Okay. And what did he tell you?

19 A. Asking me if I could write a letter to him saying I
20 wasn't being truthful in my statement.

21 Q. All right. So, he ask you to write that letter?

22 A. Yes, sir.

23 Q. And do you still have feelings for Mr. Ruff?

24 A. I guess kind of.

25 Q. Kind of?

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1 A. Yes, sir.

2 Q. Would you say you still love him?

3 A. No, sir.

4 Q. You don't love him anymore?

5 A. No, sir.

6 Q. But you still have feelings for him?

7 A. Yes, sir.

8 (Brief Pause)

9 Q. So, when -- when he wrote you a letter asking you to
10 write a letter yourself saying that what you said wasn't
11 untrue; what you said to the police wasn't true, you just did
12 it?

13 A. Yes, sir.

14 Q. Okay. And you didn't go see Investigator Riddle and
15 -- and tell him that you lied when you gave him that
16 statement, did you?

17 A. No, sir.

18 Q. Okay. And you didn't even go tell your lawyer that,
19 did you?

20 A. No, sir.

21 Q. You went and told Derrick Ruff?

22 A. Yes, sir.

23 Q. Okay. Because he was the one -- he was the one that
24 wanted you to say it?

25 A. He wanted a letter saying that I was untruthful in

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1 my statement and ---

2 Q. All right. And why -- why did he want that? Did he
3 say -- tell you why he wanted that in that letter he wrote
4 you?

5 A. He never said.

6 Q. He never said?

7 A. No.

8 (Brief Pause)

9 MR. ANTHONY: If I could have one moment.

10 (Off-the-Record Discussion)

11 MR. ANTHONY: That's -- that's everything on
12 redirect.

13 THE COURT: Any recross?

14 MR. RECKENBEIL: None, Your Honor.

15 THE COURT: Thank you. Thank you, ma'am. You may
16 step down.

17 (Whereupon, the witness stepped down from the
18 witness stand at 12:18 p.m.)

19 THE COURT: Call your next witness.

20 MR. ANTHONY: May we approach?

21 THE COURT: Yes, sir.

22 (Whereupon, a bench conference was had with both
23 attorneys present.)

24 (Brief Pause)

25 THE COURT: All right. Ladies and gentlemen, I

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1 told you that ordinarily evidence comes in through witnesses
2 and exhibits. There's another way evidence can come in, and
3 that is through a stipulation.

4 A stipulation is an agreement by the parties that
5 fact is true. And most evidence that comes in you can accept
6 it as true or you can reject it but a stipulation says
7 everybody has agreed it's true; you have to accept it is true.

8 But instead of calling witnesses to testify, the
9 parties have agreed or stipulated that on August the 18th, two
10 thousand and eight (2008), Mr. Derrick Ruff purchased a Crown
11 Victoria, a Ford Crown Victoria automobile, from Mr. Michael
12 Jackson. That is a stipulation.

13 Both parties agree that that's the truth, so, you
14 must accept that as a true fact; that on August the 18th, two
15 thousand and eight (2008), Mr. Derrick Ruff purchased a Ford
16 Crown Victoria automobile from Mr. Michael Jackson.

17 So, with that stipulation, we're going to take our
18 lunch break and we plan to start back at two o'clock (2:00).
19 So, please be back in the jury room at two o'clock (2:00).

20 And, please, do not talk about the case. Everybody
21 else remain seated. When you come back, come straight to the
22 jury room.

23 (Whereupon, the jury exited the courtroom at 12:20
24 p.m. for the lunch recess.)

25 THE COURT: All right, Mr. Rice, would you stand,

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1 please?

2 (Whereupon, Mr. Patrick Rice stood as directed by
3 the Court.)

4 THE COURT: Mr. Rice, I think the State has a
5 couple of more witnesses after lunch. But, once the State
6 finishes putting up their case, you will have an opportunity
7 to testify if you want to testify.

8 Does he have any prior convictions, Solicitor, that
9 you think could be used to impeach him?

10 MR. ANTHONY: Yes, sir.

11 THE COURT: What are they?

12 (Brief Pause)

13 MR. ANTHONY: He has -- he has two forgery
14 convictions from two thousand (2000). And he has a second-
15 degree burglary conviction from two thousand (2000).

16 And he has a shoplifting conviction from December of
17 1999. And our -- our position would be that all of those are
18 crimes of ---

19 THE COURT: What is your position, Mr. Reckenbeil?
20 Two forgeries, a shoplifting, and a burglary, all within the
21 10-year -- within ten (10) years.

22 MR. RECKENBEIL: Right. Burglary obviously is more
23 than one year in jail.

24 THE COURT: Well, according to him, all of those
25 would carry ---

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1 MR. RECKENBEIL: Well, now ---

2 THE COURT: Well, the shoplifting wouldn't, but the
3 shoplifting -- the ---

4 MR. RECKENBEIL: It would go to his truthfulness.

5 THE COURT: That's right. It's a crime of
6 dishonesty.

7 MR. RECKENBEIL: Right. It would be a crime of
8 dishonesty. So, the forgery, the shoplifting, and burglary
9 second-degree I -- I think meets the requirements under the
10 Rule.

11 THE COURT: All right. I would -- I would find
12 that the probative value of admitting that evidence outweighs
13 the prejudicial effect.

14 And I would allow the State to bring up the fact
15 that those -- he has those four (4) convictions. Do you
16 understand what we're saying?

17 THE DEFENDANT Yes, sir.

18 THE COURT: If you take the stand, the jury will
19 learn that you have those four convictions. They can't go
20 into any detail about them.

21 That State can't even produce any e details about
22 them and neither can you, just the fact that you have those
23 four convictions.

24 You also have a right not to testify. That is your
25 Constitutional Right to remain silent. You can not be forced

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1 to testify against yourself.

2 If you choose not to testify, I will tell the jury
3 that, that is an exercise of your Constitutional Right and
4 they can not hold that against you in any way whatsoever.

5 They cannot draw any bad inference from the fact
6 that you did not testify. Do you understand your right to
7 testify?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you understand your right not to
10 testify?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Now, I'm sure you've probably already
13 talked about those matters with your attorney, but you'll have
14 plenty of time, between now and lunch time, or whenever you --
15 we have to make that decision, after the State rests, as to
16 whether you want to testify.

17 You certainly should hear the advice your attorney
18 gives you in that regard, but the final decision, as to
19 whether you should testify or not testify, should be your
20 decision, not your attorney's; not anybody else's, but yours.
21 Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right, sir. So, you'll have time
24 to talk with him. And I'll get you decision once we reach
25 that stage of the trial after lunch.

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1 Anything else before we recess?

2 MR. ANTHONY: I would just ask that Ms. Eigner be
3 excused.

4 THE COURT: Who?

5 MR. ANTHONY: Ms. Eigner, the lady who just
6 testified.

7 THE COURT: Yes, you're excused. She may be
8 excused. Now ---

9 MR. ANTHONY: And Ms. Lemon as well.

10 THE COURT: Ms. Lemon may be excused. Mr.
11 Reckenbeil, do you have any witnesses? If so, you'll need to
12 be ready.

13 MR. ANTHONY: I have two.

14 THE COURT: He says he's got two more. And you all
15 can talk about timing.

16 MR. RECKENBEIL: Right.

17 THE COURT: But you need to be ready to roll
18 regardless of what the Defendant is going to do.

19 MR. RECKENBEIL: Right. Mine -- mine should be
20 here. I think they're upstairs in the library.

21 THE COURT: All right. That's fine. Court will be
22 in recess, then, til two o'clock (2:00).

23 MR. RECKENBEIL: Yes, sir.

24 (Whereupon, the lunch recess was taken from 12:30
25 p.m. until 1:58 p.m.)

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1 THE COURT: Is your witness in?

2 MR. ANTHONY: Yes.

3 (Off-the-Record Discussion)

4 (Brief Pause)

5 THE COURT: All right. Is the State ready to
6 proceed?

7 MR. ANTHONY: Yes, sir, we are.

8 THE COURT: Is the Defense ready?

9 MR. RECKENBEIL: Your Honor, we are. I just --
10 I don't want to tell Mr. Anthony how to run his case, but I
11 see that he's got some photos there. I -- I just wanted to
12 take a look at them before the jury comes in.

13 THE COURT: All right. I understand.

14 MR. ANTHONY: I'm not -- I'm not introducing them
15 through this witness. I was going to introduce them through
16 the next witness.

17 MR. RECKENBEIL: Okay. Well, I -- again, I think
18 we need a chance to see them. There are some photos in
19 there that I might think are prejudicial because I did see
20 some blood out there. And I would just like to -- I'd like
21 to see ---

22 THE COURT: You don't have any photos that you're
23 going to offer?

24 MR. ANTHONY: Not with this witness, no, sir.

25 THE COURT: With the next witness?

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1 MR. ANTHONY: I do with -- with Investigator
2 Riddle. I would introduce them.

3 THE COURT: Well, show them to Counsel.

4 (Off-the-Record Discussion)

5 (Brief pause while photos shown to Mr.
6 Reckenbeil.)

7 MR. RECKENBEIL: Judge, while I'm sure -- while I
8 am sure there are other pictures that are probably worse, I
9 -- I do not see ---

10 THE COURT: Can I see them?

11 MR. RECKENBEIL: Yeah. If I may approach.

12 (Documents handed to the Court.)

13 THE COURT: Which ones do you object to?

14 MR. RECKENBEIL: The one -- the first one I
15 think, Your Honor, is the -- the pool of blood. And I know
16 we've had ---

17 THE COURT: All right. Madam Clerk, will you
18 hand those to the court reporter and let her mark them
19 please, for identification, so, we can talk about them.

20 (Whereupon, State's Exhibit Numbers 16 through 20
21 were marked for identification.)

22 (Brief pause while Mr. Reckenbeil examines
23 exhibits.)

24 MR. RECKENBEIL: Your Honor, I don't think I have
25 a problem with 20, 19, 17.

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1 (Brief Pause)

2 MR. RECKENBEIL: Sixteen (16) and 18. Judge, we
3 already have some pictures. I think they're just going to
4 be redundant quite honestly.

5 THE COURT: All right. State's 17 -- 16 and 18.
6 And, then, I haven't seen the other pictures. Show me what
7 other pictures you think they may have a little trouble with
8 them seeing in this regard.

9 (Whereupon, State's Exhibit Number 21 was marked
10 for identification.)

11 MR. ANTHONY: I'm -- I'm going to add one more.

12 (Exhibit handed up to the Court.)

13 (Brief Pause while the Court examines exhibit.)

14 THE COURT: All right, sir. I'll hear you.

15 MR. RECKENBEIL: Judge, I just think they're --
16 they're redundant. And that they've already basically been
17 demonstrating.

18 I think -- I think that those three that Your
19 Honor has lower closer to you I -- I think are of a less
20 severe nature. And I just -- those other two I think are a
21 little bit more grotesque and thus, I think would
22 improperly influence the jury.

23 And I honestly think that those ones that you are
24 looking at right now really don't -- really depict the scene
25 in -- in a pretty plausible manner.

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1 **THE COURT:** All right. Exhibits 2, 1, and 7,
2 which have already been admitted, are photos of the crime
3 scene which show a little bit of blood in a very pale color.

4 Exhibits 16 and 18 are additional photos of the
5 crime scene which are from different angles. Well, one of
6 them -- Number 18 -- well, 18 and 16 show the same scene;
7 one is a little bit more close up than the other.

8 But neither of these shows the same scene, the
9 same view of the crime scene as in 1, 2, or 7. And I find
10 the pic -- pictures are not unduly inflammatory.

11 There's some blood in them and you can tell that,
12 but they are small pictures. They're three by five (3 x 5),
13 maybe not even that big.

14 And, so, I don't think they're unduly inflammatory
15 and I will deny your objection. But, he hadn't offered them
16 yet. Do you have any other objections to their
17 admissibility?

18 **MR. RECKENBEIL:** No, sir. I was just doing that
19 to save us some time in case ---

20 **THE COURT:** All right. Well, that's fine. I
21 appreciate you doing that. And, so, they are admitted, but
22 over the objections of the Defendant, those two.

23 The other three are admitted without Objection.

24 (Whereupon, State's Exhibit Number 16 and 18 were
25 admitted over objection.)

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1 MR. RECKENBEIL: Yes, sir.

2 THE COURT: All Right.

3 MR. RECKENBEIL: Thank You.

4 THE COURT: Bring in the jury.

5 (The jury was summoned.)

6 (Whereupon, the jury entered at 2:05 p.m.)

7 THE COURT: Good afternoon, ladies and gentlemen.

8 We're ready to roll. All right. Counsel, you may call your
9 witness.

10 MR. ANTHONY: The State would call Ms. Braswell.

11 (The witness is summoned.)

12 THE COURT: Ms. Braswell, if you'll come around,
13 please. Step right down this way toward the bailiff.

14 (Witness stepped forward to be sworn.)

15 THE COURT: Come -- come around this way
16 (indicating). Place your left hand on the Bible and raise
17 your right.

18 (Whereupon,

19 SIERRA BRASWELL

20 having been first duly sworn, testified as follows:)

21 THE COURT: Thank you, ma'am. Have a seat and
22 state your full name, please.

23 THE WITNESS: Sierra Dawn Braswell.

24 THE COURT: Thank you. All right, Counsel.

25 DIRECT EXAMINATION by MR. ANTHONY: 2:06 P.M.

MS. SIERRA BRASWELL - DIRECT by MR. ANTHONY

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1 Q. Ms. Braswell, where do you live?

2 A. Union, South Carolina.

3 Q. Going back to August of two thousand, eight (2008),
4 where were you living?

5 A. In Whitmire.

6 Q. And who did you live with at the time?

7 A. Miriam Dickert, Patrick Rice, and my baby.

8 Q. And who?

9 A. Jaden Ruff.

10 Q. And ---

11 A. And my ex-boyfriend -- boyfriend used to stay there.

12 Q. I'm sorry?

13 A. My ex-boyfriend used to stay there, but he didn't
14 keep his clothes there and stuff.

15 Q. Okay. And who is your ex-boyfriend?

16 A. Michael Rice (phonetic).

17 Q. And who was -- and you say your son, Jaden, lived
18 with you?

19 A. Uh-huh (affirmative).

20 Q. Okay. Who is the father of your son?

21 A. Derrick Ruff.

22 Q. Okay. Now, I want to take you to Sunday night of
23 August the 17th of last year. Do you remember Patrick being at
24 the house that night, Patrick -- Patrick Rice?

25 A. Yes, sir.

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1 Q. And, at some point that night, did he leave the
2 house?

3 A. Yes, sir.

4 Q. All right. At the time he left, did he say anything
5 to you about where he was going?

6 A. No, sir.

7 Q. And did you hear anything from him that night?

8 A. No, sir.

9 Q. Did anything happen between you and Michael Rice
10 that night?

11 A. Yes, sir.

12 Q. What happened?

13 A. We got in an argument and he left.

14 Q. He left?

15 A. (Nods affirmatively.)

16 Q. Did he -- did he leave the house before Patrick did
17 or after Patrick did?

18 A. Can you repeat that?

19 Q. Did he leave before Patrick or after Patrick?

20 A. He left after.

21 Q. Okay. And, at some point in time that night, did
22 Michael come home?

23 A. (No Response)

24 Q. Did Michael come back to your house?

25 A. (Nods affirmatively.)

MS. SIERRA BRASWELL - DIRECT by MR. ANTHONY

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1 Q. Okay. You need to say "yes" or "no."

2 A. Yes, sir.

3 THE COURT: The court reporter has to write it down.

4 Q. Now, when Michael got home, was Patrick already
5 there?

6 A. Yes, sir.

7 Q. And when -- when Michael got home, what ---

8 A. No, when Michael -- when Patrick got home, Michael
9 was already there.

10 Q. All right. So, you -- you recall Michael being home
11 first?

12 A. Uh-huh (affirmative).

13 Q. All right. Then, when Michael got home, what did he
14 do?

15 A. Sir?

16 Q. What did he do when got -- when he got back to your
17 house?

18 A. He went to his room.

19 Q. Michael did?

20 A. Pat.

21 Q. All right. I'm talking about Michael.

22 A. Okay.

23 Q. What did Michael do when he got back to -- to your
24 place?

25 A. I guess he went to my room.

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MS. SIERRA BRASWELL - DIRECT by MR. ANTHONY

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1 Q. Okay. And when was the next time -- after Patrick
2 left that night, when was the next time that you saw Patrick?

3 A. The next morning.

4 Q. And how did you come to find out that Patrick was --
5 was there?

6 A. Because when he -- when you go through our bedrooms,
7 to get into them, he had to walk through my room.

8 Q. And, so, how -- how -- is that what happened, he
9 walked through your room?

10 A. Uh-huh (affirmative).

11 Q. Okay. And what ---

12 THE COURT: "Yes" or "no"?

13 A. Yes, sir.

14 Q. And what happened -- what happened then?

15 A. Mimi, Miriam Dickert, came and woke me up and said
16 they were going to ---

17 THE COURT: Ma'am, do you have something in your
18 mouth?

19 THE WITNESS: No, sir.

20 THE COURT: Ma'am?

21 THE WITNESS: No, sir.

22 THE COURT: Okay. Because I can hardly understand
23 you and the court reporter is having a hard time understanding
24 you.

25 THE WITNESS: My voice is hoarse now.

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MS. SIERRA BRASWELL - DIRECT by MR. ANTHONY

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1 THE COURT: Okay. Well, do the best you can.

2 Q. (By Mr. Anthony) What did Miriam Dickert do?

3 A. She came in and woke me up out of the bed and said
4 that they were going to Clinton -- no, they were going to a
5 hotel room.

6 Q. They were going to what?

7 A. They were going to a hotel room in Newberry.

8 Q. Okay. All right. And, at this point in time, did
9 -- did Patrick ask Michael to do anything?

10 A. Not that I know of.

11 Q. Okay. What -- what happened -- what -- what did you
12 do once she woke you up and told you they were leaving?

13 A. "Okay." And I rolled back over and went to sleep.

14 Q. And what was the next thing that happened where you
15 heard anything from Patrick or -- or Miriam -- Miriam Dickert?

16 A. It was later on that afternoon and they called. One
17 of them called Mike and asked him if he wanted to come to
18 Clinton.

19 Q. And how did you all -- how did you and Michael --
20 what did you decide to do about that?

21 A. We went to Clinton.

22 Q. How did you -- where did you go to in Clinton?

23 A. To a hotel room.

24 Q. To where?

25 A. To a hotel room.

PAMELA FAUCETTE, CVR - PHONE: 864-574-9534 CELL: 336-260-2864

1 Q. All right. All right. Do you know what kind of
2 hotel it was?

3 A. Howard Johnson.

4 Q. All right. And how did you get there

5 A. I drove Michelle's car.

6 Q. All right. And does -- you say "Michelle's car,"
7 does Michelle have somebody she used to -- a boyfriend or
8 somebody she was living with?

9 A. Uh-huh (affirmative).

10 Q. Who was that?

11 A. I know his last name was Isom. They call him Big
12 Dooley (phonetic).

13 Q. Okay. All right. And, so, who went to -- to
14 Clinton?

15 A. Me and Michael Rice.

16 Q. Okay. Now, when you -- when you got to the Howard
17 Johnson in Clinton, what did you do then?

18 A. We went into smoke some weed, ate some pizza, and
19 then me and Mimi left.

20 Q. Now, did -- when you got to the hotel, you say you
21 smoked some weed. Did you see any -- any marijuana in the
22 room?

23 A. Yeah, what was already rolled.

24 Q. All right. Was there -- was there any large
25 container of marijuana that you saw at that time?

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1 A. It was in Ziploc bags.

2 Q. How many Ziploc bags?

3 A. Maybe two (2).

4 Q. Okay. And, then, did you see any cash at this time?

5 A. No.

6 Q. What -- you said you and Mimi left. Where did you
7 go?

8 A. To another hotel room.

9 Q. And, when you -- when you got to that hotel, what
10 did you do there?

11 A. I just ran inside and got my bookbag.

12 Q. And what did you do after you went and got the
13 bookbag?

14 A. We went back to the other hotel room.

15 Q. And, when you got back to the other hotel, did
16 Patrick want to go anywhere?

17 (Brief Pause)

18 A. Yeah, we all decided to go on a road trip.

19 Q. And where did you decide to go?

20 A. I didn't know where we were going. I was going
21 along.

22 Q. All right. Where -- where did -- where did you go?

23 A. We went to Charlotte, North Carolina.

24 Q. All right. And who drive to Charlotte?

25 A. Miriam Dickert.

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1 Q. Okay. And where did you go to in Charlotte?

2 A. We went to an apartment and, then, we went to the
3 Micro something motel.

4 Q. Now, who checked in to the Micro -- Microtel? Is
5 that what you -- is that what it was called?

6 A. (Nods affirmatively.)

7 Q. All right. Who checked into the Microtel?

8 A. I did.

9 Q. And how did you pay for it, for the room?

10 A. Mimi gave me the money.

11 Q. What -- was it cash?

12 A. Uh-huh (affirmative).

13 Q. When you -- when you got to the room at the Microtel
14 in Charlotte, what did you do there?

15 A. We just chilled out and smoked weed and then, left.

16 Q. What? I'm sorry?

17 A. I said, then, we left.

18 Q. While you were at the -- the Microtel that Monday,
19 did Patrick say anything to you about what had happened during
20 the -- the robbery or anything? Did he say anything to you
21 about a robbery?

22 A. He said somebody got robbed, but that was it.

23 Q. All right. He didn't give you any more details?

24 A. (Shook head negatively.)

25 Q. Now, after you checked in ---

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1 MR. RECKENBEIL: Excuse me. I'm sorry, Judge. Did
2 she answer that out loud? Did she -- when he asked that
3 question? He asked, "He didn't say anything about the robbery
4 or anything besides that, and she just shook her head. She
5 didn't verbalize her answer.

6 THE COURT: You need to answer ---

7 A. That's all he said about the robbery.

8 MR. RECKENBEIL: Right. I think her response was
9 negative. I just wanted to make sure that we got that down.

10 THE COURT: All right.

11 MR. RECKENBEIL: Thank you.

12 Q. (By Mr. Anthony) Now, after -- after you checked
13 into the Microtel, what did -- did you decide to do that
14 night?

15 A. I went home to my kid.

16 Q. Who -- and who went with you?

17 A. Me, Miriam, and Michael.

18 Q. Where did you go?

19 A. To (phonetic), Whitmire.

20 (Off-the-Record Comments)

21 Q. Could you just repeat that answer?

22 A. It's Whitmire -- Whitmire.

23 Q. So, after you get back to -- to Whitmire on -- late
24 Monday night or early Tuesday morning, when -- when was the
25 next time you heard something from Patrick?

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1 A. It was on Wednesday.

2 Q. And what happened on Wednesday?

3 A. He called Mimi and asked Mimi I'm assuming to bring
4 his clothes up there because that's what we did.

5 Q. And who went back to Charlotte?

6 A. Me, Miriam, Michael, and this other guy named Black.
7 I think his real name is David.

8 Q. How did you get there this time?

9 A. Michelle's car.

10 Q. The same car you had gone in before?

11 A. (Nods affirmatively).

12 Q. When you went to Charlotte on Wednesday, where did
13 you find Patrick?

14 A. At the apartments.

15 Q. Had anything changed about his clothes or
16 possessions when you got there?

17 A. He had shoes and clothes.

18 Q. New ones, different ones?

19 A. New ones. All the different clothes were in the
20 trunk.

21 Q. Okay. So, what happened once you went to this
22 apartment building and saw Patrick Rice?

23 A. Can you repeat that?

24 Q. I'm sorry?

25 A. Can you repeat that?

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1 Q. What -- what happened next? Where did you go or
2 what did you do after you -- you went to the apartments and
3 found Patrick?

4 A. We went to the hotel room.

5 Q. So, you went to a -- another hotel?

6 A. (Nods affirmatively).

7 Q. What -- what kind of hotel?

8 A. It's the same thing but it was in a different spot.

9 Q. Okay. Now, when you -- when you went to the hotel
10 on Wednesday, what did you -- what happened there?

11 A. Me and Mimi went to the mall and we bought clothes.
12 And, before we got to the mall, I think it was Michael had
13 called and told me that we needed to get back. And I told
14 Mimi that I was going on to the mall and they could be hot.

15 Q. So ---

16 A. So, we went on to the mall and did what we had to do
17 and, then, we went back.

18 Q. Okay. So, the two of you go to the mall. And, when
19 you finished at the mall, where did you and Mimi go?

20 A. Well, we went back to the hotel.

21 Q. Back to the hotel?

22 A. Uh-huh (affirmative).

23 Q. When -- when you got back -- back to the hotel, what
24 was going on?

25 A. They were all standing outside looking crazy.

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1 Q. I'm sorry?

2 A. I said they were looking crazy.

3 Q. All right. And what happened -- what -- what did
4 they want to do when you got back to the hotel room?

5 A. They wanted to go to High Point.

6 Q. And why was that?

7 A. Because Pat had family up that way and they got a
8 phone call saying that ---

9 MR. RECKENBEIL: Objection, Your Honor, anything
10 about the phone call is going to be hearsay.

11 THE COURT: Sustained.

12 Q. (By Mr. Anthony) And, so, where did you -- where
13 did you all head after -- after you went back to the -- the
14 hotel?

15 A. Where we went?

16 Q. Where did you head? Where did you go? What --
17 what ---

18 A. After we left the hotel?

19 Q. Yeah, where -- where did you go to?

20 A. We went -- we headed towards High Point.

21 Q. And who was driving then?

22 A. Mimi -- Miriam.

23 Q. And did you all go all the way to High Point?

24 A. No.

25 Q. Where did you go to?

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1 A. Thomasville.

2 Q. And, when you got to Thomasville, what happened
3 then?

4 A. Rode around forever looking for Street
5 (phonetic).

6 Q. Looking for Street?

7 A. Street.

8 Q. And why were you looking for Street?

9 A. Pat had family that lived in an apartment and they'd
10 been there for a long time.

11 Q. So, did you find Patrick's family eventually?

12 A. Uh-huh (affirmative).

13 Q. When you ---

14 A. Yes, sir.

15 Q. When you found Patrick's family, what -- what
16 happened then?

17 A. We helped Pat get his clothes out.

18 Q. Out of the trunk of the car?

19 A. Out of the trunk of the car.

20 Q. And did you hear Patrick saying anything at that
21 point in time?

22 A. Yes.

23 Q. And what -- what did you hear Patrick say?

24 A. I heard him say that there had been a robbery and it
25 went bad and somebody got shot.

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1 Q. And who was -- when he said this, who was he
2 addressing?

3 A. Michael.

4 Q. He was talking to Michael?

5 A. (Nods affirmatively.)

6 Q. But you could hear him say what he was saying?

7 A. (Nods affirmatively.)

8 Q. Okay.

9 THE COURT: Say "yes" or "no."

10 A. Yes, sir.

11 Q. (By Mr. Anthony) And how many -- how many other
12 people did Patrick say were -- were involved in the ---

13 A. Four (4).

14 Q. --- in the robbery?

15 Q. Four altogether?

16 A. Four altogether.

17 Q. And did he give you the names of any of them?

18 A. Just one.

19 Q. Who was the one named he gave you?

20 A. Derrick Ruff.

21 Q. And Derrick is the man that's -- is the father of
22 your child?

23 A. (Nods affirmatively.)

24 THE COURT: "Yes" or "no"?

25 A. Yes, sir.

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1 Q. (By Mr. Anthony) And what did he say about the
2 roles of the people involved? What -- did -- did he say who
3 did what?

4 A. He said that him, Patrick Rice, and Derrick Ruff
5 were standing outside when they heard the gunshot.

6 Q. So, he said that he ---

7 A. Neither one of them was the trigger man. That's how
8 he put it.

9 Q. And did you know Kelvin Davis, the man that was
10 killed?

11 A. No, sir.

12 Q. So, once you got to Thomasville, what was decided
13 about who would stay in Thomasville and who would go back to
14 Whitmire?

15 A. I was begging Mimi not to stay, but she wouldn't
16 come.

17 Q. And where did you leave her and -- and Patrick?

18 A. In Thomasville.

19 Q. So, where did you go at that time?

20 A. I went back to Whitmire.

21 Q. What happened? What did you ---

22 A. I found out that somebody had burnt my house down.

23 Q. What -- what happened when you got back to Whitmire?

24 A. My house had been burnt down.

25 Q. All right. Aside from that, what happened? What --

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1 what did you do?

2 A. I dropped ---

3 Q. What did you do with Michael?

4 A. I dropped Michael off on -- on Street,
5 so, he could change again. And, then, I dropped him off at
6 at the apartments. And then, I took Michelle's and Dooley's
7 (phonetic) car home.

8 Q. Okay.

9 A. And that's when they told us somebody burnt the
10 house down.

11 Q. And where did -- did you ever go talk to anybody in
12 law enforcement when you got back to Whitmire?

13 A. Yes.

14 Q. And where did you go to?

15 A. My house.

16 Q. All right. And were you able to speak to somebody
17 in law enforcement there? Was somebody from ---

18 A. He told me to give him a call as soon as it settled
19 down.

20 Q. And, so ---

21 A. He was in a black Jeep when he came over there.

22 Q. Okay. So, somebody came to talk to you?

23 A. Yes, sir.

24 Q. Okay. Where -- where -- where did you talk to law
25 enforcement about what had happened?

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1 A. It was on August 5th or 6th.

