

VOLUME I OF II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Pickens County

Honorable Edward W. Miller, Circuit Court Judge

CHRISTOPHER MURRAY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-002279

APPENDIX

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S.C. SUPREME COURT

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STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 CHRISTOPHER ROBERT MURRAY,)
)
 DEFENDANT.)
_____)

2011-GS-39-00026

APRIL 18, 2011

TRANSCRIPT OF RECORD

BEFORE:

THE HONORABLE G. EDWARD WELMAKER, JUDGE

APPEARANCES:

DOUG RICHARDSON, ESQUIRE
BAKER CLEVELAND, ESQUIRE
ATTORNEYS FOR THE STATE

GARY MALLARD, ESQUIRE
ATTORNEY FOR THE DEFENDANT

DANETTE P. HANKS
CIRCUIT COURT REPORTER

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JURY VOIR DIRE

Juror #	Name	Race	Sex	Strikes			Accept
				Court	Plaintiff	Def.	
29	Collins, Kaledria S	B	F		x		
60	Hutton, Edward W Jr	W	M				x
41	Ellenburg, Jonathan D	W	M				x
12	Bishop, Barry J	W	M			x	
68	Kolesar, Keith K	W	M				x
91	Page, Marcia N	W	F			x	
23	Chapman, Rebecca S	W	F				x
110	Smith, Donald A	W	M			x	
94	Paxton, John H	W	M				x
7	Bearden, Joyce L	W	F				x
107	Smith, Angela C	W	F				x
73	Lovin, Janis K	W	F				x
35	Davis, Anthony M	W	M		x		
90	Owen, Rachel D	W	F			x	
66	Kloth, Jill A.	W	F				x
80	Merritt, Denise P	W	F			x	
105	Shue, Robert R	W	M				x
45	Gainey, Chad E	W	M				x
57	Holland, Kelli R	W	F				x
82	Miller, Jerry B	W	M			x	
58	Howard, Tina M	W	F				x
102	Seigle, Joshua A	W	M		x		
124	Waldrop, Ray V	W	M			x	
77	McNeely, Dennis W	W	M				x

APRIL 14, 2011

1

2 (WHEREUPON, court convened with all parties present
3 and the following proceedings were had.)

4 THE COURT: All right. I understand everybody's
5 here now and we're ready to proceed. This is a case
6 scheduled for trial next week, *State v. Murray*. I
7 understand we had some motions that we could dispose of
8 today before the case starts on Monday. Solicitor, what
9 type of motions do you have, and then I'll be glad to hear
10 from Mr. Mallard as to any motions he has.

11 MR. RICHARDSON: Yes, Your Honor, what we are
12 here today as far as the State's concerned is to complete a
13 *Jackson v. Denno*, in which we're seeking to introduce
14 certain statements made by the Defendant to police
15 officers.

16 I believe Mr. Mallard has a motion today about
17 competency. I believe he can address that at this time.

18 THE COURT: As far as the *Jackson v. Denno*, is it
19 one statement or more than one statement?

20 MR. RICHARDSON: It's two statements, Your Honor,
21 both of them are videotaped. The statements were made to
22 three separate officers who will testify. Approximate
23 length, just for the Court's information, of the video is
24 going to be about two hours.

25 THE COURT: Are there any other anticipated pre-

1 trial motions from the State's standpoint as far as -- is
2 there no line-up or *Bigger's* motion or anything else that
3 you would anticipate at this time?

4 MR. RICHARDSON: No, there is not, Your Honor.
5 The only thing that I can anticipate would be the Defense
6 side, but from the State's side, no.

7 THE COURT: Mr. Mallard, anything other than the
8 motion you filed today?

9 MR. MALLARD: No, Your Honor.

10 THE COURT: Do you have any testimony to present
11 as far as the motion you filed? Your motion was for a --
12 what exactly was your motion?

13 MR. MALLARD: We'd like to have Chris examined
14 for competency. And my main concern here is just that in
15 November he attempted suicide while at the detention
16 center. He has a prior -- some prior mental illness
17 record. He's been treated as a juvenile for post-traumatic
18 stress syndrome, manic depression and anxiety.

19 I'm sorry, I didn't really become aware, I mean, at a
20 training thing for the Bar that in some states suicide
21 alone, I mean, triggers the need for a competency hearing.
22 But that's not a decision that I can just make myself based
23 on my conversations with him. And so that's basically my
24 concern there..

25 The other concern just related to that is not so much

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11

1 his ability to talk intelligently with me, but in the
2 stress of the trial if he's going to be able handle it
3 relatively well.

4 THE COURT: Do you have any testimony you want to
5 present on that issue or any medical reports or anything
6 like that that you have?

7 MR. MALLARD: I can call my client just to have
8 him testify.

9 THE COURT: Okay. Well, we can cover that one
10 first ---

11 MR. MALLARD: I believe the State is aware of it
12 from their contacts at the detention center.

13 THE COURT: Does the State have a position on the
14 ---

15 MR. RICHARDSON: Yes, Your Honor.

16 THE COURT: -- competency examination?

17 MR. RICHARDSON: Yes, sir. We are opposed to
18 that. I believe, first of all, we're getting notice just
19 before trial. This incident happened back in November.
20 And with all due respect to Mr. Mallard, I disagree with
21 the position that suicide in and of itself would trigger a
22 need for a competency hearing.

23 My understanding in looking at the statute is, under
24 44-23-410, you have to have a reason to believe the person
25 is not competent. That burden, therefore, becomes the

1 burden of the Defense. I believe, they have to prove that
2 by the preponderance of the evidence. That would be based
3 on *Hall v. Catoe*, 360 SC 353.

4 Also, Your Honor, in researching this in the amount of
5 time I had, it's in the Court's discretion, but if you look
6 at -- and that's *State v. White* sets out that it's in the
7 Court's discretion, and that's 364 SC 143. In particular,
8 I would cite a case, *State versus Burgess*, which is 356 SC
9 572, which that states that a refusal to order further
10 evaluation will not be disturbed absent abuse by you.

11 I think the procedure would be is that you would
12 examine the Defendant as to the relevant factors of his
13 understanding of the charges, the nature of the proceedings
14 against him, the court officers and also if he's capable of
15 communicating effectively with counsel. And I think that's
16 the standard that you would have today to decide whether it
17 will go any further.

18 So we are opposed by that. I don't think that a claim
19 -- an attorney just simply making a claim stating out that
20 he attempted to commit suicide five months ago means he's
21 incompetent today to stand trial.

22 THE COURT: Well, I think the case law is pretty
23 clear on the burden of proof and discretion. I'll be glad
24 to -- I guess it would probably be most efficient to hear
25 your motion first, because if I were to make a finding of

1 the need for further evaluation, then we wouldn't
2 necessarily need to do that today, but I guess we could do
3 it anyhow. I'll be glad to hear from your client or any
4 other witnesses that you have, Mr. Mallard.

5 MR. MALLARD: Your Honor, I'd like to call my
6 client to the stand.

7 THE COURT: All right. If you'd come around and
8 be sworn, please, sir.

9 THE CLERK: Place your left hand on the bible and
10 raise your right hand. Do you solemnly swear or affirm
11 that the testimony you're about to give is the truth, the
12 whole truth and nothing but the truth, so help you God?

13 DEFENDANT: Yes.

14 THE CLERK: Have a seat, please.

15 CHRISTOPHER ROBERT MURRAY,

16 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

17 DIRECT EXAMINATION

18 BY MR. MALLARD:

19 Q. Chris, can you briefly tell the Court about your
20 suicide attempt and what brought it on?

21 A. Yes. Basically, I have a lot of thoughts about what
22 happened and, you know, like I have a lot of bad dreams
23 about it. And I just -- everything I do from watching TV
24 to listening to music, I mean, it's -- the least little
25 thing, you know, I see the guy's face, you know. And it's

1 just I got tired of living with it. .I mean, it's something
2 I didn't mean to do and it's, it's not me. I never even
3 killed an animal, you know, and then this. So I saved up a
4 bunch of pills and took those. I tried to hang myself
5 before that and they put me in a suicide cell, but that was
6 it.

7 Q. Do they have you under any medication now?

8 A. No, sir. They took me off of everything. In fact,
9 the medications that I was supposed to have, the
10 medications that I was on when I was in Louisiana, the
11 doctor said -- claimed that she could not give out those
12 medications in the institute, but -- and there's several
13 other people taking the same medications I was supposed to
14 be taking.

15 Q. What medications were you taking?

16 A. I mean, for mental problems, I was on Klozipan at one
17 time and then they put me Xanax. You know, so either one
18 of those would have been fine. You know, something even
19 relatively close, I guess.

20 Q. Do you believe you're going to be able to stand up to
21 the stress of a trial?

22 A. I don't know. I mean, it's -- I honestly don't know
23 if I can look at the guy's family and face them.

24 Q. Thank you.

25 MR. MALLARD: No further questions.

1 THE COURT: Let me ask you a few questions if I
2 could.

3 EXAMINATION

4 BY THE COURT:

5 Q. Mr. Murray, how old are you?

6 A. Twenty-one, sir.

7 Q. Twenty-one. You said you'd lived in Louisiana. When
8 did you live in Louisiana?

9 A. I have a -- I went down there about August, I came
10 back in December. I was down there for work.

11 Q. What year?

12 A. Year before last, 2009.

13 Q. Okay. So from August to December in '09 you were down
14 there?

15 A. Yes, sir.

16 Q. Did you have family down there or did you just move to
17 Louisiana?

18 A. I was down there with my daddy. We were industrial
19 electricians.

20 Q. Okay. Where were you working? What part of
21 Louisiana?

22 A. I was in Gramercy.

23 Q. What?

24 A. Gramercy.

25 Q. What's that near?

1 A. Laplace ...

2 Q. South Louisiana?

3 A. I guess that would be. I'm not really sure.

4 Q. What was the closest big town you went to?

5 A. Actually, New Orleans.

6 Q. New Orleans?

7 A. And that was about a hundred and twenty miles away.

8 Q. Okay. I lived in Louisiana, myself, so I know a

9 little bit about the State.

10 A. It was right there at Colonial Sugar, is actually what
11 plant I was working at.

12 Q. Okay. Now, where did you attend high school?

13 A. I went to Midland Valley High School south Aiken and
14 Birchwood High School, that's the juvenile facility.

15 Q. So Aiken County that's where you ---

16 A. Yes, sir. Born and raised.

17 Q. How far did you get in school? Did you graduate?

18 A. I got my GED. Tenth grade.

19 Q. So in the tenth grade you dropped out of school?

20 A. Yes, sir.

21 Q. And how long were you out of school before you got
22 your GED?

23 A. Actually, I went back to get my GED. I was locked up
24 and had to go. I originally dropped out in the ninth
25 grade.

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Competency Hearing

17

1 Q. Okay. How old were you when you got your GED?

2 A. I think it was like 2007.

3 Q. And your date of birth is what?

4 A. , .

5 Q. Did you get your GED in South Carolina here?

6 A. Yes, sir.

7 Q. So you've always lived in South Carolina except for

8 that brief time in Louisiana?

9 A. Yes, sir.

10 Q. Is your dad still out there or is he back here?

11 A. I don't know. We don't have contact.

12 Q. Do you have other family members around?

13 A. Yeah.

14 Q. Your mom?

15 A. My mom, my little sister, my brother. I'm not sure

16 where my older sister is. My grandparents.

17 Q. Does your mom work anywhere down there?

18 A. I don't know. I haven't talked to her. She won't

19 talk to me either. Once I found out, I don't want nothing

20 to do with her.

21 Q. Do you have a brother and sister? Do you have any

22 contact with either of them?

23 A. I talk with my brother.

24 Q. How old is he?

25 A. He's twenty-three.

1 Q. You mentioned going to juvenile school for education.

2 Did you get in trouble as a teenager ---

3 A. Yes, sir.

4 Q. --- or before that?

5 A. It was as a teenager. I mean, I got in a lot of minor
6 trouble, disturbing school and stuff like that. I got
7 locked up, and they sentenced me until my twenty-first
8 birthday, and I did eighteen months.

9 Q. What did you get that eighteen months for? Did you
10 tear up some property or something or what?

11 A. Third offense of disturbing school, failure to pay
12 restitution, and I think runaway.

13 Q. Were you seeing a doctor or a psychologist or anything
14 back then?

15 A. I've been in and out of Aiken/Barnwell all my life.

16 Q. Aiken/Barnwell, is that ---

17 A. Aiken/Barnwell Mental Health.

18 Q. Mental health?

19 A. Yes, sir.

20 Q. Do you remember the first time you went, how old you
21 were?

22 A. No, sir. I've been going as long as I can remember.
23 It's been on and off, a Family Court Order. I had an
24 intense probation plan where I had a probation
25 officer/psychiatrists. And I wasn't diagnosed with

1 anything other than ADHD until I was doing eighteen months
2 and I finally really opened up to a psychiatrist about my
3 childhood.

4 Q. Did you get abused some as a child?

5 A. Yes, sir.

6 Q. When you were down in Louisiana, did you and your dad
7 just stay in a motel?

8 A. Stayed in a camper.

9 Q. Camped?

10 A. (Affirmative nod).

11 Q. Were you just an electrician's helper or did you have
12 any kind of engineering -- you haven't been to any kind of
13 technical school for that?

14 A. No, sir. I was a D-Class helper the first year.

15 Q. What did you do? Did you help wire places?

16 A. Run conduit, pull wire, stuff like that.

17 Q. Are you taking any -- you said you weren't taking any
18 medication now, but you were taking Xanax?

19 A. When I went down there, I was on Klonopin and they put
20 me -- they added Xanax because I got in a real bad wreck
21 and I was supposed to be on pain medicine for my jaw.

22 Q. When did you have this wreck?

23 A. It had to be about October.

24 Q. October of '09?

25 A. Yes, sir.

1 Q. Was that in Louisiana?

2 A. Yes, sir.

3 Q. You kept working after you had your wreck?

4 A. Yes, sir.

5 Q. You didn't hurt your jaw while you were on the job
6 driving somewhere?

7 A. Oh, no, sir.

8 Q. It was a night, one night or something when you were
9 off work?

10 A. I was in an independent motor program and somebody hit
11 me in my jaw.

12 Q. So you got hit? You didn't have a car wreck?

13 A. No. My jaw. It was broken, dislocated. I had a bone
14 sticking through the gum.

15 Q. You didn't get any medical treatment out there for
16 that?

17 A. Yes, sir. I went and they put a metal plate in it and
18 put it back in place, but I had a bone sticking through my
19 jaw when I first got locked up. Now I have a lot more
20 trouble out of it.

21 Q. Now, you mentioned that you'd been in Juvenile Court,
22 Family Court. Have you ever been in Court since you got
23 out of that eighteen months? Have you been in any other
24 Courts?

25 A. No, sir.

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Competency Hearing

21

1 Q. Never been in Court like this? Just in Family Court?

2 A. Yes, sir.

3 Q. When you were in Family Court did you ever have a
4 trial on any of these or did you enter a plea of guilty or
5 ---

6 A. They didn't offer me a trial, sir.

7 Q. They didn't?

8 A. No, sir. The closest thing I had to a trial was like,
9 like they brought some people in like actually at my court
10 to testify.

11 Q. You had a lawyer, I guess, representing you?

12 A. Public Defender.

13 Q. Okay. Did the public defender ask questions of the
14 witnesses, I guess?

15 A. (Negative nod.)

16 Q. He didn't?

17 A. No, sir. He just looked at me and said he didn't know
18 what he could do for me.

19 Q. Okay.

20 A. He didn't know what he was doing.

21 Q. Young guy?

22 A. Yes, sir.

23 Q. Did you give him any ideas about some questions he
24 could ask?

25 A. No, I didn't know anything. I was diagnosed with

1 PTSD. I blacked out. And until this day, I don't know if .
2 it's true or not, but I was accused of slapping somebody in
3 school.

4 Q. That's what you went to Court for?

5 A. Yes, sir. That was 2005.

6 Q. Okay. You understood what the role back in 2005, what
7 the Judge's responsibility was, I guess, didn't you?

8 A. As far as I know, the Solicitor said give him this and
9 the Judge did it.

10 Q. The Judge gave you a sentence?

11 A. Yes, sir.

12 Q. Was that his job to listen to the testimony and then
13 decide what to do?

14 A. I never got to speak. The Solicitor spoke, the Public
15 Defendant would speak.

16 Q. And what's the Solicitor's, what's his job?

17 A. Basically, all he ever really did was read the charges
18 and then what they recommended.

19 Q. That would be the same type of job the Solicitor would
20 have in this case ---

21 A. I hope not.

22 Q. --- to present their case, read the charges and call
23 witnesses. Is that the kind of stuff that the Solicitor
24 does?