2 Q. Well, the date -- were you -- did you at some time
3 go to the sheriff's office?

4 A. Yeah, I went to the sheriff's office and -- they
5 talked to me at sixty-six (66) first. And, then, they went
6 and then, about twenty (20) minutes later they came back and
7 picked me up.

8 Q. And -- and took you to the sheriff's office?

9 A. (Nods affirmatively.)

10 Q. Okay. And -- and you gave a statement at that time?

11 A. (Nods affirmatively.)

12 THE COURT: "Yes" or "no"?

13 A. Yes, sir.

14 (Brief Pause)

15 Q. You did -- you did give a statement that Friday?

16 A. No, sir.

17 Q. All right. When did you give a statement?

18 A. I gave my statement on the 22nd of August.

19 Q. Okay. And that's -- that's -- that would be that
20 Friday, correct?

21 A. No -- well, yeah -- yeah, I guess it would have
22 been.

23 Q. Okay.

24 A. I just know my house burnt down on Thursday. I
25 didn't write a statement that day; I wrote it the next day.

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1 Q. Okay.

2 A. So, it would be Friday.

3 Q. Okay. All right. You gave -- you gave a statement
4 that Friday?

5 A. Yes, sir.

6 Q. Okay. I'm sorry, I didn't -- I didn't mean to
7 confuse you. You came back -- you came back to Whitmire on --
8 on Thursday -- late Thursday?

9 A. It was early time.

10 Q. Early Thursday?

11 A. Like 5:00 a.m.

12 Q. And, then, gave a statement the next day?

13 A. Yes, sir.

14 Q. All right. And you gave that statement to the
15 Newberry Sheriff's Office?

16 A. Yes, sir.

17 Q. Where -- where did you go -- go back to after you --
18 after you had given the statement? Where did you go stay?

19 A. I stayed in a motel room for two weeks.

20 (Brief Pause)

21 A. Since my house got burned down, they put me up in a
22 hotel.

23 Q. All right. And -- and, Ms. Braswell, you -- you
24 have been convicted of some criminal offenses; is that right?

25 A. Yes, sir.

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1 Q. In two thousand eight (2008), last year, you were
2 convicted of two counts of forgery and one count of grand
3 larceny; is that correct?

4 A. Yes, sir.

5 Q. And, then, in two thousand, six (2006) you were
6 convicted of shoplifting?

7 A. Yes, sir.

8 Q. And, then, you also, when you were a -- a juvenile,
9 you -- you had some convictions; is that correct?

10 A. Yes, sir.

11 Q. And in two thousand, three (2003), you were
12 convicted of grand and petit larceny and an auto break-in and
13 theft and possession of cocaine; is that right?

14 A. Yes, sir.

15 Q. And in two thousand, two (2002), you were convicted
16 of two counts of forgery, two counts of automobile theft, and
17 two counts of petit larceny ---

18 A. Yes, sir.

19 Q. --- is that right? Now, were you charged with
20 anything from this incident that you just testified about?

21 A. Yes, sir.

22 Q. What -- what were you charged with?

23 A. Accessory after the fact of murder.

24 Q. Okay. And -- and when was that?

25 A. On September the 3rd.

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1 Q. Okay. And that was after you gave your statement to
2 the police?

3 A. That's right.

4 Q. And the -- the case that you currently have been
5 charged with, that is still a pending case; is that right?

6 A. Yes, sir.

7 Q. You haven't been to court on it?

8 A. No, sir.

9 MR. ANTHONY: If I could have one moment.

10 (Brief Pause)

11 Q. Did you -- during -- during the time that this was
12 going on, in -- in the days -- during -- during that week of
13 August the 18th, did -- did you ever see Patrick with a -- a
14 wad of money, a lot of cash?

15 A. When was this?

16 Q. During -- during the time that you just testified
17 about, after -- after that Sunday night, when you were with
18 Patrick, did you ever see him with a quantity of cash?

19 A. Yes, sir. I mean, when you ask me about it, in
20 North -- in North Carolina and Clinton.

21 Q. Okay. So, when -- when you were in -- when you were
22 in Clinton?

23 A. Uh-huh (affirmative).

24 Q. All right. Well, how -- what did you see?

25 A. That's when I seen the weed.

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1 Q. Okay.

2 A. And the money situation came from when I got the
3 money from him to go to the hotel.

4 Q. Okay. Go to the ---

5 Q. When he paid for the hotel room.

6 Q. Which hotel room, the one in Charlotte or the
7 one ---

8 A. The two that I got.

9 Q. The two in Charlotte?

10 A. Uh-huh (affirmative).

11 Q. Okay. And, so, that ---

12 A. I mean, he had stacks.

13 Q. All right. Well that's what I'm asking. When --
14 when did you see the stacks -- the stacks of money, when did
15 you see them?

16 (Brief Pause)

17 A. Probably -- probably in -- in Clinton.

18 Q. All right. You think you saw them ---

19 A. Yeah, because I -- that -- that would be when it
20 would have been. I don't think I'd seen them before that.

21 Q. All right. So, you ---

22 A. I'm not for sure.

23 Q. All right.

24 A. But I'm just guessing.

25 Q. Well, I'm not asking you to guess. When -- when --

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1 when do you think it was most likely you saw stacks of money?

2 A. I would say at the Howard Johnson.

3 Q. At the -- at the Howard Johnson?

4 A. (Nods affirmatively.)

5 Q. Okay.

6 (Brief Pause)

7 MR. ANTHONY: Thank you. That's everything on
8 direct.

9 THE COURT: Cross examine?

10 MR. RECKENBEIL: Yes, sir.

11 CROSS EXAMINATION by MR. RECKENBEIL: 2:30 P.M.

12 Q. Ms. Braswell, are you okay? Do you need some water?

13 A. Hmmm, water, yeah.

14 Q. Okay.

15 (Brief pause while water is given to the witness.)

16 A. Thank you.

17 (Brief Pause)

18 Q. Ms. Braswell, is that how you pronounce your last
19 name?

20 A. Uh-huh (affirmative).

21 Q. I know it's not fun to come in and testify in court,
22 and, you know, I -- I wouldn't wish it upon anybody to have to
23 come in here.

24 When I was listening to your direct testimony, I've
25 counted about three times that you, in the matter of a couple

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1 of days, admitted to smoking marijuana ---

2 A. Uh-huh (affirmative).

3 Q. --- at those hotels?

4 THE COURT: "Yes" or "no."

5 A. Yes, sir.

6 Q. Okay. And I wouldn't be doing my job if I didn't
7 get up here and ask a couple questions because, you know, your
8 eyes are bloodshot and you're a little bit ---

9 MR. ANTHONY: Well, I object to that. I mean,
10 that's not ---

11 A. Yeah, I ---

12 THE COURT: Wait a minute, ma'am.

13 MR. ANTHONY: I just object to him -- to the
14 Defense attorney making comments about the witness's
15 appearance.

16 MR. RECKENBEIL: Well ---

17 MR. ANTHONY: That's not a question.

18 THE COURT: Well, ask your question.

19 Q. (By Mr. Reckenbeil) Ma'am, have you had any sort of
20 illegal drugs before you came to court this morning?

21 A. No, sir.

22 Q. Today?

23 A. No, sir.

24 Q. Last night?

25 A. No, sir.

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1 Q. Okay.

2 A. I'm on probation.

3 Q. Well, that was going to be my next question.

4 A. Well, I answered it for you.

5 Q. Yeah, back in two thousand and eight (2008), on July
6 2nd, you were convicted of -- for forgery ---

7 A. Convicted, yeah.

8 Q. --- and grand larceny? And the judge gave you a 15-
9 month probationary sentence; isn't that true?

10 MR. ANTHONY: I object to that as irrelevant.

11 MR. RECKENBEIL: Judge ---

12 THE COURT: Is -- is ---

13 MR. RECKENBEIL: --- it goes to ---

14 THE COURT: Come up here and tell me why it's
15 relevant.

16 (Whereupon, a bench conference was had with both
17 attorneys present.)

18 Q. (By Mr. Reckenbeil) Ms. Braswell, do you realize,
19 if you commit another crime while on probation, you could be
20 revoked?

21 A. (Nods affirmatively.)

22 Q. And when I use the term, "revoked," ---

23 A. Yes, sir.

24 Q. --- do you know what that means?

25 A. Do I know what "revoked" means?

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1 Q. Right, if they revoke your probation?

2 A. Yes, sir.

3 Q. What would happen to you if your probation was
4 revoked?

5 A. I would go to jail for eleven (11) months.

6 Q. Okay. Did you not receive a five-year suspended
7 sentence?

8 A. Yes, but -- well, my -- my old probation officer
9 told me that it wouldn't -- it wouldn't be like ninety (90)
10 days or anything like that. It would just be eleven (11)
11 months straight and that would be it.

12 Q. Okay. Did you have a hearing to revoke your
13 probation when you were arrested for accessory after the fact
14 of murder?

15 A. I was not arrested for accessory after the fact.

16 Q. You been charged with that, haven't you, ma'am?

17 A. I confessed to smoking marijuana.

18 Q. Okay.

19 A. My probation officer asked me, "Could I take a drug
20 test?" And I -- I had been on probation for ten (10) months.
21 And I told him, "No, I could not pass it."

22 So -- and I had a problem with that. So, instead of
23 him sending me off to jail, he got me some help.

24 Q. He got you what?

25 A. He got me help.

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1 Q. Okay.

2 A. Like alcohol -- drug and alcohol help.

3 Q. All right. So, you freely admit that you've used
4 drugs while on probation?

5 MR. ANTHONY: Well, I -- I object to that.

6 A. When ---

7 THE COURT: Wait a minute. There's been an
8 objection.

9 A. When I got caught --

10 THE COURT: Wait a minute.

11 MR. RECKENBEIL: Hold on.

12 THE COURT: Sir?

13 MR. ANTHONY: It is irrelevant. That question is
14 too overly broad. What she did during the time she testified
15 about would be relevant; just to say, "You used drugs while
16 you were on probation," is not relevant.

17 THE COURT: Well, forget about the word, "freely"
18 because I don't know what that means. And she might not know
19 and we all might have a different opinion of that.

20 I'll let him ask her if she used drugs during
21 probation. I think she already said she did.

22 MR. RECKENBEIL: Yes, sir.

23 THE COURT: Okay. She said she did. All right.
24 Move on.

25 Q. (By Mr. Reckenbeil) So, you realize that you have

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1 been charged by the State of South Carolina for accessory
2 after the fact of murder in this case?

3 A. Yes, sir.

4 Q. Do you realize that a conviction of that could
5 violate your probation?

6 A. Yes, sir.

7 (Brief Pause)

8 Q. Did you have any sort of conversations with any
9 officers or anybody, any law enforcement; be it a solicitor,
10 be it a probation agent, be it a sheriff's officer, be it a
11 sheriff's deputy, anybody, in regards to the fact of you
12 testifying or you giving a written statement, in exchange for
13 you not being violated for your probation?

14 A. The written statement part, yes, sir.

15 Q. Tell me about it.

16 A. Robert Epps (phonetic) down in Newberry, he promised
17 me and my mother that if I just told him where Pat and Miriam
18 was at, that I would not go to jail or get in no trouble.
19 But, as far as testifying, no.

20 Q. Okay. Thank you.

21 A. But along, yes.

22 MR. RECKENBEIL: All right. Thanks.

23 THE COURT: Redirect?

24 REDIRECT EXAMINATION by MR. ANTHONY: 2:35 P.M.

25 Q. When -- when you gave that -- that statement, you

1 were -- you were just asked to tell where Pat and Miriam were?

2 A. Yes, and -- and tell what we did and that type of
3 thing.

4 Q. Okay. And, so, you -- you gave a statement
5 telling ---

6 A. Uh-huh (affirmative).

7 Q. --- telling where they were and what you did?

8 A. Uh-huh (affirmative).

9 Q. And ---

10 A. Yes, sir.

11 (Brief Pause)

12 Q. And... When Rob Epps talked to you, you weren't --
13 you hadn't been charged with anything in regard to this ---

14 A. And neither -- and neither had Pat or Derrick.

15 Q. Okay. All right. But you -- you're saying that you
16 were on probation.

17 A. Uh-huh (affirmative).

18 Q. And -- and what did Rob Epps tell -- tell you with
19 -- with ---

20 A. "Well, you know we can violate your probation if --
21 if such and such happens and these people say this or that and
22 we can tie you up in the middle of it because you've got the
23 hotel room with your money. You went to North Carolina. So
24 we can violate you."

25 Q. Okay. And you had done those things?

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1 A. Huh?

2 Q. You had done those things, right?

3 A. Yes, sir.

4 Q. And you don't deny doing those things?

5 A. Yes, sir, I don't deny it.

6 Q. Okay. But, at the same time, you went ahead and
7 gave them a statement?

8 A. Yes, sir, I did.

9 (Brief Pause)

10 Q. And you had never -- at the time -- at the time you
11 gave that statement, you had never -- you had never been
12 approached about being -- being here to testify or anything
13 along those lines?

14 A. No, sir.

15 Q. Correct?

16 A. No, sir.

17 Q. Nobody -- nobody ever asked you to testify?

18 A. No, sir.

19 Q. All -- all anybody wanted was they wanted to
20 know ---

21 A. They just wanted me to sign a piece of paper and
22 that was it.

23 Q. Well ---

24 A. They told me I wouldn't have to do this.

25 (Brief Pause)

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1 Q. Well, did you actually write your statement?

2 A. No.

3 Q. You didn't write it?

4 A. No.

5 Q. Someone wrote it, but you told them -- well, how did
6 they know what to put in the statement?

7 A. Well, we -- we talked the day my house burnt down.

8 Q. Uh-huh (affirmative).

9 A. And they wrote it.

10 Q. Okay.

11 A. I didn't sign anything.

12 Q. Well ---

13 A. The next day, that's when I wrote my statement and
14 signed it.

15 Q. All right. And you wrote it? That's when you wrote
16 the statement?

17 A. Uh-huh (affirmative).

18 Q. Okay. So --

19 THE COURT: "Yes" or "no"?

20 A. Yes, sir. I'm sorry.

21 Q. So, the document that I'm handing up ---

22 (Document handed to witness.)

23 Q. -- that's what you wrote?

24 A. Yes, sir.

25 Q. Okay. And you -- you wrote that in your own

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1 handwriting, correct?

2 A. Yes, sir.

3 Q. All right. And is that -- what's in that statement,
4 is that what you said or is that what somebody told you to
5 say?

6 A. I mean, it's -- it's -- it's what I said. But they
7 stopped me a couple of times and said, you know, "What about
8 this part?"

9 Q. Okay. But -- but the stuff that they were stopping
10 to -- to tell you about, that's the stuff that you had ---

11 A. Already stated.

12 Q. --- you had already told them? Okay.

13 A. Yes, sir.

14 Q. And -- and the things that you told them, were they
15 true?

16 A. Yes, sir.

17 Q. Okay. So -- so, in spite of the fact that -- that
18 they had offered not to have you reported for probation, you
19 didn't -- you didn't tell them something that wasn't true?

20 A. (Shakes head negatively.)

21 Q. Is that -- you need to say "yes" or "no."

22 A. I didn't say -- repeat the question again and I'll
23 answer it right.

24 Q. Was everything you told them true?

25 A. Yes, everything I told them was true.

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1 (Brief Pause)

2 Q. And you were -- you were revoked on your probation;
3 is that right?

4 A. Sir?

5 Q. You were revoked on your probation; is that correct?

6 A. Uh-huh (affirmative). Yes, sir.

7 Q. I mean, you -- you stayed out of jail?

8 A. Yes, sir.

9 Q. Okay. So, what they had offered to do for you,
10 when you gave a statement, that's been done?

11 A. (No Response)

12 Q. Is that correct?

13 A. Uh-huh (affirmative). Yes, sir.

14 Q. Okay. So -- all right.

15 MR. ANTHONY: If I could have a moment.

16 (Brief Pause)

17 Q. And, in that statement, Ms. Braswell, is it true
18 that you -- you told the police that Patrick told you that
19 Derrick Ruff was there and that he was not the trigger person
20 and Patrick said they were outside when they heard the
21 gunshots;

22 Three stacks of money. And Derrick Ruff is also
23 called Black; that the Black that went to North Carolina his
24 name is David Jeter (phonetic)? Is that what you said ---

25 A. Did I not -- did I put "Black Jesus" instead of

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1 "Black"?

2 Q. Well, I'll -- I'll let you ---

3 A. Because those are two different ----

4 Q. --- look at it.

5 (Document handed to witness.)

6 A. But, yes, that's what I said, yeah.

7 (Brief pause while witness examines document.)

8 A. Where?

9 Q. Right at the bottom?

10 A. Oh, yeah.

11 Q. All right.

12 A. There's a couple of "Jesuses," David and Derrick.

13 Q. That was to make sure that it was distinguished
14 between David Jeter and ---

15 A. Yeah.

16 Q. --- Derrick Ruff?

17 A. That was one of the things they told me to put in
18 there.

19 Q. All right. And that -- that was true when you wrote
20 this; is that correct?

21 A. Yes, sir.

22 Q. And that is still valid?

23 A. Yes, sir.

24 MR. ANTHONY: Thank you. That's all on redirect.

25 MR. RECKENBEIL: Nothing further, Your Honor.

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1 THE COURT: Thank you, ma'am. You may step down.

2 (Whereupon, the witness stepped down from the
3 witness stand at 2:43 p.m.)

4 THE COURT: Call your next witness.

5 MR. ANTHONY: We'd call Investigator Riddle.

6 THE COURT: Come around, please, sir.

7 (Witness stepped forward to be sworn.)

8 THE COURT: Put your left hand on the Bible and
9 raise your right.

10 (Whereupon,

11 INVESTIGATOR KENNETH RIDDLE

12 having been first duly sworn, testified as follows:)

13 THE COURT: Have a seat there and state your full
14 name, please.

15 THE WITNESS: Kenneth Riddle.

16 DIRECT EXAMINATION by MR. ANTHONY:

2:43 P.M.

17 Q. Mr. Riddle, how are you employed?

18 A. With the Union County Sheriff's office.

19 Q. And how long have you worked with the sheriff's
20 office?

21 A. Forty-three (43) years.

22 Q. What is your position there?

23 A. I'm an investigator.

24 Q. How long have you been an investigator?

25 A. About nine (9) years.

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1 Q. Were you working as an investigator back on August
2 the 18th of last year?

3 A. Yes, sir, I was.

4 Q. Did you become involved in a -- an investigation of
5 an incident on ?

6 A. Yes, sir, I did.

7 Q. And how -- how did you become involved in that
8 incident?

9 A. I was the investigator on call that -- that weekend,
10 and I was called to the scene by dispatch that night.

11 Q. And, when you arrived there, what was going on?

12 A. When I arrived, I found a lot of people outside the
13 home. I had already heard some previous traffic about some
14 people around the home. When I got there, I talked to -- to
15 the deputies on the scene to find out exactly what was
16 happening.

17 Q. And who did you go to -- who was the first person
18 that was there that you wanted to speak about actually what
19 had happened?

20 A. Sergeant Dean Gibson (phonetic).

21 Q. And did he advise you what he had been told?

22 A. Yes, sir, he did.

23 Q. All right. And, after you talked to Sergeant
24 Gibson, who did you talk to?

25 A. I talked to one of the victims, who was Tinsley

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1 Davis, who was a resident of the home.

2 Q. And what did Ms. Davis state to you when you talked
3 to her?

4 A. She was very upset. It was hard for her to talk and
5 tell what had happened. She was crying and very, very upset.

6 Q. Did you try to get an account of the incident from
7 her?

8 A. Yes, sir. We got some bits and pieces about what
9 had happened, about who the suspects were, a description of
10 the suspects, anything that would be helpful to try to
11 identify who the people were.

12 Q. After you spoke to Ms. Davis, what was the next
13 thing you did in working -- in response to the homicide?

14 A. We started looking around the residence to see if
15 there was anything that could be evidence left behind by the
16 suspects or any evidence of -- of what had happened.

17 Q. And, when you did that, were you -- did you find
18 anything? Did you see anything that you thought had any
19 relevance?

20 A. Yes, sir. There was a large amount of blood inside
21 the home that it looked -- as though it appeared that the
22 trail -- the blood started down in the garage/carport area
23 that was attached to the home.

24 And, then, the blood trail led up into the kitchen
25 and then into the dining room of the home.

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1 Q. When you went into the garage area, where the blood
2 trail seemed to start -- is that correct?

3 A. Yes, sir.

4 Q. When you went -- when you went into that area, what
5 -- what observation did you make there at the garage?

6 A. Well, it looked like it was in disarray; that there
7 had been some -- maybe some type of struggle. There was
8 furniture that was inside the garage that was turned over.

9 Things were scattered out. There were bags and
10 boxes that were scattered around inside the garage area.

11 Q. I'm -- I'm going to show you ---

12 (Off-the-Record Discussion)

13 Q. --- I'm going to show you Exhibits 18, 16, and 21.
14 I'd ask if you can identify those photographs, please.

15 (Brief pause while witness reviews document.)

16 A. Yes, sir, I do recognize these photos.

17 Q. What are those pictures of?

18 A. Those are photos. Number 18 is on the inside of the
19 garage. Number 16 is on the inside of the garage. And number
20 21 is -- it was taken from inside the kitchen into the garage.

21 Q. Okay. And do those fairly and accurately depict the
22 appearance of the home that night?

23 A. Yes, sir.

24 MR. ANTHONY: We'd move 16, 18, and 21 into
25 evidence.

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1 THE COURT: Subject to the prior objection, they
2 are admitted.

3 MR. RECKENBEIL: Yes, sir.

4 MR. ANTHONY: I'd ask to publish them at this time.

5 THE COURT: All right, sir.

6 (Whereupon, State's Exhibit Numbers 16, 18 were
7 admitted into evidence over objection and State's 21 was
8 admitted into evidence without objection.)

9 (State's 21 shown on overhead.)

10 Q. All right. We've got Number 21 on the projector.
11 What is that a shot of?

12 A. That is a shot of looking down into the garage area
13 from the kitchen area.

14 Q. Okay. And -- an I'm going to show you now Exhibit
15 Number 16.

16 (State's 16 shown on overhead.)

17 Q. What is that a photograph of?

18 A. That is inside the garage area looking back toward
19 the back wall of the garage.

20 Q. All right. So, this chair right here (indicating),
21 on Exhibit Number 16, does -- does that correlate with any
22 chair on Exhibit Number 21?

23 A. Yes, sir. That is the chair that you see straight
24 ahead.

25 Q. This one right here (indicating)?

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1 A. Yes, sir, right there.

2 Q. Okay. So, if you were -- if you were to take this
3 picture right here (indicating), and you -- what direction are
4 you're standing and shooting to get ---

5 A. Right.

6 Q. --- to get -- to take this picture right here
7 (indicating), where -- where would you be on that picture
8 right there (indicating)?

9 A. Back in this area of the garage (indicating).

10 Q. All right. What direction did you shoot?

11 A. From this -- from this direction (indicating)?

12 Q. From -- yeah, from that photo?

13 A. I would shoot straight in from the kitchen in
14 through -- that's a storm door, with a latch on it, straight
15 into the garage.

16 Q. All right. And, then, this wall -- this wall that
17 you see on Exhibit 20 -- on Exhibit 16, this wall right here
18 (indicating), where -- where is it in relation to Exhibit 21?

19 **(Brief Pause)**

20 A. Where -- where -- what's the question?

21 Q. This wall ---

22 A. Rephrase your question.

23 Q. I'm sorry. This wall right here (indicating) ---

24 A. Okay.

25 Q. -- and that wall right there (indicating) where --

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1 where would that be? Where would you see that if you were --
2 looking at Exhibit 21, where would it be in relationship to
3 21?

4 A. You couldn't see it from this -- this angle, but it
5 would be back here (indicating), back toward the back.

6 Q. Okay. All right. And, then, I'm -- I'm going to
7 show you Exhibit Number 18. And what is that a photo of?

8 A. That is also taken on the inside of the garage.

9 Q. All right. And is that ---

10 A. From the back door -- from the back wall.

11 Q. Okay. So, this wall right here (indicating), on
12 Exhibit Number 18, is the same as this wall (indicating) on
13 Exhibit Number 16; is that -- is that correct?

14 A. Yes, sir.

15 Q. All right. Now, I'll go -- staying with Exhibit
16 Number 16, where -- where did you see the greatest
17 accumulation of blood in the garage?

18 A. Right there (indicating) is where actually where it
19 looked like the blood trail began right there (indicating).

20 Q. And that would be sort of the corner area?

21 A. Yes, sir. It was in this corner right here
22 (indicating), right there in the very direct corner.

23 Q. And, as you were in the garage, taking the photos
24 and collecting evidence, did you find anything else that would
25 be relevant to a -- a shooting case?

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1 A. Yes, sir, I did.

2 Q. And what was that?

3 A. I found a bullet slug from a -- from a -- a gun.

4 Q. All right. And I'll show you -- go back to Exhibit
5 Number 18.

6 (State's 18 shown on overhead.)

7 Q. Can you use Exhibit Number 18 to give the jury an
8 idea of where you found the slug?

9 A. It would be back in this area (indicating) right
10 here near the table on the floor.

11 Q. I'm going to show you now Exhibit Number 17 for
12 identification and if you can identify that?

13 (State's 17 shown on overhead.)

14 A. Yes, sir.

15 Q. And what is that a picture of?

16 A. That is the bullet slug that I located inside the
17 garage floor that night.

18 Q. All right. And is that -- is that the slug in the
19 location where you found it?

20 A. Yes, sir. I took it directly where -- where it was.

21 Q. All right.

22 MR. ANTHONY: All right. We'd move 17 into
23 evidence.

24 MR. RECKENBEIL: No objection, Your Honor.

25 (Whereupon, State's Exhibit Number 17 was admitted

1 into evidence without objection.)

2 Q. And maybe a better -- a better way to let you
3 explain where the slug was, I'll show you Exhibit 16.

4 (State's 16 shown on overhead.)

5 Q. And, if you would, can you -- can you give the jury
6 some idea on Number 16 where you found it?

7 A. Around this area right here (indicating) near the
8 table. The table is right there (indicating); it was down
9 here in this area on the floor (indicating).

10 Q. All right. And, then, did you -- did you do
11 anything to -- to secure the slug?

12 A. Yes, I did. I -- I took it into evidence and
13 packaged it up.

14 (Brief pause while Mr. Anthony retrieves exhibit.)

15 Q. I'm -- I'm showing you what has been marked for
16 identification as a State's Exhibit Number 15.

17 (Exhibit handed to witness.)

18 Q. I'd -- I'd ask that you -- you pull that item out
19 from that envelope and see if you recognize it.

20 (Witness complied with request.)

21 A. Yes, sir, I do recognize it.

22 Q. And what is that?

23 A. That is the bullet slug that I found on the floor
24 inside the garage.

25 Q. And what did you do with that slug once you

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1 recovered it?

2 A. I packaged it inside this packet for evidence.

3 Q. All right. And did you put any markings on the
4 pouch to identify where you found it?

5 A. Yes, sir, I did. I put a description of the
6 location, "Garage on the -- on the side of the home at 147
7 , on the floor."

8 Q. And does the slug appear to you to be in the same
9 condition it was in when you recovered it?

10 A. Yes, sir.

11 MR. ANTHONY: All right. We would move Exhibit 15
12 into evidence.

13 MR. RECKENBEIL: No objection, Your Honor.

14 THE COURT: Admitted without objection.

15 (Whereupon, State's Exhibit Number 15 was admitted
16 into evidence without objection.)

17 Q. And did you make any examination after you -- after
18 recovered the slug of the garage? Did you -- did you make any
19 other examination of the garage? Was there anything else in
20 the garage?

21 A. Yes, sir. I was looking for anything else that may
22 be of -- of use as evidence, inside the garage, particularly
23 maybe a bullet casings or -- or anything else.

24 Q. And were you able to find any casings that night?

25 A. Not -- not that night, no.

1 Q. After -- after you did your examination of the
2 garage, did you look anywhere else for evidence?

3 A. Yes, sir. We looked all through the house. Tinsley
4 had -- had already told us that -- that she had been tied up.

5 I went to the bedroom and I found the bed sheet and
6 the red T-shirt she said she was tied up with and I
7 photographed those.

8 Q. All right. And did you also collect those for
9 evidence?

10 A. Yes, sir.

11 Q. All right. And those were the items that were put
12 into evidence yesterday?

13 A. Yes, sir.

14 Q. Okay. Did you do anything else after that?

15 A. On the outside of the home. It was told to us that
16 Kelvin Davis was sitting inside a vehicle; went to the vehicle
17 and looked around.

18 When I first got there, the radio was still on
19 inside the vehicle. It was still on. I turned the switch off
20 on the inside. It was on accessory where the radio would be
21 playing.

22 I turned it off. And I got a -- a fingerprint kit
23 to dust the car to see if I could find any latent prints on
24 the car.

25 Q. All right. Were you able to find any fingerprints

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1 in the car?

2 A. Only smudges and smears. Nothing that was of any
3 value to identify.

4 (Brief Pause)

5 Q. Was there any other evidence found in proximity to
6 the car?

7 A. Yes, sir. Located nearby the car was a white
8 cordless phone. Also we had learned through Tinsley that
9 Kelvin had the cordless phone from the home in the vehicle
10 with him. And that appeared to be the cordless phone that
11 came from the house. And it was on the sidewalk outside the
12 car.

13 (Brief Pause)

14 Q. I'm showing you what has been marked for
15 identification as Exhibit Number 13.

16 (Exhibit handed to witness.)

17 Q. I'd ask, if you would, take a look at that and see
18 if you can identify it.

19 (Witness complied with request.)

20 A. Yes, sir, I do.

21 Q. All right. What is that, Lieutenant?

22 A. This is the cordless telephone that was seized as
23 evidence that was found in the yard of

24 Q. Is that appeared to be in the same condition it was
25 that night when you recovered it?

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1 A. Only there is some finger print -- print powder that
2 I put on there just to try to find prints. But, other than
3 that, it is in the same condition.

4 MR. ANTHONY: We'd move the Exhibit Number 13 into
5 evidence.

6 MR. RECKENBEIL: No objection, Your Honor.

7 THE COURT: Admitted without objection.

8 (Whereupon, State's Exhibit Number 13 was admitted
9 into evidence without objection.)

10 Q. Well, I would -- let me just ask you a couple more
11 things about the phone. Was there -- you can -- you can take
12 this out. Was there anything missing from the phone when you
13 recovered it?

14 A. Yes, sir. The -- the battery was missing from
15 inside it.

16 Q. All right. So, it was recovered with the battery
17 gone?

18 A. Yes, sir, it was.

19 Q. All right. You can just -- just take it out and let
20 the jury see it.

21 A. Yes, sir. It was in two different pieces and the
22 battery was -- was missing.

23 Q. All right. Thank you. You can go ahead and put it
24 back up.

25 (Witness complied with request.)

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1 Q. And you found -- you could not find any usable
2 prints on the phone?

3 A. No, sir.

4 Q. Now, was there anything else that you did as far as
5 trying to process the crime scene that night?

6 A. I took photographs of the -- of the scene, of inside
7 the garage and also the inside of the kitchen and the bedroom.

8 Q. Okay. All right. Did you get any -- any more
9 information later that made you go back out into the scene the
10 next day?

11 A. Yes, sir. The next morning, crime scene clean-up
12 was called. It was called through the Michelle Shugart
13 (phonetic), the victims' advocate, to go to the scene to clean
14 it up because of such -- the amount of blood that was there.

15 And, at that time, Deputy Jeff Wright (phonetic)
16 went back to the scene with the crime -- the crime scene
17 clean-up. And he called me, at some point that morning, and
18 said that he found some evidence out there. And I went back
19 to the scene and located a bullet casing.

20 Q. And did you do anything to document the location of
21 the bullet casing?

22 A. I did take a photo of it and collected it as
23 evidence.

24 (Brief pause while Mr. Anthony retrieves exhibits.)

25 Q. All right. I'm showing you Exhibit Number 20 and

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1 Number 19 and ask you if you can identify those photos.

2 (Exhibits handed to witness.)

3 A. Yes, sir, I can.

4 Q. All right. What -- what are those pictures of?

5 A. Those are photos I took of the bullet casing on the
6 floor inside the garage.

7 Q. And do they -- do they fairly and accurately depict
8 where you found the casing?

9 A. Yes, sir.

10 MR. ANTHONY: All right. We would move 19 and 20
11 into evidence.

12 (Brief pause while exhibits shown to Mr.
13 Reckenbeil.)

14 MR. RECKENBEIL: Yeah, no objection, Your Honor.

15 THE COURT: Admitted without objection.

16 (Whereupon, State's Exhibit Numbers 19 and 20 were
17 admitted into evidence without objection.)

18 Q. All right. I'm going to show you Number 19.

19 (State's 19 shown on overhead.)

20 Q. And can you point out where the casing is in that
21 photo?

22 A. Right there (indicating).

23 Q. All right. And can you show the jury -- kind of
24 give them a frame of reference going back to Number 18 --
25 where -- where the casing was located?

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1 (State's 18 shown on overhead.)

2 A. It would be over in this area (indicating), which
3 wouldn't show in this photo exactly, but it would be over in
4 this area right here (indicating) on the floor.

5 Q. All right.

6 A. It's hard to tell, but there's -- there's two car
7 wheels. You can see in the photograph right up under the
8 table. And the bullet casing was over near the other one.

9 You can see one wheel there (indicating) and there
10 was another one under the table. It was over near the other
11 wheel.

12 Q. Okay. All right. So, this -- this wheel right
13 here, that's in that picture (indicating), it's -- it's not
14 one of these wheels?

15 A. No, sir. It is not the same wheel. There's another
16 one right here (indicating).

17 Q. Okay. All right. And, then, I'm showing you Number
18 20. And I'd ask what is that a picture of?

19 (State's 20 shown on overhead.)

20 A. That is the bullet casing that we recovered.

21 Q. All right. Now, did you do anything to secure the
22 shell casing?

23 A. Yes, sir. I collected it as evidence and packaged
24 it up.

25 (Brief pause while Mr. Anthony retrieves exhibit.)

1 Q. All right. I'm showing you what's been marked for
2 identification as Exhibit Number 14. I'd ask if you could
3 identify that item.

4 (Exhibit handed to witness.)

5 A. Yes, sir, I can identify it.

6 Q. All right. What -- what is that?

7 A. That is the bullet casing that we collected as
8 evidence in -- on the garage floor at .

9 Q. And does it -- does it appear to be in the same
10 condition it was in when you took a that day ---

11 A. Yes, sir.

12 Q. --- August -- the 18th of August of two thousand,
13 eight (2008)?

14 A. Yes, it does.

15 Q. And did you do anything to -- to secure it?

16 A. I put it inside this package (indicating) and sealed
17 it up.

18 Q. All right. Did you do anything to mark on the back
19 indicating where you had gotten it on the floor?

20 A. Yes, sir, I did. I put the date we recovered it, 8-
21 18-08, recovered by myself and Deputy Ken Wright. And I
22 identified what it was.

23 MR. ANTHONY: All right. Your Honor, we would move
24 14 into evidence.

25 MR. RECKENBEIL: No objection, Your Honor.

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1 THE COURT: Admitted without objection.

2 (Whereupon, State's Exhibit Number 14 was admitted
3 into evidence without objection.)

4 Q. And, if you would, keep that out just a second,
5 Investigator. What -- what type of casing is that?

6 A. It's a nine (9) millimeter.

7 Q. And, just to -- just to clear it up, a nine (9)
8 millimeter casing, what kind of weapon would fire that?

9 A. An automatic weapon.

10 Q. All right. What -- what type of automatic weapon?

11 A. An automatic pistol.

12 Q. A pistol? Okay. All right. Now, after -- I don't
13 know where we'll put it. I was going to put Number -- Number
14 14 on the overhead.

15 (State's 14 shown on overhead.)

16 Q. Just publishing Number 14 to the jury. And I'll
17 take Number 15, the slug, and publishing that to the jury.

18 (State's 15 shown on overhead.)

19 Q. All right. Now, as of the 18th of -- of August,
20 after this incident occurred, and you had gone and processed
21 the crime scene, was -- was there any suspect out there at
22 that time for you all investigators trying to solve the case?

23 A. No, sir, none at that time.

24 Q. And when -- when did you develop some -- some people
25 that you wanted to talk about this incident?

1 A. It was late Wednesday afternoon. I had already got
2 off work and was home and I got a call from Captain Wesley
3 Bolin (phonetic) from the Newberry County Sheriff's Office
4 that one of his deputies who -- by the name of K. Epps, had
5 gotten some information ---

6 MR. RECKENBEIL: Well, objection, Your Honor.
7 Anything that he's going to say is going to be hearsay.

8 Q. Well, without -- without telling what you were told,
9 after receiving that information, who were you looking to
10 speak to?

11 A. We were looking to speak to Patrick Rice and Michael
12 Rice.

13 Q. And, as a -- as a practical issue, were you able to
14 find them?

15 A. No, sir.

16 Q. And were efforts made to find them?

17 A. Yes, sir. We went to Newberry County, and along
18 with Newberry County deputies, we went to several locations in
19 Newberry to try to locate them and were unsuccessful in
20 locating them.

21 Q. Okay. This is on Wednesday, the 20th?

22 A. Wednesday, the 20th, yes, sir.

23 Q. Now, in regards to Michael Rice, what happened on
24 Thursday, the 21st?

25 A. That was -- the 21st? On the 23rd I had some contact

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1 with Michael Rice.

2 (Brief pause while Mr. Anthony retrieves document.)

3 Q. Well, I'm going to hand up this document and ask if
4 that would refresh your recollection about some contact with
5 Michael Rice?

6 (Document handed to the witness.)

7 Q. If you would, look at the date on it.

8 (Brief pause while witness examines document.)

9 A. Yes, sir, that's the 21st.

10 Q. Okay. So, that's -- that's his -- I just showed you
11 Mr. Rice's statement; is that correct?

12 A. Yes, sir.

13 Q. And that's dated August 21st?

14 A. Yes, sir.

15 Q. Okay. Thank you. All right. That's when you went
16 to Newberry and talked to him; is that correct?

17 A. Newberry County Jail, yes, sir.

18 Q. All right. And, at that time, what -- what had Mr.
19 Rice been charged with?

20 A. Michael Rice, he had been charged with some drug
21 charge in Newberry County, or -- or Whitmire, one of the two,
22 at the time.

23 Q. So, he hadn't been charged with anything in
24 connection with this -- this homicide in Union?

25 A. No, sir.

PAMELA FAUCETTE, CVR - PHONE: 864-574-9534 CELL: 336-260-2864

1 Q. And did you take a statement from Mr. Rice?

2 A. Yes, sir, I did.

3 Q. From Michael Rice?

4 A. From Mike? Yeah.

5 Q. And how was that statement taken, just what was the
6 procedure you used to take that statement?

7 A. I wrote the statement for him. I asked him did he
8 want to write it himself. He, then, stated that, no, he
9 wanted me to write it for him. And he told me what to write.

10 Q. Now, the -- the next day was there -- did you
11 receive some information from Sierra Braswell, some
12 information concerning an interview with Sierra Braswell?

13 A. Yes, sir. I had a conversation with Dep -- Robert
14 Dennis (phonetic), from the Newberry County Sheriff's office,
15 that he had talked with Sierra.

16 Q. And had he taken a statement from her?

17 A. Not at that time he hadn't.

18 Q. Okay. Okay.

19 A. Not a written statement, only verbal at the time.

20 Q. All right. Well, after -- after you became aware of
21 the -- the information Sierra Braswell provided Newberry
22 County, along with what you had been told by Michael Rice,
23 what did you do then?

24 A. At that time, I came to talk to the Magistrate to
25 get warrants by Patrick Rice.

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1 Q. All right. And -- and did you get a warrant for
2 anybody else besides Patrick Rice?

3 A. Miriam Dickert.

4 Q. All right. And did you get a ---

5 A. And also -- and also Derrick Ruff.

6 Q. All right. At this time, had you gotten the warrant
7 for Ms. Dickert already?

8 A. No, sir. Not at that time I hadn't. But, with the
9 information I got later on, I -- I was able to get the warrant
10 for her.

11 Q. Okay. So that -- that Friday, you had warrants
12 taken for Mr. Rice and Mr. Ruff?

13 A. Yes, sir.

14 Q. Is that correct?

15 A. Right.

16 Q. And nobody else?

17 A. Now, that Friday I did get a warrant for Sierra
18 Braswell -- not -- I'm sorry, Miriam Dickert.

19 Q. Okay.

20 A. And the reason I done that was I had information
21 that Miriam was with Patrick and they were somewhere else at
22 the time.

23 Q. Okay. All right. And what did you do after you --
24 -- after you meeting with the -- the Magistrate to sign those
25 warrants, what did you do?

PAMELA FAUCETTE, CVR - PHONE: 864-574-9534 CELL: 336-260-2864

1 A. I put those warrants in the NCIC, which is the
2 National Crime Information Center computer, and asked that
3 they be wanted persons.

4 Q. And did you do anything -- did you make contact with
5 any law enforcement agencies in North Carolina in an attempt
6 to find Mr. Rice?

7 A. Yes, sir, I did. I talked to an investigator in
8 Thomasville, North Carolina, after information was received
9 that Patrick and Miriam were in Thomasville.

10 I talked to an investigator to go to that location
11 on Street to try to locate them and also here in
12 Whitmire.

13 Q. All right. And -- and that was based on information
14 you got from Ms. Braswell?

15 A. Yes, sir.

16 Q. Okay.

17 A. And also Michael Rice.

18 Q. All right. So, after these warrants go in the
19 system -- so -- so, you were trying to make it possible to
20 arrest Mr. Rice that Friday, what was the next thing that
21 happened in your -- in your investigation of the case?

22 A. We received information from Newberry County
23 Sheriff's Office again that Laquidra Eigner had came into
24 their office and they had interviewed her about the case too.

25 Q. All right. And, then, did you speak to Ms. Eigner

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1 personally at that time?

2 A. Not at that time.

3 Q. All right. What -- what was the next thing -- that
4 was the next thing that happened after that?

5 A. There was information gathered from Newberry County
6 Sheriff's Office at Laquidra and Derrick Ruff had been to
7 Converse, Georgia, in a motel, and they gave the motel name
8 and room number.

9 And I contacted Banks County, Georgia, which was the
10 jurisdiction this motel was in, to go to the motel to see if
11 they could locate Derrick Ruff.

12 Q. All right. And was that out of the ordinary to do
13 that?

14 A. They did go to the motel, but Mr. Ruff was not at
15 the motel.

16 (Brief Pause)

17 Q. And what was -- what was the next thing that you did
18 after that?

19 A. We started -- well, we went back also and contacted
20 Sierra Braswell and got a written statement from her. And
21 Robert Dennis, when he first talked to her, he didn't get a
22 written statement. So, he went back and got another statement
23 from her, which was a written statement from her.

24 Q. All right. And that was that Friday?

25 A. Yes, sir, I think that's correct.

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1 Q. All right.

2 A. I'm not sure of the date.

3 Q. All right. And were you -- were you present for
4 that statement?

5 A. No, sir, I was not.

6 Q. Okay. All right. And, so, Newberry supplied you
7 with that statement?

8 A. Yes, sir, they did.

9 Q. All right. And -- and after that, what happened
10 after that?

11 A. I took the evidence that we collected from the
12 scene, along with some blood samples from the victim, down to
13 SLED headquarters.

14 (Brief Pause)

15 Q. And what was the next thing that you did in this
16 investigation?

17 A. We -- we began -- continued to look -- to look for
18 Patrick Rice and also for Derrick Ruff. But we did receive
19 some information that Patrick was in Charlotte, North
20 Carolina.

21 And I, along with two other SLED agents and the
22 fugitive team (phonetic) from SLED, went to Charlotte to try
23 to locate Patrick.

24 Q. Okay. Were you able to find him?

25 A. No, sir, we did not.

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1 Q. All right. When did you go to Charlotte?

2 A. That was on -- I think it was a Friday. I forget
3 the date.

4 Q. Okay.

5 A. Just a minute and I'll look.

6 (Brief pause while the witness examines document.)

7 A. That was on August the 25th.

8 Q. Okay. Which that would have been the -- that
9 Monday, a week from -- a week after ---

10 A. Yes, sir. I believe that would be right; yeah,
11 August 25th.

12 Q. All right. And, then, what happened -- what
13 happened after that? What was the next thing that happened
14 in regards to the investigation?

15 A. Well, we did talk to a person in -- in North
16 Carolina by the name of DeWayne Clark (phonetic), who we --
17 who lived on in Charlotte about Patrick and
18 said Patrick had been there to the residence.

19 Q. All right.

20 A. So, we came back to Union.

21 Q. All right. And, then, did -- did Mr. Rice reappear
22 in Union County?

23 A. The next morning, he did appeared at the Sheriff's
24 Office, along with his mother and I was told it was his
25 father.

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1 Q. And that was on August 26th?

2 A. Yes, sir.

3 Q. And that was the Sheriff's Office downstairs here?

4 A. Yes, sir, here in Union.

5 Q. All right. Now, did you interview Ms. Dickert?

6 Were you able to interview her that day as well?

7 A. Yes, sir, I did.

8 Q. And where -- where did you interview her?

9 A. Here at the sheriff's office.

10 Q. And, at that point in time, Ms. Dickert, was she
11 served or formally charged with any crime?

12 A. Yes, sir, she was charged with accessory after the
13 fact of murder.

14 Q. And did you interview Ms. Lemon?

15 A. Wytrisha?

16 Q. Yes, sir.

17 A. Yes, sir, I did.

18 Q. All right. When was that?

19 (Brief Pause)

20 A. Let me get her statement out, so, I'll be correct on
21 what day it was.

22 (Brief pause while witness examines document.)

23 A. That was on August 25th.

24 Q. Okay. Well, actually, Ms. Lemon gave two
25 statements; is that right?

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1 A. Yes, sir. That was the first interview was August
2 25th.

3 Q. All right. And, then, when -- when was the second
4 statement?

5 A. August 27th.

6 Q. Now, Ms. Lemon, was she ever charged with a crime
7 out of this incident?

8 A. No, sir.

9 Q. Okay. And -- and why didn't you ever seek a warrant
10 for her for a crime?

11 A. We didn't have enough evidence to say that she was
12 involved in the actual crime.

13 Q. Did she ever admit involvement in the crime?

14 A. She didn't involve -- you know, admit to any
15 involvement.

16 Q. And, based on your investigation of the case, who
17 would have known if -- if she had been involved in the crime?

18 A. Patrick Rice or Derrick Ruff.

19 Q. Now, did you take any -- did you interview Ms.
20 Eigner?

21 A. Yes, sir, I did.

22 Q. When did you talk to her?

23 (Brief pause while witness examines document.)

24 A. That was on August 28th.

25 Q. And where did you talk to her?

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1 A. At the Newberry County Sheriff's Office.

2 Q. And was she charged with a crime?

3 A. Yes, sir, she was charged with accessory after the
4 fact of murder.

5 Q. Okay. And were you present when she gave a
6 statement at the Newberry County Sheriff's Office?

7 A. Yes, sir.

8 Q. And how was that statement taken?

9 A. She -- she wrote the statement herself.

10 (Brief Pause)

11 Q. And was Michael Rice -- you said, at that time you
12 took a statement from him, on the 21st, he wasn't charged with
13 a crime. Was he ever charged with a crime?

14 A. Yes, sir, he was.

15 Q. And -- and when was that?

16 A. I'm not sure of the exact date. I don't have
17 Michael's file with me to tell what day he was charged.

18 Q. I can get you a copy of the form. Would that help
19 you?

20 A. Yes, sir.

21 (Brief pause while Mr. Anthony retrieves document.)

22 (Document handed to witness.)

23 Q. Does this refresh your recollection about when
24 Michael Rice was charged?

25 A. He was served on September 3rd.

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1 Q. Okay. And when was the warrant sworn out?

2 A. August...

3 Q. I believe it's at the bottom.

4 A. September 3rd.

5 Q. Okay.

6 A. He was served the same day.

7 Q. All right. And, then, was Ms. Braswell charged with
8 a crime in this incident?

9 A. Yes, sir. She's charged with accessory after the
10 fact of murder.

11 Q. And was she charged the same day as Michael Rice?

12 A. I -- I believe so. I believe I signed the warrants
13 the same time.

14 Q. You signed the two warrants on them at the same
15 time?

16 A. I think that's correct. I'd have to see the warrant
17 to say for sure, but I believe that's correct.

18 Q. And that was on September 3rd?

19 A. Yes, sir.

20 Q. All right. Now, you said that you sent -- you took
21 some of the evidence in the case to SLED?

22 A. Yes, sir.

23 Q. Was -- was there ever a request made to -- to try
24 and do fingerprint analysis on the shell casing?

25 A. Yes, sir, there was.

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1 Q. And -- and were the people at SLED able to find
2 fingerprints on the shell casing?

3 A. No, sir.

4 Q. Now, in the past month or so, coming into a few
5 weeks leading up to this trial, you did some additional
6 investigation on the case, is that correct?

7 A. Yes, sir.

8 Q. All right. And did you interview David Jeter in
9 relation to this incident?

10 A. Yes, sir, I did.

11 Q. And when -- when did you do that?

12 A. On -- just a minute.

13 (Brief pause while witness examines document.)

14 A. I'll have to find that exact date.

15 (Brief pause while witness examines document.)

16 A. That was August the 12th of this year.

17 Q. And did -- and David -- David Jeter has been
18 referred to in testimony throughout the trial as being in
19 Charlotte; is that correct?

20 A. Yes, sir. The one who went to Charlotte.

21 Q. All right. When -- when you interviewed him, did --
22 did he claim any knowledge of having talked to Patrick Rice
23 about the robbery?

24 A. He did not admit any knowledge of it, no, sir.

25 Q. Did he admit going to Charlotte?

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1 A. He admitted going to Charlotte with Michael, Sierra,
2 and Miriam.

3 Q. All right. But -- but didn't -- didn't admit any
4 knowledge of the robbery?

5 A. No.

6 Q. Now, did you talk to Amanda Dickert?

7 A. Yes, sir.

8 Q. All right. And did you go and collect the -- the
9 invoice from the Howard Johnson?

10 A. Yes, sir, I did.

11 Q. Did you do anything in regards to trying to collect
12 any documentation from the Hampton Inn?

13 A. Yes, sir.

14 Q. And what was that?

15 A. We did -- did not find any documentation at all from
16 -- from the Hampton Inn.

17 Q. And, going back to -- to September of last year, you
18 said you charged Mr. Rice with -- with murder and Mr. Ruff
19 with -- with murder initially and put their names into the
20 NCIC?

21 A. Yes, sir.

22 Q. All right. Did you subsequently, after Mr. Rice's
23 arrest, did you charge him -- or did you request warrants for
24 any other crimes?

25 A. Yes, sir.

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1 Q. And what -- what crimes were they?

2 A. It was two counts of kidnapping, first-degree
3 murder, and armed robbery.

4 (Brief Pause)

5 Q. And is Mr. Rice here in the courtroom?

6 A. Yes, sir, at the table (indicating).

7 MR. ANTHONY: I'd like the record to reflect that
8 he has identified the Defendant, Mr. Rice.

9 THE COURT: All right.

10 MR. ANTHONY: Thank you. That's -- that's
11 everything on direct.

12 THE COURT: Cross exam?

13 CROSS EXAMINATION by MR. RECKENBEIL:

3:26 P.M.

14 Q. Detective Riddle, have you reviewed the results from
15 SLED?

16 A. Yes, sir.

17 Q. Have you reviewed the results from the SLED reports?

18 A. There were several -- several documents from SLED,
19 so...

20 Q. Okay. Have you reviewed all of those reports?

21 A. Yes, sir, I've looked over them.

22 Q. Okay. And you were the chief investigator on this
23 case?

24 A. Yes, sir.

25 Q. You were in charge of the chain of custody

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1 documentation showing who was going in and out of the crime
2 scene, who was touching evidence, who was sending certain
3 evidence out?

4 A. Yes, sir, I was.

5 Q. Just and, if I were to show you, your name would
6 appear on this document (indicating), right? Do you want me
7 to refresh your recollection?

8 A. Yes, sir.

9 (Document handed to witness.)

10 Q. And what I've just handed you, sir, is the chain of
11 custody log where basically what that is that each time an
12 officer goes to the scene or each time an officer touches a
13 piece of evidence or each time an officer delivers something
14 somewhere, they enter it into a document called a -- a chain
15 of custody log?

16 A. Yes, sir.

17 Q. All right. And that's ---

18 A. That's SLED's document; that's not the sheriff's
19 office's.

20 Q. Sure. Okay. But that's -- that's a log that
21 describes everything?

22 A. That's the -- a log that SLED uses.

23 Q. All right. And have you reviewed this document?

24 A. No, sir. I haven't seen that.

25 Q. But you would agree with me, sir, that that is an

1 log that helps? In other words, every time an officer touches
2 something or every time something moves, in your experience in
3 law enforcement ---

4 A. There is a chain of custody ---

5 Q. Right. You want to make sure that -- that you know
6 where things are going?

7 A. Right, yes, sir.

8 Q. And, being the chief investigating officer in this
9 case, you said to me that you reviewed all the results?

10 A. I -- I haven't seen that. I reviewed the results
11 that were sent back to me, but I've not seen -- I don't know
12 exactly which results you're talking about.

13 Q. Okay. Well, you've testified before with Mr.
14 Anthony when he asked the question that you sent that bullet
15 to be tested to see if there were any fingerprints that could
16 be pulled?

17 A. Yes, sir, yes.

18 Q. Okay. That would be a result coming back from SLED?

19 A. Yes, sir.

20 Q. And you would agree with me, sir, that that result
21 time back from SLED on the bullet showed that there was --
22 that nothing was pulled?

23 A. Right, yes, sir.

24 Q. And you would agree with me that the shirt and the
25 sheet -- (Mr. Reckenbeil retrieves items) -- were sent to

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1 SLED?

2 A. No, sir.

3 Q. They were not sent to SLED?

4 A. No, sir.

5 Q. So, you didn't test whether not there was any sort
6 of DNA that could be pulled from there to determine who, in
7 fact, tied up ---

8 A. No.

9 Q. --- Ms. Davis?

10 A. No, sir.

11 Q. Okay.

12 (Brief Pause)

13 Q. What about the clothes of the deceased, do you know
14 if those were tested for any sort of results of DNA besides
15 blood of him being spilled out of his body?

16 A. No, sir. I don't -- I don't know of any clothing
17 that was on him. The clothes I saw of the victim was a pair
18 of blue jeans.

19 Q. Okay. And you don't know whether or not those were
20 collected?

21 A. Not by me.

22 Q. They weren't collected by you?

23 A. No, sir.

24 Q. And you don't know whether or not they were tested
25 to determine if there was any DNA on them?

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1 A. No, sir.

2 Q. Well, in your experience, sir, would you agree with
3 me that, if an individual was to shed some skin or to --
4 saliva on a person's clothes, that could be tested and you
5 could extract whether or not that DNA is on there? Because
6 isn't that true that DNA ---

7 A. That -- that would be possible only if maybe one
8 person touched it, but the clothing that the victim had on had
9 blood on it and we -- we've been told that it would be cross-
10 contamination ---

11 Q. Sure.

12 A. -- other DNA. And you cannot single out one DNA out
13 of a big pile.

14 Q. Right, you couldn't. But, if somebody's shot,
15 (picks up exhibit) this individual -- this blood that you see
16 in this picture (indicating) is splattered the way that it is,
17 would you agree with me, sir, that that blood could get on
18 somebody's clothes, could get on somebody's shoes?

19 A. Yes, sir.

20 Q. That did the shooting?

21 A. Yes, sir, quite possibly.

22 Q. And you're the lead investigator; you know, I don't
23 know what SLED did or not, but it shows that Mr. Ruff's shoes
24 were collected and there were some swabs taken from those
25 shoes?

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1 A. Yes, sir.

2 Q. Okay. And nowhere in the results does it show that
3 any blood from Mr. Davis matched those swabs that were taken
4 from Mr. Ruff's shoes?

5 A. Yes, sir. We found out it wasn't blood.

6 Q. It was blood?

7 A. It was not.

8 Q. It was not blood?

9 A. No, sir.

10 Q. Okay. Lieutenant Riddle, what I'm really getting at
11 is the fact that there is no forensic evidence that SLED has
12 come back with and reported to you that has showed there to be
13 any DNA, any fingerprints, any shoe prints, or anything else
14 that connects Patrick Rice to that crime scene?

15 A. No physical evidence, no, sir.

16 MR. RECKENBEIL: Okay. Thank you.

17 THE COURT: Redirect?

18 REDIRECT EXAMINATION by MR. ANTHONY:

3:32 P.M.

19 Q. Why didn't you send the sheet and the shirt down
20 there to SLED?

21 A. Again, that would be cross-contamination from -- we
22 got the -- the victim saying that she -- the sheets were on
23 her bed. You would have several DNA on it probably.

24 And SLED cannot or the lab cannot detect -- pick one
25 certain DNA out of a bunch of DNA. So, it would've -- would

1 not have proven anything at the time.

2 Q. So, the -- evidence that you have sent down there
3 was all evidence that belonged to either Kelvin Davis or
4 Tinsley Davis; is that correct?

5 A. Yes, sir.

6 Q. And, so, the DNA you'd expect to find on that would
7 be Kelvin Davis's or Tinsley Davis's?

8 A. Most likely Tinsley Davis, especially the sheets and
9 shirt.

10 Q. And these shoes that you were asked about, what --
11 where were they found?

12 A. They were found in -- in Converse, Georgia.

13 Q. All right.

14 A. I can give you the date on that. Just hold on just
15 -- just a minute.

16 (Brief pause while witness examines document.)