25 A. In this case, I hope so.

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Competency Hearing

23

1 Q. And you don't have a public defender in this case, but
2 you've got a lawyer representing you. What's he supposed
3 to be doing for you?

4 A. He's supposed to be standing up for me.

5 Q. And what do you think my job is going to be?

6 A. To listen to it and lock me up.

7 Q. Decide what sentence you get if you get convicted?

8 A. Yes, sir.

9 Q. Do you understand what you're charged with in this
10 case?

11 A. Yes, sir. I don't understand exactly why, but yeah.

12 Q. You understand you're charge with murder?

13 A. Yes, sir.

14 Q. You understand that's a serious charge, I guess?

15 A. Yes, sir.

16 Q. You know what murder is, don't you?

17 A. Yes, sir.

18 Q. You've been able to talk with your lawyer about this
19 case?

20 A. Yes, sir.

21 Q. Have you understood what he's been telling you? Have
22 y'all been able to talk one with another about what's going
23 on?

24 A. Yes, sir.

25 Q. Well, thank you, Mr. Murray, for sharing this

1 information with me.

2 THE COURT: Is there any other questions from
3 Counsel or does the State have any questions it wishes to
4 ask?

5 MR. RICHARDSON: Nothing from the State, Your
6 Honor.

7 THE COURT: Any questions you want to ask, sir?

8 MR. MALLARD: Just one.

9 THE COURT: Yes, sir. As many as questions as
10 you feel like you need to ask.

11 **REDIRECT EXAMINATION**

12 **BY MR. MALLARD:**

13 Q. Chris, when you were diagnosed with post traumatic
14 stress syndrome, what was the cause of that?

15 A. Stuff that happened in my childhood. I was abused
16 real bad.

17 THE COURT: All right. Thank you, sir. You can
18 step down back to your lawyer's table.

19 Anything else, Mr. Mallard, you want to present on
20 this issue?

21 MR. MALLARD: No, sir.

22 THE COURT: All right. I think at this point,
23 I'd like to proceed with the *Jackson Denno*. I don't know
24 whether there'll be any other testimony coming from Mr.
25 Murray on that hearing or not, but I'll defer making a

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Jackson v. Denno Hearing

25

1 ruling on this issue in case I get any more insights from
2 the -- any further testimony he might have on the
3 particular *Jackson Denno* issues.

4 You can call your first witness on that matter.

5 MR. RICHARDSON: Thank you, Your Honor. The
6 State would call Art Taylor.

7 THE CLERK: Place your left hand on the bible and
8 raise your right hand. Do you solemnly swear or affirm
9 that the testimony you're about to give is the truth, the
10 whole truth and nothing but the truth, so help you God?

11 MR. TAYLOR: I do.

12 ART TAYLOR,

13 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION

15 BY MR. RICHARDSON:

16 Q. Mr. Taylor, you're employed with the Pickens County
17 Sheriff's Office. Is that correct?

18 A. I am.

19 Q. And in what capacity?

20 A. I'm a detective.

21 Q. Okay, sir. And were you working in that capacity back
22 in January of 2010?

23 A. Yes, sir.

24 Q. Did you have an occasion to help in the investigation
25 of a case against Chris Murray?

1 A. I did.

2 Q. Okay, sir. And in that investigation did you have --
3 well, let me just ask you this. When was your first
4 contact with Mr. Murray?

5 A. My first contact with Mr. Murray was when Aiken County
6 Sheriff's Office canine team brought him up out of the
7 woods from where he ran from a parked vehicle in a yard in
8 Aiken County.

9 Q. And that was in Aiken County?

10 A. Yes, sir.

11 Q. Okay. And y'all had gone down there to look for Mr.
12 Murray?

13 A. Yes.

14 Q. Okay, sir. Now, when he was brought out of the woods,
15 who was he brought by?

16 A. He was brought by one of the canine officers up to me.
17 I was standing in the back yard.

18 Q. Okay. When he came to you, at that point in time,
19 what did you do?

20 A. At that point in time, I advised him what he was
21 charged with and we had an active warrant on him for murder
22 and he started to say something to me and I stopped him,
23 advised him -- went ahead and advised him of his rights,
24 *Miranda* rights.

25 Q. Yes, sir. And did you do that from any type of

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1 instrument?

2 A. I did it from a *Miranda* card I carry in my wallet?

3 Q. Okay, sir. And do you have that card with you?

4 A. I do.

5 Q. Can you read that card and tell the Judge exactly what
6 you advised the Defendant of?

7 A. I advised, you have the right to remain silent.

8 Anything you say can and will be used against you in a
9 court of law. You have the right to talk to an attorney
10 and have him or her with you while you're being questioned.

11 If you cannot afford to hire an attorney, one will be
12 appointed to represent you before any questioning, if you
13 wish. You can decide at any time to exercise these rights
14 and not answer any questions or make any statements. And
15 then I asked him, do you understand each of these rights
16 that I've explained to you? And at that time he stated,
17 yes. And then I ask him, having these rights in mind, do
18 you wish to talk to me? And he stated, yes, again.

19 Q. Okay. Now, I believe at this point in time you are in
20 an outside setting, in a yard?

21 A. Yes. We're still out in the back yard of a residence
22 where he was located from.

23 Q. Okay. Now, at that particular time, did he make any
24 type of statement to you?

25 A. At that time I asked him -- when he stated he would

1 talk to me, I asked him where the vehicle was that they
2 were driving in. He had stated that he'd given it back to
3 the owner. I advised Chris that I knew that was a lie.
4 That we needed the truth, to know where the vehicle was,
5 because I knew that the owner didn't have it and I knew
6 where he had purchased the vehicle from.

7 Q. Okay. So we're clear and just for the Judge's
8 information, this vehicle that you're referring to, what
9 was the purpose of finding that vehicle, that particular
10 vehicle?

11 A. It was a Chevy Cavalier, I believe. It was a vehicle
12 that was seen leaving from the incident location here in
13 Pickens County.

14 Q. Okay, sir. And I'm sorry to interrupt, but at that
15 point in time after you asked about the vehicle, did he
16 respond?

17 A. After I advised him that I knew he had not given it
18 back to the owner from where he purchased it, he stated
19 that the vehicle was not far from where we were at and he
20 would take us.

21 Q. Okay, sir. Now, did he make any other -- at that
22 particular time, did he make any other statements?

23 A. No, he did not. We stopped the interview at that time
24 due to the fact there were several other officers coming
25 up, and I told him we would talk more at the Sheriff's

1 Office.

2 Q. Okay. Now, at that point in time, where did you --
3 what did you do with Mr. Murray?

4 A. At this point in time, we placed him into a patrol --
5 Aiken County patrol car so he could lead us to the vehicle.

6 Q. All right, sir. And do you recall if the patrol car
7 -- this officer is sitting in the back of the courtroom?

8 A. Yes, sir.

9 Q. Did you get in the car with him?

10 A. No, I did not.

11 Q. Okay. Where did you go?

12 A. I was with another investigator from Aiken County and
13 we followed behind, myself and Detective Baker was with
14 another investigator from Aiken County, and followed also.

15 Q. Okay, sir. And where did you go?

16 A. We went to a residence, it was off the road. I can't
17 recall the name without the notes in front of me. It was
18 a relative's house of Chris.

19 Q. Okay. Can you just tell me from the time that you
20 *Mirandized* him and he gave that initial statement, until
21 the time you got to that vehicle, how long a period of time
22 that time was?

23 A. I'd say approximately ten minutes.

24 Q. Okay, sir. And did you find the vehicle?

25 A. Yes, we did.

1 Q. Based upon the instructions of the Defendant?

2 A. Yes.

3 Q. Okay. Now, at that scene, did you have an occasion to
4 talk to the Defendant a second time?

5 A. I did. At that time Deputy Goodwin from Aiken County
6 came to me and advised me that he was wanting to talk to me
7 again.

8 Q. Okay, sir. And so were you aware that the deputy had
9 a video camera in his car at that time?

10 A. Yes. He advised me he had one on and it was still
11 taping.

12 Q. Okay, sir. And have you reviewed that video?

13 A. I have.

14 Q. Okay. And on this video, does a conversation between
15 you and the Defendant take place on this video?

16 A. Yes, sir.

17 Q. Okay. Do you recognize this?

18 A. Yes, sir.

19 Q. And you say you reviewed this video?

20 A. I did.

21 Q. And does it substantially set forth what conversation
22 took place between you and the Defendant?

23 A. Yes, sir

24 Q. Okay.

25 MR. RICHARDSON: Your Honor, I would like to go

1 ahead and mark this for identification purposes.

2 THE COURT: All right. We'll mark it for
3 identification purposes just for this hearing only.

4 (WHEREUPON, State Exhibit Number 1 was marked for
5 identification.)

6 Q. Now, after you've had that conversation, and the video
7 will speak for itself, where did you go from that point?

8 A. From that point, we went back to the Sheriff's Office.
9 The vehicle was towed back to the Sheriff's Office. In the
10 meantime, prior to going to the Sheriff's Office, the
11 investigator I was riding with, we stopped at a Burger King
12 and got hamburgers for the Defendant and ourselves.

13 Q. Okay. And from that point where did you go?

14 A. From that point, we left the Sheriff's Office and went
15 back to or or where his sister lives.

16 Q. Okay. Now, when you talked to the Defendant, after
17 you'd *Mirandized* him, did you in any way force him to give
18 a statement?

19 A. No, I did not.

20 Q. Did he give that statement voluntarily?

21 A. Yes, he did.

22 Q. And of his own freewill?

23 A. Yes, sir.

24 Q. Okay. And at any time did he invoke his rights that
25 you read?

1 A. No, he did not.

2 Q. At any time, did he stop you from questioning him and
3 ask for an attorney?

4 A. No, he did not.

5 Q. Okay. And so we're clear on the setting, was he
6 inside the car or outside the car during your conversation?

7 A. During the interview the second time?

8 Q. Yes. No. Yes, the second time?

9 A. The second time, he was inside the back seat of a
10 patrol car. His legs were sticking out of the patrol car
11 because he was smoking at the beginning.

12 Q. Okay. And he was -- how was he smoking? How did he
13 get a cigarette?

14 A. I believe Deputy Goodwin gave him a cigarette.

15 Q. Now, when you -- you stated you took him -- was there
16 -- after that conversation, and after you gave him
17 something to eat, was there ever another conversation or
18 interview or interrogation by you to the Defendant?

19 A. I assisted Detective Baker in a video interview of the
20 Defendant at the Sheriff's Office.

21 Q. Okay. And when you say the Sheriff's Office, is that
22 Pickens County?

23 A. Aiken County.

24 Q. That was Aiken County?

25 A. Yes, sir.

1 Q. Now, who conducted that interview?

2 A. Detective Baker.

3 Q. Okay. You say you assisted?

4 A. Yes.

5 Q. Were you just simply in the room?

6 A. I was in the room and I did ask a few more questions.

7 Q. Okay. And was that also videotaped?

8 A. Yes, it was.

9 Q. Okay. And let me just ask you ---

10 MR. RICHARDSON: If you could mark this for
11 identification.

12 (WHEREUPON, State Exhibit Number 2 was marked for
13 identification.)

14 MR. RICHARDSON: For the record, I just presented
15 that to Defense counsel for his review.

16 Q. Do you recognize what's now been marked for
17 identification purposes only State's Exhibit Number 2?

18 A. Yes.

19 Q. Okay. What is that?

20 A. It's a waiver of rights form.

21 Q. Okay. And were you there when that waiver of rights
22 was read?

23 A. Yes, I was.

24 Q. Okay. And that was done by Detective Goodwin?

25 A. Detective Baker.

1 Q. Oh, excuse me. Detective Baker. And was it -- your
2 signature is on here as a witness?

3 A. Yes, it is.

4 Q. And was there -- what kind of room were you in when
5 you had this interview?

6 A. We were in a room, had a small table in it with three
7 chairs, I believe, in it. And I'd say probably an eight-
8 by-eight room.

9 Q. Okay. And who was in the room?

10 A. Myself, Detective Baker, Mr. Murray.

11 Q. Okay. Did you or did you view Detective Baker force
12 the Defendant to give any statement to him?

13 A. No, he did not.

14 Q. Okay. And did he do so of his own free will?

15 A. Yes, he did.

16 Q. And was a statement given after this Rights form was
17 read to him?

18 A. Yes, it was.

19 Q. Okay, sir. Did y'all deny him any access to the
20 bathroom or anything like that?

21 A. No, we did not. We even got a drink for him, a
22 Mountain Dew.

23 Q. Do you remember how long that interview took?

24 A. The interview took approximately one hour.

25 Q. And after that, was there any further interrogation or

1 questioning or statements by the Defendant?

2 A. No, sir.

3 MR. RICHARDSON: That's all the questions I have
4 at this time.

5 THE COURT: Any cross-examination? I'll
6 certainly give you the right to -- I'm assuming I'm going
7 to need the watch the tapes. You can cross-examine now and
8 later or you can defer to later or you can do it now, Mr.
9 Mallard, either way you would like.

10 MR. MALLARD: I just have a couple of questions
11 right now.

12 THE COURT: All right. You can ask him those
13 questions now.

14 **CROSS-EXAMINATION**

15 **BY MR. MALLARD:**

16 Q. Detective Taylor, ---

17 A. Yes, sir.

18 Q. --- when you brought Chris out of the woods, am I
19 correct in -- it's my understanding that you brought him
20 into a back yard of somebody?

21 A. Yes, sir.

22 Q. Before you took him to look for -- retrieve the
23 vehicle that had been driven to Aiken County, did you find
24 like another vehicle, perhaps like a junker on the
25 property?

1 A. The one that they were sitting in when they ran, yes,
2 sir.

3 Q. Did you happen to like look into it?

4 A. We looked into it and there was, I think, a few
5 bottles of alcohol maybe inside of it.

6 Q. Okay. When you interviewed Chris, did he tell you he
7 had been drinking?

8 A. No, he did not.

9 Q. Did he -- were you able to smell that?

10 A. No.

11 MR. MALLARD: No further questions.

12 THE COURT: Any redirect?

13 MR. RICHARDSON: Just very briefly, Your Honor.

14 **REDIRECT EXAMINATION**

15 **BY MR. RICHARDSON:**

16 Q. How long have you been a police officer?

17 A. For going on eighteen years now.

18 Q. Okay. Did you notice any signs of impairment of the
19 Defendant during your questioning and his answers?

20 A. No, I did not.

21 Q. Have you in your eighteen years plus, have you dealt
22 with people and suspects and Defendants who have been
23 drinking or intoxicated?

24 A. I have. They would not be able to ---

25 Q. On more than one occasion?

1 A. They would not be able to run like he did.

2 Q. Thank you.

3 MR. RICHARDSON: That's all the questions I have.

4 THE COURT: All right. Anything else to present
5 by way of testimony?

6 MR. RICHARDSON: Nothing by way of testimony.

7 THE COURT: All right. You may step down,
8 Officer Taylor.

9 MR. RICHARDSON: If it pleases the Court, the
10 State would call Michael Goodwin to the stand.

11 THE CLERK: Place your left hand on the bible and
12 raise your right hand. Do you solemnly swear or affirm
13 that the testimony you're about to give is the truth, the
14 whole truth and nothing but the truth, so help you God?

15 MR. GOODWIN: I do.

16 THE CLERK: State your name for the record,
17 please.

18 MR. GOODWIN: Michael Goodwin.

19 MICHAEL GOODWIN,

20 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

21 DIRECT EXAMINATION

22 BY MR. RICHARDSON:

23 Q. Officer Goodwin, you're employed with the Aiken County
24 Sheriff's Office. Is that correct?

25 A. That's correct.

1 Q. In what capacity?

2 A. A road patrol deputy.

3 Q. Okay, sir. And were you so employed back in January
4 of 2010?

5 A. I was.

6 Q. Okay, sir. And at that time, did you have an occasion
7 to investigate a case and come in contact with the
8 Defendant, Chris Murray?

9 A. I did.

10 Q. Okay, sir. And just so we get you to -- were you at
11 the scene when Mr. Murray was caught?

12 A. I was at the scene shortly after he was caught.

13 Q. Yes, sir. And what were you driving on that
14 particular evening?

15 A. Vehicle 13, a marked patrol unit.

16 Q. Okay, sir. And what was the purpose of you being at
17 the scene?

18 A. I was an on-coming shift deputy, a relieving officer
19 for the day shift units. I was sent to assist Pickens
20 County with anything they needed help with.

21 Q. Okay, sir. And do you have a video inside your car?

22 A. I do.

23 Q. Okay. Can you explain to the Judge exactly what that
24 is?

25 A. Every one of our patrol units are equipped with a dash

1 cam. My patrol unit is actually equipped with a laptop
2 style cam in the back seat that records anyone in the back
3 seat for contraband purposes. When I transport inmates, I
4 activate both cameras because -- for contraband purposes
5 and excited utterances.