17 A. That was on August 22nd.

18 Q. And that was -- that was that Friday?

19 A. On Friday, August 22nd.

20 Q. And that was -- and that was found in the hotel room
21 in Converse, Georgia?

22 A. Yes, sir.

23 Q. That Mr. Ruff had -- had abandoned?

24 A. Yes, sir.

25 Q. All right. And -- and does the report from SLED say

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1 that there was no blood on the shoes?

2 A. Correct. There was no blood.

3 Q. All right.

4 MR. ANTHONY: All right. Thank you. That's --
5 that's all we have.

6 MR. RECKENBEIL: Nothing further, Your Honor.

7 THE COURT: Thank you, sir. You may step down.

8 (The witness stepped down from the witness stand at
9 3:35 p.m.)

10 THE COURT: You may call your next witness.

11 MR. ANTHONY: Your Honor, may we approach?

12 THE COURT: (Nods affirmatively.)

13 (Whereupon, a bench conference was had with both
14 attorneys present.)

15 THE COURT: Please, retire to your jury room.
16 Please, do not talk about the case.

17 (Whereupon, the jury exited the courtroom at 3:35
18 p.m.)

19 THE COURT: All right. Let's take about a ten-
20 minute recess.

21 (Whereupon, a recess was taken from 3:35 p.m. until
22 3:52 p.m.)

23 THE COURT: All right, Mr. Anthony, what is your
24 intention?

25 MR. ANTHONY: Well, Madam Court Reporter, you show

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1 that we've put everything in, right?

2 COURT REPORTER: Yes, sir.

3 MR. ANTHONY: Okay. Our -- our intention is to
4 rest, Your Honor.

5 THE COURT: All right. I'll be glad to hear your
6 motions at the rest of the State's case.

7 MR. RECKENBEIL: Your Honor, we would just
8 respectfully, for the record, move for a directed verdict and
9 acquittal on all charges; the murder, armed robbery,
10 kidnapping times two, and burglary.

11 We don't feel that there has been sufficient
12 evidence where the jury could conclude, in the light most
13 favorable to the prosecution, to find, in fact, a verdict of
14 guilty.

15 THE COURT: All right. I respectfully disagree. I
16 think there is sufficient evidence, which if believed by the
17 jury, would justify a conviction. So, I will deny your
18 motion.

19 MR. RECKENBEIL: Thank you.

20 THE COURT: Now, Mr. Rice, have you had a chance to
21 discuss with your attorney whether or not you're going to
22 testify?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Have you reached a decision?

25 THE DEFENDANT: Yes, sir.

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1 THE COURT: What is your decision?

2 THE DEFENDANT: I will testify.

3 THE COURT: You will?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: All right. And was that your decision?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Has anybody pressured you into making

8 that decision?

9 THE DEFENDANT: No, sir.

10 THE COURT: All right, sir, I find you freely,

11 voluntarily, knowingly, and intelligently waive your right to

12 remain silent. You're certainly welcome to testify. Are you

13 ready to proceed, Counsel?

14 MR. RECKENBEIL: Yes, sir, I am.

15 THE COURT: All right. I will bring the jury back.

16 Mr. Anthony can rest on the record, and then, you can take

17 over.

18 MR. RECKENBEIL: Yes, sir. My three are upstairs

19 in the library.

20 THE COURT: Well, we need to get -- you need to get

21 them all down here on this floor. And the first one you need

22 to get the courtroom.

23 MR. RECKENBEIL: Yes, sir.

24 THE COURT: And the other ones obviously need to be

25 close by ---

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1 MR. RECKENBEIL: Yes, sir.

2 THE COURT: --- but out of the earshot of the
3 other's testimony.

4 MR. RECKENBEIL: I'll have Mr. Jones brought into
5 the courtroom.

6 (Brief Pause)

7 THE COURT: You don't have any of your witnesses
8 still in the grand jury room, do you?

9 MR. ANTHONY: I -- I don't guess. They should all
10 be gone.

11 THE COURT: All right. Bring in the jury.

12 (The jury was summoned.)

13 (Mr. Jones enters the courtroom.)

14 THE COURT: (To Mr. Jones) All right. Have a seat
15 right there, sir. We'll be getting ready in just a second.

16 (The jury entered the courtroom at 3:55 p.m.)

17 THE COURT: All right. We have all the jurors
18 back. Mr. Anthony, you may call your next witness.

19 MR. ANTHONY: Your Honor, the State rests.

20 THE COURT: All right. Ladies and gentlemen, the
21 State has rested. That means this mean that this is all the
22 testimony and evidence they're going to offer at this time.
23 All right, Mr. Reckenbeil?

24 MR. RECKENBEIL: Your Honor, may it please the
25 Court? The Defense would call Mr. Robin Jones.

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1 THE COURT: Come around, please, sir.

2 (The witness stepped forward to be sworn.)

3 THE COURT: Sir, if you will, come around this way
4 (indicating), come up to the front and come around that way
5 and come right around here (indicating).

6 (The witness complied with the Court's request.)

7 THE COURT: If you would, put your left hand on the
8 Bible and raise your right.

9 (Whereupon,

10 ROBIN JONES

11 having been first duly sworn, testified as follows:)

12 THE COURT: Thank you, sir. Have a seat right
13 there and state your full name.

14 THE WITNESS: Robin Antonio Jones (phonetic).

15 THE COURT: All right, sir.

16 DIRECT EXAMINATION by MR. RECKENBEIL:

3:55 P.M.

17 Q. Mr. Jones, where do you reside?

18 A. (phonetic) in Whitmire.

19 Q. South Carolina?

20 A. Yes, sir.

21 Q. And your son is Patrick Rice?

22 A. Yes, sir.

23 Q. Okay. All right. You have had some run-ins with
24 the law in the past, have you not, sir?

25 A. Oh, yes, sir.

PAMELA FAUCETTE, CVR - PHONE: 864-574-9534 CELL: 336-260-2864

1 Q. Okay. In fact, before you've had a conviction for
2 possession of drugs; do you agree with that?

3 A. Yes, sir.

4 Q. Back in two thousand and five (2005), you had a
5 conviction for distribution of drugs?

6 A. Yes, sir.

7 Q. Okay. And back in '06 you've had a -- another
8 conviction for drugs?

9 A. Yes, sir.

10 Q. Okay.

11 (Brief Pause)

12 Q. Okay. So, you would agree with me that you just --
13 you've had some run-ins with the law?

14 A. Yes, sir.

15 Q. All right. Now, moving back to August 17th, of two
16 thousand and eight (2008), if you would, tell this jury, if
17 any, conversations that you had with your son and where you
18 were and where he was.

19 A. Well, I guess it was sometime that evening between
20 six (6:00) and seven (7:00), he called the house just to let
21 me know he was spending the night at his grandmother's, which
22 wasn't that unusual because he always done there.

23 And that was about it.

24 Q. Okay. Where were you that night?

25 A. I was at the house, at my home at

MR. ROBIN JONES - DIRECT by MR. RECKENBEIL

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1 Q. In Whitmire?

2 A. Yes, sir.

3 Q. And you were making -- did you call him or did he
4 call you?

5 A. He called, yes, sir.

6 Q. All right. Did he call you from a land line or from
7 a cell phone?

8 A. I can't -- I can't recall sitting here.

9 Q. Do you know if you have caller ID on your phone?

10 A. Yes, sir.

11 Q. All right. Do you know if your -- that house where
12 he was staying in Whitmire, do you know if that had a land
13 phone?

14 A. (No Response)

15 Q. You know what I mean by land phone, right?

16 A. Just a regular phone?

17 Q. Yeah, like a regular phone that ---

18 A. Yes, sir.

19 Q. --- not a cell phone, but a land phone?

20 A. Yes, sir.

21 Q. Okay. And who resides at that house?

22 A. His grandmother, Agnes, Ms. Agnes.

23 Q. And what is Agnes' last name?

24 A. Cheek -- I mean, Rice. I'm sorry, Agnes Rice. And
25 his mother resides there too, Sherri Rice.

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1 Q. Okay.

2 A. Patrick's mother and grandmother.

3 Q. All right. How about Britney, does Britney?

4 A. Yes, his sister, Bree. He calls her Bree, Bree
5 Rice, yes, sir.

6 Q. Is Britney your bio -- biological child?

7 A. No, sir.

8 Q. Is Patrick your biological child?

9 A. Yes, sir.

10 Q. Okay. And at approximately what time did you have
11 this phone call with him?

12 A. I'm going to say between six (6:00) and seven
13 o'clock (7:00).

14 Q. Do you know who else was at that house that evening
15 when you're talking with him?

16 A. By -- by my understanding just his mom and his step
17 dad, his mom and his -- his mom and step dad.

18 Q. And what is his name?

19 A. Sam Cheek (phonetic).

20 Q. Sam Cheek?

21 A. Yes, sir.

22 Q. Do you remember the content of that conversation
23 that you had with your son?

24 A. Like I said just basically he was just letting me
25 know that he was -- he was going to spend the night down at

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1 his grandmother's.

2 You know, we always talking. Word for word, no, no.
3 Like I say, he's always done that for years.

4 Q. What do you mean he's done that for years?

5 A. I mean because sometimes he spends the night down --
6 like he's got two grandmothers, my mama and Sherri's mom. So,
7 he's always back and forth, you know. So, usually he stays
8 down there some, you know.

9 Q. Do you know, if at that time, Patrick had a
10 permanent residence? Did he have a place of his own?

11 A. No, sir. No, sir.

12 Q. He didn't?

13 A. He basically -- basically he stayed with us most of
14 the time.

15 Q. He did? All right.

16 A. But sometimes he ---

17 Q. I'm sorry, I didn't mean to interrupt you.

18 A. But sometimes he stayed down at his other
19 grandmother's house too.

20 A. And what do you mean by -- you said "us"; that is,
21 you ----

22 A. We and my mom and my step dad, yes.

23 Q. And how far distance-wise between your place where
24 you stay and where Patrick's other grandmother, his maternal
25 grandmother, stays?

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1 A. How far is it?

2 Q. Yeah.

3 A. Oh, I'd say about a mile or so, not that -- not that
4 -- not far, about a mile maybe.

5 Q. How often would you speak with your son back then?

6 A. Oh, we -- we speak on a regular basis. You know,
7 like I say, most of the time he's staying with us anyway.
8 So...

9 Q. Okay. Did he keep a lot of clothes at your place?

10 A. Yes, sir.

11 Q. And would you know, or do you have any personal
12 information, did he keep a lot of clothes over at his other
13 grandma's, Mrs. -- Mrs. Rice's place?

14 A. Yes. I think he had clothes down there too, yes,
15 sir.

16 MR. RECKENBEIL: All right. If you would, answer
17 any questions Mr. Anthony has for you.

18 THE COURT: Cross examine?

19 MR. ANTHONY: Thank you.

20 CROSS EXAMINATION by MR. ANTHONY:

4:00 P.M.

21 Q. Mr. Jones, you said that you -- you were contacted
22 by Patrick on the night of the 17th sometime between six (6:00)
23 and seven (7:00) that night?

24 A. Yes, sir.

25 Q. And -- and that was the only contact you had with

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1 him that night?

2 A. Yes, sir.

3 Q. So, you don't have any -- any firsthand knowledge of
4 where he was that night?

5 A. No, sir.

6 Q. Okay. Now, you said that he stayed either with you
7 or stayed with -- with your ---

8 A. His -- his mother's mother.

9 Q. With his mother's mother?

10 A. Yes, sir.

11 Q. And his mother lives with his grandmother, with his
12 maternal grandmother too, right?

13 A. Yes, sir. Yes, sir.

14 Q. Okay. Well, did you know that he was seeing Mimi
15 Dickert?

16 A. Yes, sir.

17 Q. Okay. Did you know that he was spending the night
18 at her residence?

19 A. No, sir. I had no idea about that.

20 Q. All right. You didn't know that he -- he spent
21 nights with her?

22 A. No, sir.

23 Q. Did -- did you know they had a relationship?

24 A. Yes, sir, I did.

25 (Brief Pause)

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1 Q. All right. And you say he was -- Britney lived with
2 the maternal -- his maternal grandmother, Agnes ---

3 A. Yes, sir.

4 Q. --- is that correct? But Britney is not your
5 daughter?

6 A. No, sir.

7 Q. --- is that right? Okay.

8 A. No, sir.

9 Q. She's your -- she's Patrick's mother's daughter; is
10 that correct?

11 A. Yes, sir. That's his sister, baby sister.

12 Q. Okay. Okay. And, if -- if you know, how is Patrick
13 kin to Derrick Ruff?

14 A. (No Response)

15 Q. Do you know Derrick Ruff?

16 A. I know of him. I don't really know him like that.

17 Q. Okay. Well, as I -- is Britney a brother and sister
18 of -- of Derrick Ruff?

19 A. Yes, sir. That's Britney's brother, Derrick.

20 Q. Okay. All right. Well, is -- is Patrick's mother
21 Derrick Ruff's mother?

22 A. No, sir.

23 Q. Okay. All right. So, how does ---

24 A. They got a father -- the same father. Britney and
25 Derrick have the same father.

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1 Q. Oh, I see. I see. But not the -- not the same
2 mother?

3 A. No, sir.

4 Q. Okay.

5 (Brief Pause)

6 Q. All right. So, do you know -- do you know who
7 Derrick Ruff is?

8 A. Like I say, I met him maybe a couple of times. I
9 don't really know him ---

10 Q. All right.

11 A. --- like that, no, sir.

12 Q. All right. Do you know if -- if Patrick knows him?

13 A. I have no idea.

14 Q. Do you have any knowledge if Patrick knew him?

15 A. No, sir, I sure don't.

16 (Brief Pause)

17 Q. And that week, like the week after the -- the 18th,
18 did you hear from Patrick any that week?

19 A. No, sir, I had no contact with him.

20 Q. All right. And you said that, when things were
21 going like they normally were, you and Patrick talked all the
22 time?

23 A. Yeah, he would call the house most of the time.

24 Q. It was pretty -- pretty common for him to call like
25 every day?

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1 A. Well, it was not every day. Sometime it would be
2 days before he called or something, you know. It wasn't every
3 day though.

4 Q. All right. But he would -- he would stay with you a
5 lot?

6 A. Yes, sir.

7 Q. Correct?

8 A. Yes, sir.

9 Q. Okay. And -- and that week after August the 18th,
10 and the week of August 18th, he didn't stay with you that week,
11 did he?

12 A. No, sir.

13 Q. Okay. Because he was gone, right?

14 A. Yes, sir.

15 Q. Okay. But he wasn't -- you didn't have any contact
16 with him?

17 A. No, sir, not after the conversation.

18 **(Brief Pause)**

19 Q. All right. Did you become aware at some point that
20 Patrick had come back to Whitmire?

21 A. (No Response)

22 Q. After -- after ---

23 A. Yes, sir.

24 Q. --- after the week of the 18th, like ---

25 A. Yes, sir.

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1 Q. --- around the 25th, 26th of August, did you become
2 aware he returned to Whitmire?

3 A. I didn't know until we -- his mom got him to turn
4 in, no, sir.

5 Q. All right. How did you become aware of that?

6 A. I -- he was like up at his mom's and -- and I picked
7 him up.

8 Q. Okay. I'm sorry, I didn't hear you.

9 A. When I picked him up at Agnes' house.

10 Q. Okay. You picked him up at Agnes' house?

11 A. Yes, sir.

12 Q. Okay. At Agnes Rice's house?

13 A. Yes, sir. I'm not for sure what day.

14 (Brief Pause)

15 Q. All right. And, so, you were -- you were one of the
16 people who -- who came up here when he turned himself in?

17 A. Yes, sir.

18 Q. All right.

19 (Brief Pause)

20 Q. And you -- you still have regular contact with
21 Patrick since he's been charged with this crime?

22 A. On visitation, yes, sir. We see him every other --
23 every other Sunday, when we can.

24 Q. Okay. And when -- has -- has he talked to you about
25 testifying?

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1 A. No, sir, we haven't had a conversation about that.

2 (Brief Pause)

3 MR. ANTHONY: If I could have one moment.

4 (Off-the-Record Discussion)

5 MR. ANTHONY: Thank you. That's -- that's
6 everything on the cross.

7 THE COURT: Redirect?

8 MR. RECKENBEIL: No redirect, Your Honor.

9 THE COURT: Thank you, sir. You may step down.

10 (Whereupon, the witness stepped down from the
11 witness stand at 4:06 p.m.)

12 THE COURT: Call your next witness, please.

13 MR. RECKENBEIL: Your Honor, the Defense would call
14 Ms. Sherri Rice, please. THE COURT: Sherri Rice?

15 MR. RECKENBEIL: Sherri Rice.

16 (Brief pause while the witness was summoned.)

17 THE COURT: Come on around this way, please, ma'am.

18 (Witness stepped forward to be sworn.)

19 THE COURT: And, if you would, come right around
20 that way (indicating), right up here. And put your left hand
21 on that Bible and raise your right.

22 (Whereupon,

23 SHERRI RICE

24 having been first duly sworn, testified as follows:)

25 THE COURT: Thank you, ma'am. Have a seat and

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1 state your full name for us, please.

2 THE WITNESS: Sherri Annette Rice (phonetic).

3 THE COURT: Thank you, ma'am. All right, Counsel.

4 MR. RECKENBEIL: Thank you, Your Honor.

5 DIRECT EXAMINATION by MR. RECKENBEIL:

4:08 P.M.

6 Q. Ms. Rice, where do you reside?

7 A. (phonetic), Whitmire, South
8 Carolina.

9 Q. Who do you live there with?

10 A. My mother.

11 Q. What is your mom's name?

12 A. Agnes Rice.

13 Q. Agnes Rice?

14 A. (Nods affirmatively.)

15 Q. Is she married?

16 A. Well, she's a widow.

17 Q. She's a widow. And her former husband name was
18 Cheek (phonetic)?

19 A. No it was Rice.

20 Q. Rice? Okay. But her maiden name was Cheek?

21 A. Her maiden name was Cheek.

22 Q. Okay. Who else resides with you?

23 A. Britney Rice.

24 Q. And she is your biological daughter?

25 A. Yes.

PAMELA FAUCETTE, CVR - PHONE: 864-574-9534 CELL: 336-260-2864

MS. SHERRI RICE - DIRECT by MR. RECKENBEIL

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1 Q. Does sometime Patrick live there?

2 A. Yeah.

3 Q. Okay. At the house where you live with -- with your
4 mom and Britney, does Britney have her own room?

5 A. Yes.

6 Q. And does Patrick have his own room there?

7 A. No, he was just crashing on the couch.

8 Q. Does he sometime keep his clothes there and ---

9 A. Yes.

10 Q. --- his belongings?

11 A. Yes.

12 Q. All right. I want to go back to the night of -- the
13 day of August 17th, two thousand and eight (2008). Just, if
14 you would, tell the jury what you remember about that day and
15 if you remember Patrick being there at the house?

16 A. I was working in Newberry, and I would go, you know,
17 to Newberry on the weekends because sometimes I stay with my
18 sister or my daughter.

19 And I always call back and check on my mother to see
20 if she's there with Britney and them; you know, there's no
21 telling where they'll be.

22 And I remember I got up that night because I never
23 sleep through the night. And I had gotten a call. And I
24 called and Britney answered the phone. And I asked her what
25 she was doing, and she said her and Pat were watching TV.

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1 Q. Okay.

2 A. And I proceeded to ask about my mama.

3 Q. All right. Now, you were -- you were saying that --
4 that -- do you remember what day of the week that was? Not
5 the number day, but the actual day of the week: Monday,
6 Tuesday Wednesday, Sunday?

7 A. I'm thinking it was like Sunday -- Sunday or early
8 Monday morning.

9 Q. All right. So, you're saying that you were at your
10 sister's in Newberry and you phoned back to Whitmire?

11 A. Yes.

12 Q. Do you recall what time it was that you actually
13 phoned back?

14 A. It was after two (2:00).

15 Q. Excuse me?

16 A. It was after two. Or it might have been a little
17 bit before two (2:00) or a little after two (2:00).

18 Q. Okay. And is that 2:00 p.m. or 2:00 a.m.?

19 A. At night, a.m.

20 Q. Meaning in the ---

21 A. In the early morning.

22 Q. Early in the morning?

23 A. Uh-huh (affirmative).

24 Q. So, 2:00 a.m.?

25 A. Uh-huh (affirmative).

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1 Q. Okay. And your conversation was with your -- your
2 daughter Britney?

3 A. Uh-huh (affirmative).

4 Q. Make sure you say "yes" or "no," ma'am.

5 A. Yes, yes.

6 Q. Just because the court reporter she's taking down
7 everything that we say and we need to make sure that we have a
8 clear record.

9 So, at 2:00 a.m., do you phone a cell phone or do
10 you phone a land line? And what I mean by a land line is
11 that ---

12 A. Like a house phone?

13 Q. Yes, a house phone.

14 Q. I -- I don't remember if I called Britney on her
15 phone or the house phone because I just dial a number.

16 Q. Okay. And, at -- at that time, that's when Britney
17 informed you that her and Pat were watching TV?

18 A. Yes.

19 Q. And she informed you that your mother was okay?

20 A. Yes.

21 Q. Did she say your mother was up or was she sleeping?

22 A. She said.

23 MR. ANTHONY: Well, I'll object to that. That's all
24 hearsay.

25 THE COURT: Sustained.

MS. SHERRI RICE - CROSS by MR. ANTHONY

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1 A. My mother ---

2 MR. RECKENBEIL: Okay. You can't. You can't
3 testify about anything else.

4 Q. (By Mr. Reckenbeil) After -- after the 2:00 a.m.
5 phone call, did you phone back to the house at all?

6 A. No.

7 Q. When did you go back to the house?

8 A. I went back probably around that Tuesday because I
9 didn't work that Monday, that next day.

10 Q. On that Monday, did you call back to the house?

11 A. No.

12 Q. All right. And, then, Tuesday you just returned?

13 A. Yeah.

14 MR. RECKENBEIL: Okay. Thank you. Answer any
15 questions that Mr. Anthony might have.

16 THE COURT: Cross exam?

17 (Brief Pause)

18 CROSS EXAMINATION by MR. ANTHONY:

4:11 P.M.

19 Q. You say Patrick stays at your residence sometimes?

20 A. Yes.

21 Q. And did you know if he was living with Miriam
22 Dickert?

23 A. He wasn't living with Miriam Dickert.

24 Q. Well, you didn't perceive him -- him as living with
25 Miriam Dickert?

PAMELA FAUCETTE, CVR - PHONE: 864-574-9534 CELL: 336-260-2864

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1 A. No. I knew he dated her, but he wasn't living
2 there.

3 Q. Okay. Did you know he was spending the night at the
4 house with her and Sierra Braswell and Michael Rice?

5 A. Yeah, yeah, yeah, every now and then, yeah.

6 Q. Okay. You knew that was happening?

7 A. Yes, it had just started happening.

8 Q. And you -- you said that you work at -- you work in
9 Newberry on weekends?

10 A. Yes, I do.

11 Q. Okay. And where do you work?

12 A. Winn-Dixie (phonetic).

13 Q. And who would you stay with?

14 A. Either my daughter or my sister, Mary, or my sister
15 Gigi (phonetic) or my niece, Layla (phonetic), wherever I
16 ended up at.

17 Q. All right. And what -- what hours do you work?

18 A. Excuse me?

19 Q. What -- what hours do you work?

20 A. I work different hours. Sometimes I have to be
21 there at seven (7:00) in the morning, sometimes ten (10:00),
22 sometimes nine (9:00), eleven (11:00), different hours.

23 Q. And this -- this night that you made this call, how
24 long did you work?

25 A. How long did I work?

PAMELA FAUCETTE, CVR - PHONE: 864-574-9534 CELL: 336-260-2864

MS. SHERRI RICE - CROSS by MR. ANTHONY

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1 Q. Yeah, what -- what hours were you working?

2 A. On this day?

3 Q. Yeah.

4 A. Probably about ten (10) hours.

5 Q. All right. And you -- you just worked on weekends?

6 A. No. I work -- well, I work full-time and once I
7 went part-time. I just, you know - but now I'm back at full
8 time. But, then, I was working full time.

9 Q. When did you get off that night?

10 A. At either three (3:00), four (4:00) or five (5:00),
11 six (6:00). We have different times.

12 Q. Okay. So, I mean, at three (3:00) or four (4:00) or
13 five (5:00) or six (6:00) in the afternoon?

14 A. Yeah.

15 Q. Okay. All right. And why -- why would you stay
16 over in Newberry instead of going back to Whitmire?

17 A. Because I don't have a car. I don't have
18 transportation. And it cost me so much to go from Whitmire to
19 Newberry. And if I went to Newberry, you know, I can catch a
20 ride.

21 Q. Okay.

22 A. Pay a cab.

23 Q. And you got family there that will put you up,
24 so...?

25 A. Yeah, I've got family that will put me up.

PAMELA FAUCETTE, CVR - PHONE: 864-574-9534 CELL: 336-260-2864

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1 Q. Okay. And Derrick Ruff is the son of Britney's
2 father; is that right?

3 A. Yes.

4 Q. Okay. So, like Britney and Derrick have the same
5 dad?

6 A. Daddy.

7 Q. Okay. All right. But Patrick doesn't?

8 A. No.

9 Q. But Britney does?

10 A. Yes.

11 Q. Okay. Okay. Britney and Derrick?

12 A. Yeah.

13 Q. Okay. All right. And to -- to your knowledge, did
14 -- did -- did you ever -- did Derrick know Patrick to your
15 knowledge?

16 A. Not to my knowledge. I never known him to ever
17 mentioned him or remember him mentioning him or, you know, I
18 never saw them hanging. He didn't come to the house.

19 (Brief Pause)

20 Q. And when -- when was the next time you heard from --
21 from Patrick after that night?

22 A. That Sunday. When I left the house, that Sunday
23 night he called me.

24 Q. The next Sunday night?

25 A. Yeah ---

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1 Q. The 25th?

2 A. --- the Monday before I turned him in -- brought him
3 in.

4 Q. Okay. All right. So, he called you the Sunday
5 night before you took him to the Sheriff's office?

6 A. Yes.

7 Q. All right. And, so, when -- when was the last time
8 you heard from him before that night? When was the last time
9 you talked to him?

10 A. I didn't talk to him. I talked to Britney.

11 Q. I understand, but before that night?

12 A. It had been -- it was some days.

13 Q. Did you try to get in touch with him over the course
14 of that week of the 18th?

15 A. Yes.

16 Q. How did you try to get in touch with him?

17 A. I called my nephew Michael Rice. And I kept calling
18 him.

19 Q. All right. And did you tell Michael the police ---

20 A. I told Michael that, you know, I said, "It's all on
21 TV that they have been looking..." -- you know, it was all
22 over the TV and to, please, if he knew where Patrick was to
23 let me know.

24 Q. All right. So, you called -- called Michael and
25 told him that the police were looking for Patrick?

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1 A. Yeah.

2 Q. Okay.

3 A. Or if I seen him.

4 Q. And you did that like several -- several -- several
5 days before he called you that Sunday?

6 A. Yeah.

7

8 Q. Okay.

9 (Brief Pause)

10 MR. ANTHONY: If I could have a moment.

11 (Brief Pause)

12 Q. (By Mr. Anthony) Do you still -- still keep in
13 pretty regular contact with Patrick?

14 A. Do I now?

15 Q. Yes.

16 A. I go see him every other Sunday.

17 Q. Okay. And he's and you -- he's your son?

18 A. Yes.

19 Q. And you -- you still love him, right?

20 A. Of course.

21 Q. No matter what -- what he does?

22 A. Yes.

23 MR. ANTHONY: All right. Thank you. That's
24 everything.

25 THE COURT: Redirect?

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1 MR. RECKENBEIL: No redirect, Your Honor.

2 THE COURT: Thank you, ma'am. You can step down.

3 (The witness stepped down from the witness stand at
4 4:18 p.m.)

5 THE COURT: Next witness, please.

6 MR. RECKENBEIL: Your Honor, the Defense calls
7 Britney Rice.

8 THE COURT: Britney Rice, please, sir.

9 (Whereupon, the witness was summoned.)

10 THE COURT: Come on down this way, please, ma'am.

11 (Witness stepped forward to be sworn.)

12 THE COURT: And, if you'll come on around this way,
13 -- come right on down and go right around that way and come on
14 over to this side (indicating).

15 THE WITNESS: Which side?

16 THE COURT: Right -- right there (indicating).

17 (Witness complied with Court's request.)

18 THE COURT: Put your left hand on the Bible,
19 please, and raise your right.

20 (Whereupon,

21 BRITNEY RICE

22 having been first duly sworn, testified as follows:)

23 THE COURT: Thank you, ma'am. Have a seat and
24 state your full name.

25 THE WITNESS: My name is Britney Allison Rice.

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1 THE COURT: Please speak up loud enough so everybody
2 can hear you all the way in the back.

3 THE WITNESS: All right.

4 THE COURT: Thank you.

5 MR. RECKENBEIL: Britney, make sure you speak up
6 loudly. If I can't hear you -- you know, just make sure you
7 repeat it -- just be sure you verbalize all of your answers
8 okay?

9 THE WITNESS: Okay.

10 DIRECT EXAMINATION by MR. RECKENBEIL:

4:19 P.M.