6 Q. And when you say contraband purposes, "you're referring
7 to somebody trying to hide something in your patrol car or
8 dropping something?

9 A. That's correct.

10 Q. Okay, sir. And this camera, you may have testified to
11 this, but where is it located in the car?

12 A. It's located at the top driver's side of the cage.

13 Q. Okay, sir. And on this evening did you activate that
14 camera?

15 A. I did.

16 Q. Okay. Now, was -- what was your involvement with Mr.
17 Murray initially? Was he placed in your patrol car?

18 A. He was placed in my patrol car on the scene.

19 Q. Okay. And on that evening were you basically -- is it
20 fair to say you were the transporting officer?

21 A. That's fair.

22 Q. Okay. And throughout the transport, this video was
23 on?

24 A. It was.

25 Q. Okay, sir. And I don't know if you -- were you aware

1 that his *Miranda* Rights had been read to him?

2 A. Before we left where he was caught at on

3 , I checked with Investigator Art -- I'm not sure of
4 his last name -- to see if *Miranda* had been read to him and
5 he advised me at that time, yes, before we departed to go
6 find the vehicle that he came down in.

7 Q. Now, and you're the one that took him. And you've
8 testified you're the one that took him to find the vehicle?

9 A. That's correct.

10 Q. And you eventually got to there, to that location and
11 found this white Cavalier?

12 A. To a house on in Aiken County.

13 Q. Okay, sir. Now, during the trip, during this process
14 of transporting him from location to location -- how many
15 locations did you take him to?

16 A. We went to , to the Sheriff's Office and
17 then to .

18 Q. Okay. And is where the gun was found?

19 A. That's correct.

20 Q. Okay. And you were the transporting officer
21 throughout?

22 A. That's correct.

23 Q. Okay. In that transport, did the Defendant make
24 statements to you?

25 A. He did.

1 Q. Okay. And were those statements -- have you reviewed
2 what has been marked as State's Exhibit Number 1 for
3 identification purposes?

4 A. I have.

5 Q. Okay. You reviewed that today, as a matter of fact.,
6 Is that right?

7 A. That's correct.

8 Q. Does this substantially show the conversations and the
9 statements made by the Defendant to you?

10 A. It does.

11 Q. Now, did you actually make a copy from your car tape
12 or how does that work?

13 A. It makes an IMPEG and I made that for the
14 investigators before they came back to Pickens County the
15 night of the arrest.

16 Q. And then you turned it over to the Pickens County?

17 A. That's right.

18 Q. Okay. During this transporting from location to
19 location at any time did you force the Defendant to make
20 any statements to you?

21 A. I did not.

22 Q. Okay. Did you coerce him in any way?

23 A. I did not.

24 Q. Did you threaten him in any way?

25 A. I did not.

1 Q. And did he in fact make certain statements to you that
2 were recorded on this video?

3 A. He did.

4 Q. Okay, sir.

5 MR. RICHARDSON: Your Honor, at this time, I
6 would ask to publish for you, the Court, State's Exhibit
7 Number 1 for identification purposes only.

8 THE COURT: Do you have any questions of this
9 witness before? I'll certainly give you an opportunity to
10 ask him any questions after, Mr. Mallard?

11 MR. MALLARD: No, Your Honor.

12 THE COURT: All right. You may publish the
13 videotape. I understand there's one videotape that has
14 more than one statement on it? Everything's on the same
15 one or not?

16 MR. RICHARDSON: To be clear, Your Honor, this
17 statement -- I mean, this video we're putting in is Officer
18 Taylor and this Officer's, statements made to them two.
19 There's another video ---

20 THE COURT: Is that in the patrol car or -- this
21 is the one in the patrol car and not in the room?

22 MR. RICHARDSON: That's correct, Your Honor.

23 THE COURT: Was the one in the room videotaped?

24 MR. RICHARDSON: Yes, sir.

25 THE COURT: Okay. All right. This is the patrol

1 car. All right.

2 (WHEREUPON, State Exhibit Number 1 was played in open
3 court.)

4 THE COURT: All right, Officer, you can come back
5 around to the witness stand.

6 DIRECT EXAMINATION CONTINUED

7 BY MR. RICHARDSON:

8 Q. The last part of that tape is that you conversing with
9 the Defendant?

10 A. It is.

11 MR. RICHARDSON: That's all the questions I have.
12 Please answer any questions Defense Counsel may have.

13 THE COURT: You may cross-examination the
14 witness.

15 MR. MALLARD: No questions, Your Honor.

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

17 MR. RICHARDSON: Your Honor, the next witness and
18 another video I'm going to show will take approximately an
19 hour. I didn't know if you wanted to take a break, maybe
20 five minutes.

21 THE COURT: Yeah. We'll take a short break, a
22 five minute break, and then we'll be ready to start back.

23 (WHEREUPON, the court stood at recess for a short
24 break.)

25 (WHEREUPON, State Exhibit Number 3 was marked for

1 identification.)

2 THE COURT: Mr. Solicitor, you may call your next
3 witness.

4 MR. RICHARDSON: Thank you, Your Honor. The
5 State calls Michael Baker to the stand.

6 THE CLERK: Place your left hand on the bible and
7 raise your right hand. Do you solemnly swear or affirm
8 that the testimony you're about to give is the truth, the
9 whole truth and nothing but the truth, so help you God?

10 MR. BAKER: I do.

11 THE CLERK: State your name, please.

12 MR. BAKER: Michael Baker.

13 MICHAEL BAKER,

14 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION

16 BY MR. RICHARDSON:

17 Q. Sir, where are you employed?

18 A. Pickens County Sheriff's Office.

19 Q. In what capacity?

20 A. I'm a detective.

21 Q. Okay, sir. And were you employed in that capacity
22 back in January of 2010?

23 A. Yes, sir.

24 Q. Okay, sir. And in your capacity as a detective, did
25 you have an occasion to come in contact with the Defendant,

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1 Chris Murray, and investigate a case in regards to him?

2 A. Yes, sir, I did.

3 Q. Okay, sir. And at some point in time, did that
4 investigation take you to Aiken, South Carolina?

5 A. It did.

6 Q. Okay, sir. And was it in Aiken, South Carolina that
7 you had the first contact with the Defendant?

8 A. Yes, sir, it was.

9 Q. Okay. And when did that take place, your first
10 contact with the Defendant?

11 A. As Detective Taylor stated, when we drove down the
12 road where the residence was where they were in the car,
13 Detective Taylor saw them leave from the car, run into the
14 woods. I and Detective Blevins with Aiken County
15 apprehended Faye Brissey.

16 Q. So we're clear, that would be a co-defendant?

17 A. Yes.

18 Q. That's Faye Brissey?

19 A. Yes.

20 Q. Okay. Go ahead.

21 A. While we were apprehending Faye, the canine team went
22 into the woods. We had Faye the entire time and
23 coordinated her to be transferred to the Aiken County
24 Sheriff's Office Detention Center. During that time,
25 Detective Taylor made first contact with the Defendant.

1 Q. Were you there when Detective Taylor Mirandized him?

2 A. No. No, sir, I was not.

3 Q. Well, let me ask you this. Let's get straight to the
4 first point that you had any conversation with the
5 Defendant. When was that?

6 A. They were walking back from the woods to the vehicle,
7 Deputy Goodwin's vehicle, and it was right about there that
8 I had my first contact with Mr. Murray.

9 Q. Okay. Now, at that point in time, did you question
10 him or were there any statements made at that point in
11 time?

12 A. No, sir. Not to me.

13 Q. Okay. When was the first time that you had any --
14 that the Defendant made any type of statement, if any, to
15 you?

16 A. When we went to the location where the Chevy Cavalier
17 had been parked.

18 Q. Okay.

19 A. While I was coordinating the towing of the car,
20 Detective Taylor was speaking with him. I rejoined him in
21 the second half of what was played.

22 Q. So we're clear, the ending part of the video that was
23 just played where he's talking about the gun, that is you.

24 Is that correct?

25 A. Yes, sir.

1 Q. Okay. Now, the video speaks for itself so I'm going
2 to go forward from there.

3 A. Okay.

4 Q. After that, did you have -- when was the next time
5 that you had any discussions or he made any statements to
6 you?

7 A. After that, we went to the Sheriff's Office, had the
8 car towed to the Sheriff's Office to a secure impound.
9 Then we went to a location beside his sister's residence
10 where he led us to where the gun was buried. And that was
11 the discussion we had. He led us to the location ---

12 Q. So we're clear, that was a discussion that you had on
13 the first video?

14 A. Yes.

15 Q. Okay. After he lead you to the gun, were any
16 statements made by him to you at the scene where the gun
17 was found?

18 A. No. Other than showing us where the gun was.

19 Q. Okay. At that point in time, where did you go?

20 A. We then went back to the Sheriff's Office to conduct a
21 formal interview.

22 Q. Okay, sir. Now, that's what I want to talk to you
23 about, the interview. Where did you interview the
24 Defendant?

25 A. It was at the Aiken County Sheriff's Office. They had

1 an interview room set up. Like Detective Taylor said, it
2 was about eight-by-eight, maybe twelve-by-twelve. It was a
3 video interview.

4 Q. It was a video?

5 A. Yes, sir.

6 Q. Okay. And -- well, who was in the room with you?

7 A. It was myself, Detective Taylor and Mr. Murray.

8 Q. Okay. And this was a regular old room?

9 A. Yes, sir. White walls, a wooden table, three chairs
10 and I think there was a TV in the corner.

11 Q. Okay. Now, at some point, did you give him *Miranda*
12 again?

13 A. I did.

14 Q. Okay. Now, prior to you giving him *Miranda*, did you
15 force him in any way to sign any type of statements or say
16 anything?

17 A. No, sir.

18 Q. Did you coerce him in any way?

19 A. No, sir.

20 Q. Did you prevent him from having food or going to the
21 bathroom?

22 A. No, sir.

23 Q. In fact, prior to that interview was he, in fact, fed?

24 A. He was.

25 Q. And what was he fed?

1 A. We got double cheeseburgers from Burger King and I
2 believe he had a Mountain Dew.

3 Q. Okay, sir. Now, in that interview room when you give
4 Rights, is there a particular form that you use?

5 A. Yes, sir.

6 Q. I'm going to hand you what's been marked as State's
7 Exhibit Number 2 for identification purposes only. Do you
8 recognize that?

9 A. I do.

10 Q. What is that?

11 A. This is the written waiver form that I presented to
12 Mr. Murray.

13 Q. Okay, sir. And is that your standard waiver forms
14 that you use for Pickens County?

15 A. It is, yes, sir.

16 Q. Okay, sir. And did you -- when you presented -- did
17 you present that to him or did you read it to him?

18 A. I presented it to him. First I read the entirety of
19 it, asked him what grade he had completed, if he could read
20 and write. Advised him I was going to read it to him, then
21 I wanted him to read each line to himself and read the
22 bottom paragraph out loud to me so I could make sure that
23 he could read.

24 Q. Okay.

25 A. And I asked him to initial and sign.

1 Q. Okay. Very good. Did he in fact read each and every
2 part of that and initial each and every part of that?

3 A. He did.

4 Q. Are those his initials on the form?

5 A. Yes, sir.

6 Q. Did he in fact read out loud the waiver aspect of it?

7 A. Yes, sir.

8 Q. Okay. Did he sign that form?

9 A. Yes, sir.

10 Q. Is that his signature on that form?

11 A. Yes, sir.

12 Q. Okay. Now, was this done on video?

13 A. It was.

14 Q. In fact, he signed his -- he waived his rights?

15 A. He did.

16 Q. Okay. At any point in time, did he ever invoke his
17 rights?

18 A. No, sir.

19 Q. Did he ever ask for an attorney?

20 A. No, sir.

21 Q. Did he ever say, I don't want to talk anymore?

22 A. No, sir.

23 Q. At any point in time during the interview, did you
24 force or coerce him?

25 A. No, sir.

1 Q. Okay, sir. All right. You obtained a video, a copy
2 of the video. Is that correct?

3 A. I did.

4 Q. Okay. And have you viewed that?

5 A. I have.

6 Q. Before today?

7 A. Yes, sir.

8 Q. Okay, sir. Do you recognize what's been marked as
9 State's Exhibit 3?

10 A. I do.

11 Q. Okay, sir. What is that?

12 A. That's the video interview.

13 Q. Okay, sir. And does this substantially depict the
14 conversations that happened in that room?

15 A. It does.

16 Q. Does it start from the beginning?

17 A. It does.

18 Q. Were there any conversations prior to this video?

19 A. No, sir.

20 Q. Does it end at the end?

21 A. Yes, sir.

22 Q. No conversations after that?

23 A. No, sir.

24 Q. Okay.

25 MR. RICHARDSON: At this time, Your Honor, I

1 would ask to publish for the Court State's Exhibit Number 3
2 for identification purposes.

3 THE COURT: Do you wish to ask any questions now?

4 MR. MALLARD: No, sir.

5 THE COURT: I'll give you an opportunity later.

6 Okay. You may publish the video.

7 MR. RICHARDSON: Detective, let me ask you while
8 he's loading that, approximately how long did this
9 interview last?

10 MR. BAKER: I believe it's approximately an hour,
11 maybe a little less than an hour.

12 MR. RICHARDSON: And I may have asked you this.
13 Did you prevent him during that period of time from going
14 to the restroom or anything of that nature?

15 MR. BAKER: No, sir.

16 MR. RICHARDSON: Did you provide him with
17 anything to drink?

18 MR. BAKER: He had a drink the entire time.

19 (WHEREUPON, State Exhibit Number 3 was played in open
20 court.)

21 THE COURT: You may examine your witness.

22 **DIRECT EXAMINATION CONTINUED**

23 **BY MR. RICHARDSON:**

24 Q. Detective, it was brought up a little bit earlier, but
25 that was contact with the Defendant approximately an hour?

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1 A. Yes, sir.

2 Q. Okay. Any signs of impairment or intoxication?

3 A. No, sir.

4 Q. How long have you been a police officer?

5 A. Eight years.

6 Q. Have you dealt with people who have been intoxicated
7 or impaired by drugs?

8 A. Yes, sir.

9 Q. And was there any further statements or anything
10 further, conversations that you had with the Defendant
11 after that tape ends?

12 A. No, sir.

13 MR. RICHARDSON: That's all the questions I have.

14 THE COURT: Any cross-examination?

15 MR. MALLARD: No, Your Honor.

16 THE COURT: All right. Thank you, sir. You may
17 step down.

18 You may call your next witness, Solicitor.

19 MR. RICHARDSON: Your Honor, that's all we have
20 for this particular ---

21 THE COURT: Any testimony or other evidence you
22 wish to put up, Mr. Mallard?

23 MR. MALLARD: No, Your Honor.

24 THE COURT: All right. Any -- I'll be glad to
25 hear any arguments either of you have. I gather -- let me

1 make sure I've got the -- understand the issue here. The
2 State wishes to introduce all the content of both tapes?

3 MR. RICHARDSON: That's correct, Your Honor.
4 There's one period of time that we can edit out, that
5 nothing is said. I believe that was on the first
6 statement. But other than that -- I mean, of course, with
7 the consent of Defense Counsel.

8 THE COURT: Is there any objection from the
9 Defense as to the admissibility of these statements?

10 MR. MALLARD: I don't believe so, Your Honor.

11 THE COURT: Well, obviously, I will need to make
12 the finding as to whether or not they were custodial
13 interrogations and whether or not they were properly --
14 rights were properly given. Obviously, all the -- I think
15 the only thing I heard that would not have been custodial
16 was -- I didn't really hear any statements, but I think
17 Officer Taylor said that Mr. Murray was about to say
18 something coming out of the woods and he stopped him from
19 saying anything until he read him his rights then.

20 Of course, there was no videotape available then, but
21 the testimony is credible there and I think there was a
22 waiver of *Miranda* rights. So I don't think the second
23 waiver has been presented into the record, but I did hear
24 the officer testify to that, from the Officer at the
25 interview room.

1 MR. MALLARD: Your Honor?

2 THE COURT: Yes, sir.

3 MR. MALLARD: If I may clarify. I assume that
4 we're only dealing right now with the issue of
5 voluntariness of the evidence presented. At this point, I
6 can't say if I would have any other objections to the
7 evidence.

8 THE COURT: We are restricted to the
9 voluntariness and whether it was custodial. There was a
10 signed waiver on each of the statements, if I recall the
11 testimony, right?

12 MR. RICHARDSON: No, Your Honor, there was a
13 signed waiver, written signed waiver on the last
14 interrogation.

15 THE COURT: All right. And the one that was
16 introduced through Officer Taylor was on the second one?

17 MR. RICHARDSON: The one that Officer Taylor had
18 was the very first tape that you saw. He did a -- he
19 *Mirandized* him from a card.

20 THE COURT: All right. Not on video?

21 MR. RICHARDSON: Not on video.

22 THE COURT: Did he get a waiver -- is there two
23 waivers or one waiver?

24 MR. RICHARDSON: There's one waiver.

25 THE COURT: One signed waiver?

1 MR. RICHARDSON: Right.

2 THE COURT: That was given just then?

3 MR. RICHARDSON: My question to Officer Taylor
4 was did he invoke any of those rights at that time?

5 THE COURT: Taylor identified the waiver, the
6 signed waiver, in his testimony?

7 MR. RICHARDSON: Yes, sir, he did.

8 THE COURT: But it was not until the
9 interrogation by Officer Baker?

10 MR. RICHARDSON: That's correct.

11 THE COURT: All right. Obviously, there wouldn't
12 have been a signed waiver immediately upon the interview at
13 the -- as I understood, the waivers were given immediately
14 before Mr. Murray was placed in the patrol car. So the
15 waiver did not make a videotape -- or the reading of the
16 rights didn't make a videotape. I think it's clear that
17 the -- obviously, this was custodial interrogation, but I
18 think all the elements of showing voluntariness have been
19 met, that by the preponderance of the evidence is the
20 standard that I am required to look at at this stage.
21 Obviously, the jury will have an opportunity to decide the
22 ultimate voluntariness of the statement.

23 But I think that the Defendant clearly understood and
24 received his rights and I would allow the confessions into
25 evidence as far as the -- the purposes of this hearing,

1 again, if there's any particular redactions or other issues
2 that, Mr. Mallard, you wish to bring up then we can address
3 those or perhaps the two of you can address those before
4 Monday. But I find there is a preponderance of the
5 evidence showing the statements to be voluntarily made by
6 Mr. Murray.

7 As far as the Defense motion for the -- I guess it's a
8 motion for a continuance for a formal evaluation, I wanted
9 to defer that ruling until I perhaps heard more testimony
10 from Mr. Murray, but I didn't hear any more. I did have a
11 chance to observe his responses then. That was a year ago
12 plus now.

13 But based upon the voir dire that I conducted of Mr.
14 Murray, I think the answers given, he certainly was
15 coherent and rational as to his age, his education
16 background, his family background, the matters that we
17 talked about as far as jobs and physical health and issues
18 of that nature. His counseling. I understand he's had
19 some troubled youth, as many people do. He was well aware
20 of the court proceedings in his prior juvenile offenses.
21 And I don't think there's any doubt that he understood the
22 trial setting and the various individuals who will be
23 participating and their roles. Certainly, he seemed to
24 understand the charge pending against him without any
25 equivocation and the punishment that he could face. He

1 even showed an understanding of that on the video, both
2 videos as I recall.

3 I can certainly appreciate the fact that an individual
4 with a homicide or death involved and whether the State
5 says it's a homicide, but any time there's a death
6 involved, I can understand the trauma that would come to an
7 individual who sees it or is part of it in any way, that
8 that could certainly precipitate bad dreams and depression
9 relating to that, and inability to concentrate through
10 television or diversions of music or otherwise. I don't
11 think that rises to the level of incompetence to adequately
12 participate in the trial of the case.

13 I think the responses to the Court's questions and the
14 questions elicited by Counsel demonstrate to me a manifest
15 understanding of the proceedings, the roles of the various
16 participants, the charges that he's facing.

17 My standard, of course, is whether or not he, Mr.
18 Murray has sufficient ability to consult with his attorney
19 with a reasonable degree of rational understanding, and
20 whether he has a rational, as well as a factual,
21 understanding of the proceedings against him. I think it's
22 clear to me that he certainly is competent to stand trial
23 on this case.

24 As a result, I'll deny your motion for any evaluation
25 at this time, Mr. Mallard. We'll be ready to proceed with

1 the case on Monday with selecting a jury.

2 Are there any other motions or any other preliminary
3 matters that we need to take care of as far as scheduling
4 or document issues or evidentiary issues? Are all of your
5 witnesses going to be available? Are there any scheduling
6 problems we would have from either side as far as starting
7 later or earlier or jury selection? The strikes, of
8 course, will be five and ten. We'll get some alternates.
9 How long do you anticipate the trial taking, gentlemen?
10 Will it take a couple of days, three days?

11 MR. RICHARDSON: I think my case will take
12 approximately two and a half days.

13 THE COURT: All right.

14 MR. RICHARDSON: Maybe two, depending on how it
15 goes. And perhaps the video, if he has certain objections
16 to it -- certain parts of the video, if Mr. Mallard will
17 get with me tomorrow, we may can ---

18 THE COURT: Yeah. Y'all each have a copy. Y'all
19 could even talk over the phone if you couldn't get
20 together. It would be better to get together, but if there
21 are sections that you feel, for whatever reason, should be
22 redacted, y'all can either mark it by muting or maybe you
23 could even have time to cut another CD if y'all can agree
24 on parts of it. You certainly are entitled to have it all
25 put in, Mr. Mallard, but if there are sections that

1 everybody could agree to, the jury's going to have a chance
2 to watch it all. But any statements that you feel should
3 be redacted or any parts of it that can be fast-forwarded
4 or otherwise, y'all can get -- that's what the attorneys
5 can work together on to try to resolve that.

6 MR. RICHARDSON: If we -- I guess Mr. Mallard can
7 get with me tomorrow to take care of the edited parts so we
8 don't interrupt the trial next week.

9 THE COURT: Yeah. Once we get started with our
10 jury selection, we need to proceed on with the trial. We
11 don't need to have breakdowns as best we can. I'm not in
12 any way hampering you in your Defense. If you have legal
13 matters that you need to bring up, we'll certainly address
14 them, but we want to be conscious of the jury's time, too.
15 And if we can keep things moving once we -- you've got
16 Friday and Saturday and the weekend to get those things
17 ready and we'll try to well utilize the jury's time since
18 they're here involuntarily, but I'm sure they'll answer
19 their summons and be conscientious jurors, but we want to
20 be conscious of their time.

21 Anything else from the State this evening?

22 MR. RICHARDSON: No, there's not, Your Honor.

23 THE COURT: Anything else, Mr. Mallard?

24 MR. MALLARD: I have one final concern.

25 THE COURT: Yes, sir.

1 MR. MALLARD: And you can -- you've had
2 experience in managing trials, and you can just simply make
3 a decision and I will accept it, but I'm a little concerned
4 about the pace.

5 Now, in n terms of discovery, the written materials
6 I've had for some, have been able to go over. The CD's
7 we've gotten since -- in the last week to perhaps ten days.
8 I mean, the Solicitor's Office has made every effort to
9 make those available. But in terms of the pace of the
10 trial, it was like two weeks ago that I discovered that the
11 offer the State had given for us to respond to in terms of
12 a plea, was being shortened by four months.

13 So, in terms of the CD's and stuff, I'd like -- I
14 think I've gone through most of them, except this final one
15 which is, you know, crucial to our case in terms of what my
16 client did, I really didn't see it in its fullness until
17 today. You know, just I had the tape, dealing with
18 software problems and, you know, and that sort of thing.

19 I'm going to request a continuance of not more than
20 ten or fifteen days just to make sure that I've had a
21 chance to go over everything adequately and really prepare
22 my client for this.

23 THE COURT: Is there any other evidence the State
24 has that it needs to get to the Defendant?

25 MR. RICHARDSON: No, there's not, Your Honor.

1 THE COURT: Is there anything else the law
2 enforcement has, they're in the audience, that you haven't
3 given to the Solicitor?

4 Well, why was the CD just given to him recently?

5 MR. RICHARDSON: It actually was given to him
6 about two weeks ago, I believe.

7 THE COURT: Why? Why not sooner than that?

8 MR. CLEVELAND: At least three weeks.

9 MR. RICHARDSON: Your Honor, I don't think we
10 had it.

11 MR. CLEVELAND: To the best of my recollection,
12 Your Honor, it took a while and it was later than we
13 anticipated to get all the information accumulated from
14 both agencies. At the point we decide we were going to
15 schedule the trial at this term, we realized at that point
16 in time that there were -- we had some and we didn't have
17 others. So we basically sent out a BOLO on everything
18 that's possibly out there, we wrote to everybody to get it.
19 We had some items come in at that point in time that we
20 immediately handed over to Defense counsel.

21 MR. MALLARD: And to be fair, Your Honor, Mr.
22 Cleveland, you know, attempted to provide me with a video
23 player and stuff and, you know, another little software
24 direction. It didn't work, but I appreciated his, you
25 know, his effort. I'm not suggesting they haven't, you

1 know, attempted to be cooperative.

2 THE COURT: Yeah.

3 MR. MALLARD: It's just the end result. You
4 know, I feel obligated to try to be, you know, competent
5 for my ---

6 THE COURT: Yes, sir. Well, I'm grateful that we
7 were able, because of the breakdown in the other trial this
8 week, that we were able to get this done today. I think
9 that gives you plenty of time to go over that with your
10 client. He's going to be here available. And I think four
11 days is surely going to be enough time for you to -- we'll
12 have the jury selection and be ready to proceed with the
13 trial on Monday.

14 So I respectfully deny your motion for the
15 continuance.

16 Photographs, or other tangible evidence, has Mr.
17 Mallard had an opportunity to review all of that?

18 MR. RICHARDSON: Yes, Your Honor.

19 THE COURT: Okay.

20 MR. CLEVELAND: I mean, it's all been handed over
21 that the State intends to use for trial.

22 THE COURT: Okay. We'll be ready to start -- the
23 jury will be coming in at nine o'clock on Monday. We'll be
24 ready to start jury selection immediately thereafter and be
25 ready to start the trial that afternoon.

1 MR. RICHARDSON: Thank you, Your Honor.

2 THE COURT: Court's adjourned until ten tomorrow.

3 (WHEREUPON, the court stood at recess for the day.)

4 APRIL 18, 2011

5 (WHEREUPON, Court convened with all parties present
6 and the following proceedings were had.)

7 (WHEREUPON, State Exhibit Numbers 4 through 45 were
8 marked for identification.)

9 THE COURT: Ladies and gentlemen, while we're
10 taking care of these couple of transfers, I'm going to give
11 you a break. We have some preliminary matters we need to
12 take care of to make sure you're qualified to serve as a
13 juror this week. We're going to have some additional
14 questions to ask you about the trial of the first case that
15 we're about to start. But rather than you waiting now,
16 I'll go ahead and give you a break. If you'll be back at
17 eleven o'clock, if you'll be ready to come back in, we'll
18 be ready to proceed further with more questions at that
19 times. You can take a break now until eleven o'clock.

20 (WHEREUPON, the jury panel exited the open court at
21 approximately 10:39 a.m.)

22 MR. RICHARDSON: Your Honor, I have one matter
23 about a juror that I'd like to discuss.

24 THE COURT: One juror you believe is not
25 qualified or ...

1 MR. RICHARDSON: That's correct, Your Honor.

2 THE COURT: All right. What juror is that?

3 MR. RICHARDSON: Juror number 93, Paul Patrick.

4 He was convicted of a burglary charge. This was in New
5 Jersey. I don't know if maybe he thought we were just
6 talking about South Carolina. A burglary charge. He
7 actually got a probationary sentence, like three years on
8 that. It's out of New Jersey. And we would move to strike
9 him for cause.

10 THE COURT: I'll talk with him when he comes
11 back. His name was what?

12 MR. RICHARDSON: Paul Patrick, juror number 93.

13 THE COURT: We've got a small panel anyhow today.

14 MR. RICHARDSON: I understand, Your Honor.

15 THE COURT: We've got thirty-five, I think, right
16 now.

17 Any other matters from the State?

18 MR. RICHARDSON: That's it as far as this is
19 concerned.

20 THE COURT: Anything from the Defense as far as
21 any motions from you or your client, Mr. Mallard?

22 MR. MALLARD: Your Honor, if you'd like to take
23 up the matter that we discussed in Chambers?

24 THE COURT: Yeah. The attorneys approached me in
25 Chambers briefly about a witness list and some voir dire

1 questions. And I understand from Mr. Mallard, Mr. Murray,
2 you are not satisfied with his services to you. Is that
3 correct?

4 MR. MURRAY: Yes, sir.

5 THE COURT: If you would, please stand so I can
6 hear you, all right, sir?

7 MR. MURRAY: Yes, sir. It's a number of things.
8 I mean, when I first hired Mr. Mallard, he was wonderful,
9 you know. He come to see me every week at least once, you
10 know, sometimes two and three times. But then when he saw
11 the tapes the other day of whenever I got locked up, I was
12 under the impression that my girlfriend was pregnant and I
13 kind of took charge. When I found out she wasn't pregnant,
14 I wanted to give a statement as to what truly happened that
15 night. And I talked to Mr. Mallard about it on the phone.
16 And he told me to be quiet, not to talk to anybody and he
17 would come take my statement as soon as possible. After
18 that, he wouldn't even take my phone calls for two months.
19 You know, he didn't come to see me for a long time. It
20 seems like every time on the phone, if I mention her name
21 or anything to do about a statement, he starts stuttering
22 and gets off the phone with me or hangs up on me. You
23 know, there's other stuff, you know.

24 THE COURT: Do you think it's unusual that a
25 lawyer would tell you not to give a statement to anyone?

1 MR. MURRAY: Well, I think it's unusual that he
2 said that he would be there as soon as possible to take my
3 statement, when he didn't take my phone calls for two
4 months.

5 THE COURT: Okay. All right. So basically your
6 complaint is that he didn't see you as often as he needed
7 to and he wouldn't let you give a statement?

8 MR. MURRAY: Yeah. He still has not taken that
9 statement. I took the liberty of writing the statement
10 here on this legal paper, you know, like basically, you
11 know my testimony ---

12 THE COURT: Okay. Well, I don't want to know
13 about that now. And I don't want you to say anything about
14 what your testimony will be.

15 MR. MURRAY: There was a few other things, you
16 know, other than the statement, like what the Solicitor
17 said in the hearing Thursday about the mental evaluation
18 should have been done a long time ago. I asked him when I
19 first hired him to get me a mental evaluation because I was
20 supposed to be on medications and the doctor at the jail
21 wouldn't approve them. So I asked him to get me evaluated
22 or something so they would give me something different.
23 And his reply to that was I didn't need medication. All I
24 needed in my life was God. There's nothing wrong with God,
25 you know, God's great.

1 But, you know, I mean, and even so, I mean, it's -- I
2 guess really the last straw for me was Thursday, I had to
3 keep getting his attention. He sat here and dozed off
4 three or four times, I know.

5 THE COURT: So you felt like he should have
6 gotten a mental evaluation for you as to your competency to
7 stand trial?

8 MR. MURRAY: Yes, sir.

9 THE COURT: And you feel like he was not
10 attentive while the recorded statements were being played
11 on Thursday?

12 MR. MURRAY: I feel like -- like I say, he was
13 great up until he met with my co-defendant. I kind of
14 confided in him after I found out, you know, that she was
15 cheating on me with a bunch of people.

16 THE COURT: Okay.

17 MR. MURRAY: And he immediately wanted to meet
18 with her. A couple of days later he told me he wanted to
19 meet with her and asked me to set up a meeting between them
20 quickly before she had the chance to see a lawyer. All
21 right. And I did. So that's whenever everything went
22 downhill. I've had a couple of people tell me that they've
23 seen them together. I had one guy in particular say he'd
24 be willing to testify to the fact that he's seen them
25 together at least eight times.

1 THE COURT: Okay.

2 MR. MURRAY: I questioned Mr. Mallard about it
3 and, you know, he just, uh, uh, uh, and, you know, just ...

4 THE COURT: So are you saying, Mr. Murray, that
5 you believe he was with the co-defendant, not investigating
6 the case, but rather having a romantic relationship with
7 the co-defendant?

8 MR. MURRAY: Well, I mean, I'm not sure of the
9 nature of their relationship. I just know that after they
10 met, his performance with my case went completely downhill.

11 THE COURT: All right. Let me make sure, is
12 there anything else, Mr. Murray?

13 MR. MURRAY: Nothing I can think of off the top
14 of my head. I have a letter I wrote to the Court. I'm
15 probably forgetting something.

16 THE COURT: All right. To recapitulate, I want
17 to make sure. I've got down the competency issue, that he
18 didn't have you evaluated. The inattention to your case,
19 that he did not let you give a statement. And that his
20 relationship or contact with the co-defendant, Ms. Brissey.
21 Does that sort of cover generally what the issues are?

22 MR. MURRAY: Yes, sir.

23 THE COURT: All right. Thank you, sir. You may
24 be seated.

25 MR. MALLARD: Your Honor?

1 THE COURT: Yes, sir, Mr. Mallard. Are you
2 prepared to try this case? I'll be glad to hear from you
3 as far as your ability. Are you prepared to try this case
4 today?