11 Q. Britney, where do you live?

12 A. I live at (phonetic), Whitmire,
13 South Carolina.

14 Q. Okay. Who do you live there with?

15 A. My grandma.

16 Q. What's your grandmother's name?

17 A. Agnes Cheek Rice.

18 Q. Do you also live there with your mom?

19 A. Yes.

20 Q. Okay. What is your mom's name?

21 A. Sherry Annette Rice.

22 Q. Okay. Does sometimes your brother, Patrick Rice,
23 stay there?

24 A. Yes.

25 Q. Is Patrick your full brother? In other words, do

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1 you both have the same father and same mother or is he your
2 half brother?

3 A. No, he's a half-brother.

4 Q. Okay. How old are you?

5 A. I'm twenty-three (23).

6 Q. Do you work anywhere?

7 A. No.

8 Q. All right. I want to take you back to the -- the
9 August 17th of two thousand and eight (2008)?

10 A. Okay.

11 Q. Do you remember where you were that day?

12 A. Yes.

13 Q. Okay. I want you to tell the jury, if you could, in
14 your words, as to what you remember doing and if you remember
15 being with Patrick that day and night?

16 A. I got home around about two (2:00) and Patrick was
17 there. We watched TV up to like three (3:00), three-thirty
18 3:30. And, then, I fell asleep.

19 I got up -- back up around four-thirty (4:30), five
20 o'clock (5:00). And he was still laying on the couch asleep.

21 Q. Okay. And you're saying that you got home about
22 what time?

23 A. Around about two (2:00).

24 Q. Is that 2:00 p.m. or 2:00 a.m.?

25 A. Two (2:00) a.m.

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1 Q. All right. At two (2:00) a.m., and what were you
2 watching if you remember?

3 A. I'm not sure what I was watching. I can't even
4 remember.

5 Q. You were sitting there watching it with Patrick?

6 A. Yes, sir.

7 Q. Okay. At that point in time, you stayed up until
8 approximately when?

9 A. Excuse me?

10 Q. At -- at that point in time, you stayed up until
11 when that night?

12 A. I stayed up till at least about three-thirty (3:30).

13 Q. Three-thirty (3:30)?

14 A. Yes.

15 Q. And at three-thirty (3:30), you went to sleep?

16 A. Yes. And I woke back up around about four (4:00),
17 four-thirty (4:30), five o'clock (5:00) and he was still
18 laying on the couch asleep.

19 Q. When you went to sleep, did you -- do you have a
20 separate room where you sleep?

21 A. Yes.

22 Q. All right. And how far is that from where Patrick
23 was on the couch?

24 A. Not far at all, just right down the hall.

25 Q. All right. And at approximately what time did you

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1 say you still saw him laying on the couch asleep?

2 A. Around about five (5:00). I got up around about
3 four-thirty (4:30), five o'clock (5:00), and he was still
4 between but he was still laying on the couch.

5 Q. All right. Okay. Before two o'clock (2:00) in the
6 morning, did you have any conversations with him?

7 A. No.

8 Q. At that time?

9 A. No.

10 Q. Okay. Do you remember having a phone call from your
11 mom that night?

12 A. Yes. She called just to check on my grandma because
13 my grandmother is very ill. So, she just called to check on
14 grandma. But other than that, you know, she called.

15 MR. RECKENBEIL: Okay. All right, Britney, if you
16 would, answer any questions that the prosecutor might have for
17 you.

18 THE COURT: Cross exam?

19 CROSS EXAMINATION by MR. ANTHONY:

4:27 P.M.

20 Q. Ms. Rice, you say you got home at two o'clock (2:00)
21 in the morning?

22 A. Yes, 2:00 in the morning.

23 Q. And Patrick -- Patrick was there when you got home?

24 A. Yes, sir.

25 Q. And he was awake when you got home?

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1 A. Yes. We talked for a little while watching
2 television.

3 (Brief Pause)

4 Q. And, after you got home, that's when your mom
5 called?

6 A. She called maybe ten (10) minutes after I got in the
7 house.

8 (Brief Pause)

9 Q. All right. Well, did you -- you say -- you say you
10 got up of between four (4:00) and five (5:00), right?

11 A. I'd say it was about four-thirty (4:30), five
12 o'clock (5:00).

13 Q. All right. And he was still there?

14 A. He was still there.

15 Q. All right. And when -- when did he leave?

16 A. I don't remember him leaving.

17 Q. Well, when did you realize he was gone?

18 A. I knew he wasn't gone. Like I said, when I woke up,
19 he was still there.

20 Q. Well, at some point, he obviously left the house.
21 When -- when did you realize he wasn't in the house anymore?
22 That's what I'm asking.

23 A. When did I realize he wasn't in the house?

24 Q. Yeah, when did you realize he had left the home?

25 A. I -- he didn't leave the home when I was there.

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1 Q. Okay. So, you left before he did?

2 A. Huh-uh (negative). I got -- when I got home, he was
3 there.

4 Q. All right. Well, my question is that at some point,
5 after you got home and he was there ---

6 A. Uh-huh (affirmative).

7 Q. --- he left, correct? I mean, he left the house at
8 some point that day, right?

9 A. No.

10 Q. He stayed at the house all day?

11 A. He stayed at the house and just watched television.

12 Q. So -- so, like from early Monday morning, all
13 through that Monday the 18th, he was at your house?

14 A. Yeah.

15 Q. Oh. Well, did he leave that Tuesday?

16 A. Did he leave? Not that I know of.

17 (Brief Pause)

18 Q. What about that Wednesday; did he leave that
19 Wednesday?

20 A. I don't know.

21 Q. Okay. Well, I mean, was there -- was there ever a
22 time after -- on that Monday or that Tuesday, when you were at
23 home, and he wasn't there?

24 A. Yeah.

25 Q. Okay. Well, that's what I'm asking. When -- when

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1 -- at what point in time did he leave? When -- when did
2 he ---

3 A. On -- on Monday?

4 Q. Yeah, when did he leave the house?

5 A. I have no idea.

6 Q. Okay. You -- you say you got up between four (4:00)
7 and five (5:00)?

8 A. Yes.

9 Q. Did -- did you go back to bed at five (5:00) in the
10 morning or did you go somewhere else?

11 A. No, I went back to bed. But, when I went to bed, he
12 was still laying there.

13 Q. All right. Well, what time did you get up?

14 A. I got up around about four-thirty (4:30).

15 Q. All right. Well, after you went to bed -- after --
16 you know, after you went to -- went ---

17 A. I stayed up for a little while, at least till five
18 (5:00), and he was still there.

19 Q. Okay. Well, after you went back to bed the second
20 time, around five (5:00), when did you get up the second time?

21 A. I didn't go to bed. I ---

22 Q. Okay.

23 A. -- I stayed up. At four-thirty (4:30), I stayed up
24 at least till five (5:00), and he was still laying there.

25 Q. Okay. Well ---

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1 A. And he was asleep.

2 Q. All right. Well, my question is: At five -- around
3 5:00 a.m., what did you do? Did you go back to sleep or did
4 you go to leave the house?

5 A. Yeah, I went back to sleep around five (5:00).

6 Q. Okay. Well, when did you wake back up?

7 A. When did I wake back up?

8 Q. Yeah.

9 A. You talking about after five (5:00)?

10 Q. Yes.

11 A. I didn't wake back up after five (5:00).

12 Q. Well, okay.

13 (Brief Pause)

14 Q. When was the next time you left the home?

15 A. The next...?

16 Q. After five o'clock (5:00) that morning, when was the
17 next time you left the home?

18 A. The next day.

19 Q. Okay. What time was that?

20 A. It was -- I wake up early in the morning. It was
21 around about nine (9:00).

22 Q. About nine (9:00)?

23 A. Yeah.

24 Q. Okay. Okay. So, you did wake up after five (5:00)?

25 A. Yeah, earlier that day, yeah.

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1 Q. Okay. You woke up at nine (9:00)?

2 A. Yeah.

3 Q. Okay. And nine (9:00) is after five (5:00) right?

4 A. Yeah.

5 Q. Nine (9:00) in the morning is after five (5:00) in
6 the morning?

7 A. Yeah.

8 Q. Okay. Well, when you woke up at nine (9:00) in the
9 morning, was Patrick still there?

10 A. Yeah, he was up, but he was still there, yes, sir.

11 Q. Okay.

12 (Brief Pause)

13 Q. All right. And -- and, at some point after nine
14 (9:00) in the morning, did he leave?

15 A. No, he was just up chilling.

16 Q. Okay. Okay.

17 A. He didn't leave ---

18 Q. Okay.

19 A. --- until like earlier that day.

20 Q. Okay. You mean later that day?

21 A. Yeah.

22 Q. Okay. Up on in the day he left?

23 A. It was probably about one (1:00).

24 Q. Okay.

25 (Brief Pause)

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1 Q. Okay. So, he didn't -- your testimony is that on
2 Monday, the 18th of August, Mr. -- Mr. Rice here (indicating)
3 did not leave your house until about one o'clock (1:00) in the
4 afternoon?

5 A. Yes.

6 Q. Okay.

7 (Brief Pause)

8 Q. Now, Derrick Ruff is your brother?

9 A. Yes, sir.

10 Q. Okay. And do you see -- did you see a lot of him,
11 Derrick Ruff?

12 A. No, I only see him like around in the streets like.
13 I mean, like I ain't -- no, I wouldn't see him. I didn't see
14 him too much.

15 Q. Would you see him in Whitmire?

16 A. He might have been over at my aunt's place once in
17 awhile.

18 Q. Do you know Laquidra Eigner?

19 A. Yes, I know -- I know of her.

20 Q. All right. And you knew Laquidra was Derrick's
21 girlfriend at the time?

22 A. I didn't know if she was his girlfriend or not.
23 From what I -- from what they told me they was good friends,
24 not boy friend and girlfriend.

25 Q. All right. And Laquidra worked at the Lil Cricket

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1 in Whitmire?

2 A. Yes, sir.

3 Q. Okay. And would you see Derrick at the Lil Cricket
4 in Whitmire?

5 A. No. He might have come there every now and then,
6 but it wasn't like a hangout spot for him.

7 Q. All right. Well, were you at the Lil Cricket in
8 Whitmire a good bit?

9 A. Excuse me?

10 Q. Were you -- did you go to the Lil Cricket in
11 Whitmire a good bit?

12 A. Yeah, of course.

13 Q. Okay. And so, you -- you were there enough to -- to
14 know Laquidra -- Laquidra worked there, right?

15 A. Yeah.

16 Q. And you were there enough to be able to say that you
17 didn't think Derrick came there a lot?

18 A. Yeah.

19 Q. All right.

20 A. He came, but he didn't come a lot.

21 Q. All right. What about Wytrisha Lemon? Do you know
22 her?

23 A. I don't know nothing about her.

24 Q. All right.

25 A. I knew she worked at Lil Cricket, but that's all I

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1 know.

2 Q. All right.

3 (Brief Pause)

4 Q. All right. And would Patrick spend time at the Lil
5 Cricket?

6 A. No. I never seen him spend time at Lil Cricket. If
7 he went to Lil Cricket, he -- he went to go purchase
8 something.

9 Q. Okay. All right. But, I mean, that -- that would
10 be a reason to go there, wouldn't it?

11 A. Yes.

12 Q. To purchase something?

13 A. Yeah.

14 Q. All right. And he would -- and Patrick would, from
15 time-to-time -- based on your knowledge, he would go to the
16 Lil Cricket from time-to-time to purchase something?

17 A. Yeah, but he -- he really didn't go to Lil Cricket
18 because there's -- there's a store right up the street called
19 Dave's (phonetic) that he would go to most of the time. He
20 really didn't go to Lil Cricket.

21 Q. Okay. All right.

22 (Brief Pause)

23 Q. And La -- strike that. Do you know -- or did you
24 know Kelvin Davis?

25 A. No, I know of him. I've seen him around.

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1 Q. All right. Had you seen him at the Lil Cricket?

2 A. Yes, he was at the Lil Cricket.

3 Q. All right. Would you see him at the Lil Cricket --
4 at the Lil Cricket talking to Wytrisha?

5 A. Yes, I did.

6 (Brief Pause)

7 Q. And that -- after he -- after Patrick left that
8 Monday afternoon at one o'clock (1:00), did you -- when was
9 the next time you heard from him?

10 A. I had seen him up the street earlier that day at his
11 friend's house, where he was just standing out on the corner,
12 you know, with his friends talking. Yeah, I seen him earlier
13 that day.

14 Q. No, no, my -- my question is ---

15 A. Uh-huh (affirmative).

16 Q. --- you -- you testified that he left your -- left
17 the house that day about one o'clock (1:00)?

18 A. Yes.

19 Q. Right?

20 A. Yeah.

21 Q. Okay. Well, when was the next time you heard from
22 him or saw him?

23 A. I -- earlier that day. I don't -- I don't know a
24 specific time it was.

25 Q. All right. Well ---

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1 A. But I seen him.

2 Q. All right. So -- so your testimony is he -- he just
3 hung around Whitmire that day ---

4 A. Yeah.

5 Q. --- that Monday?

6 A. Yeah.

7 Q. Okay. And, so, did you see him at say four o'clock
8 (4:00) that afternoon?

9 A. I don't remember what time I seen him.

10 Q. Okay. But sometime you -- your -- your testimony is
11 you saw him ---

12 A. Uh-huh (affirmative).

13 Q. --- still in Whitmire on the -- the 18th of August?

14 A. Yes, sir. But I can't remember what time I seen
15 him.

16 Q. All right. All right. Well, did you see him that
17 Tuesday, the next day, in Whitmire?

18 A. Yeah, I seen him.

19 Q. Okay. Did you see him that Wednesday?

20 A. Yeah, I -- I see him every day because he comes to
21 the house every day. Yes, yes, sir, I seen him.

22 Q. Okay. So, your testimony is that you thought you
23 were seeing him the whole week of the 18th?

24 A. Yeah, I seen him every day because he comes to my
25 house, you know, to check -- you know, to see how everybody's

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1 doing. So, I see him every day. He comes around to the
2 house.

3 Q. All right. Well, did you go -- the -- the next week
4 -- the -- that next Tuesday, after this happened, which
5 would've been the 26th of August, did you go to the sheriff's
6 office with him?

7 A. Did I go where?

8 Q. To the sheriff's office here downstairs?

9 A. No.

10 Q. You didn't?

11 A. No.

12 Q. Okay. Were you aware that he'd been gone for some
13 time?

14 A. No, I was not aware.

15 Q. Okay.

16 (Brief Pause)

17 Q. All right. And were you -- were you aware that
18 Patrick was in a relationship with Ms. Dickert?

19 A. Yes.

20 Q. And were you aware that he was spending nights over
21 there sometimes?

22 A. Over where?

23 Q. At Ms. Dickert's residence?

24 A. No.

25 (Brief Pause)

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1 MR. ANTHONY: If I could have one moment.

2 (Off-the-Record Discussion)

3 Q. Ms. Rice, who -- who have you talked to about your
4 -- you testimony today before today? Who have you spoken with
5 anyone about it?

6 A. Nobody but my mom. I talked with my mother.

7 Q. Okay. And have you -- have you talked to Mr.
8 Reckenbeil here (indicating)?

9 A. Yes.

10 Q. Okay. When did you talk to him?

11 A. I spoke with him yesterday.

12 Q. And last week -- well, actually this week on Monday,
13 did -- did you have a -- a conversation with Investigator
14 Riddle here (indicating)?

15 A. Yes, sir, I did.

16 Q. Okay. Did he -- he come to your residence?

17 A. Yes, sir, he did.

18 Q. All right. And he -- he asked you about where you
19 were the -- the night of -- of this incident; is that correct?

20 A. (No Response)

21 Q. Is that right?

22 A. Yes.

23 Q. All right. And did -- did you tell him that, that
24 night that you got home -- or that, that night that Patrick
25 came to the house around two-thirty (2:30) or three (3:00)?

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1 (Brief Pause)

2 A. Did I tell him that?

3 Q. Yeah. Did you -- did you tell him that that
4 night ---

5 A. I don't remember telling him that. I remember
6 telling him that Pat -- I got home before Patrick did.

7 Q. Okay. So, you're -- you're saying you told -- you
8 told him you got home before Pat? You -- you ---

9 A. I remember telling him I got home before Patrick
10 did.

11 Q. Okay.

12 A. He was there when I got there.

13 Q. Well...

14 (Brief Pause)

15 Q. You're -- you told him you got home before Patrick?

16 A. I told him I got home before Patrick?

17 Q. I -- I mean, that is what you just said; is that --
18 I'm just saying, is that accurate?

19 A. No, I -- I didn't. He was there when I got there.

20 Q. Okay. You're -- you're saying that you told him
21 that Patrick was there when you got home?

22 A. Yeah.

23 Q. Okay. So, you're -- you're denying that you told
24 him that Patrick got to the house at two-thirty (2:30) or
25 three (3:00)?

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1 A. Yeah, I'm denying it because I remember telling him
2 that Patrick was there when I got there.

3 (Brief Pause)

4 MR. ANTHONY: All right. If I could have one
5 moment.

6 (Brief Pause)

7 MR. ANTHONY: All right. That's -- that's
8 everything on cross.

9 THE COURT: Redirect?

10 MR. RECKENBEIL: No redirect, Your Honor.

11 THE COURT: Thank you, ma'am. You can step down.

12 THE WITNESS: Thank you.

13 (Whereupon, the witness stepped down from the
14 witness stand at 4:37 p.m.)

15 THE COURT: You may call your next witness, please.

16 MR. RECKENBEIL: May we approach?

17 THE COURT: Yes, sir.

18 (Whereupon, a bench conference was had with both
19 attorneys present.)

20 MR. RECKENBEIL: Your Honor, the Defense would call
21 Patrick Rice.

22 THE COURT: Come around, please, sir.

23 (The witness stepped forward to be sworn.)

24 THE COURT: Sir, if you would, put your left hand
25 on the Bible right there and raise your right.

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1 (Whereupon,

2 PATRICK TROY RICE

3 having been first duly sworn, testified as follows:)

4 THE COURT: Thank you, sir. Have a seat there and
5 state your full name, please, sir.

6 THE WITNESS: Patrick Troy Rice.

7 THE COURT: All right.

8 DIRECT EXAMINATION by MR. RECKENBEIL: 4:38 p.m.

9 Q. Patrick, how old are you?

10 A. I'm twenty-six (26).

11 Q. How far did you go in school?

12 A. The eleventh (11th) grade.

13 Q. Have you gotten your GED?

14 A. No, sir.

15 Q. Okay. And back in two thousand and eight (2008),
16 were you living at both your grandmothers' houses?

17 A. Yes, sir.

18 Q. Okay. There's been some talk that you are reciting
19 with a -- a girlfriend of yours, Mimi. Were you living with
20 her?

21 A. No, sir, I was not living in -- in the same
22 residence with Miriam Dickert and Sierra Braswell. I would --
23 I would go through there every day, but I wasn't staying
24 there.

25 Q. Okay. Where would you keep your belongings?

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1 A. Both of my grandmothers' houses. I got the
2 majority of my clothes at my grandmother's on my father's
3 side's house.

4 Q. Okay. Just make sure you speak up a little bit more
5 because ---

6 A. Yes, sir.

7 Q. All right. Most of the time, would you have
8 conversations on the phone with your father?

9 A. Yes, sir. Me and my father talk. We talk on -- we
10 speak on a regular basis.

11 Q. All right. And your mother, would you -- you speak
12 with her?

13 A. Yes, sir. I speak with my mother. She -- she --
14 she keeps tabs on me.

15 Q. Okay. So, your mom, at that point in time, back in
16 two thousand and eight (2008), was she working in Newberry?

17 A. Yes, sir.

18 Q. All right. How often would you see her?

19 A. I mean, a few days out of the week 'cause sometime
20 she stayed with my sister and my aunt in Newberry because she
21 -- she wouldn't have no -- no transportation back and forth to
22 work. So, I'd see her a few days of the week whenever she
23 stayed at my grandmother's house.

24 Q. Okay. And -- and your sister, would you see her
25 quite often?

1 A. Yes, sir.

2 Q. And where would she stay?

3 A. She was staying at (phonetic) with
4 my -- my grandmother Agnes and my mother.

5 Q. And that would be your grandmother on your mother's
6 side?

7 A. Yes, sir.

8 Q. Patrick, I want to talk a little bit about your
9 past. You said you're twenty -- how old?

10 A. Twenty-six (26).

11 Q. Twenty-six (26) years old. Do you remember back in
12 1999, when you were younger, you were convicted of
13 shoplifting?

14 A. Yes, sir.

15 Q. Also, back in 1999, do you remember, when you were
16 younger, that you were convicted of nonviolent burglary?

17 A. Yes, sir.

18 Q. Back in 2000, again, when you were younger, you were
19 convicted of forgery?

20 A. Yes, sir.

21 Q. And again, when you were younger, back in two
22 thousand and one (2001), you were convicted of nonviolent
23 burglary?

24 A. Yes, sir.

25 (Brief Pause)

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1 Q. I guess you were a -- a little rough when you're
2 younger?

3 A. Yes, sir.

4 Q. Okay. Now, I'm wanting to move forward. Back in
5 two thousand and eight (2008), were you employed?

6 A. No, sir.

7 Q. How were you sustaining yourself back then?

8 A. Selling drugs.

9 Q. Okay. And where were you getting most of your drugs
10 from?

11 A. Charlotte.

12 Q. How often would you be going up to Charlotte?

13 A. Three (3), maybe four (4) times a week.

14 Q. You've been -- you've been hearing in the courtroom
15 about the fact that you had gone up to certain places in
16 Charlotte and Thomasville and -- and High Point. Is your
17 distributor, that you were getting drugs from, were they
18 located in that area?

19 A. Yes, sir.

20 Q. And also the fact that you have family up there?

21 A. Yes, sir. The majority of my family on my father's
22 side is in North Carolina.

23 Q. Would you go stay up there with them?

24 A. Yes, sir.

25 Q. Whent was the last time that you were working?

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1 (Brief Pause)

2 A. Two thousand and five (2005), I was employed at
3 Outback Steakhouse.

4 Q. All right.

5 A. In Glenwood, in South Carolina.

6 Q. What kind of drugs were you selling back in '08?

7 A. Marijuana.

8 Q. Would you sell drugs to Miriam?

9 A. No, sir.

10 Q. Okay. Were you selling drugs to Sierra?

11 A. Yes, sir.

12 Q. A lot of times, when you were going over there, were
13 you bringing drugs for them to smoke?

14 A. Yes, sir.

15 Q. And as well as sell?

16 A. Yes, sir.

17 Q. All right. During this time frame that you were
18 selling, was it giving you the opportunity to sustain your
19 life?

20 A. Yes, sir, it was.

21 Q. Was that the only way you were sustaining your life?

22 A. Yes, sir.

23 Q. Would it be unusual for you to have money, cash,
24 from selling?

25 A. No, sir.

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1 Q. And would it be -- would it be unusual for you to
2 have drugs readily available for you to sell?

3 A. No, sir, every -- every day.

4 Q. And most of it was marijuana?

5 A. Yes, sir.

6 Q. Okay. Moving forward to August of two thousand and
7 eight (2008), if you would, tell the jury -- kind of take them
8 through that day, what you're doing on August the 17th.

9 A. I was at a friend's of mine named Eric Richardson
10 (phonetic). We was at his house playing PlayStation, "The
11 Gathering (phonetic)." We were playing -- playing PlayStation
12 for money.

13 And around seven thirty (7:30) that evening I left
14 Eric's house and -- and I went by another friend's of mine
15 house named Kenneth. And I stayed there roughly an hour or
16 two.

17 And I went from Kenneth's house to my grandmother's,
18 Agnes Rice Cheek, on , you know, and I stayed
19 there. I didn't go nowhere after -- after I went to my
20 grandmother's house.

21 Q. All right. And that evening did you happen to come
22 across your sister?

23 A. Yes, sir. She came -- she came in when -- when I
24 was -- I was in her room smoking marijuana. But she -- she
25 came in later on.

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1 Q. Later on that evening?

2 A. Yes, sir.

3 Q. Basically the next morning?

4 A. Yes, sir.

5 Q. Did you and her watch TV?

6 A. Yes, sir.

7 Q. Do you remember what you were watching that night?

8 A. Yes, sir, I do.

9 Q. What were you watching?

10 A. "BET Uncut" (phonetic) music videos.

11 Q. And how long were you up watching those music videos
12 with your sister?

13 A. I would say I went -- I went to sleep around three
14 (3:00) maybe or three-thirty (3:30) would be the latest.

15 Q. And where were you sleeping?

16 A. I was on the couch facing the hallway.

17 Q. Would that be normally where you would sleep when
18 you're staying over at Agnes' place?

19 A. Yes, sir.

20 Q. Do you recall what time Britney went to sleep that
21 evening or that morning?

22 A. When I -- when I went to sleep, she was still up. I
23 can't recall what she was doing because she -- she was --
24 after we were finished watching TV, she went to her room and I
25 remained in the living room. And when I go to sleep I can't

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1 see into her room.

2 Q. Okay. That next day -- well, what would have been
3 the next day is the 18th of August. Did you eventually leave
4 your grandmother's house?

5 A. Yes, sir. I left after I had cooked -- cooked me
6 some eggs and fries. I think I left right after that.

7 Q. Okay. And do you remember where you went?

8 A. Yes, sir.

9 Q. Where did you go?

10 A. I went up the street to Ronald Reid's (phonetic)
11 house that's on (phonetic). It's really like a
12 hang-out spot where I -- where I used to sell drugs and stuff.

13 Q. Who do you remember seeing there, if anybody?

14 A. I remember seeing David Jones (phonetic) was out
15 there. And -- Markel (phonetic) and a few more guys was up
16 there. But I -- I remember seeing those guys.

17 Q. Okay.

18 A. When I got there, I went in the house and put some
19 week and came back outside and we -- we stood in front of the
20 house for a little bit.

21 Q. Okay. Eventually, did you get a hotel with Mimi?

22 A. Yes, sir.

23 Q. All right. Would it be unusual for you to get a
24 hotel with her?

25 A. No, sir, not at all. I got hotels with Miriam on a

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1 regular because I -- I really didn't like staying at Sierra's
2 house.

3 So, it was -- it was like a regular thing whenever I
4 wanted to get some privacy.

5 Q. Okay. So, that wouldn't be something unusual?

6 A. No, sir.

7 Q. All right. Do you remember what hotel that you got
8 that day?

9 A. Yes, sir.

10 Q. Okay. Did you have a credit card or a driver's
11 license to get a hotel room?

12 A. No, sir.

13 Q. And where was that you got that hotel?

14 A. At the Howard Johnson's.

15 Q. Howard Johnson?

16 A. Yes, sir.

17 Q. And what town is that in?

18 A. In Clinton, South Carolina.

19 Q. Okay. Do you remember who got that hotel for you?

20 A. Yes, sir.

21 Q. Who did?

22 A. Miriam's sister-in-law.

23 Q. Okay. Do you recall how long that you stayed there?

24 A. I stayed there all that day. And that night I left
25 -- like I left that night.

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1 Q. And where did you go?

2 A. I went to Charlotte.

3 Q. All right. What was the reason for you to go to
4 Charlotte?

5 A. Because my connection had -- well, the guy I was
6 speaking with had told me that he needed to see me and we met
7 up like we do. I get a hotel room and go to his -- his
8 apartment.

9 Q. Do you know who from South Carolina went with you to
10 Charlotte?

11 A. Yes, sir.

12 Q. Who was that?

13 A. Miriam Dickert, Michael Rice, and Sierra Braswell
14 dropped me off.

15 Q. Would -- would they go with you to North Carolina
16 sometimes?

17 A. Yes, sir.

18 Q. All right.

19 (Brief Pause)

20 Q. Would they ever purchased from your connection in
21 North Carolina or would you just basically purchase?

22 A. Mike -- Michael Rice, my cousin, he would purchase.
23 But my connection had never dealt with him, so, I mean, he
24 basically went through me. He'd give me the money and I would
25 purchas it.

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1 Q. When you were up in Charlotte, who stayed with you?

2 A. No one stayed with me. Miriam and Michael and
3 Sierra came back down the road because my connection told me
4 it would be the next day. So, I got a room at the Microtel.
5 left.

6 Q. The Microtel?

7 A. Yes, sir.

8 Q. Okay. All right. And, then, the next day, what did
9 you do?

10 A. I went and met my connect at the mall, Concord
11 Mills. A friend of mine and a friend of his, he stay in
12 Charlotte too. His name is Richard. He came and picked me up
13 at the Microtel and we went to Concord Mills all day long. I
14 met him at the mall in the parking lot.

15 Q. After you met him at Concord Mills, there at the
16 outlet mall, what did you do after that?

17 A. I -- I went shopping. I got two pair of shoes and a
18 couple of shirts and some shorts because I didn't have any
19 clothes with me.

20 Because I went back over -- the guy that picked me
21 up from the Microtel, Richard Epps' (phonetic) house. And I
22 took a shower and changed clothes.

23 And Miriam -- and I had called Miriam and she told
24 me -- I told her that I needed them to come back to North
25 Carolina and get me.