5 MR. MALLARD: Yes, sir. I believe so.

6 THE COURT: All right, sir. And do you believe
7 you've talked with your client adequately to prepare for
8 the case?

9 MR. MALLARD: I will need to speak with him some
10 more before he gives testimony.

11 THE COURT: Well, we will take time for that. Of
12 course, we had a competency hearing on Thursday and I made
13 the determination that I felt he was competent to stand
14 trial.

15 MR. MALLARD: I just wanted to respond briefly.

16 THE COURT: Yes, sir, I'd like to -- I'll be glad
17 to hear from you. And then I need to ---

18 MR. MALLARD: Just to the last comment.

19 THE COURT: Yes, sir. About ---

20 MR. MALLARD: I spoke with the co-defendant one
21 time.

22 THE COURT: Okay.

23 MR. MALLARD: There's no relationship. There was
24 never a relationship, and I told him that.

25 THE COURT: All right, sir.

1 MR. MALLARD: But perhaps you need to evaluate
2 the levels of trust, distrust there.

3 THE COURT: Well, we'll talk about that. Yes,
4 sir, Mr. Murray?

5 MR. MURRAY: Your Honor, back in November, Ms.
6 Brissey put the prison call system on her phone so I could
7 call. I called her one day and she was upset and told me
8 to tell my lawyer to stop calling her. I got in touch with
9 him and told him that and he said, I only talked to her one
10 time. I called her back and told her that I told him that,
11 to stop calling, but she denied even telling me to --
12 asking me to tell him. So ...

13 THE COURT: Okay. Well, of course, she's been
14 charged with a serious offense, too, in this case.

15 MR. MURRAY: Accessory after the fact because she
16 covered for me.

17 THE COURT: All right. Well, Mr. Murray, your
18 attorney says he's prepared to proceed with the trial of
19 the case. We've already started motions in this matter and
20 had them last week. You certainly have a right to
21 represent yourself. I wouldn't recommend that by any
22 means. But I haven't heard anything from you nor your
23 attorney that would justify, in my judgement, a replacement
24 of legal counsel. How long has -- you talked about last
25 fall he was on the case then, talking with you?

1 MR. MURRAY: Yes, sir.

2 THE COURT: And now we're at April. And I think
3 from the hearings -- we did watch the video tape where they
4 had some down times and silent time on those last week. I
5 think your attorney said he'd seen one of them before, at
6 least one of them before several times. I don't want to
7 get into the detail of your communication with your
8 attorney, but obviously a lawyer can have a strategy in not
9 having their client want to give a statement to law
10 enforcement. And I'm not going to get into trial
11 strategies that you and he may have. If your motion is to
12 remove counsel, based upon what I've heard, I don't think
13 there's a basis for it. I will allow you to proceed
14 representing yourself if you choose to. Again, I would not
15 recommend that. Mr. Mallard's got several months involved
16 in the case and if you can't get along and you can't
17 participate, then certainly that'll not be the best
18 situation, but I'm not, based upon what you've told me and
19 what I've heard, I'm not going to remove him as your
20 attorney unless you want to proceed with trial representing
21 yourself.

22 MR. MURRAY: No, sir.

23 THE COURT: All right. Let's take a -- I'll tell
24 you what, is there anything that you need to talk with your
25 client about, Mr. Mallard, before the jury selection? I'd

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1 like to go ahead and get a jury selected. Then we can let
2 the rest of them go and we can proceed with any discussions
3 that you might have. Let me give you about a five minute
4 time now. If you need more, you let me know. But what I'd
5 like to do procedurally is just go ahead and get the jury
6 selected, get them qualified. I've got the Voir Dire
7 questions that you handed me earlier. I've got a list of
8 the witnesses and so forth. And once we can get that
9 accomplished, then we can -- will have the group that we're
10 working with and we can take care of any other preliminary
11 matters that may take place before we swear them in.

12 All right. Let's take about a five minute break. And
13 then we'll be ready for our jury to come back in in about
14 five minutes, okay?

15 (WHEREUPON, the court stood at recess for a short
16 break.)

17 (WHEREUPON, the jury panel entered the open court at
18 approximately 11:06 a.m.)

19 THE COURT: Thank you. Please be seated, ladies
20 and gentlemen. Ladies and gentlemen, you've been qualified
21 to serve as a juror this week. We now need to proceed with
22 selecting a jury for the trial of the first case that's
23 going to start.

24 I've been presented an indictment from the Solicitor's
25 office. That indictment states that here in Pickens County

1 on or about January the 18th, 2010, that Christopher Robert
2 Murray, unlawfully and with malice or aforethought, did
3 kill James Anthony Gibson by means of shooting the victim
4 in the upper torso of his body. And that Mr. Gibson, the
5 deceased, died as a proximate result thereof. This is a
6 murder indictment.

7 Mr. Murray, he's entered a plea of not guilty to this
8 charge. By pleading not guilty to the charge, the State of
9 South Carolina has the burden of proving his guilt beyond
10 any reasonable doubt. I stated to you earlier, every
11 person accused of any crime, no matter how serious it is,
12 in this State is presumed innocent. And the State has the
13 burden of proving guilt beyond a reasonable doubt.

14 You and I are going to be judges in this case. I'm
15 going to judge the law. We need to find twelve fair and
16 impartial jurors to judge the facts in the case to
17 determine what the facts are. The State of South Carolina
18 and Mr. Murray, they desire to have fair and impartial
19 jurors and they deserve to have fair and impartial jurors
20 to hear this case. While you're qualified to serve, ladies
21 and gentlemen, I need to ask you some additional questions
22 concerning this matter.

23 First of all, is there any member of the jury panel
24 who has any prior independent knowledge about this
25 particular alleged incident that happened back in January

1 of last year? Either you read about it in the newspaper or
2 heard something on TV, happened upon the scene, live in the
3 neighborhood, heard some discussion at the coffee shop or
4 otherwise. If you have prior knowledge from whatever
5 source that you have in your minds now, would you please
6 stand?

7 THE JUROR: Was it at a BP Gas Station in
8 Pickens?

9 THE COURT: It was not at a BP Gas Station in
10 Pickens?

11 MR. RICHARDSON: No, sir. That was a different
12 case, Your Honor.

13 THE COURT: Okay.

14 THE JUROR: Okay.

15 THE COURT: All right. Thank you. Other than
16 that juror, there is no other response.

17 Is there any member of the jury panel related by blood
18 or marriage to Mr. Christopher Robert Murray? If so, would
19 you please stand?

20 (No response.)

21 THE COURT: Is there any member of the jury panel
22 who has a close business, a social or personal relationship
23 with Mr. Christopher Robert Murray? If so, would you
24 please stand?

25 (No response.)

1 THE COURT: Thank you. There is no response.

2 Is there any member of the jury expressed or formed an
3 opinion in any way about the facts in this case? If so,
4 would you please stand?

5 (No response.)

6 THE COURT: Is there any member of the jury panel
7 aware of any bias or prejudice that would interfere with
8 your ability to be a fair juror in this case if selected.
9 If so, would you please stand?

10 (No response.)

11 THE COURT: Is there any member of the jury panel
12 who is a contributing member of any organization whose
13 primary concern is that of law enforcement or victims'
14 rights, such as MADD or SADD, PARR, CAVE, the Sheriff's
15 Association? If you're a contributing member of any such
16 organization, would you please stand? Yes, ma'am. Your
17 name, please?

18 THE JUROR: Angela Smith.

19 THE COURT: All right. Ms. Smith, the fact that
20 you contribute to one of those organizations financially,
21 would that impair your ability? In other words, if you're
22 selected to be a juror in this case that -- every juror
23 will be listening to facts. They'll hear testimony, may be
24 exhibits introduced. I'll instruct you on the law and you
25 are to make a decision on that law that I give you and the

1 facts that you hear, the evidence that's presented in this
2 trial. The fact that you are a contributor to these
3 organizations, do you believe that that would interfere
4 with your ability to be a fair juror?

5 THE JUROR: No, sir.

6 THE COURT: You could be fair to the State. You
7 could be fair to the Defendant and render a verdict that
8 would speak the truth on the evidence and the law and that
9 alone?

10 THE JUROR: Yes.

11 THE COURT: Thank you. You may be seated.

12 Is there any member of the jury panel or a member of
13 your immediate family who is involved in law enforcement in
14 any way. If you or a member of your immediate family is in
15 law enforcement, would you please stand?

16 (No response.)

17 THE COURT: Thank you. There is no response.

18 Is there any member of the jury panel or a member of
19 your immediate family or your very close personal friends
20 ever been the victim of any shooting? Or is anybody on the
21 jury panel or a member of your immediate family ever been
22 accused of shooting someone? If so, would you please
23 stand? If you have been a victim or a member of your
24 family or a close friend has been a victim or if you've
25 ever been accused of a shooting.

1 THE JUROR: I have a brother that committed
2 suicide by gunfire.

3 THE COURT: All right. Your name, please, sir?

4 THE JUROR: Keith Kolesar.

5 THE COURT: All right. The fact that you had
6 this tragedy in your family, would that affect your ability
7 to be a fair juror in this case?

8 THE JUROR: No, sir.

9 THE COURT: Okay. Thank you very much. You may
10 be seated.

11 THE JUROR: My son was charged in a shooting.

12 THE COURT: Your son was charged in a shooting?

13 THE JUROR: Yes.

14 THE COURT: How long ago was that, ma'am?

15 THE JUROR: That was probably about a year or two
16 ago, but it was finally dropped.

17 THE COURT: Okay.

18 THE JUROR: It was dropped.

19 THE COURT: The fact that you had a son who was
20 charged, would that affect your ability to be a fair juror?

21 THE JUROR: No, sir.

22 THE COURT: If you were selected, you could be
23 fair to the State?

24 THE JUROR: Yes, sir.

25 THE COURT: And you could be fair to the

1 Defendant?

2 THE JUROR: Yes, sir.

3 THE COURT: Thank you. Again, your name, please?

4 THE JUROR: Elizabeth Chitwood.

5 THE COURT: All right. Thank you, ma'am.

6 Is there any member of the jury panel related by blood
7 or marriage to the deceased in this case, Mr. James Anthony
8 Gibson? If so, would you please stand?

9 (No response.)

10 THE COURT: Is there any member of the jury panel
11 had a close business, a social or personal relationship in
12 any way with Mr. James Gibson? If so, would you please
13 stand?

14 (No response.)

15 THE COURT: Thank you. There is no response.

16 I am now passing out a sheet, ladies and gentlemen.
17 There's not enough, I don't think, to go around. But it's
18 a sheet that you can look on with a neighbor, then I'll ask
19 you some questions about that. If you'll just pass some
20 down the row. If you don't have one -- excuse me.

21 MR. RICHARDSON: Your Honor, I was going to ask,
22 may we approach while they're looking at the list?

23 THE COURT: Sure.

24 (WHEREUPON, Mr. Richardson, Mr. Cleveland, and Mr.
25 Mallard approached the bar.)

1 THE COURT: If you'll just look that list over,
2 ladies and gentlemen, I'll ask you some questions. If you
3 would just look that list over, ladies and gentlemen.
4 Those are potential witnesses. Not all of those
5 necessarily will be called; but I want you to just look at
6 those names and then I need to ask you some questions.

7 (WHEREUPON, the jury panel reviewed a list of
8 potential witnesses.)

9 THE COURT: All right. Ladies and gentlemen,
10 those are names of potential witnesses who may be called
11 upon to testify in this case. I need to ask you, is there
12 any member of the jury panel related by blood or marriage
13 to any of these potential witnesses? If so, would you
14 please stand?

15 (No response.)

16 THE COURT: Thank you. There is no response.
17 Is there any member of the jury panel who has a close
18 business, a social or personal relationship with any of
19 these potential witnesses? If so, would you please stand?

20 Yes, ma'am, your name, please?

21 THE JUROR: Heather Barkley.

22 THE COURT: And which witness do you know?

23 THE JUROR: Jack Kuykendall.

24 THE COURT: Is that a person that you ---

25 THE JUROR: He's a close friend.

1 THE COURT: You're very close friends. Would you
2 see that individual on a weekly basis, daily basis or been
3 in his home, he in your home?

4 THE JUROR: Both. All of the above.

5 THE COURT: All of the above, okay. I don't want
6 to put you in an awkward position. If this witness does
7 testify, for you to be on the jury, do you believe you
8 could be a fair witness in that? Again, I don't want to
9 put you in an awkward position. I'll be glad to excuse you
10 from the trial of this case.

11 THE JUROR: I'd like to be excused if possible.

12 THE COURT: All right. If you would just be
13 seated, thank you, ma'am. We'll take your name out of the
14 pool.

15 Your name, please, ma'am?

16 THE JUROR: Marcia Page.

17 THE COURT: And Ms. Page, which witness do you
18 know?

19 THE JUROR: It's with the Sheriff's Office, Tony
20 Robinson.

21 THE COURT: Tony Robinson?

22 THE JUROR: Uh-huh (affirmative).

23 THE COURT: All right. If Mr. Robinson is called
24 upon to testify, again, I don't want to put you in an
25 awkward position, whether he testifies or not. But if he

1 does, would that affect your ability to be a fair juror?

2 THE JUROR: No, sir.

3 THE COURT: You don't have that close a
4 relationship with him that you see him periodically.

5 THE JUROR: We see him at church.

6 THE COURT: You see him at church?

7 THE JUROR: Uh-huh (affirmative).

8 THE COURT: Okay. Do you see him otherwise than
9 at church?

10 THE JUROR: No, sir.

11 THE COURT: If you were selected as a juror then,
12 do you believe you could be fair to the State and to Mr.
13 Murray in this case?

14 THE JUROR: Yes, sir.

15 THE COURT: All right. Thank you, ma'am. Again,
16 your name, please?

17 THE JUROR: Marcia Page.

18 THE COURT: Thank you, Ms. Page. You may be
19 seated.

20 All right. If you would, please, if you would
21 just pass those sheets down to the end of the rows and
22 we'll have the bailiffs pick them up.

23 All right. At this time, I'm going to have the
24 attorneys, if you would please, stand and introduce
25 yourselves to the jury. Mr. Richardson.

1 MR. RICHARDSON: Thank you, Your Honor. My name
2 is Doug Richardson. I work for the Thirteenth Judicial
3 Circuit Solicitor's Office. Assisting me in this case is
4 Baker Cleveland.

5 MR. CLEVELAND: And I also work for the
6 Thirteenth Judicial Circuit Solicitor's Office.

7 THE COURT: Okay. Mr. Mallard.

8 MR. MALLARD: Hello. I'm Gary Mallard and I
9 represent the Defendant in this matter.

10 THE COURT: Thank you, sir. Is there any member
11 of the jury panel related by blood or marriage to any of
12 these attorneys? If so, would you please stand?

13 (No response.)

14 THE COURT: Is there any member of the jury panel
15 have a close business, a social or personal relationship
16 with any of these attorneys? If so, would you please
17 stand?

18 (No response.)

19 THE COURT: Is there any member of the jury panel
20 ever been involved in any litigation in which either of
21 these attorneys or any of these attorneys have either
22 represented you or represented the opposing side? If so,
23 would you please stand?

24 (No response.)

25 THE COURT: Thank you. There is no response.

1 I've said it already. It bears repeating, ladies and
2 gentlemen. The State of South Carolina and Mr. Murray,
3 they desire and they deserve to have fair and impartial
4 jurors to hear this case, to listen to the testimony, to
5 the evidence, listen to the law that I give you and make a
6 decision on that and that alone. Is there any member of
7 the jury panel aware of any reason whatsoever that you
8 believe you could not be a fair juror in this case if you
9 were selected, render a verdict that would speak the truth
10 on the law and the evidence and that alone. If for any
11 reason you believe you could not be a fair juror, would you
12 please stand?

13 (No response.)

14 THE COURT: Thank you. There is no response.

15 Is there any other questions from the State?

16 MR. RICHARDSON: None from the State, Your Honor.

17 THE COURT: From the Defense?

18 MR. MALLARD: No, Your Honor.

19 THE COURT: All right. Ladies and gentlemen, let
20 me tell you what we're going to be doing here for just a
21 moment. We're going to randomly, except for the juror who
22 was excused from this case, we're going to randomly have
23 our computer give us a jury list. Then the attorneys will
24 have an opportunity to exercise their strikes. That's what
25 the law allows. Your name will be called in a little bit.

1 You will stand up in place. Well, I tell you what, we
2 don't have so many. I'll ask, if you would, when your name
3 is called, if you would please come to the middle, walk up
4 here toward the Clerk, turn around and face the back and
5 we'll let the attorneys have an opportunity to decide
6 whether or not they would like for you to sit as a juror.
7 Each side has opportunities to strike or eliminate certain
8 jurors and then we'll have a panel of twelve. We may have
9 an alternate. I don't know about that. But when your name
10 is called, if you would just come out the aisle, come up
11 here toward the Clerk's desk and turn around and face the
12 back window. And then we'll proceed with this jury
13 selection at that time.

14 That will only take a minute or two while we do that.
15 If I could, Juror Patrick, if you could please come forward
16 just a moment. I have one matter I needed to take care of
17 with you and the attorneys as far as your information
18 sheet. Mr. Patrick, if you would, please come forward just
19 a moment, please, sir, while we're getting that
20 accomplished. I'd like to see the attorneys over here just
21 for a moment.

22 (WHEREUPON, Mr. Richardson, Mr. Cleveland, Mr. Mallard
23 and Mr. Patrick approached the bar.

24 THE COURT: Mr. Patrick, there was some
25 indication that you might have had a criminal charge in New

1 Jersey.

2 MR. PATRICK: I have. It has been thirty-
3 something years.

4 THE COURT: Time is no factor, I'm sorry to say.

5 MR. PATRICK: It was aggravated assault.

6 THE COURT: It wasn't a burglary or anything?

7 MR. PATRICK: No, aggravated assault.

8 THE COURT: Did you have to do any time?

9 MR. PATRICK: One hundred and eighty days.

10 THE COURT: Well, that will disqualify you from
11 serving on this case. You would think that after that long
12 ---

13 MR. PATRICK: Well, I mean, that's what I would
14 have thought.

15 THE COURT: Yes, but the law doesn't do that.

16 MR. PATRICK: That's why I didn't put it down on
17 there.

18 THE COURT: That's all right. You can just go
19 back and take your seat and your name won't be called.

20 MR. PATRICK: Okay.

21 THE COURT: But we'll get you dismissed and that
22 will be it. Thank you very much, sir. All right. We're
23 ready to go.

24 THE CLERK: As I call your name, if you would,
25 please, come and stand right in front of me.

1 Juror number 29, Kaledria S. Collins. What says the
2 State?

3 MR. RICHARDSON: Please excuse Ms. Collins from
4 the trial of this case.

5 THE CLERK: You may be seated.

6 Juror number 60, Edward W. Hutton, Jr. What says the
7 State?

8 MR. RICHARDSON: Please present Mr. Hutton.

9 THE CLERK: And the Defense?

10 MR. MALLARD: Please present Mr. Hutton.

11 THE CLERK: If you will, have a seat in the jury
12 box up here, Mr. Hutton.

13 Juror number 41, Jonathan D. Ellenburg. What says the
14 State?

15 MR. RICHARDSON: Please present Mr. Ellenburg.

16 THE CLERK: And the Defense?

17 MR. MALLARD: Please present Mr. Ellenburg.

18 THE CLERK: If you would, have a seat in the jury
19 box, Mr. Ellenburg.

20 Juror number 12, Barry J. Bishop. What says the
21 State?

22 MR. RICHARDSON: Please present Mr. Bishop.

23 THE CLERK: And the Defense?

24 MR. MALLARD: Please strike Mr. Bishop.

25 THE CLERK: You may have a seat, Mr. Bishop.

1 Juror number 68, Keith K. Kolesar. What says the
2 State?

3 MR. RICHARDSON: Please present Mr. Kolesar.

4 THE CLERK: And the Defense?

5 MR. MALLARD: Please present Mr. Kolesar.

6 THE CLERK: If you would, have a seat in the jury
7 box, please, sir.

8 Juror number 91, Marcia N. Page. What says the State?

9 MR. RICHARDSON: Please present Ms. Page

10 THE CLERK: And the Defense?

11 MR. MALLARD: Please strike Ms. Page.

12 THE CLERK: Ms. Page, if you would return to your
13 seat, please.

14 Juror number 23, Rebecca S. Chapman. What says the
15 State?

16 MR. RICHARDSON: Please present Ms. Chapman.

17 THE CLERK: And the Defense?

18 MR. MALLARD: Please present Ms. Chapman.

19 THE CLERK: If you would, have a seat in the jury
20 box, Ms. Chapman.

21 Juror number 110, Donald A. Smith. What says the
22 State?

23 MR. RICHARDSON: Please present Mr. Smith.

24 THE CLERK: And the Defense?

25 MR. MALLARD: Please strike Mr. Smith.

26 THE CLERK: Mr. Smith, if you would, return to

1 your seat please.

2 Juror number 94, John H. Paxton. What says the State?

3 MR. RICHARDSON: Please present Mr. Paxton.

4 THE CLERK: And the Defense?

5 MR. MALLARD: Please present Mr. Paxton.

6 THE CLERK: If you would, have a seat in the jury
7 box, Mr. Paxton.

8 Juror number 7, Joyce L. Bearden. What says the
9 State?

10 MR. RICHARDSON: Please present Ms. Bearden.

11 THE CLERK: And the Defense?

12 MR. MALLARD: Please present Ms. Bearden.

13 THE CLERK: You may have a seat in the jury box,
14 Ms. Bearden.

15 Juror number 107, Angela C. Smith. What says the
16 State?

17 MR. RICHARDSON: Please present Ms. Smith.

18 THE CLERK: And the Defense?

19 MR. MALLARD: Please present Ms. Smith.

20 THE CLERK: You may have a seat in the jury box,
21 please.

22 Juror number 73, Janis K. Lovin. What says the State?

23 MR. RICHARDSON: Please present Ms. Lovin.

24 THE CLERK: And the Defense?

25 MR. MALLARD: Please present Ms. Lovin.

1 THE CLERK: If you would, have a seat in the jury
2 box.

3 Juror number 35, Anthony M. Davis. What says the
4 State?

5 MR. RICHARDSON: Please excuse Mr. Davis from the
6 trial of this case.

7 THE CLERK: If you would return to your seat,
8 please, sir.

9 Juror number 90, Rachel D. Owen. What says the State?

10 MR. RICHARDSON: Please present Ms. Owen.

11 THE CLERK: And the Defense?

12 MR. MALLARD: Please excuse Ms. Owen.

13 THE CLERK: If you would return to your seat,
14 ma'am.

15 Juror number 66, Jill A. Kloth. What says the State?

16 MR. RICHARDSON: Please present Ms. Kloth.

17 THE CLERK: And the Defense?

18 MR. MALLARD: Please present Ms. Kloth.

19 THE CLERK: If you'll have a seat in the jury
20 box, please.

21 Juror number 80, Denise P. Merritt. What says the
22 State?

23 MR. RICHARDSON: Please present Ms. Merritt.

24 THE CLERK: And the Defense?

25 MR. MALLARD: Please excuse Ms. Merritt.

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1 THE CLERK: If you would, return to your seat.

2 Juror number 105, Robert R. Shue. What says the

3 State?

4 MR. RICHARDSON: Please present Mr. Shue.

5 THE CLERK: And the Defense?

6 MR. MALLARD: Please present Mr. Shue.

7 THE CLERK: If you would have a seat in the jury

8 box, please, sir.

9 Juror Number 45, Chad E. Gainey. What says the State?

10 MR. RICHARDSON: Please present Mr. Gainey.

11 THE CLERK: And the Defense?

12 MR. MALLARD: Please present him.

13 THE CLERK: If you would, have a seat in the jury

14 box, please, sir.

15 Juror number 57, Kelli R. Holland. What says the

16 State?

17 MR. RICHARDSON: Please present Ms. Holland.

18 THE CLERK: And the Defense?

19 MR. MALLARD: Please present Ms. Holland.

20 THE CLERK: If you would, have a seat.

21 MR. RICHARDSON: He just ---

22 THE COURT: Did you say to swear her?

23 MR. MALLARD: Yes, sir.

24 THE CLERK: Yes, sir, she's just getting her

25 purse.

1 THE COURT: Okay. All right.

2 MR. RICHARDSON: I apologize.

3 THE CLERK: This will be for alternates.

4 Juror number 82, Jerry B. Miller. What says the
5 State?

6 MR. RICHARDSON: Please present Mr. Miller.

7 THE CLERK: And the Defense?

8 MR. MALLARD: Please excuse Mr. Miller.

9 THE CLERK: Okay. If you would return to your
10 seat, please, sir.

11 Juror number 58, Tina M. Howard. What says the State?

12 MR. RICHARDSON: Please present Ms. Howard.

13 THE CLERK: And the Defense?

14 MR. MALLARD: Please present Ms. Howard.

15 THE CLERK: Okay. If you would, have a seat in
16 the jury box, please. This will be for the second
17 alternate.

18 Juror number 102, Joshua A. Seigle. What says the
19 State?

20 MR. RICHARDSON: Please excuse Mr. Seigle from
21 the trial of this case.

22 THE CLERK: If you would, return to your seat,
23 please, sir.

24 Juror number 124, Ray V. Waldrop. What says the
25 State?

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1 MR. RICHARDSON: Please excuse Mr. Waldrop from
2 the trial of this case.

3 THE CLERK: If you would, return to your seat,
4 please, sir.

5 THE COURT: Wait a minute. Wait a minute.
6 You've only got one strike. You've only got one per
7 alternate.

8 MR. RICHARDSON: Oh, I'm sorry.

9 THE COURT: Okay.

10 MR. RICHARDSON: Present the juror.

11 THE CLERK: Mr. Waldrop.

12 THE COURT: Do you want to excuse him? Do you
13 want to excuse him? Mr. Waldrop, if you'd come forward
14 again, please, sir.

15 MR. MALLARD: Your Honor, please excuse the
16 juror.

17 THE COURT: You want to excuse him. All right.

18 THE CLERK: If you would, just have a seat, sir.

19 THE COURT: That's a Defense strike there.

20 THE CLERK: Yes, sir.

21 Juror number 77, Dennis W. McNeely. What says the
22 State?

23 MR. RICHARDSON: Please present Mr. McNeely.

24 THE CLERK: And the Defense?

25 MR. MALLARD: Please present Mr. McNeely.

1 THE CLERK: If you would, have a seat in the jury
2 box, please, sir.

3 THE COURT: Are there any matters we need to take
4 care of as far as the selection of the jury in this case?
5 Anything from the State?

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

8 THE COURT: From the Defense?

9 MR. MALLARD: Nothing, Your Honor.

10 THE COURT: Ladies and gentlemen who were not
11 selected for the trial of this case, I can excuse you at
12 this time. Thank you for your patience with us. You need
13 to call back tonight after six o'clock. There will be a
14 message on the answering machine. You've got the number to
15 call. But if you would, check that number. There will be
16 instructions for you as to either when you need to report
17 back or when you need to call back in.

18 Thank you very much for your patience today. Everyone
19 else please remain seated while the jury retires.

20 (WHEREUPON, the jury panel exited the open court at
21 approximately 11:43 a.m.)

22 THE COURT: Ladies and gentlemen, you've seen the
23 process by which you were selected to be jurors on this
24 case. I look forward to working with you. You're going to
25 be judges of the facts. You may find yourself a little

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1 apprehensive about the title I've given you as a judge.
2 You may have some apprehension about where you find
3 yourself now seated. You're in a chair in a jury box. You
4 may never have had an opportunity to be in our courthouse,
5 certainly not a court room. And now all of a sudden you
6 find yourselves seated there thinking to yourself, well,
7 how am I going to possibly be able to do anything about
8 this case? I don't have any legal training. I've never
9 been involved in any kind of litigation, never been --
10 taken any business law class in middle school or on the
11 internet.

12 I assure you, ladies and gentlemen, you bring every
13 skill into this courtroom to be a judge, to be a judge of
14 the facts. Because into this courtroom you bring the
15 everyday experiences that you enjoy in the work force and
16 the home and social activities, wherever you may be. You
17 bring into this courtroom the good common sense with which
18 you've been blessed. And that's what you're going to need
19 to utilize in being the judge of the facts in this case.
20 You're going to be required to listen, to listen carefully
21 as testimony is given, as questions are asked, as answers
22 are given, examine any exhibits that may be offered, to
23 watch what's going on. To watch the demeanor of the
24 witness while on the witness stand and the activities that
25 are taking place in the courtroom.

1 I'm well aware of the sacrifice you've made to be
2 here. This is an inconvenience for you. Part of my job as
3 the Judge is to conduct the trial of the case and to -- I'm
4 going to do everything I can to minimize your downtime.
5 We'll take periodic breaks. Normally, we will go for an
6 hour or an hour and a half sometimes, between breaks for
7 witnesses to testify and be examined and cross-examined.
8 We normally will start at nine o'clock in the morning.
9 We'll take a morning break, try to go to twelve-thirty or
10 one o'clock for a lunch break and hopefully we'll be able
11 to end by five o'clock, sometimes five-thirty. It may run
12 a little later, but we'll try to keep you posted on that so
13 that you're aware. If you need a child picked up or
14 whatever, we'll -- depending on how -- a witness is
15 testifying, whether we need to accommodate some folks that
16 have scheduling problems, we'll try to keep you abreast of
17 that.

18 It's vitally important that you be a good listener,
19 because that's how you're going to determine the facts. If
20 I haven't given you a break and you need a break, then you
21 certainly need to let us know that. We've got bailiffs
22 around to assist you Mr. Hendricks and Mr. Wright and Mr.
23 -- and Mr. -- this gentleman here. I've had one of those
24 senior moments that I'll overcome. But all of them will be
25 able to help you in any way that you need. Ms. Danette

1 Hanks is the court reporter. She is seated directly below
2 me. She is taking down everything that is said during the
3 course of this trial. She's going to maintain a record and
4 make sure that we have a good record. She'll be marking
5 exhibits and keeping up with those things that are going
6 on. You've met your fine Clerk of Court, Mr. Welborn. Ms.
7 Garrett assisting him with the jury selection. One of them
8 will be in the courtroom during the course of the trial.
9 They'll be glad to help you in any way that they can. I
10 have a law clerk and you'll see him tomorrow, Mr. Lindsay
11 Builder. He's out of town today, but he'll be back
12 tomorrow. Any of these folks will be glad to help you in
13 any way that they can, particularly if you need a break and
14 I haven't called for it.

15 Sometimes during the course of the trial, we have to
16 take up legal matters. There's matters that I have to rule
17 upon from a law standpoint. Obviously, you're going to be
18 the fact finder and you're going to be the ones to make
19 those determinations. Frequently, an objection may be
20 made. That's the way the lawyers are trained under the
21 procedural rules, under the evidence rules to object to a
22 question or a document, whatever it may be. Frequently, I
23 can rule on that objection. Summarily, I can say overruled
24 or sustained and we can move on to the next question.
25 Sometimes you may have already seen that we may huddle

1 together with the lawyers, try to resolve a legal matter
2 that may come up, or sometimes it's just scheduling that we
3 need to take care of.

4 Sometimes, ladies and gentlemen, there's a legal
5 matter that will require my attention that will necessitate
6 you going back to your jury room. I may have to hear
7 testimony that you wouldn't normally hear and it might not
8 be relevant at all for the facts of the case that you're
9 hearing. I may need to hear some legal arguments from the
10 lawyers. I may need to examine some law books or whatever
11 the case may be. I hope you understand that while you're
12 back in your jury room and we're taking care of those legal
13 matters, it's not that we're hiding things from you, it's
14 just that I want to make the very best decisions that I
15 possibly can as the Judge of law. Sometimes I have to
16 decide those things with hearing matters that would not be
17 presented before a jury, to do some research as the case
18 may be. I'm sure you want to make the best decision
19 factually that you can as the judge of the facts. And I
20 won't be assisting you in that process when you determine
21 what the facts are and you start your deliberation. Even
22 though I'm a fellow judge with you, I won't be back in the
23 jury room with you at that time, just as you might not be
24 out here in the courtroom while I'm going through those
25 legal matters.

1 Cases take place in stages. Normally there'll be an
2 opening statement from the attorneys. They'll give you a
3 roadmap, an overview of important matters that you may --
4 at least in their minds they feel like that you need to be
5 alerted to as the case progresses. After the opening
6 statements, of course, witnesses will be sworn in. They'll
7 take an oath to tell the truth. They'll be examined under
8 oath. After all the evidence is in, I'll instruct you on
9 the law and the case will be yours to determine.