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1 Q. So, did they.

2 A. Uh-huh (affirmative). Yes, sir, they came back.

3 Q. And who is it that came back?

4 A. Miriam, Sierra, Mike, and David Jeter, which is my
5 cousin.

6 Q. And, once they all came back, where did you go after
7 that?

8 A. We went to the hotel room and me and David, we had
9 exchanged marijuana. And we just sat around and just smoked.
10 And -- and Miriam and Sierra had left the hotel room.

11 Q. Do you know where they went?

12 A. Yes, sir. They said they was going to the mall.

13 Q. All right. Would it be unusual for them to observe
14 money, cash that you had, in that hotel room?

15 A. No, sir. No, sir, it wouldn't because I -- I mean,
16 I had no reason to hide it from them, so, no.

17 Q. Okay. Do you recall how much you purchased from
18 your connection up in Charlotte that -- that evening?

19 A. Yes, sir.

20 Q. What did you buy?

21 A. Seven (7) pounds of marijuana.

22 Q. All right. And the street value of that, how much
23 would that be?

24 A. Seven thousand dollars (\$7,000) -- seven -- well,
25 about seventy-five hundred dollars (\$7,500), seven thousand

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1 dollars (\$7,000).

2 Q. Okay. And normally what you would do is you would
3 divvy that up and sell it in smaller quantities?

4 A. Yes, sir.

5 Q. And were most of your sales dealing in cash?

6 A. Yes, sir.

7 Q. Again, it wouldn't be unusual for you to have stacks
8 of cash with you, would it?

9 A. No, sir, it wouldn't be unusual for me.

10 Q. Okay. So, the girls went to the mall and you are at
11 the hotel room. After that, when is it that you go to either
12 High Point or Thomasville?

13 A. I went to Thomasville. I never went to High Point.
14 We went to Thomasville.

15 Q. And who is up there in Thomasville did you go see?

16 A. My uncle.

17 Q. Do -- do you recall how long you stayed up there
18 with your uncle?

19 A. A day. I stayed -- I stayed the night and the next
20 day I left, you know, and went back to Charlotte.

21 Q. Do you remember who went up with you to Thomasville?

22 A. Yes, sir.

23 Q. And who is that that went up there with you?

24 A. Miriam Dickert.

25 Q. Anyone else?

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1 A. Michael Rice and Sierra Braswell, they went but,
2 they just dropped me and Miriam -- me and Miriam off.

3 Q. All right. When did you first learn that you were
4 being sought out by Union County in South Carolina?

5 A. I was at my uncle's house and I had called a friend,
6 Eric, who I -- who I said I was at the house gambling on the
7 game with. And he told me that the police was looking for me
8 for murder. And I had been on television.

9 Q. And that was when you were up in Thomasville, North
10 Carolina?

11 A. Yes, sir.

12 Q. All right. How long is it until you, then, return
13 to South Carolina?

14 A. I came home -- well, me and Miriam -- me and Miriam
15 came back I'd say around three thirty (3:30) that morning
16 before I turned myself in.

17 And we stayed at my grandmother's till the next
18 morning. And everybody met there and I came and turned myself
19 in.

20 Q. Okay. So, you went with your dad and ---

21 A. Yes, sir, my father, my mother, and my -- my
22 grandmother, and Miriam. But only my father and mother walked
23 into the sheriff's office with me to turn myself in.

24 Q. And you walked in downstairs to the sheriff's
25 office?

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1 A. Yes, sir.

2 Q. Freely and voluntarily?

3 A. Yes, sir.

4 (Brief Pause)

5 Q. All right. Back on August 17th, two thousand and
6 eight (2008), did you have any involvement with the death of
7 Kelvin Davis?

8 A. No, sir.

9 Q. Were you over there outside when you heard shots
10 being fired? Were you outside that house?

11 A. No, sir.

12 Q. Were you out there with Derrick Ruff?

13 A. No, sir.

14 MR. RECKENBEIL: Okay. If you would, answer any
15 questions Mr. Anthony would have.

16 THE COURT: Cross exam?

17 MR. ANTHONY: Thank you, Your Honor.

18 (Brief Pause)

19 CROSS EXAMINATION by MR. ANTHONY:

4:56 p.m.

20 Q. All right. Who -- what was the name of the fellow
21 you said you were up there playing PlayStation with?

22 A. Eric.

23 Q. Eric? What is his last name?

24 A. Richardson.

25 Q. All right. And he lived in Whitmire?

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- 1 A. Yes, sir.
- 2 Q. And how long were you over at his house?
- 3 A. I'll say a couple -- a few hours.
- 4 Q. Now, what -- what are the times ---
- 5 A. A few hours.
- 6 Q. What -- what would be the times, between when and
- 7 when?
- 8 A. I'd say five (5:00) -- four-thirty (4:30) to seven
- 9 (7:00).
- 10 Q. All right. And after that where did you go?
- 11 A. I went to another friend's of mine.
- 12 Q. And who is that?
- 13 A. Sean.
- 14 Q. Sean?
- 15 A. Yes, sir.
- 16 Q. And what is his last name?
- 17 A. Epps (phonetic).
- 18 Q. And he lives in Whitmire?
- 19 A. Yes, sir.
- 20 Q. And how long did you stay with him?
- 21 A. I'll say an hour.
- 22 Q. All right. So, that would be from what, till eight
- 23 (8:00)?
- 24 A. Yes, sir.
- 25 Q. All right. And who did you go see after that?

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1 A. I went to my grandmother's house.

2 Q. So, you went to your grandmother's house at eight
3 o'clock (8:00)?

4 A. After I left -- yeah -- yeah, it was roughly.

5 Q. All right. Now, when you get to your grandmother's
6 house, is anybody there?

7 A. Yes, sir.

8 Q. Who was there?

9 A. My grandmother.

10 Q. Was she the only person?

11 A. Yes, sir.

12 Q. All right. Was she still awake, up?

13 A. No, sir. She was -- she was in the bed. She -- she
14 wrapped me up (phonetic).

15 Q. All right. So, did you let her know you were there?

16 A. Yes, sir. I went to the room, but she was asleep
17 and I didn't bother her.

18 Q. All right. So, was there any conversation between
19 you and your grandmother that night?

20 A. No, sir.

21 (Brief Pause)

22 Q. And the next time you saw a -- a waking person or a
23 person who was awake was when your sister came in that
24 morning?

25 A. Yes, sir.

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1 (Brief Pause)

2 Q. And you -- what -- said you -- you got up that
3 morning and you and your sister watched some TV and you fell
4 asleep about three (3:00) in the morning; is that right?

5 A. Yes, sir. But it might've been a little after three
6 (3:00).

7 Q. All right. And you say that you -- what time did --
8 did you get up that morning?

9 A. Yes, sir, I -- I got up.

10 Q. What -- what time?

11 A. I got up around seven-thirty (7:30), eight o'clock
12 (8:00) ---

13 Q. Okay.

14 A. --- in the morning.

15 Q. All right. And you said you made something to eat,
16 cooked something to eat?

17 A. Yes, yes, sir.

18 Q. Okay. And, then, you -- you left the house?

19 A. Yes, sir.

20 Q. And what time did you leave the house?

21 A. Around ten (10:00), a little bit after ten (10:00).

22 Q. And, then, you went down to the -- this place where
23 you -- you deal a little marijuana?

24 A. Yes, sir.

25 Q. Is that right?

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1 A. I went to Ronald -- Ronald Reid's house.

2 Q. Ronald Reid?

3 A. Yes, sir.

4 Q. Okay. And who all was there?

5 A. I -- Jarvis and Markel, Joe -- Joseph Hinson

6 (phonetic), and a few more guys.

7 Q. All right. And you just ---

8 A. But that's who I remember though.

9 Q. All right. Was Ronald Reid there?

10 A. No, sir.

11 Q. He wasn't there?

12 A. No, sir.

13 Q. But Jarvis and Markel and Joseph were all there?

14 A. Yes, sir.

15 Q. All right. And that's three guys from Whitmire?

16 A. Yes, sir.

17 Q. And you know all three of them?

18 A. Yes, sir.

19 Q. Okay. And there were some more guys there too; is

20 that what you're ---

21 A. Yes, sir.

22 Q. --- trying to tell me?

23 A. Yes, sir.

24 Q. And what are the other names?

25 A. I -- I don't even remember who the others, but I can

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1 remember those because, when I walked in the house, I seen
2 them on the porch. But it -- the -- the house is designed,
3 you walk in the front and back.

4 There's a porch in the back too. And there was some
5 other guys out there.

6 Q. All right. And, so, there were -- is this -- is
7 this just, I mean, a house where people deal marijuana pretty
8 much?

9 A. Everything.

10 Q. Oh, they deal other things too?

11 A. Yes, sir.

12 Q. Okay. So, I mean, this would be what people would
13 call a drug house basically?

14 A. Yes, sir.

15 Q. It's just a place where drug dealers can go to and
16 kind of have a little corner where they do business?

17 A. Yes, sir.

18 Q. Okay. And you knew all these guys?

19 A. Yes, sir.

20 Q. And they all knew you?

21 A. Yes, sir.

22 Q. And, like, you didn't give me any last names, but if
23 you sat and thought about it a little while, you could
24 probably figure out last names or figure out some way to find
25 out what their last names were, couldn't you?

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1 A. Yes, sir.

2 Q. Okay. And all of those people -- and at least five
3 people could -- could say that at ten o'clock (10:00) in the
4 morning you were at this place in Whitmire, the Monday morning
5 after this killing?

6 A. Yes, sir.

7 Q. Okay. All right. And after you dealt -- well, how
8 long did you deal marijuana that day?

9 A. A couple of hours, I'd say around twelve (12:00)
10 something.

11 Q. Did you make any money?

12 A. Yes, sir.

13 Q. How much money did you make?

14 A. Around three -- three hundred dollars (\$300) or so.

15 Q. And, so, after that you -- you decided to go hook up
16 with Miriam; is that right?

17 A. I did. I went back to Sierra's house. And Miriam
18 called her sister-in-law.

19 (Brief Pause)

20 Q. All righty. And, so, you -- now, you and Miriam,
21 you had a relationship I take it?

22 A. Yes, sir.

23 Q. I mean, you -- was she -- would -- would you call
24 her your girlfriend?

25 A. Huh?

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1 Q. I mean, at the time, would you say she was your
2 girlfriend?

3 A. (No Response)

4 Q. I mean ---

5 A. No, sir.

6 Q. Okay.

7 A. She was a friend.

8 Q. Well, but you -- you just told Mr. Reckenbeil that
9 it wasn't uncommon for you to go get a hotel room and ---

10 A. Yes, sir.

11 Q. --- have some romantic relations with her?

12 A. I don't think -- I'm -- I'm thinking she don't have
13 to be my girlfriend to get no -- no hotel room.

14 Q. Okay.

15 A. I got a room with friends before.

16 Q. Okay. Okay. So, it wasn't -- that wasn't like
17 necessarily a mark of you being in a relationship with ---

18 A. No.

19 Q. --- with her?

20 A. No, sir.

21 Q. For you to go get a hotel room with her?

22 A. No, sir.

23 Q. Okay.

24 A. But I was dealing with her on a regular basis
25 though.

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1 Q. Okay. You were -- you were having -- having
2 relations with her on a regular basis?

3 A. Yes, yes, sir.

4 Q. Okay.

5 A. Yes, sir.

6 Q. All right. So, you decided to go see her that day?

7 A. Yes, sir.

8 Q. As opposed to some -- some other girl you could have
9 gone to see?

10 A. Yes, sir.

11 Q. All right. And you went over to Clinton and went to
12 the Howard Johnson's?

13 A. Yes, sir.

14 Q. All right. Now, did you all go to Newberry too that
15 day?

16 A. No, sir.

17 Q. You didn't call Mike Epps that day?

18 A. I'm lying. I -- I take that back, sir. I did go to
19 Newberry to my aunt's house and, then, I dropped off some
20 marijuana at my aunt's house ---

21 Q. All right. Did you ---

22 A. --- for Michael Epps. He was already on his way to
23 Clinton to purchase some marijuana from me. And Miriam had
24 called him and I went to Newberry and sold him some marijuana
25 and came -- and we came back to the room.

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1 Q. All right. Now, did he -- did he check into the
2 Hampton Inn?

3 A. Yes, sir.

4 (Brief Pause)

5 Q. All right. And, then, the Hampton Inn apparently --
6 apparently you didn't like the Hampton Inn as well as you did
7 the Howard Johnson?

8 A. Well, either one. I -- I'm not too -- trying to
9 get no hotel room in Clinton.

10 Q. What now?

11 A. I say I don't really like the rooms in Clinton.
12 They're all sort of ---

13 Q. What's wrong with Clinton?

14 A. Huh?

15 Q. What's wrong with Clinton?

16 A. You can't enjoy yourself in the room, not like I
17 like.

18 Q. Why not?

19 A. When you smoke marijuana and stuff, they tell you
20 they'll call the law on you or something at the Howard Johnson
21 in Clinton.

22 Q. Okay. So, it wasn't -- it wasn't that there was
23 anything wrong with the hotel, it's just they wouldn't let you
24 -- it's harder to smoke pot in the hotel room in Clinton than
25 it is somewhere else?

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1 A. Yes, sir.

2 Q. Okay. All right. What -- what was the reason for
3 -- for leaving the Hampton Inn and going back to Howard
4 Johnson?

5 A. I had -- I was at the Howard Johnson first and went
6 to the Hampton.

7 Q. Yeah. And, then -- and then -- but, then, you went
8 back to the Howard Johnson, didn't you? And then -- well, I'm
9 getting a little bit ahead of myself. Then, Michael and
10 Sierra came over, right?

11 A. Right.

12 Q. Okay. And they came to the -- you were already at
13 the Howard Johnson though, when they came over, right?

14 A. Yes, sir.

15 Q. Okay. What ---

16 A. And back to -- we went -- we went to the Hampton to
17 get Miriam's -- Miriam had her pocketbook and a -- a bag at
18 the Hampton.

19 Q. Uh-huh (affirmative).

20 A. And -- and we went and got that.

21 Q. Okay. All right. So, Michael and Sierra come over,
22 and during this time, do you -- do you remember hearing
23 anything on the TV about this killing?

24 A. Yes, sir.

25 Q. Okay. You remember hearing something about that?

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1 A. Yes, sir.

2 Q. All right. Well, what did you think about that?

3 A. I knew the guy who got killed.

4 Q. You knew Plute?

5 A. Yes, sir. I used to -- I used to be with his
6 brother when I stayed in Union. It was -- this was in like
7 '98 when I was staying with him, his -- his older brother
8 Preston Davis. We used to be together, so, I knew him.

9 Q. So, you were -- you were friends with Plute's older
10 brother?

11 A. Yes, sir.

12 Q. Is that correct?

13 A. Yes, sir.

14 Q. Okay.

15 A. Yes, sir.

16 Q. All right. Did you know Tinsley?

17 A. Yes, sir.

18 Q. How did you know her?

19 A. She -- when I stayed with him, she was working at
20 the Dixie Curb Market in -- in Union.

21 Q. Okay.

22 A. And I stayed right beside the Dixie Curb Market.

23 Q. All right.

24 A. And she worked there.

25 Q. All right. Did you know about Tinsley being in a

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1 relationship with Chauncey Sims (phonetic)?

2 A. Yes, sir.

3 Q. Okay. You knew that was her -- her boyfriend and
4 father of her children?

5 A. I knew they had -- they had a child together.

6 Q. You knew they had children together?

7 A. Yeah.

8 Q. Okay.

9 A. Yes, sir.

10 Q. And you know Mr. Sims, his nickname is Jake,
11 correct?

12 A. Yes, sir.

13 Q. Okay. And did you know where they lived?

14 A. No, sir.

15 (Brief Pause)

16 Q. Okay. And this is kind of -- of getting back on
17 track here, the -- your -- your testimony is that your
18 decision to go to Charlotte was a business decision; is that
19 right?

20 A. Yes, sir.

21 Q. Okay. And it was because that -- you wanted -- you
22 wanted to meet up with your marijuana connection, right?

23 A. Yes, sir.

24 Q. All right. When -- when did you talk to your
25 marijuana connection?

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1 A. I had talked to him on Monday morning.

2 (Brief Pause)

3 Q. All right. And how did you -- where -- where were
4 you when you talked to him?

5 A. I was at my grandmother's house.

6 Q. Okay. Did he call you or did you call him?

7 A. I called him.

8 Q. And why -- what was your reason for calling him
9 specifically? I mean, I know he is your connection, but why
10 did you call him on that Monday morning?

11 A. I told him I was on my way to Charlotte; I was
12 coming to Charlotte that night. But he told me not to come
13 till the next morning.

14 Q. Well -- okay. So, you -- you told him you were on
15 your way to Charlotte?

16 A. Yes, sir.

17 Q. And you could come -- you could come that night.
18 But why did -- I mean, what was the reason you didn't go to
19 Charlotte I guess is my question, Mr. Rice?

20 A. I went to -- to meet him.

21 Q. Okay. Well, I mean, were you running low? Is that
22 -- I mean, that's my question. I mean, were you out of it or
23 what?

24 A. I wasn't out. I was -- I was going to get some
25 more.

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1 Q. Well, what -- what would be the reason for going to
2 get more if you already had -- had a good bit?

3 A. I was running out. I didn't have enough.

4 (Brief Pause)

5 Q. So, your testimony is you were just about out of
6 marijuana?

7 A. Yes, sir.

8 Q. Is that -- that what you're saying?

9 A. Yes, sir.

10 Q. I mean, how -- how much inventory did you have.

11 A. (No Response)

12 Q. I mean, how -- how long could you have kept going
13 at the rate you normally sold?

14 A. Maybe half a day, maybe a whole day.

15 Q. All right. Well, you -- you made that call and,
16 then, you went and sold some more, didn't you?

17 A. Yes.

18 Q. Okay. So, basically, you should just have been
19 about out, right?

20 A. Yes, sir.

21 Q. All right. After you went down to the drug house
22 and sold for half a day?

23 A. Yes, sir.

24 Q. Okay. All right. So, by that time, I guess, by
25 the middle of the day Monday, you really needed some

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1 marijuana?

2 A. I had -- I had some marijuana, but, you know, I
3 mean, it wasn't a large amount.

4 Q. Okay.

5 A. I was down to like maybe half a pound.

6 Q. Oh, you were down to half a pound?

7 A. Yes, sir.

8 Q. Well, so -- so, you've only got about a half pound
9 of inventory left. At the rates -- rates you sell, what
10 would that be a half a day maybe, two or three hours?

11 A. Maybe.

12 Q. If there is a rush, maybe quicker than that you
13 can get rid of that?

14 A. Yes, sir.

15 Q. Okay. And, so, you needed to keep -- keep being
16 able to ply your trade and make a living, you needed to go
17 and get some more marijuana?

18 A. Yes, sir.

19 Q. But your idea was, at the time, to go to Clinton?

20 A. I don't understand the question.

21 Q. Well, you -- you didn't -- you didn't go straight
22 to Charlotte. You went to Clinton, didn't you?

23 A. Yes.

24 Q. Okay. And you don't even like Clinton?

25 A. No, sir.

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1 Q. They don't even have good hotels to go smoke dope
2 in in Clinton, do they?

3 A. No, sir.

4 Q. Okay. And Mr. Rice ---

5 A. But -- but we have no hotels in Whitmire.

6 Q. You what now?

7 A. We have no hotels in Whitmire.

8 Q. Yeah, Whitmire is a pretty small place.

9 A. Yes.

10 Q. They don't put a hotel in Whitmire, do they?

11 A. No, sir.

12 Q. Okay. Well, Mr. Rice, you've lived around here
13 your whole life, right?

14 A. No, sir. I stayed here two -- two years, maybe
15 three.

16 Q. All right. Where -- where did you stay before
17 then, Greenwood?

18 A. (Nods affirmatively.)

19 Q. Did you live in Greenwood a while?

20 A. Yes, sir. I stayed -- I moved to Greenwood with a
21 girlfriend of mine from two thousand, five (2005) to two
22 thousand, six (2006).

23 Q. Uh-huh (affirmative). Okay.

24 A. Yes.

25 Q. Well, but, I mean, where did you grow up? Didn't

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1 you grow up in Union?

2 A. I grew up around Whitmire in South Carolina.

3 Q. Okay. I mean, you've lived like in Union
4 County ---

5 A. Yes, sir.

6 Q. --- and the upstate of South Carolina?

7 A. Yes, sir.

8 Q. Okay.

9 A. My mother -- I moved with my mother, Sherri, and
10 my grandmother to Union in -- I was in -- I'd say I was in
11 the seventh grade.

12 And I stayed all the way up till I was in the
13 ninth grade. And I went back to Whitmire.

14 Q. All right. And, so, you've lived here long enough
15 to know that Clinton is not on the way to Charlotte?

16 A. Yes, sir.

17 Q. Okay. But that night it -- for some -- some --
18 for some reason you decided that evening it was time to head
19 on up to Charlotte?

20 A. Yes, sir.

21 Q. Okay. And, so, that's when you, Michael, Miriam,
22 and Sierra all go to Charlotte?

23 A. Yes, sir.

24 Q. All right. Now, you said that you didn't find out
25 that -- that they were -- you didn't find out that the

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1 police were out looking for you until when? When was it --
2 when was it you found that out?

3 A. I was at my uncle's house the night that Miriam
4 and Sierra and Mike and myself went to Thomasville.

5 Q. Oh, all right. And that was on Thursday?

6 A. Yes, sir.

7 Q. Or no, it was ---

8 A. Thursday.

9 Q. --- Wednesday ---

10 A. It was on Wednesday.

11 Q. --- when you went to Thomasville?

12 A. It was on a Wednesday, yes, sir.

13 Q. All right. And, so -- so, did you find out the
14 next day, that Thursday?

15 A. I found out the next -- the next evening when I
16 called.

17 Q. All right. And that would be -- that would have
18 been Thursday night?

19 A. Thursday evening.

20 Q. Okay. And who told you that?

21 A. A friend of mine, Eric.

22 Q. So, Michael Rice never told you that, that the
23 police were wanting to talk to you and him?

24 A. No, sir.

25 (Brief Pause)

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1 A. As soon as I found out that the police was looking
2 for me, I came and surrendered myself.

3 Q. Well, you -- you surrendered yourself on the next
4 Tuesday, right?

5 A. Yes, sir.

6 Q. Okay. You found out on Thursday?

7 A. Yes, sir.

8 Q. So, that's Friday, Saturday, Sunday, Monday.
9 That's four days, right?

10 A. No, sir. It wouldn't not the -- it was not but
11 two days on Wednesday. I found out that the police was
12 looking for me on a Friday.

13 Q. Oh, you found out on Friday?

14 A. Yes. I found out that Friday.

15 Q. Okay. So, you ---

16 A. Because the police was not looking for me.

17 Q. Right.

18 A. They never went by my house or nothing.

19 Q. Well, so -- so, you found out that -- your
20 testimony now is that you found out on Friday they were
21 looking for you. And you didn't turn yourself in on
22 Saturday, Sunday, or Monday?

23 A. No, sir. I had to wait right now for -- I wasn't
24 planning on coming back down the road any time soon. My
25 uncle, he don't have any license.

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1 Q. All right. Well, why -- why weren't planning on
2 coming back down the road?

3 A. I mean, I -- I go -- I go stay in Thomasville
4 regular for a week or two. I have about two -- I left my
5 uncle's house and went to my cousin's house.

6 Me and him and Mimi. And I tried to find a way
7 back down the road because I didn't want to upset my cousin,
8 you know. I was trying to get a way back down the road.
9 So, I called Kenneth Epps (phonetic), you know, and told him
10 I could meet him in Charlotte if he would give me and Miriam
11 a ride back to Whitmire.

12 Q. Okay. Now, do you know -- well, you know Derrick
13 Ruff, right?

14 A. Yes, sir.

15 Q. All right. And, because, you and he sort of share
16 his sister, right, Bree?

17 A. Yes, sir, she's his siter.

18 Q. Britney is his sister and your sister?

19 A. Yes, sir.

20 Q. All right.

21 (Brief Pause)

22 Q. All right. And do you know Laquidra Eigner?

23 A. Yes, sir.

24 Q. And you knew she worked at the Lil Cricket, right?

25 A. Yes, sir.

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1 Q. And you knew that Derrick was dating her or living
2 with her, right?

3 A. No, sir.

4 Q. You didn't know Derrick was in a relationship with
5 her?

6 A. No, sir.

7 Q. Did you ever see Derrick at the Lil Cricket
8 talking to her?

9 A. I've seen Derrick in there a couple of times, but
10 I never knew that he was dating Quidra.

11 Q. And when was the last time you had seen Derrick
12 before Sunday -- or Monday and the early morning of the 18th
13 of August?

14 A. I would say around a month, a month and a half.

15 Q. A month?

16 A. Maybe -- maybe two.

17 Q. Okay. I mean, Whitmire is a pretty small place,
18 isn't it?

19 A. Yes, sir.

20 Q. And he was dating a girl that worked in Whitmire?

21 A. Yes, sir.

22 Q. But you're saying he hadn't seen him for six weeks
23 to two months?

24 A. Yes, sir.

25 (Brief Pause)

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1 Q. Did you know -- like did you know how to get a
2 hold of Mr. Ruff if you wanted to?

3 A. No, sir.

4 Q. Would you have had his phone number?

5 A. No, sir.

6 Q. Would he have had yours?

7 A. No, sir.

8 Q. All right. Did -- did you know Mr. Ruff dealt
9 drugs?

10 A. No, sir.

11 Q. You didn't know he was a drug dealer?

12 A. No, sir.

13 Q. Okay. What about Miss -- Ms. Lemon, did you know
14 her, the -- the woman that worked at the Lil Cricket?

15 A. Yes, sir. They were selling marijuana out of Lil
16 Cricket.

17 Q. All right.

18 A. Her and Laquidra, that's how I knew her.

19 Q. Oh, so, they were kind -- kind of in the same
20 business you were?

21 A. Yes, sir.

22 Q. All right. And did you know that Plute liked
23 Wytrisha?

24 A. No, sir.

25 Q. Did you ever -- did you ever see Plute down there

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1 in Whitmire?

2 A. No, sir.

3 Q. All right. So, you never -- you never saw Plute
4 at the Lil Cricket or never saw him around Whitmire?

5 A. No, sir.

6 (Brief Pause)

7 Q. And...

8

9 (Brief Pause)

10 Q. And you said that, that Wednesday -- or no, it was
11 that Tuesday. Is that when you went to Concord Mills?

12 A. Tuesday?

13 Q. Uh-huh (affirmative), that Tuesday?

14 A. Yes, sir.

15 Q. Okay. On Tuesday -- you go to Charlotte on Monday
16 and stayed at the Microtel?

17 A. Yes, sir.

18 Q. And your connection had told you to meet him the
19 next day, right?

20 A. Yes, sir.

21 Q. Where was your connection from?

22 A. Charlotte.

23 Q. He was from Charlotte and he wanted to meet in
24 Concord?

25 A. Yes, sir, because we always met there.

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1 Q. All right.

2 A. His girlfriend worked at Concord Mills.

3 Q. All right. And -- and, at that point in time, you
4 -- you went and did some shopping?

5 A. I went to meet him and, then, I did some shopping.

6 Q. How much money did you spend?

7 A. Seventy-five thousand dollars (\$75,000) -- well,
8 seventy-five hundred dollars (\$7,500).

9 Q. You spent seventy-five hundred dollars (\$7,500)?

10 A. Yes, sir.

11 Q. On shopping?

12 A. No, not on shopping, on drugs.

13 Q. Okay. Well, you spent -- you bought seventy-five
14 hundred dollars (\$7,500) worth of drugs from him?

15 A. Yes, sir, not for clothes.

16 Q. Okay.

17 A. I bought two pairs of shoes and a -- a few shirts
18 and two pairs of shorts.

19 Q. So, you had -- and you paid cash for that?

20 A. Yes, sir.

21 Q. So, you're saying that that -- that Tuesday, after
22 this happened, you had seventy-five hundred dollars (\$7,500)
23 in cash?

24 A. I had over seventy-five hundred dollars (\$7,500)
25 in cash.

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1 Q. Oh, you had more?

2 A. Yes, sir.

3 Q. Because you were -- aside from buying dope you
4 were renting hotel rooms, right?

5 A. Yes, sir.

6 Q. Two hotel rooms in Clinton, right?

7 A. Yes, sir.

8 Q. A couple hundred (\$200) apiece or a hundred --
9 about a hundred (\$100) apiece, a total of a couple of
10 hundred (\$200) in cash, right?

11 A. Yes, sir.

12 Q. Okay.

13 A. No, them rooms weren't no hundred dollars (\$100)
14 in cash.

15 ~~Q.~~ Q. The Howard Johnson room wasn't a hundred dollars
16 (\$100)?

17 A. No, sir.

18 Q. Okay. But two -- two hotel rooms in Clinton,
19 right?

20 A. Yes, sir.

21 Q. The Microtel hotel room in Charlotte on Monday
22 night, right?

23 A. Yes, sir.

24 Q. Another Microtel hotel room in Charlotte on
25 Wednesday, right?

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1 A. Yes, sir.