10 Until all of the evidence is in and I've given you
11 that legal instruction, it would be improper for you to be
12 discussing the case one with another when you're back in
13 your jury room. We'll take period breaks. You should not
14 be discussing the case then. While you're at lunch, you
15 know, we'll take a lunch break a little bit later. You may
16 have lunch with your fellow jurors. You may have lunch
17 with a family member or a business associate. It would be
18 improper for you to be discussing the case with any of
19 them. They're going to be curious obviously and they'll
20 want to know what -- they know you have jury service. Did
21 you get picked? And what's the case about, and those kind
22 of things. Obviously, you can tell your loved ones and
23 your friends that you're certainly on a jury, that this
24 involves a murder case, but you shouldn't be discussing the
25 procedures, the evidence that you hear with anyone and you

1 should not let anyone discuss the case with you. There'll
2 be an opportunity when this case is ended and you've met
3 your obligations for you to share with your loved ones and
4 friends the experience you've had of serving on the jury,
5 the evidence that you heard, but while the case is going on
6 is not the time to do that. Likewise, you should refrain
7 from any -- listening to any television or radio or
8 newspaper coverage of -- you know, your loved ones can clip
9 any article that they feel like you need to see and you can
10 read that after the fact, but if you hear something on the
11 radio or there's a blip on TV, just excuse yourself from
12 that. And you can catch up on that later. It is very
13 important, ladies and gentlemen, the commitment that you've
14 made. You've heard the questions I asked. You're going to
15 make a decision on this case from what takes place in this
16 courtroom and not from any other extraneous sources, be it
17 a family member, a news article or anything else.

18 The fact that we're in a highly technological age now,
19 there's all kind of access to information. Some of us are
20 curious by nature and we want to do our own little
21 independent research and get on the internet or go to the
22 library and check things out, and check archives. That
23 would be improper. Ladies and gentlemen, the Chief Justice
24 of our Supreme Court has issued an order that every jury
25 that's empaneled is to be instructed that that would be

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1 against the law for you to do any kind of any independent
2 research to try to check on thing, to ride by the scene or
3 to check on a word that you maybe heard for the first time,
4 didn't know what that was. These attorneys are going to
5 present everything to you that they feel you need to make a
6 good, valid decision as to the facts of the case. But you
7 should -- you're instructed to refrain from any kind of
8 extraneous information coming into your minds while this
9 case is progressing. The same with lunch breaks. You may
10 have lunch in a local restaurant here and the adjoining
11 table might be some witnesses or other folks talking about
12 the case. If you overhear that, take the initiative to
13 just move to another table or another booth and get out of
14 sight of that. I would not expect anyone would come to you
15 and approach you and want to give you information or ask
16 you questions. If that were to happen, you just tell that
17 individual you're on the jury and you can't be discussing
18 the case with anyone. If anyone were to persist and want
19 to give you information or ask you questions, please excuse
20 yourself as soon as you can and possibly get the name of
21 that individual. And I assure you, I'll take care of that.
22 I don't expect anything like that to happen, but I want to
23 emphasize to you the importance of this process that you're
24 in and that we maintain a purity of that process, and
25 particularly the burden on you to refrain from any of those

1 outside influences that may affect you.

2 After all the evidence has been presented, I'll
3 instruct you on the law. And after that, that's the time
4 you'll start that deliberation process when you've heard
5 all the evidence and I've given you the law. Sometimes as
6 we come and go during our breaks or lunchtime or the first
7 thing in the morning or evenings, you may see these
8 attorneys in the hallway or at a restaurant even. If they
9 seem a little haughty towards you or unfriendly, it's not
10 their nature, I assure you, but that's their training.
11 They want to make sure that there's not even an appearance
12 of any impropriety, that they're walking down the hall with
13 you and talking about the weather or springtime or anything
14 else could be misinterpreted, that they're trying to
15 influence improperly a juror. And I assure you these
16 attorneys would not do that. They want to make sure that
17 no one can even fantasize by an appearance that anything
18 like that was happening. So if they seem unfriendly or
19 distant towards you, please don't hold that against them
20 personally. That's their training and the nature of the
21 process that we're now in.

22 It makes me proud that you've accepted this
23 responsibility to do justice to both sides, to make that
24 commitment that you have to these parties. At this time,
25 ladies and gentlemen, we're going to take a short break.

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1 Hopefully get exhibits marked and things that we can do to
2 help expedite the trial when it takes place. I'm going to
3 ask you to go back to your jury room. What I'm going to
4 ask you to do is to select a foreperson. From the first
5 twelve of you that were selected, we need to have a
6 foreperson selected. I'll explain to you what the
7 foreperson is. The last two jurors who were selected,
8 they're ever bit a part of the jury as anyone else.
9 They're the alternates. There may be an unforeseen
10 circumstance that comes into your life, one of you first
11 twelve, an illness befalls you or an emergency at home.
12 Rather than having to start this trial all over from the
13 beginning, we can just have one of those alternate fill in
14 your shoes. So they'll be as much a participant in this
15 and listening just as well the rest of you. But of the
16 first twelve, I need for you to select a foreperson.
17 What the foreperson does, that'll be an individual
18 among the twelve of you that will occupy the front row, the
19 seat closest to the witness chair here. The alternates
20 will always occupy those seats. The rest of you, as you
21 come and go, can occupy a front row seat, a back row seat,
22 or either end that you choose as you wish. Sometimes,
23 exhibits are offered into evidence and given to the jury to
24 examine. And one of the lawyers may ask the foreperson to
25 look at it and pass it around to the others. Sometimes

1 when you're back in your jury room, there might be a need.
2 Someone may need to make a phone call to have a child
3 picked up. Or if you have another need of, you know,
4 needing a cup of coffee, whatever it may be, the foreperson
5 is going to be the presiding officer, so to speak, your
6 liaison with the Court, someone who will write out what you
7 need, get it to one of the bailiffs and they'll get it to
8 the appropriate person. If it's a legal matter that I need
9 to take care of then they'll get it to me. If it's
10 something the Clerk can handle or some other need, they'll
11 facilitate that. The foreperson will just write that out
12 on behalf of whatever juror it is, give it to the bailiff,
13 and they'll get it to the appropriate person.

14 Ultimately, when all of the evidence is in and the law
15 has been give to you, that foreperson will be the one who
16 will facilitate that discussion, make sure everyone has
17 their say into the facts as each individual juror perceives
18 them, and on behalf of fellow jurors write out a verdict
19 form that I'll provide for you to -- for the Court to
20 examine and publish here in the courtroom. So, if you
21 would, just among the twelve of you, once you've picked a
22 foreperson, write that name out, give it to the bailiffs
23 and we're going to do a little of administrative work here
24 to see if we can do some planning as far as when we're
25 going to need you and we'll be ready to call you back

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1 hopefully in just about fifteen or twenty minutes.

2 If you'll go back with Mr. Rick Teal, your fine
3 bailiff here, he'll take care of you and just let us know
4 when you have a foreperson selected.

5 (WHEREUPON, the jury exited the open court at
6 approximately 12:01 p.m.)

7 THE COURT: Okay. Could I see the attorneys here
8 just for a minute, then we'll take a short break.

9 (WHEREUPON, Mr. Richardson, Mr. Cleveland and Mr.
10 Mallard approached the bar.)

11 (WHEREUPON, the court stood at recess for a short
12 break.)

13 (WHEREUPON, the jury entered the open court at
14 approximately 12:18 p.m.)

15 THE COURT: Thank you for bearing with us, ladies
16 and gentlemen. Mr. Foreman, ladies and gentlemen, I've
17 decided that based upon talking with the attorneys and the
18 opening statements and the first witness, rather than
19 having to break in between some of those, we'll just take
20 an earlier lunch break. If you'll be back at one-thirty,
21 we'll be ready to have the opening statements at that time.
22 I remind you again, don't discuss the case while you're out
23 and about and don't let anyone discuss it with you. If
24 you'll be back at one-thirty we'll be ready to proceed with
25 the trial at that time. You may be excused at this time.

1 (WHEREUPON, the jury exited the open court at
2 approximately 12:19 p.m.)

3 THE COURT: All right. We'll be at ease until
4 one-thirty. If there's any matters that we need to take
5 care of before we start, please let me know and we'll take
6 care of those right at one twenty-five.

7 (WHEREUPON, the court stood at recess for a lunch
8 break.)

9 THE COURT: The jury, I think -- I understand
10 we're waiting on one juror who's running a little late, so
11 if there's anything y'all got, otherwise we'll just sit
12 tight and wait and be ready to swear them in and start with
13 your opening statements.

14 (Whereupon, the court stood at recess.)

15 THE COURT: All right. I understand the jury is
16 back and ready to proceed, gentlemen. Are you ready, Mr.
17 Mallard?

18 MR. MALLARD: Yes, sir.

19 THE COURT: If the jury's ready, you can have
20 them come in, Mr. Teal.

21 (WHEREUPON, the jury entered the open court at
22 approximately 1:37 p.m.)

23 THE COURT: Mr. Foreman, ladies and gentlemen,
24 we're now ready to proceed with the trial of the case. I
25 am going to have the Clerk administer an oath to you in

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1 just a moment. After that, we'll have the attorneys make
2 their opening statements to you. What the attorneys have
3 to say to you in their opening statements and their closing
4 statements, that's not evidence. You're going to hear the
5 evidence from any documentary or tangible evidence that's
6 admitted, the testimony of the witnesses under oath. While
7 the attorneys' statements are not evidence for you to
8 consider, I urge you to listen carefully as these attorneys
9 address you in their opening. And I'm confident they can
10 give you some valuable insights to help you as the case
11 develops to give you a good feel for the case as to what
12 you need to be alerted to as the case progresses.

13 Before they make their opening statements to you, I'm
14 going to have Mr. Welborn administer an oath to you. I
15 hope you will listen carefully as you take this oath. It's
16 a time honored oath. It's been in existence for more than
17 the life of our country, actually. From England, it's an
18 oath that jurors in this courtroom and other courtrooms
19 throughout South Carolina, throughout our country take on a
20 regular basis. I hope you'll listen carefully as that oath
21 is administered. That you will, in fact, well and truly
22 try this case on behalf of the State of South Carolina and
23 for the Defendant, Mr. Murray. Mr. Welborn, you can
24 administer the oath to the jury at this time.

25 THE CLERK: Again, after the oath is

1 administered, answer by saying I will. Raise your right
2 hand. You shall well and truly try the case of the State
3 versus Christopher Robert Murray and a true verdict render
4 according to the law and evidence, so help you God.

5 (WHEREUPON, all jurors answered I will and were duly
6 sworn.)

7 THE COURT: Solicitor, you may address the jury
8 in your opening statement. Mr. Cleveland.

9 MR. CLEVELAND: Thank You, Your Honor, and may it
10 please the Court. Mr. Mallard.

11 **OPENING STATEMENT**

12 **BY MR. CLEVELAND:**

13 Exactly fifteen months ago today, January 18th, also
14 was a Monday, at this time of day, a little before two
15 o'clock, James Anthony Gibson, at twenty-one years of age,
16 was alive and well. By this time on the next day, he was
17 in the Greenville County morgue, a single gunshot wound to
18 his chest, inflicted by the Defendant, Christopher Murray.

19 Now, I want to start today by thanking each and every
20 one of you for your service. Nobody asked you to be here.
21 This trial will probably be going on for a few days and
22 it's going to be a great sacrifice to each one of y'all's
23 lives, from your daily lives to come sit here and hear this
24 case. I want to assure you that this is a great
25 responsibility you have been entrusted with and you have

1 great power in the position in which you sit. There's not
2 a Judge, a lawyer, a policeman, a Supreme Court Justice in
3 this State that can strip anybody of their presumption of
4 innocence. Even as he sits right now, Mr. Murray is
5 presumed innocent. Only you, a jury of his peers, can
6 strip him of that presumption of innocence. That's a great
7 power and that is one of the great fundamental cornerstones
8 of our justice system. So I want thank you for your
9 attention and for your service in wielding that great
10 power.

11 Now, throughout the course of this trial you're going
12 to hear the facts of this case, but I'm just going to size
13 it up real quickly for you. On January 18th, 2010, James
14 Gibson was at his house. He was a bachelor. He lived over
15 on in Easley in a one bedroom mobile home,
16 and shared a piece of property with his sister, Alexis
17 Dobbins. They also had a mobile home on that property.

18 Some time around eleven o'clock at night, the
19 Defendant and his then girlfriend, Ms. Brissey, showed up
20 at his house. The best we can tell it was unannounced.
21 The Defendant knocked on the door and entered the
22 residence. We don't really know what went on, but it was a
23 short confrontation that ended with three gunshots. After
24 the shots were fired, the Defendant jumped back in his car,
25 which was backed in the driveway, and after just running a

1 few quick errands to get some gas and gather his things,
2 fled to Aiken, South Carolina. Meanwhile, James Gibson lay
3 in his living room, which is where he died that night.

4 A few days later -- you're going to see the police
5 thoroughly investigated this case. They followed every
6 lead they could and it eventually led them to Aiken, South
7 Carolina where the Defendant and his girlfriend, Ms. Faye
8 Brissey, were apprehended by -- well, I'll say he, at
9 least, was apprehended by a dog team, hiding in the ditch
10 out in the woods behind the residence where they had been
11 hiding at for some period of time. Now, don't take my word
12 for any of this. Of course, I'm just giving you a little
13 snapshot, but all this evidence will be presented from this
14 witness stand right here. Because of that, because of the
15 fatal gunshot wound, because the investigation pointed to
16 Mr. Murray, Mr. Murray was charged with murder in this case
17 and that's why we're here today, to decide whether he's --
18 to show you that he's guilty of that murder.

19 I know each and every one of you probably have a
20 pretty fair idea of what you think murder is, but murder
21 has got a specific definition in South Carolina. There's
22 no degrees to it. There's no anything like that. Murder
23 is simply murder. It's defined in our laws as the unlawful
24 killing of another with malice aforethought.

25 Now, unlawful killing stands on its own pretty well.

1 It's a killing that's not justified by law. It's not like
2 an execution or something. It also has to possess malice
3 aforethought.

4 Now, malice has been defined by the Courts by people
5 in many different ways, but ultimately, you're the one who
6 has to decide whether malice existed. One definition of
7 malice that the Courts often rely on is basically a
8 wrongful intent to injure someone and it indicates a
9 depraved or wicked spirit that's intent on doing wrong
10 while that was going on. Malice can be expressed malice,
11 it can be evil intent or it can be implied. You are going
12 to have to pay close attention to the facts of this case.
13 Each and every little detail, and determine that that
14 malice existed at the time of this killing.

15 Now, I'm confident throughout our presentation of the
16 evidence that you will find that. But it can be inferred
17 from a number of things. If you find the Defendant had an
18 intent to cause serious bodily harm or intent to kill, you
19 can infer malice on that. From the use of a deadly weapon,
20 you can infer malice based on that during this unlawful
21 killing. And aforethought, some other definition of malice
22 aforethought, it simply means the Defendant had to possess
23 that malice during and just even a split second before he
24 actually killed James Gibson. To size it up altogether,
25 murder is just an unlawful killing without any legal

1 justification or excuse. It's just a killing. It's just
2 murder.

3 As the State of South Carolina, we have the burden of
4 proof in this case and that burden is beyond a reasonable
5 doubt. That's the same burden shouldered by Prosecutors,
6 police officers, Attorneys General across the State and
7 across this Country to prove someone who is presumed
8 innocent guilty of a crime.

9 Now, what is beyond a reasonable doubt? It is not
10 beyond any doubt. Beyond a reasonable doubt is just such
11 that you're firmly convinced that what we say happened,
12 happened. You're firmly convinced that what the evidence
13 shows matches the charge of murder that you're brought here
14 today for. If we had a standard of proof that required
15 beyond any shadow of a doubt, it would completely negate
16 the need for court, for juries, for anything else because
17 it would be indisputable. No one would be able to argue
18 either way. That's not the standard. The standard is
19 simply beyond a reasonable doubt. And each and every one
20 of you, I feel confident, will be firmly convinced after
21 you hear the evidence in this case, that Christopher Murray
22 is guilty of murder.

23 Now, the way this trial is going to go, you're going
24 to be presented with evidence and there's a couple of
25 different types of evidence we're going to talk about. The

1 first type of evidence is direct evidence. That is
2 evidence I saw this, I was here, I heard this. It was
3 actual eyewitness testimony or physical tangible things
4 that are demonstrative of the crime we've got in front of
5 us.

6 Also, you've got circumstantial evidence.
7 Circumstantial evidence is something that indicates
8 something like I talked about earlier. You're going to be
9 able to infer the malice in this situation from the facts
10 and events that happened. A lot of that is circumstance.
11 Listen very carefully to the facts in this case. Do those
12 circumstances indicate that there was something accidental
13 or do the circumstances, the way everything played out,
14 indicate that this was an evil act, this was malice? Now,
15 the law draws no distinction between direct evidence and
16 circumstantial evidence. It's all equal. You can all
17 weigh it the same. It is all important to prove in this
18 case.