2 Q. All right. And, then, the money you spent on
3 clothes, right ---

4 A. Yes, sir.

5 Q. --- on Tuesday. How much did you spend on
6 clothes?

7 A. Almost a thousand dollars (\$1,000):

8 Q. Okay.

9

10 (Brief Pause)

11 Q. All right. So, you're -- you're telling the jury
12 -- we've got seventy-five hundred dollars (\$7,500) worth of
13 inventory you bought, a thousand dollars (\$1,000) worth of
14 clothes, that's eighty-five (\$8,500) and then ---

15 A. I -- I bought other stuff like underwear. I went
16 and bought little stuff like what I need, soap and stuff
17 like that. All of that added up to like eight hundred
18 dollars (\$800).

19 Q. Another eight hundred dollars (\$800) for that type
20 of thing?

21 A. No, all of it together was -- what I'm saying ---

22 Q. But, with the clothes -- what with -- with what?

23 A. The clothes -- with the clothes and the shoes. I
24 bought -- I bought hygiene ---

25 Q. Uh-huh (affirmative).

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1 A. --- stuff that I needed and all of that. So, it
2 ended up to like eight hundred dollars (\$800).

3 Q. All right. So, we can add eight hundred (\$800) to
4 the seventy-five hundred (\$7,500), right?

5 A. Yes, sir.

6 Q. And that gets us to eighty-three hundred (\$8,300),
7 right?

8 A. Yes, sir.

9 Q. All right. And, then, we can tack on about four
10 hotel rooms?

11 A. Yeah, yes, sir.

12 Q. All right.

13 A. And gas and food too.

14 Q. All right. So, you're -- what you're saying is
15 probably during this oh, what, three-day period, you spent
16 about nine thousand dollars (\$9,000) in cash?

17 A. Yes, sir.

18 Q. Okay. And that's -- and you're -- you're also --
19 but, at the same time, you told -- you told the jury that
20 you don't have enough money to keep a place of your own,
21 right?

22 A. I never said I don't have any money to keep a
23 place of my own.

24 Q. You didn't ---

25 A. I just don't have a place of my own.

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1 Q. You just don't keep a place?

2 A. Right.

3 Q. Okay. All right. And you -- your testimony is
4 that you could -- you could make that kind of cash just
5 selling marijuana in Whitmire?

6 A. Marijuana and cocaine.

7 Q. Okay.

8 (Brief Pause)

9 Q. You could -- you could also make that kind of cash
10 robbing somebody who had a lot of cash in their house,
11 couldn't you, Mr. Rice?

12 A. I guess you could.

13 (Brief Pause)

14 Q. And you said that Miriam and Michael and Sierra,
15 you -- you were on good terms with them; is that right?

16 A. Yes, sir.

17 Q. Because you were -- even though Sierra [sic] you
18 wouldn't consider your girlfriend, I mean, she was somebody
19 you obviously enjoyed spending time with; is that correct?

20 A. Yes, sir.

21 Q. I'm sorry -- not Sierra ---

22 A. Miriam.

23 Q. --- Miriam? You -- you enjoyed spending time with
24 Miriam; is that correct?

25 A. Yes, sir.

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1 Q. And you -- you and her were intimate; is that
2 correct?

3 A. Yes, sir.

4 Q. All right. And then, Michael, I -- I really
5 haven't said much about Michael. Michael is your cousin,
6 right?

7 A. Yes, sir.

8 Q. Okay. And were you close with Michael?

9 A. Yes, sir.

10 Q. Okay.

11 A. I mean, that's my -- his mother and my mother are
12 sisters.

13 Q. Okay.

14 A. We grew up together.

15 Q. Okay. And you've -- you've known Michael pretty
16 much your whole life?

17 A. Yes, sir.

18 Q. All right. And obviously he had this little thing
19 going with Sierra, right? And he was spending some time
20 with her; is that right?

21 A. Yes, sir.

22 Q. And he -- he actually stayed at Ms. Rice's house a
23 good bit too, right?

24 A. Michael was here and there too.

25 Q. Huh?

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1 A. Michael was here and there too. He -- he stayed
2 from ---

3 Q. Okay.

4 A. --- our grandmother's to his mother's in Newberry
5 and ---

6 Q. So, you -- you and Michael basically had sort of
7 two places you kind of stayed together?

8 A. We had over two places.

9 Q. Oh, over two places?

10 A. Yes, sir.

11 Q. Okay. So, you would -- you would consider
12 yourself very close to Michael?

13 A. No, sir, not very close.

14 Q. Okay.

15 A. But I -- we're relatives and grew up together.

16 Q. Okay. You're family?

17 A. Yeah.

18 Q. Okay. And there was nothing -- nothing wrong
19 between you and Sierra, right?

20 A. No, sir.

21 Q. I mean, she was -- she was a customer, right,
22 sometimes?

23 A. Yes, sir. I used to go over her house and she'd
24 -- you know, there would be a bunch of people over there
25 where she lived ---

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1 Q. Okay.

2 A. --- chilling over there. Miriam was staying there
3 too.

4 Q. All right. So -- so, when -- so, when Michael and
5 Sierra came back from Charlotte, after her -- I'm sorry,
6 when they came back from Thomasville, after taking you up
7 there, everything was good with you and Michael, right?

8 A. Yes, sir.

9 Q. All right. And with -- when -- when -- when
10 Sierra came back from Thomasville, everything -- everything
11 was good with you and Sierra?

12 A. Yes, sir.

13 Q. Okay. And, when Miriam came -- now, did you --
14 did you and Miriam come home together?

15 A. Yes, sir, we came home together.

16 Q. Okay.

17 A. We -- we came back to my grandmother's house like
18 maybe it was like four o'clock (4:00) that morning. And I
19 woke my sister up and my mother.

20 And Michael's mother was there. And me and my
21 mother talked and, then, Miriam and my sister went -- went
22 to my sister's room and they went to sleep.

23 But Miriam stated that she came back by herself,
24 but me and Miriam came home together with Kenneth Epps and
25 Alex Epps (phonetic), who were cousins.

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1 They dropped us off at my grandmother's house like
2 maybe four o'clock (4:00) that -- that morning before I
3 turned myself in.

4 Q. All right. And Kenneth and Alex, are they -- are
5 they kin to you?

6 A. No, sir.

7 Q. Okay. But you know -- you know who they are?

8 A. Yes, sir.

9 Q. And they're from Whitmire?

10 A. No, sir, they're from Charlotte.

11 Q. All right.

12 A. They're from Connecticut, but they stay in
13 Charlotte.

14 Q. Well, how -- I mean, how do you know them?

15 A. They used to stay in Whitmire too.

16 Q. They used to stay in Whitmire?

17 A. Before they moved to Charlotte.

18 Q. Is that how you met them?

19 A. Yes, sir.

20 Q. All right. So, they -- they'd know how you got
21 back to ---

22 A. Yes, sir.

23 Q. --- to Whitmire?

24 A. Yes, sir.

25 Q. And how -- and how Miriam got back to Whitmire?

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1 A. She got back with her -- me, her, Kenneth Epps and
2 Alex Epps came to Whitmire together -- came to Whitmire
3 together to my grandmother's house.

4 Q. All right. Well, that's my question, Kenneth and
5 Alex would know how she got back?

6 A. Yes, sir.

7 Q. Because they were there?

8 A. They drove -- well, Kenneth drove ---

9 Q. All right.

10

11 A. --- us.

12 Q. All right. Okay. So -- so, when Mi -- when
13 Miriam and you came back, you thought everything was good
14 with Miriam, right?

15 A. Yes, sir.

16 Q. Because you'd -- you'd spent -- you had just spent
17 like what, about three (3) or four (4) days on the road with
18 her?

19 A. Yes, sir.

20 Q. Okay. And everything had gone pretty good during
21 those three (4) or four (4) days I take it?

22 A. Yes, sir.

23 (Brief Pause)

24 Q. And...

25 (Brief Pause)

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1 Q. Well, strike that.

2 (Brief Pause)

3 Q. Miser -- Mr. Rice, I know you -- you basically
4 said you -- you sort of made -- you sort of made a decision
5 you didn't want to get your own place to live; is that
6 right?

7 A. Yes, sir.

8 Q. You just kind of prefer living at one grandma's
9 house or the other's or spending the night with Miriam
10 or ---

11 A. Yes, sir.

12 Q. --- or renting a hotel or whatever you chose to
13 do?

14 A. Yes, sir.

15 Q. Okay. Was there a reason you don't have a car?

16 A. No, sir. I don't have a license.

17 Q. Well, you could've gotten a license, couldn't you?

18 A. Yes, sir, I could have.

19 Q. And you got plenty of money?

20 A. Yes, sir, and I could ---

21 Q. And, certainly, you could afford to pay -- pay --
22 pay for the insurance?

23 A. But I don't have a license, sir.

24 Q. Okay. Well, wouldn't that have been an easier way
25 to get up to ---

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1 A. My license was suspended and I never did get them
2 back.

3 (Brief Pause)

4 THE COURT: Mr. Anthony, it's getting kind of
5 late. How much longer do you ---

6 MR. ANTHONY: I'm almost -- I'm almost through.

7 Q. (By Mr. Anthony) Wouldn't it have been easier to
8 have a car just to make those trips up to Charlotte to meet
9 your supplier and everything?

10 A. It -- it really wasn't no problem. So, it wasn't
11 no -- It wasn't no big issue because I always had
12 transportation when I needed it.

13 Q. I mean, you could always just get somebody to take
14 you up there?

15 A. Yes, sir.

16 MR. ANTHONY: If I could have a moment.

17 (Brief Pause)

18 Q. Mr. Rice, you -- you have convictions from 2000
19 for two counts of forgery; is that right?

20 A. Yes, sir.

21 Q. And you got a conviction from 2000 for second-
22 degree burglary of a dwelling; is that correct?

23 A. Yes, sir.

24 Q. And you got a conviction from 1999 for
25 shoplifting?

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1 A. Yes, sir.

2 Q. All right. Thank you.

3 MR. ANTHONY: That's everything -- that's
4 everything on cross.

5 THE COURT: Redirect?

6 MR. RECKENBEIL: Nothing, Your Honor.

7 THE COURT: Thank you, sir. You can step down.

8 (The witness stepped down from the witness stand
9 at 5:31 p.m.)

10 THE COURT: Ladies and gentlemen, we're going to
11 recess for the night and start back at nine-thirty (9:30) in
12 the morning.

13 Please, be back in your jury room at nine-thirty
14 (9:30). Remember no radio and no TV regarding this case.

15 Everybody else keep your seats -- everybody else
16 keep your seats. We'll see you back in the jury room at
17 nine-thirty (9:30) in the morning.

18 Remember don't talk about the case with anybody
19 either. You are excused at this time.

20 (The jury exited the courtroom at 5:31 p.m.)

21 THE COURT: Counsel, is it your intention to
22 rest?

23 MR. RECKENBEIL: Yes, sir, Your Honor.

24 THE COURT: All right. Do you anticipate
25 anything in reply?

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1 **MR. ANTHONY:** Yes, sir. I -- I do expect to call
2 two brief witnesses.

3 **THE COURT:** All right. I question whether you
4 know the meaning of the word "brief," but we'll find out the
5 morning.

6 All right. We'll be in recess until 9:30 in the
7 morning. Let me talk to the lawyers a minute in chambers
8 about the charge.

9 **(Off-the-Record Discussion)**

10 **(Whereupon, court was adjourned at 5:32 p.m.)**

11 **(Court reconvened on Thursday, September 17, 2009 at**
12 **9:30 a.m.)**

13 **(The Court entered the courtroom at 9:30 a.m.)**

14 **THE COURT:** Good morning. Thank you very much.
15 You may be seated.

16 **(Everyone in the courtroom complied with Court's**
17 **request.)**

18 **(Off-the-Record Comments)**

19 **CHARGE CONFERENCE**

20 **THE COURT:** All right. Does the Defense still
21 intend to rest.

22 **MR. RECKENBEIL:** Yes, sir. We -- we'll rest on the
23 record. I just had one thought about your - your charge. I
24 was thinking about it last night. Mr. Ruff, having taken the
25 Fifth Amendment, I didn't know if Your Honor was going to

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1 charge the jury as to no inference can be drawn from the fact
2 that an individual uses their constitutional rights.

3 I know he's not the defendant, but I still think the
4 jury still might need some sort of explanation that they can't
5 draw any inference from a witness saying that they're using
6 their Constitutional Right to not answer any questions.

7 THE COURT: What about that?

8 MR. ANTHONY: I don't -- I don't object to the
9 Court doing that. I -- I really don't have a position on it.

10 THE COURT: I be happy to do that.

11 MR. RECKENBEIL: Thank you, Judge.

12 THE COURT: All right. And you still have some
13 witnesses in reply?

14 MR. ANTHONY: Yes, sir.

15 THE COURT: All right. And, then, once you finish,
16 then, I will send the jury back out and hear your motions.

17 MR. RECKENBEIL: Yes, sir.

18 THE COURT: Bring the jury, please.

19 (The jury was summoned.)

20 (The jury entered the courtroom at 9:34 a.m.)

21 THE COURT: Good morning, ladies and gentlemen.
22 Has -- has any member of the jury panel received any
23 information, from any source about this case, since we left
24 the courthouse yesterday?

25 (Negative responses heard.)

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1 THE COURT: All indicated in the negative. I asked
2 the bailiff to ask you all to elect a foreperson. Did you do
3 that?

4 (Affirmative responses heard.)

5 THE COURT: Is that you, sir?

6 MR. STEVENS: Yes, sir.

7 THE COURT: And your name is?

8 MR. STEVENS: Aaron Stevens.

9 THE COURT: Mr. Stevens? All right. You don't get
10 any extra pay so don't get real happy all of a sudden.

11 (Laughter)

12 THE COURT: All right. Counsel, you may call your
13 next witness.

14 MR. RECKENBEIL: Your Honor, at this time the
15 Defense would rest.

16 THE COURT: All right. The Defense has rested. Is
17 there anything in reply?

18 MR. ANTHONY: Yes, sir. Briefly, we would call
19 Lieutenant -- or recall Lieutenant Riddle.

20 THE COURT: Come around, please, sir. You are
21 already under oath.

22 (Witness stepped forward and took a seat on the
23 witness stand.)

24 THE COURT: Yes, sir?

25 DIRECT EXAMINATION by MR. ANTHONY:

9:34 A.M.

LT. RIDDLE RECALLED - DIRECT by MR. ANTHONY

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1 Q. Lieutenant -- Lieutenant Riddle, I want to take you
2 back to Monday of this week. Did you have a conversation with
3 Britney Rice on that day?

4 A. Yes, sir.

5 Q. Where did you have that conversation?

6 A. At her residence on in Whitmire.

7 Q. Was anyone else from the sheriff's office with you
8 when you had that conversation?

9 A. Yes, sir.

10 Q. And who was that?

11 A. Lieutenant Terry Humphries (phonetic).

12 Q. And what did you ask of Ms. Rice?

13 A. About the night that this incident took place or the
14 early morning hours. We had learned that she was going to
15 testify the case and we just asked her what she was going to
16 testify to about Patrick being home.

17 Q. And what did you tell you about when Patrick came
18 home that night?

19 A. She said Patrick came time between two-thirty (2:30)
20 and three (3:00) a.m. And they watched TV. And, then, she
21 went to bed at three-thirty (3:30) or four (4:00) a.m. And
22 Patrick was still up.

23 Q. And did she tell you who was -- who was there first?
24 Was she there when Patrick got home or was Patrick there when
25 she got home?

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LT. TERRY HUMPHRIES - DIRECT by MR. ANTHONY

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1 **A.** That's what she told us, that she was home and
2 Patrick came to the home.

3 **MR. ANTHONY:** Thank you. That's everything.

4 **THE COURT:** Cross exam?

5 **MR. RECKENBEIL:** No cross, Judge.

6 **THE COURT:** Thank you, sir. You can step down.

7 The next witness?

8 (The witness stepped down from the witness stand at
9 9:35 a.m.)

10 **MR. ANTHONY:** We call Lieutenant Terry Humphries.

11 (Witness stepped forward to be sworn.)

12 **THE COURT:** Put -- put your left hand on the Bible
13 and raise your right.

14 (Whereupon,

15 **LIEUTENANT TERRY HUMPHRIES**

16 having been first duly sworn, testified as follows:)

17 **THE COURT:** Thank you, sir. State your full name,
18 please.

19 **THE WITNESS:** Terry Humphries (phonetic).

20 **THE COURT:** Counsel?

21 **DIRECT EXAMINATION by MR. ANTHONY:**

9:36 A.M.

22 **Q.** Lieutenant Humphries, how are you employed?

23 **A.** I'm a detective with the Union County Sheriff's
24 Office.

25 **Q.** And how long have you worked for the sheriff's

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1 office?

2 A. Nineteen (19) years.

3 Q. And how long have you been an investigator?

4 A. Probably about twelve (12) of that.

5 Q. Were you working on Monday of this week?

6 A. Yes, sir.

7 Q. And did you make a trip to Whitmire with Lieutenant
8 Riddle?

9 A. I did.

10 Q. Where did you go to in Whitmire?

11 A. We went to in Whitmire.

12 Q. And who did you speak to there?

13 A. Britney Rice, also some of the subjects that were
14 there at that time.

15 Q. And, in regards to Britney Rice, what -- what was
16 she asked about?

17 A. Oh, she was asked about -- Lieutenant Riddle talked
18 about -- asked her about her whereabouts on the night of the
19 shooting in Union.

20 Q. And what did she tell you ---

21 A. She said ---

22 Q. --- with regards to where she was on the night of
23 the incident?

24 A. She said that she was at home at her grandmother's
25 house there on

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1 Q. And what did she tell you with regards to Patrick
2 Rice being there at the house?

3 A. She said that Patrick came to the house around two-
4 thirty (2:30) or three (3:00) -- two-thirty (2:30) or three
5 (3:00) a.m. that morning.

6 Q. And was -- did she state whether she was already
7 there when Patrick came in?

8 A. Yes, sir. She was there when Patrick came in?

9 MR. ANTHONY: Thank you. That's everything on
10 direct.

11 THE COURT: Cross exam?

12 MR. RECKENBEIL: No, cross examination.

13 THE COURT: Thank you, sir. You can step down

14 (The witness stepped down from the witness stand at
15 9:36 a.m.)

16 THE COURT: Call your next witness.

17 MR. ANTHONY: That's the State's reply case.

18 THE COURT: All right. Ladies and gentlemen, you
19 have heard all of the testimony and the evidence that you're
20 going to hear in this case.

21 It remains now for the attorneys to make their
22 closing arguments to you. Then, I will charge you on the law
23 and you will begin your deliberations.

24 We have a couple of legal matters that we need to
25 take up. And attorneys will need a few minutes to get their

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1 thoughts together I'm sure.

2 So, we are going to take a break at this time.

3 We'll try to keep it as brief as we can. Please, retire to
4 the jury room but, please, do not talk about the case. Please
5 follow the bailiff.

6 (Whereupon, the jury exited the courtroom at 9:36
7 a.m.)

8 THE COURT: Any motions?

9 MR. RECKENBEIL: Yes, sir, Your Honor.

10 Respectfully, for the record, we would renew all our motions
11 that we did at the close of the State's first case in chief by
12 the fact that a motion for a directed verdict and acquittal on
13 all charges by the fact we don't think the jury can find
14 enough evidence, in the light most favorable to the state, of
15 guilt beyond reasonable doubt.

16 THE COURT: All right. Well, I think that's
17 clearly a jury question. I think there is sufficient evidence
18 in the record to support a conviction, depending upon what
19 evidence the jury chooses to believe and what matters the jury
20 believes and what weight they give the evidence. So, I'm
21 going to deny your motion. Anything else?

22 MR. RECKENBEIL: The only other thing, Your Honor,
23 is that I think the Defense did, in fact, put up our case and
24 that the State will have an opportunity to close in full
25 first.

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1 I -- I -- I don't know how the case law stands, but
2 I would ask them to state, and I think they're going to, put
3 up the law first and we close in full and then, obviously, the
4 State closes in full.

5 THE COURT: Right. That is my understanding. Is
6 that right, Mr. Anthony?

7 MR. ANTHONY: Yes -- yes, sir.

8 THE COURT: All right.

9 MR. ANTHONY: I do -- I do intend to open on the
10 law.

11 THE COURT: All right. Do you need a few minutes?

12 (Brief Pause)

13 THE COURT: Either one of you?

14 MR. RECKENBEIL: I'm good.

15 MR. ANTHONY: I'm -- I'm basically ready to go.

16 THE COURT: Okay.

17 MR. ANTHONY: Can we -- well, can I have five (5)
18 minutes? I've got one thing I need to check on.

19 THE COURT: That's fine. And I'll have my charge
20 kind of put together. If you want any specific language I
21 use, come on back and I'll be glad to share that with you.

22 MR. RECKENBEIL: Okay, yeah, if we can take a quick
23 glance at it, Judge.

24 (Whereupon, a brief recess was taken from 9:46 a.m.
25 till 9:56 a.m.)

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1 THE COURT: Is the State ready to proceed?

2 MR. ANTHONY: Yes, sir.

3 THE COURT: Is the Defense ready -- well, as soon
4 as we get the Defendant?

5 MR. RECKENBEIL: Yes, sir.

6 (Brief pause while defendant is brought into the
7 courtroom.)

8 THE COURT: All right. Bring in the jury.

9 (The jury was summoned.)

10 (The jury entered the courtroom at 9:58 a.m.)

11 THE COURT: All right. Ladies and gentlemen, as I
12 told you, you have heard all the testimony and evidence. And
13 the attorneys will make their closing arguments to you at this
14 time.

15 What the attorneys tell you is not evidence, just
16 like their opening statements and what they're going to tell
17 you at this time is not is not evidence.

18 Evidence is testimony that comes from witnesses under
19 oath on this stand plus any exhibits, plus that one
20 stipulation that we about that automobile. That is evidence
21 also.

22 But, what the attorneys tell you is very important.
23 They have a good grasp of the case and they've been working
24 with the case awhile and they know the facts of the case. And
25 they understand also -- also the time line of the case.

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1 So, please, give them your attention as they address
2 you at this time. Under our Rules, the State goes first and
3 will tell you about the law in the case, then, the Defense
4 will make their closing statement. And the State will reply.

5 So, please, give them your attention. All right,
6 Mr. Anthony?

7 **MR. ANTHONY:** Thank you, Your Honor.

8 **THE COURT:** Yes, sir.

9 **(Mr. Anthony's closing statement began at 9:59 a.m.)**

10 **MR. ANTHONY:** I want to speak to you all just a few
11 moments about a couple things about the law in this case that
12 I would like to point out to you. And, then, I'm going to sit
13 down.

14 And Mr. Reckenbeil will get up and make his closing
15 argument and, then, I'll come back and I will actually talk
16 about what happened in the case.

17 But there are just a few things I wanted to mention.
18 The judge is going to instruct you about this concept called
19 "The hand of one is the hand of all."

20 And what that means is that, when two or more people
21 get together to commit a crime, the act of one person that is
22 done, in the furtherance of the crime, is considered to be the
23 act of all the people who were involved. For example, Patrick
24 Rice might not have been the man who tied up Ms. Davis because
25 Derrick Ruff said he did that.

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1 But, if you find that Patrick Rice was there trying
2 to find the money and -- and drugs and performed a role in the
3 offense, he could still be guilty of kidnapping because he was
4 part of a common plan to burglarize the house and rob Kelvin
5 Davis and Tinsley Davis.

6 Now, as to how this works with the murder charge, we
7 obviously don't have any evidence that Patrick Rice was the
8 one shooting Kelvin Davis, so, to convict Patrick Rice of
9 murder, what you have to do is you got to find that the
10 shooting of Kelvin Davis was a probable or natural consequence
11 of the plan to burglarize the home and to rob Kelvin Davis and
12 Tinsley Davis.

13 If you found that, you can find Patrick Rice guilty
14 of it under the theory and under the law of the hand of one is
15 the hand of all.

16 If you decide that a malicious killing occurred and
17 that it was probable that during this incident a malicious
18 killing would occur, then, you can convict Patrick Rice of
19 murder as part of the hand of one being the hand of all.

20 Now, you do have multiple charges here. Any
21 verdict, on any of these charges, has to be unanimous whether
22 that verdict is guilty or not guilty.

23 If you can't reach a unanimous verdict, on a charge,
24 it doesn't mean that Mr. Rice has to be found not guilty. At
25 that point, that is something that you just need to relay to

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1 the judge.

2 So, that's all I want to speak to you about as far
3 as the law in the case. I'm going to sit down now, and in a
4 few more minutes, I will get back up and I will try to go
5 through with you what actually happened. Thank you.

6 THE COURT: Thank you, sir.

7 (Mr. Anthony's closing concluded at 10:02 a.m.)

8 THE COURT: Mr. Reckenbeil?

9 MR. RECKENBEIL: May it please the Court?

10 THE COURT: Yes, sir.

11 (Mr. Reckenbeil's closing argument began at 10:02
12 a.m.)

13 (Brief Pause)

14 MR. RECKENBEIL: Ladies and gentlemen, I want to
15 take a couple minutes, as I usually do, and I would like to
16 thank you for your service.

17 It is not easy to sit in the courtroom for three
18 (3), three and half (3 1/2) days that you have sitting here
19 listening, not getting to ask any questions;

20 Maybe you have something on your mind and you want
21 to say something or you want to ask a question. And it's not
22 easy.

23 Secondly, it is not easy an job for a lawyer either.
24 I mean, we don't do this on a regular basis. We're not in
25 courtroom like we are as officers of this court.

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1 But understanding that this is a civic duty that we
2 put upon our American citizens; without you, this system of
3 justice doesn't work;

4 And understanding that, if we were in a different
5 country, Iraq, Iran, the Middle East, they make a decision by
6 one person. It's usually a dictator. But the American
7 government doesn't work like that.

8 And that is the beauty of our system is twelve (12)
9 people sit here and made the decision on their own citizens'
10 guilt or innocence.

11 Normal folks come in from the community to make the
12 decision. And it's very important we have that because we
13 don't want one person to have the absolute power; we ask that
14 twelve (12) people have that decision. And that is what
15 Patrick Rice has asked for and that's what I'm asked for;

16 That you come in with your good common sense, your
17 common knowledge and everyday experience and, then, you make a
18 reasonable decision. And that's what we've been asked as
19 Americans that our citizens do that, act reasonably.

20 Now, this is a horrible situation. Nobody in here
21 wants to under appreciate the importance of Kelvin Davis's
22 life. That's not what this case is about.

23 I didn't know Mr. Davis. I'm from Greenville. I
24 never met him before. But no one that is standing here before
25 you is going to tell you that the death of that man shouldn't

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1 be appreciated by anything that is said by me, Mr. Anthony, or
2 by any of these witnesses on this witness stand (indicating).

3 But what the judge is going to tell you is that here
4 in the United States we have certain rules that have been
5 ingrained for hundreds of years.

6 And those rules are to find an individual guilty
7 beyond a reasonable doubt, before their liberty is taken away,
8 before they are sent to prison, you 12 people in the jury have
9 to decide, beyond a reasonable doubt, whether or not the
10 government, whether or not the State of South Carolina, has
11 proven to you guilt beyond a reasonable doubt

12 Now, that is not just some term of art that we just
13 throw out on TV or on these crime shows that it's just one of
14 these things that is just flamboyant.

15 It's an actual, living, breathing concept that we
16 have established over time to make sure that you are firmly
17 convinced that these actions have taken place.

18 So, I want you to really listen to what this judge
19 is going to have to say. The judge is going to be instructing
20 you as to what the law is and to -- what the definitions of
21 these concepts are.

22 You are going to take those and apply them to the
23 facts over which you have heard over the past three days and
24 make your decision.

25 Now, Patrick Rice is not a saint. He is a drug

1 dealer. For the past five years, he's done nothing to
2 contribute to axes, contribute to the well-being of his fellow
3 citizens, except for selling drugs. His last job was working
4 at Outback Steakhouse.

5 Can I stand here before you and tell you that I am
6 proud of the man for what he has done? No. He's a drug
7 dealer. But just because he's a drug dealer doesn't mean he's
8 a murderer.

9 It doesn't mean the fact that he kidnapped somebody.
10 It doesn't mean the fact that he robbed somebody. He is not a
11 good man in his own right.

12 And he'll have to face that responsibility for that
13 one day. But just because the fact that he is a drug dealer
14 does not equate with him being a murderer.

15 Now, you have heard a significant amount of
16 witnesses that have come before this Court. And Lieutenant
17 Riddle was one of the last witnesses that we -- we heard from
18 in this case.

19 And I was going through with him some of these
20 results coming back from the South Carolina Law Enforcement
21 Division, and that's SLED, and that is our main governmental
22 entity that is our -- head of our investigation of crimes in
23 this state.

24 And every single result coming back from that
25 division of our government shows that there is not one shred

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1 of forensic or scientific -- scientific evidence to link
2 Patrick Rice to that scene.

3 There was a tremendous amount of blood at that
4 scene. There was a tremendous struggle at that scene.

5 There were three people in that house, according to
6 Ms. Davis, from what she saw of those men who were wearing ski
7 mask.

8 Now, just the fact that I down played the television
9 aspect of what constitutes the term, "beyond a reasonable
10 doubt," there is significant weight as to some of these shows
11 that they talk about DNA.

12 This is a very, very important concept that our
13 society has established over time through scientific evidence.

14 Any sort of saliva, blood, hair samples, skin
15 tissues shred from our body gives our genetic profile that can
16 be tested and compared with the sample that you can take from
17 an individual. Then, you can link those two things up.

18 Now, you've heard Lieutenant Riddle talk about the
19 fact of cross contamination. Well, that is fine. But you
20 still have the ability to test to make a determination if
21 something exists on an article of clothing, on a sheet, on
22 somebody's shoes, or even the house.

23 Now, ladies and gentlemen, some of what you heard
24 was done, but you heard nothing from the State of the fact of
25 putting the agent on that witness stand saying, "We found

1 something," because they didn't because wasn't there.

2 All we heard the last three (3) days were
3 individuals coming up onto that witness stand and saying what
4 they heard.

5 Now, the individuals that we heard have sig --
6 significant reasons to tell a story. As I told you in the
7 opening argument, ain't nothing for free.

8 And that couldn't be any more true than in this
9 courtroom this evening [sic]. Ms. Braswell comes on the
10 witness stand -- and, ladies and gentlemen, you are the judges
11 of the credibility of these individuals.

12 You are the judges of these people's physical
13 demeanor. You are the judges of what you observed, your
14 common knowledge of their character and what you've seen.

15 Take a look at the way that these witnesses acted on
16 the witness stand. Are they making eye contact? Are they
17 looking at the ground? Are they nearly falling asleep in the
18 witness stand?

19 Ms. Braswell tells you, "I'm on probation." Her
20 probation agent says, "Sign this piece of paper and we won't
21 violate you."

22 Meaning the fact that she could go to jail if she is
23 charged with another crime or if they make a determination
24 that she willfully violated her probation. Newberry County
25 says, "Sign a piece of paper and you won't go to jail."

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1 You don't think that's an incentive for her to sign
2 a piece of paper, a statement saying whatever she thinks is
3 good for her, to make sure she doesn't go to jail?

4 You don't think the fact that she is charged with
5 the crime of accessory after the fact of murder there is not
6 incentive for her to come on the witness stand and say
7 whatever it takes for her not to go to jail?

8 **(Brief Pause)**

9 **MR. RECKENBEIL:** Michael Rice -- Michael Rice sat
10 in this witness chair (indicating), ladies and gentlemen, and
11 I looked at him and his head sometimes didn't even come above
12 that microphone (indicating).

13 His head was clearly planted down. He was looking
14 down. He wasn't making any eye contact. There is a reason
15 why.

16 Michael Rice is looking at significant time in jail.
17 As you heard from the witness stand, this is his third drug
18 offense. He's looking at -- he's in jail awaiting charges to
19 be possibly tried for his third drug offense.

20 And I asked him, "Sir, do you know the significance
21 of enhancement, meaning the fact that if you do something once
22 the punishment is not that bad. You do something the second
23 time, it's not bad; but, if you do something a third time, do
24 you know the significance of enhancement?"

25 Well, ladies and gentlemen, you are the judges of

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1 the credibility of whether or not he knows, in fact, how much
2 time he is looking in jail.

3 And, again, nothing for free. Michael Rice is
4 charged in this case with accessory after the fact of murder.
5 He has got the pending charges for a third drug offense.

6 Do you not think it is in his best interest to say
7 whatever he needs to say to help avoid the amount of time that
8 he's looking at in jail?

9 (Brief Pause)

10 MR. RECKENBEIL: The last thing I want to say about
11 Michael Rice is that he walked out of jail per a personal
12 recognizance bond. He walked out of jail with five hundred
13 dollars (\$500) and his signature on a piece of paper for
14 accessory after the fact of murder.

15 Use your common sense, ladies and gentlemen of the
16 jury, as to whether or not that is reasonable in this kind of
17 case. A person who would walk out of jail with a bond, sign
18 their name and paying five hundred dollars (\$500) if they're
19 not getting something for nothing.

20 (Brief Pause)

21 MR. RECKENBEIL: Laquidra Eigner, now, was she
22 telling the truth when she gave a statement or was she telling
23 the truth when she wrote a letter saying that everything else
24 was just dishonest?

25 I don't know for sure, but we have an individual who

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1 completely recant their story by the fact that they write a
2 statement out and, then, all of a sudden they go ahead and
3 they write a letter saying that everything wasn't true. Well,
4 what was the truth in the beginning?

5 You've got her lawyer sitting in the gallery just
6 like all the rest of them. She's charged with accessory after
7 the fact of murder.

8 She hasn't come to court yet. She's out spending
9 money and doing what's she's doing what she was doing down in
10 Converse, Georgia knowing that the police are looking for her.

11 And, ladies and gentlemen, she recants her story.
12 What can we believe from her? The fact that the prosecution
13 is trying to make out the fact there is a death threat against
14 her, that somebody is threatening her. Well, that individual
15 is in the Union County Jail.

16 He is in jail. So, is it the truth of the fact
17 that, when she first gave a her statement, or is the truth of
18 the fact when she said she completely dishonest and
19 untruthful, what to believe?

20 And that leaves us with Miriam, Miriam Dickert. One
21 of the first witnesses that we -- we heard.

22 We heard the fact that there was some sort of
23 relationship going on between Patrick and Miriam, the extent
24 of what the relationship was, I'm not really sure. But,
25 again, she is a drug dealer.

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1 She is looking at a charge of possession with intent
2 to distribute. That's still pending. She's looking at a
3 charge of accessory after the fact still pending.

4 Do you think the fact that she has these charges,
5 that she's just going to come in here and just not do what is
6 in her best interest?

7 Remember when I asked her about those letters that
8 she wrote Patrick Rice? She can go to jail. Her lawyer said
9 to her, "The only way she does not go to jail is if she goes
10 in and testifies."

11 She didn't say anything about testifying to the
12 truth. She said if, in fact, if she goes in and testifies,
13 the drug charge, possession with intent to distribute;
14 accessory after the fact; her lawyer says the way you do not
15 go to jail is if you testify.

16 You, then, have Patrick Rice's father, mother, and
17 sister come in and testify. Now, Mr. Jones makes a phone call
18 and talks with his son. His son says he's staying at my
19 maternal grandmother's house.

20 You have mother calling about two o'clock (2:00) in
21 the morning speak to Britney and Britney says, "We're watching
22 TV together, Patrick and I."

23 You have Britney saying the fact that she is, in
24 fact, at home with her brother at two o'clock (2:00).

25 She comes home first, he comes home first. She was

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1 confused yesterday on the stand.

2 You have Lieutenant Riddle and Lieutenant Humphries
3 go out and question her. The fact that those statements to
4 the police officers taken from these individuals, again,
5 they're doing their job; they're trying to get a conviction.

6 But what is consistent is Patrick Rice gets on the
7 witness stand, without any equivocation, and tells you
8 methodically down the line every single time he was asked by
9 the prosecutor for about forty-five (45) minutes his story is
10 consistent.

11 He says where he is, what he is doing, who he is
12 with. Without hesitation, he says he sold drugs. Without
13 hesitation, "I go to Charlotte because that's where my family
14 is and that's where, in fact, my connection is."

15 He doesn't come in and hide anything from you. He
16 just says where he was and what he was doing.

17 Ladies and gentlemen, everything that I have been
18 going over with you, the significant amount of time that
19 those witnesses that the State wants you to believe, coming in
20 here freely and voluntarily just so they can tell you the
21 truth unequivocable because they decided to come in. Well,
22 that's just not the truth.

23 They have a significant amount of interest to
24 protect themselves from going to jail. And they have
25 everything in the world to gain in a lot of ways.

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1 And that, ladies and gentlemen, is what I submit to
2 you is reasonable doubt. Do we take the words of drug
3 dealers, of people that have been cut deals by the State?

4 Do we take the word of these people that have these
5 charges pending over their head when we have no forensic
6 evidence? We do not have a shred of DNA; we have not a shred
7 of an eyewitness putting Patrick Rice at the scene that
8 doesn't have something to gain.

9 Just because of the fact that we have an individual
10 that was killed doesn't mean the fact that we have to convict
11 somebody. Kelvin Davis obviously deserves justice, but it is
12 important to this government, and to this United States, that
13 we take our oath seriously as officers of this court as well
14 as jurors.

15 Just because we have a bad individual, who sells
16 drugs and probably will have to pay for it later in life for
17 that situation, doesn't mean the fact that he is guilty of
18 murder.

19 Make the State prove its case, beyond a reasonable
20 doubt that, in fact, Patrick Rice did what they're saying he's
21 guilty of.

22 Do not use empathy for the victims in this case. Do
23 not use the fact that he is a bad man doing a bad thing out
24 there. It's does the State meet every element to meet that
25 burden of proof beyond a reasonable doubt?

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1 You owe that to Patrick Rice, but more importantly
2 you owe that to the State of South Carolina and to the
3 government of the United States.

4 And you owe it to yourselves as citizens that we do
5 not, under any circumstances, lower what our forefathers and
6 our foremothers have created for us, and that is the system of
7 government that is the greatest in the world.

8 Ladies and gentlemen, I submit to you that there is
9 reasonable doubt in this case. And I ask you to return a
10 verdict of not guilty on all charges. Thank you very much.

11 **(Mr. Reckenbeil's closing argument concluded that**
12 **10:22 a.m.)**

13 **THE COURT:** Yes, sir, Mr. Anthony?

14 **(Brief Pause)**

15 **(Mr. Anthony's reply began at 10:23 a.m.)**

16 **MR. ANTHONY:** We choose our friends. And they're
17 our and we talk to our friends. They are the people we
18 confide in and they're the people that we tell the truth to.

19 And Patrick Rice and Derrick Ruff chose their
20 friends. And they told the truth of those friends.

21 You heard a lot of evidence over the past two (2)
22 days. And I would submit to you that basically you can take
23 that evidence and really compress it into three (3) ways that
24 you all can know that Patrick Rice is guilty.

25 First of all, Patrick Rice said he did it. That's

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1 the -- that's the simplest way to know. He said he did it.
2 Patrick -- Patrick Rice told three of his friends that he was
3 involved.

4 One of the three, Mimi Dickert, he was intimate
5 with. One of the three, Michael Rice, was family.

6 He claimed that he supplied drugs to both of them
7 and to Sierra Braswell and claims he had a good relationship
8 with all three of them. But all three of them say that
9 Patrick Rice told them that he was there.

10 Now, Patrick Rice testified yesterday, without
11 giving any reason, why any of these three people would have
12 come into court and made up this story about him.

13 He never pointed out one thing, in any of his
14 relationships with any of these three people, that would cause
15 them to lie and say that he confessed to them if he hadn't.

16 He said that with Michael and Sierra came home
17 together that Wednesday night that everything was fine between
18 him and the two of them.

19 But Michael got back there on Thursday, he went and
20 he gave a statement to Lieutenant Riddle saying that Patrick
21 said that he and Derrick Ruff and two other men from Columbia
22 did the robbery.

23 And, at that time, all that Lieutenant Riddle had
24 was just names from an informant out of Newberry County.
25 Michael Rice hadn't been charged with -- he hadn't been

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1 charged with anything related to the home invasion.

2 He had been served with a drug warrant, but he
3 hadn't been charged with anything at all connected to the
4 murder.

5 So, if he hadn't told -- if Michael Rice hadn't sat
6 down with Lieutenant Riddle and told Kenneth Riddle what
7 Patrick Rice had told him, Patrick at that time would never
8 have been a suspect.

9 And there was no reason for Michael Rice to tell
10 Kenneth Riddle that Patrick Rice had put himself in this and
11 admitted to this, if Patrick hadn't actually done it.

12 And Patrick had told Michael all about Jake not
13 having been home and about Plute being out in the car and
14 being forced into the house. And Plute being shot as the guys
15 left.

16 Michael Rice knew all of that. Now, how is he going
17 to find all of that out except for what he said? He found out
18 because Patrick told him.

19 And, then, the next day Sierra Braswell goes in.
20 And she's not been charged with anything either. All she's
21 told is she might be in trouble with her probation for using
22 drugs.

23 But, just like Michael had done the day before,
24 Sierra Braswell tells the people in Newberry that Patrick said
25 that, "It was me and Derrick who did this."

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1 And, then, there's Miriam Dickert. She comes in on
2 Tuesday and she's been off that whole week with Patrick Rice.
3 And Patrick Rice says on the stand, he says, "Well, when --
4 when we got back to -- to Union -- or to Whitmire, everything
5 was good with us. We didn't have any kind of problems."

6 But, she sits down that same day, the same Tuesday,
7 she sits down in her own handwriting she writes out a
8 statement saying, "Patrick said that it was me and Derrick and
9 two guys from Columbia."

10 She has all the details. You heard her read that
11 statement. She has all the details just like Michael did.

12 Now, how did Michael and Sierra and Mimi find that
13 out except for he told them? They're all charged with
14 accessory after the fact, but Michael and Sierra gave their
15 statement several days before they ever got charged.

16 Neither one of them was charged with anything that
17 had anything to do with this when they sat down and talked to
18 law enforcement.

19 All three of them talked to law enforcement a long
20 time before they were ever asked about testifying in a trial.
21 And, when they talked to law enforcement on the days after
22 this happened, they all said basically the same thing; Patrick
23 told them the same things they said Patrick told them on
24 Tuesday and yesterday.

25 There are -- there are some discrepancies. I'm sure

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1 you picked the ones that told different things at different
2 times, but when you look at what is really important, they all
3 said the same thing; that Patrick Rice confessed to breaking
4 into the house and doing this robbery, the kidnapping, and the
5 murder with -- with Derrick Ruff and the two other guys.

6 Now, that's -- that's the first reason. The second
7 reason you know he's guilty is because he took off.

8 Now, he came in that morning. He got -- he got his
9 girlfriend and headed to Clinton. Now, Patrick said yesterday
10 he didn't go to Clinton till Monday afternoon.

11 He said he stayed in Whitmire all morning and -- and
12 dealt marijuana. And, of course, we didn't see any of those
13 people that he was with that morning. All that numerous group
14 of people that he knew and hanged with, we didn't see any of
15 them yesterday in court.

16 But Amanda Dickert testified that she picked Patrick
17 up between seven-forty (7:40) and seven-forty-five (7:45) that
18 Monday morning.

19 And this -- this invoice here (picks up exhibit)
20 you'll have back in the jury room -- it is timed eight-thirty-
21 nine (8:39), eight-thirty-nine (8:39).

22 So, you know that Patrick Rice was not out dealing
23 dope on the morning of August 18th. It wasn't just a normal
24 business day.

25 Something big had happened. And it was time for

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1 Patrick Rice to get out of town.

2 So, he goes to Clinton and checks into a hotel. He
3 hears something about the murder on the news and he goes to
4 another hotel. Then, he calls Michael up wanting a ride.

5 So, Michael and Sierra come over, and con --
6 contrary to Patrick saying that that's when they decided --
7 well, contrary -- contrary to what Patrick says, that's when
8 they decided to go to Charlotte because nobody goes to Clinton
9 on their way to Charlotte.

10 So, they all go to Charlotte; Michael and Sierra and
11 Mimi, they all go to Charlotte. And they leave him. He hangs
12 out in Charlotte until Wednesday, when he asked them to come--
13 come back up.

14 So, they come back to Charlotte. Well, Michael gets
15 a call from Patrick's mother saying that the police were
16 looking for him.

17 Now, once Michael tells Patrick that, Patrick
18 doesn't want to come back to Whitmire. He wants to go the
19 other direction. He wants to go up 85. So, that's where they
20 take him.

21 But Patrick says he didn't know the police were
22 looking for him until the Thursday night, when -- when he
23 heard it from a friend. But even Patrick's mother, his own
24 mother said, that she had called Michael and told Michael that
25 the police were hunting Patrick.

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1 So, Mr. Rice was not on a business trip. Mr. Rice
2 was hiding out. And, for whatever reason, he decided to come
3 on back -- probably because he ran out of money to keep him up
4 -- but for a week he was on the run.

5 He wasn't in North Carolina buying seventy-five
6 hundred dollars (\$7,500) worth of marijuana and on a shopping
7 trip. He was in North Carolina trying to get away from what
8 he caused on August the 18th.

9 Now, the third way for you to know that Mr. Rice is
10 guilty is because you also know that Mr. Ruff was involved.

11 Now, some of you may have been wondering why we
12 spent time putting up evidence about Derrick Ruff. Well,
13 Patrick Rice told all three people that he confessed to that
14 Derrick Ruff was involved.

15 So, if Derrick Ruff was involved, it makes more
16 likely that Patrick really was there and that Miriam and
17 Michael and Sierra told the truth about what they say Patrick
18 told them.

19 It verifies their testimony. And it lets you know
20 they weren't just making things up. And you can kind of see
21 this...

22 (Mr. Anthony shows document on overhead.)

23 MR. ANTHONY: What we have is three people; Miriam
24 Dickert, Sierra Braswell, and Michael Rice. And they talked
25 to Patrick and said they got a statement from Patrick that

1 implicated Patrick.

2 Patrick implicated himself to them. And Patrick
3 also implicated Derrick Ruff to them.

4 Well, we also introduced testimony that Derrick Ruff
5 had talked to Wytrisha Lemon and Laquidra Eigner. And, in
6 Derrick Ruff's statements to the two of them, he implicated
7 himself, he told.

8 So, what that lets you know is that, when Wytrisha
9 and Laquidra told you these things that Derrick told them that
10 implicated himself, that gives you confirmation that Derrick
11 was involved from two separate witnesses.

12
13 So, from that we know that is what Patrick said
14 about Derrick and himself being involved that must be the
15 truth.

16 (Brief Pause)

17 MR. ANTHONY: So, let's talk about Wytrisha a
18 minute. Wytrisha told you that, on the night of the robbery,
19 Derrick Ruff called her and asked if Plute had any money.

20 That was the night of the robbery, she gets a call
21 from Derrick Ruff wanting to know if Plute has got any money
22 And she told him he didn't.

23 And he said, "oh, well, it must be his brother."
24 And he said that he's -- he's thinking about robbing him. And
25 she said that she told him -- or she says that he told her he

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1 wouldn't do it, but she also says that he told her that he
2 would just waiting on the -- the last guy, the last part of
3 the crew, to do that.

4 And, then, after that happened, Mr. Ruff -- after
5 the incident Mr. Ruff went home and he told Ms. Eigner the
6 next morning that he committed the home invasion.

7 And he told her that he was part of it. Now, of
8 course, she denied all that yesterday because Mr. Ruff had
9 writeen her a letter and she says she still cares about him.

10 And in the letter he -- he asked her to say that she
11 was lying when she talked to the police. So, she did. She
12 came in here yesterday and she said, "Well, I lied when I
13 talked to the police."

14 But you saw that statement she had up on the witness
15 stand. She wrote a three-page statement in her own
16 handwriting right after this happened. And she said that --
17 that Derrick had talked to Wytrisha about setting up Plute.

18 And she said that -- that Derrick admitted he tied
19 up the woman and the baby and said they got seven hundred
20 dollars (\$700) out of the home, which was the amount that was
21 reported missing, and that they got four (4) pounds of
22 marijuana out of the home.

23 And just like Patrick Rice, Derrick Ruff, that same
24 week that this happened, Derrick Ruff took off. Except he --
25 he actually bought a car before he took off instead of getting

1 his friends to do it.

2 So, you know, from what these two young women said,
3 that Derrick Ruff was involved. And that means that what
4 Patrick said, about the robbery to Michael and Sierra and
5 Mimi, when -- when he also said that Derrick was involved, you
6 know from that, that what Patrick told them must be accurate;
7 Patrick must have been part of this home invasion.

8 A couple of last things. Mr. Rice's alibi isn't
9 really an alibi because nobody can say that Mr. Rice was with
10 them at the time of the robbery.

11 Deputy Gaston was dispatched out to that house at
12 thirty-six (36) minutes after midnight on the 18th. So,
13 Britney Rice saying that Patrick Rice was in Whitmire at two
14 (2:00) a.m., well, that doesn't mean anything.

15 And Ms. Rice told the sheriff's investigators that
16 Patrick came home after she did, not that he was there when
17 she got home. But either way it doesn't matter.

18 It doesn't help Patrick's case at all that Britney
19 says that he was in Whitmire at two (2:00) a.m. because that's
20 still completely consistent with him being in Union committing
21 the crimes at twelve-thirty (12:30).

22 And, as to the lack of forensic evidence in this
23 case, well, you know, we wish that we had fingerprints and DNA
24 in this case. But we just don't.

25 You know, Lieutenant Riddle tried to collect prints

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1 himself; he sent the shell casing to SLED. But no prints were
2 found on it.

3 And -- and, as for the DNA, well, Patrick Rice -- I
4 mean, there was a lot of blood in the house. But it wasn't
5 Patrick Rice's blood. And it wasn't Derrick Ruff's blood. It
6 was Kelvin Davis's.

7 And Patrick Rice and his crew, they went in there
8 and they caused some blood shed. They didn't shed blood
9 themselves.

10 So, they -- they weren't the ones that were leaving
11 DNA there that night. And it wasn't their -- their home.
12 Nothing was being shed from their bodies that night. It was
13 just the victims in the case who had -- who were being
14 assaulted.

15 So, the only DNA you were going to find in that
16 house was going to be Tinsley Davis's DNA and the DNA of other
17 people that lived there.

18 But not having forensic evidence does not mean that
19 Patrick Rice isn't guilty. And it doesn't mean that you don't
20 have to look at the other evidence in this case to make a
21 decision.

22 And, when you examine the testimony, when you go
23 back to Miriam Dickert and Michael Rice and Sierra Braswell;
24 Patrick -- Patrick Rice's girlfriend, his cousin, his friend,
25 all of them say he did these things.

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1 There is no plausible explanation for them to say
2 this to law enforcement that -- that Patrick Rice told them
3 that he was part of the home invasion and part of the murder.

4 And it's the very same thing with Derrick Ruff.
5 There is no reason for Wytrisha Lemon and for Laquidra Eigner
6 to make the statements that they did about Derrick Rice [sic]
7 if Derrick Rice [sic] hadn't told them what had happened.

8 And, when you look at that, it just becomes quite
9 clear, when you sit down and look at all five of these
10 witnesses and what they said and when they said it, the only
11 real conclusion that you can draw is that Patrick Rice was
12 part of that home invasion crew that night. And he is
13 responsible for what happened.

14 Now, the word "verdict" comes from this Latin word
15 that means, "to speak the truth." And that's what a verdict
16 -- that is what your verdict is going to be;

17 It is going to speak for the people of Union County.
18 And it's going to say what the people of Union County have to
19 say about what happened on August the 18th of two thousand,
20 eight (2008).

21 And, when I think of the word "verdict,: I think
22 about this old song that I like. It's called "The trouble
23 with the truth." And there's a line in that song that goes,
24 "The trouble with the truth is -- is that it's just what I
25 need to hear. It rings so right deep down inside my ear."

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1 Well, ladies and gentlemen, everybody in this
2 courtroom needs to hear the truth from you. The people of
3 Union County need to know that there is a jury out there that
4 will uphold the law and they will hold the man responsible for
5 committing these kind of crimes.

6 Tinsley -- Tinsley Davis and S.S. , they need
7 to know that there's justice for people when they're
8 terrorized and their family member is brutally murdered in
9 their own house.

10 But more than anybody else the person who needs to
11 hear the truth in this case is sitting right over there
12 (indicating). It's Patrick Rice because Patrick Rice is never
13 going to face the truth by himself.

14 You learned that yesterday. Patrick Rice is going
15 to have to be told the truth.

16 He's going to have to be told that you just can't go
17 break into somebody's house and go in on a mother and a three-
18 year-old child while they're in bed and tie up the mother
19 while the three-year-old child is in her arms, go do that
20 while a 12-year-old girl is lying in the bed in the room
21 across the hall and shoot a young man who is not doing
22 anything but sitting in a car listening to music.

23 Somebody is going to have to tell him that he can't
24 do that. That is just not right. Somebody is going to have
25 to make him hear the truth. And, you know, there are only

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1 twelve (12) people, in the whole world, who will ever have an
2 opportunity to do that.

3 When you go back to that jury room, I would ask that
4 you consider all the evidence and that you give a verdict that
5 speaks the truth for Union County, for Tinsley Davis and her
6 family, and most of all Patrick Rice.

7 Speak the truth they all need to hear. Find Patrick
8 Rice guilty of armed robbery, first-degree murder, kidnapping
9 Kelvin Davis, kidnapping Tinsley Davis, and the murder of
10 Kelvin Davis. Thank you all.

11 (Mr. Anthony's reply concluded at 10:40 a.m.)

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JURY CHARGE

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JURY CHARGE

10:41 A.M.

1
2 **THE COURT:** Thank you, sir. Ladies and gentlemen,
3 as you know, the State has charged Mr. Rice in these five
4 indictments (indicating) with these five crimes. And you'll
5 have these indictments with you in the jury room when you
6 begin your deliberations.

7 As I told you earlier, these indictments are not
8 evidence. These indictments are simply the documents drawn up
9 by the State of South Carolina to advise the Defendant of the
10 charges he's facing, so, he can prepare a proper defense.

11 And, to the charges contained in these indictments,
12 he has pled not guilty. That places the burden of proving him
13 guilty on the State of South Carolina.

14 A person charged with committing an offense is never
15 required to prove himself innocent. It is a vital and
16 important rule of law that a person charged with a criminal
17 offense, no matter how serious it is, must always be presumed
18 innocent until his guilt has been proven by the State beyond a
19 reasonable doubt.

20 It becomes your duty, ladies and gentlemen, if you
21 are not so convinced to find him not guilty. By the same
22 token it is your duty, if you are so convinced, to find him
23 guilty.

24 Now, the burden on the State is to prove him guilty
25 beyond a reasonable doubt. And what do we mean by beyond a

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1 reasonable doubt?

2 Well, some of you might have served as jurors, at
3 one time in a civil case, and you would have been told that it
4 was only necessary to prove that a fact is more likely than
5 not true.

6 The State's burden in a criminal case is greater
7 than that. Proof beyond a reasonable doubt is proof that
8 leaves you firmly convinced of the Defendant's guilt.

9 There are very few things in this life that we know
10 with absolute certainty. And in criminal cases the law does
11 not require proof that overcomes every possible doubt.

12 If, based on your consideration of the evidence,
13 you're firmly convinced that the Defendant is guilty of the
14 crime charged, then, you must find him guilty.

15 If, on the other hand, you think there is a real
16 possibility that the Defendant is not guilty, you must give
17 him the benefit of any reasonable doubt and find him not
18 guilty.

19 Ladies and gentlemen, as I told you, you are the
20 judges of the facts. You determine what is the truth in this
21 case.

22 I don't have any right to make any comment or
23 express any opinion about what I think about the facts in this
24 case or the guilt or the innocence of the defendant on trial
25 here today. Those are matters solely within your discretion

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1 In order for you to determine what the facts in the
2 case is you have to judge the credibility and the
3 believability of the witnesses who have testified in this
4 case. And you are the only ones who can judge that
5 credibility or that believability.

6 In passing upon their credibility, you should take
7 into consideration a number of things; the demeanor or the
8 manner of testifying. Was the witness forthright or were they
9 hesitant in their testimony?

10 Did the witness have a reason to be biased or
11 prejudiced in their testimony? Was the witness's testimony
12 was contradicted on one hand or was it corroborated and
13 supported on the other hand?

14 What was the witness's opportunity for observation
15 and knowledge and matters about which they've testified? How
16 reasonable was the witness's testimony, especially when
17 considered in the light of other evidence which you choose to
18 believe.

19 You certainly don't determine credibility or
20 believability by counting the number of witnesses for either
21 side. You can believe one witness against many or many
22 against one.

23 You can believe all of a witness's testimony or none
24 of a witness's testimony or a part of a witness's testimony.

25 You use your good common sense in evaluating the

JURY CHARGE

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1 credibility of the witnesses who have testified in this case,
2 just as you do in your relationship with people every day.
3 But remember that you should give the benefit of any
4 reasonable doubt in the case to the Defendant.

5 Now, ladies and gentlemen, several of the witnesses
6 who have testified in this case have been referred to have
7 some kind of prior convictions. Some have pending charges.

8 And this evidence was admitted into the record for
9 one reason only: And that is -- we call this limited purpose
10 evidence.

11 This evidence was admitted to be considered by you,
12 the jury, if you consider it -- believe it to be true, only
13 for the purpose of evaluating the credibility or the
14 believability or the possible bias or prejudice of that
15 particular witness, including the Defendant, in the case.

16 You may give such weight to this evidence, as you
17 see, it is fit and you find it is entitled, on the sole issue
18 of credibility or the believability or the -- or the bias or
19 prejudice of the witnesses who've testified in this case and
20 for no other reason whatsoever.

21 In addition, ladies and gentlemen, one witness who
22 was called to testify pled the Fifth Amendment on his behalf.
23 He exercised his Constitutional Right to remain silent.

24 He had every right to do that. And you should
25 basically just -- just forget about that witness and put that