19 Lastly, just to make a distinction between physical
20 evidence and testimonial evidence. The main evidence in
21 this case will be testimonial. It's going to come out of
22 the mouths of witnesses involved in this case from this
23 witness stand. Now, it's your job as jurors to, for lack
24 of a better of term, size up each witness. You can believe
25 everything every witness has to say or nothing any of the

1 witnesses have to say. We'll leave it to your God given
2 your common sense to take your life experiences and your
3 general knowledge and just common sense to size-up these
4 witnesses and determine, are they telling the truth? Do I
5 think they're telling the truth? Do they have an incentive
6 to lie? Do they have a dog in this fight? And you weigh
7 all of this testimony and read between the lines a little
8 bit. That's your prerogative as jurors. Through that
9 testimony you will also see some physical evidence here.
10 Obviously, we're here in a courtroom. We can't go to the
11 crime scene. We can rewind back and all put ourselves
12 there to see what happened. So through the testimonial
13 evidence and through the physical evidence that's relevant
14 to this crime, we're going to present the case. After all
15 that eyewitness testimony, after all -- some of the
16 testimony which may be some people that weren't there but
17 have an expert opinion on things. You may see some of that
18 in this case. After all that, after all the physical
19 evidence has been returned, I'm confident that when we ask
20 you to return the verdict of guilty of murder for
21 Christopher Murray, that we have satisfied our burden and
22 you'll be able to return that verdict. Thank you.

23 THE COURT: Mr. Mallard, you may address the jury
24 in your opening statement.

25

OPENING STATEMENT

1 BY MR. MALLARD:

2 Ladies and gentlemen of the jury, every killing the
3 State is obligated to prove beyond a reasonable doubt all
4 the evidence, including intent. Intent and circumstances
5 depend on whether -- will shape and help you decide whether
6 or not the killing was a murder, a voluntary manslaughter
7 or an involuntary manslaughter. My client will testify --
8 or I expect my client to testify that there was a fight.
9 He went there to scare the guy, but was immediately
10 attacked. The guy was on him and in the heat of the fight,
11 the gun went off. He didn't go there with any intent to
12 kill beforehand. We believe that to some extent the
13 ballistics -- there was only one gun shoot wound that
14 killed the Defendant (sic), but the gunshots went all over
15 the place. Do those reinforce the concept that there was a
16 struggle, a fight, that it wasn't just a matter of a gun
17 being pulled and efficiently and directly shot him?

18 So I want to thank you also for coming out today and
19 to give my client the benefit of the doubt and require the
20 State to prove all of the elements of the crime of murder.
21 Remember that you're not only doing justice for him, you're
22 upholding our Constitution and the rights of free people in
23 this country. Thank you.

24 THE COURT: You may call your first witness,
25 Solicitor.

1 MR. RICHARDSON: Thank you, Your Honor. May it
2 please the Court. We call Robert Dobbins to the stand.

3 THE CLERK: If you would, place your left hand on
4 the bible and raise your right hand. Do you solemnly swear
5 or affirm the testimony you're about to give to be the
6 truth, the whole truth and nothing but the truth, so help
7 you God?

8 MR. DOBBINS: I do.

9 THE CLERK: If you would, have a seat and state
10 your name for the record.

11 MR. DOBBINS: Robert Dobbins.

12 ROBERT DOBBINS,

13 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION

15 BY MR. RICHARDSON:

16 Q. Mr. Dobbins, where do you presently live?

17 A. in .

18 Q. Okay, sir. And where did you live back on January the
19 18th of 2010?

20 A. , right next to James Gibson.

21 Q. Okay, sir. Now, are you presently employed?

22 A. Yes, sir.

23 Q. Where?

24 A. Renaissance Company in Greenville.

25 Q. Okay, sir. Are you married?

- 1 A. Yes, sir.
- 2 Q. And how long you been married?
- 3 A. Seven years.
- 4 Q. Okay. Do you have any children?
- 5 A. No, sir.
- 6 Q. Now, do you know -- did you know James Gibson?
- 7 A. Very well.
- 8 Q. And how did you know him?
- 9 A. Me and him were friends before me and wife got
- 10 married, I guess, and we just kept being friends. After we
- 11 were married, he was a good brother-in-law and like a
- 12 brother.
- 13 Q. And he was your brother-in-law?
- 14 A. Yes, sir.
- 15 Q. Okay. Your wife's his sister?
- 16 A. Yes, sir.
- 17 Q. Now, did he live close in proximity to you?
- 18 A. Yes. Less than a hundred yards.
- 19 Q. All right. Just a little description for the jury.
- 20 Is this a neighborhood you lived in or what kind of ---
- 21 A. It was right on the side of the street, two trailers
- 22 on like a three-quarter acre lot. There was no other
- 23 trailers around. There was a trailer park on the other
- 24 side of the street, but we were not part of the trailer
- 25 park.

1 Q. I see, sir. Okay. Well, let me take your memory back
2 to January 18th of 2010. Did you see the victim that day?

3 A. Yes.

4 Q. Did you see him all day or what had you been doing
5 that day?

6 A. I worked that day. I came home about five-thirty like
7 I always do. I was in there on the computer. My wife had
8 made dinner and he came over to eat dinner with us like he
9 always does, and we were too busy to eat dinner with him
10 that night, so he ate dinner by himself and left probably
11 about nine-thirty, I would say. And then I went to bed
12 after to that.

13 Q. Okay. So when you say he, who are you referring to?

14 A. James.

15 Q. All right. You said he ate dinner by himself. Was he
16 in your ---

17 A. Yes.

18 Q. --- establishment?

19 A. Yes, sir.

20 Q. Okay, sir. So you were there while he was eating
21 dinner?

22 A. Yes, sir.

23 Q. Okay, sir. And what time did he leave?

24 A. Roughly nine, nine-thirty.

25 Q. Okay, sir. Now, you stated -- I believe you just

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1 testified that he went to sleep at that time?

2 A. No. I went to sleep. I'm sorry. Right after he
3 left.

4 Q. I'm sorry?

5 A. Right after he left, I went to bed.

6 Q. After you went to sleep, what, if anything, happened?

7 A. The next thing I remember there's someone banging on
8 my door saying that, I think your brother's dead, talking
9 to my wife. And I woke up. I was sleeping on the couch,
10 actually. And I woke up. I run over there. His door's
11 wide open. He's laying ---

12 Q. When you say his, you're referring to who?

13 A. James. James, yeah. His door is wide open. I walk
14 inside. He's laying motionless on the floor, blood all
15 over the place. I check his pulse. There's no pulse. I
16 tell my wife to call 9-1-1 immediately. She runs back and
17 gets the phone and she comes back to his place. And it was
18 a cordless phone, so we didn't have reception, so she hung
19 up on 9-1-1 the first time. I called them back and told
20 them what was going on and then the police were sent.

21 Q. Now, can you relate to the jury approximately what
22 time this was that you went to his home and saw him?

23 A. Around eleven o'clock.

24 Q. Okay, sir. Now, you stated you check a pulse. Did
25 you get any type of pulse ---

1 A. No, sir.

2 Q. --- that you could recognize?

3 A. No, sir.

4 Q. Okay, sir. And did you see any blood at the scene?

5 A. Yes. All over the place.

6 Q. Okay. Did you take any notice of the condition of the
7 trailer?

8 A. There was pillows and stuff like it had been ransacked
9 or maybe struggle a little bit. But other than that, it
10 looked pretty normal.

11 Q. Were the pillows -- do you recall if the pillows that
12 you're referring to were couch pillows?

13 A. Yes, they were..

14 Q. And were they on the couch or off the couch?

15 A. They were off the couch. One of them might have even
16 been laying on him that I pushed off of him, of James.

17 Q. And the one that was laying on him, do you recall
18 where that was?

19 A. It was on his upper body like it was covering up maybe
20 the blood on his face or whatever.

21 Q. And you stated you removed that pillow?

22 A. Yes, sir.

23 Q. Okay, sir. And did you do anything else with anything
24 in the apartment, other than move that pillow and check for
25 a pulse?

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1 A. No, sir.

2 Q. Okay, sir. And did you call 9-1-1?

3 A. My wife called them the first time and I called them
4 back after she hysterically hung up on them.

5 Q. Okay, sir. And subsequent to all of this, did you
6 remain at the scene?

7 A. Yes, sir.

8 Q. And did you give a statement to the police?

9 A. Yes, sir.

10 Q. Sir, that's all the questions I have.

11 A. All right.

12 Q. Please answer any questions that Defense counsel may
13 have for you.

14 THE COURT: You may cross-examine the witness.

15 **CROSS-EXAMINATION**

16 **BY MR. MALLARD:**

17 Q. Mr. Dobbins, so you say that the trailer was in some
18 sort of disarray?

19 A. I mean -- yes, it was. He wasn't the cleanest person,
20 but there was -- looked like some pillows had been thrown
21 around, whatnot.

22 Q. Thank you.

23 MR. MALLARD: No further questions.

24 THE COURT: Thank you, sir. You may step ---

25 MR. RICHARDSON: I was going to say nothing

1 further, Your Honor.

2 THE COURT: All right. You may step down, sir.

3 MR. RICHARDSON: Your Honor, I don't know if Mr.
4 Dobbins wishes to stay. We're okay with him being
5 released. But we would ask that he be left often to be
6 recalled if necessary.

7 THE COURT: All right, sir.

8 MR. RICHARDSON: Thank you.

9 THE COURT: You are free to leave at this time.

10 MR. RICHARDSON: Thank you, Your Honor. The
11 State calls Robin -- and I'm terrible with this name, I
12 apologize to the Court and the jury -- Saltalamacchia.

13 THE CLERK: If you would, place your left hand on
14 the bible and raise your right hand. Do you solemnly swear
15 or affirm the testimony you're about to give to be the
16 truth, the whole truth and nothing but the truth, so help
17 you God?

18 MS. SALTALAMACCHIA: I do.

19 THE CLERK: If you would, have a seat and state
20 your name for the record.

21 MS. SALTALAMACCHIA: Robin Saltalamacchia.

22 ROBIN SALTALAMACCHIA,

23 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

24 DIRECT EXAMINATION

25 BY MR. RICHARDSON:

State of South Carolina -vs- Christopher Robert Murray (2011-GS-39-00026)
Robin Saltalamacchia - Direct Examination by Mr. Richardson

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1 Q. I wasn't real close, was I?

2 A. You weren't far off.

3 Q. Ma'am, how old are you?

4 A. Forty.

5 Q. And where do you presently live?

6 A. , on the corner of

7 and

8 Q. Okay, ma'am. And is that the same place you lived

9 back in January 18th of 2010?

10 A. Correct.

11 Q. And you said that that was right at the corner of

12 and ---

13 A. Directly on the corner.

14 Q. Okay. Thank you. Are you presently married?

15 A. I am.

16 Q. And how long have you been married?

17 A. Ten years.

18 Q. Okay. Do you have any children?

19 A. Five.

20 Q. Are you presently working?

21 A. No. I'm an at-home mom.

22 Q. Okay. Well, that's certainly work. I can relate to

23 that. Now, I want to take your memory back to January

24 18th, 2010. Do you remember that evening?

25 A. I do.

1 Q. Okay. What were you doing that evening?

2 A. At approximately ten-thirty or so, I had stepped
3 outside to take my dogs out for a walk, which I usually do
4 around that time. Went out with my dogs, standing on the
5 porch, keeping an eye on them making sure they didn't run
6 off. It was about that time when a car, a white car to my
7 memory, started traveling down past my
8 home. It was unusual, except it was only going about five
9 to seven miles an hour. It drove past my house ---

10 Q. Okay. So we're clear, what direction was it going,
11 in or out?

12 A. It was -- I don't know which direction the road runs
13 in, whether it's east or west or whatever, but it was
14 coming from my left traveling to my right in front of my
15 home.

16 Q. Well, let me ask you this. Did you know James Gibson?

17 A. He was a neighbor of mine, but I didn't know his name.

18 Q. Did you know where he lived?

19 A. Oh, yeah.

20 Q. Okay. And what road did he live on?

21 A. He lived on , directly across the
22 street from my home.

23 Q. And when you saw this small white car, was it
24 traveling towards his home or away?

25 A. Yes. Yes.

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Robin Saltalamacchia - Direct Examination by Mr. Richardson

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1 Q. Which one?

2 A. It was traveling towards the direction of his home, my
3 home.

4 Q. What did you notice then?

5 A. The car passed, traveled maybe three more houses down
6 the street, came to a stop and then backed into a driveway
7 where a mobile home used to be, but was torn down. When
8 the car backed in, I called my dogs in, went in like I
9 normally do, but, you know, I didn't notice anything
10 unusual. I mean ---

11 Q. Okay. Did the car go past the house and backed in or
12 how did that ---

13 A. It passed, passed the house, traveled three doors down
14 and backed into a driveway of just a lot at that point.

15 Q. And did it pull back out at that time?

16 A. I didn't see the car pull back out. It did back in
17 and that was the last I remember of the car.

18 Q. Okay.

19 A. I come in the house and closed my door.

20 Q. You went into your house?

21 A. Yes.

22 Q. And approximately how far did you live from James
23 Gibson's residence?

24 A. Maybe about a hundred feet.

25 Q. And after that, did you see or hear anything?

1 A. I did not.

2 Q. Okay. Was that the last thing that you recall about
3 this incident?

4 A. Yes.

5 Q. That's all the questions I have. Please answer any
6 questions that Defense counsel may have.

7 THE COURT: Any questions on cross-examination?

8 MR. MALLARD: No questions, Your Honor.

9 THE COURT: All right. Thank you, ma'am. You
10 may step down.

11 MR. RICHARDSON: The State calls Tasha Strickland
12 to the stand.

13 THE CLERK: If you would, place your left hand on
14 the bible and raise your right hand. Do you solemnly swear
15 or affirm the testimony you're about to give to be the
16 truth, the whole truth and nothing but the truth, so help
17 you God?

18 MS. STRICKLAND: Yes.

19 THE CLERK: If you would, have a seat and state
20 your name for the record.

21 MS. STRICKLAND: Tasha Strickland.

22 TASHA STRICKLAND,

23 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

24 DIRECT EXAMINATION

25 BY MR. RICHARDSON:

1 Q. Okay. Ms. Strickland, you may want to just scoot your
2 chair up just a little bit so we can all hear you. Ma'am,
3 how old are you?

4 A. I'm twenty.

5 Q. Are you presently married?

6 A. No.

7 Q. Okay. Do you have any children?

8 A. Yes.

9 Q. How many?

10 A. I have one.

11 Q. Okay. And are you presently working?

12 A. No.

13 Q. Now, I want to take your memory back to January the
14 18th of 2010. Do you remember that day?

15 A. Yes.

16 Q. Okay. Did you know a victim, James Gibson?

17 A. Yes.

18 Q. Did you have an occasion to go by his home that
19 evening?

20 A. Well, I went over to my friend's because he usually
21 gets pot for me. Well, the last thing was he told me to go
22 to James' house. And when I was coming out of
23 his door was open.

24 Q. When you say his, who are you referring to?

25 A. James.

1 Q. Okay.

2 A. When I got up to the stop sign -- his trailer is right
3 about here and when you get to the stop sign, James' door
4 was wide open. That's not usual for him to keep his door
5 open. So I stopped by there and he told me -- Spike had
6 told me to go by there and see if he had a joint. And when
7 I got there, I walked up to the door. There was something
8 slippery when I walked up. I guess that was puke. I
9 walked in, didn't see James. I looked around and seen his
10 feet and he was laying like this. His feet towards the TV.
11 So I moved the pillow, the couch cushion.

12 Q. And that was -- now, you say you moved the couch
13 cushion, where was the couch cushion.

14 A. On his face, covered, down.

15 Q. All right. And was it totally covering his face?

16 A. Yes.

17 Q. All right. You saw his feet and you moved the couch
18 cushion. What happened next?

19 A. Well, when I moved the couch cushion, his face was
20 like -- his eyes was wide open. Blood was coming down his
21 face. And when I saw that I was like, oh, my God. I
22 freaked out and went to the next door neighbor's house,
23 which is his sister's. I told her that I think your
24 brother might be dead. And she came out. Went over there
25 to the next door neighbor, James' house with me. And I

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1 stayed on the porch. She went inside. When she got there,
2 she picked up James' head and she was crying. She called
3 the police.

4 Q. And did you remain at the scene until the police got
5 there?

6 A. Yes.

7 Q. While inside the trailer, did you move anything else
8 other than that pillow?

9 A. No.

10 Q. And did you give a statement, talk to the police about
11 this?

12 A. Yes.

13 Q. Okay. Was it that night?

14 A. Yes.

15 Q. Thank you. That's all the questions I have. Please
16 answer any questions Defense counsel has.

17 THE COURT: Do you have any questions?

18 MR. MALLARD: Just one.

19 THE COURT: If you would, please be seated.

20 **CROSS-EXAMINATION**

21 **BY MR. MALLARD:**

22 Q. You said there was something like puke. Where was
23 that, on the porch outside or ---

24 A. The front porch when -- let's see. You know where the
25 -- he's got a back door and a front door. And I guess it

1 was the front door, you know, like when you first go in.
2 When I walked up there was puke on the porch that I stepped
3 in.

4 Q. Thank you.

5 MR. MALLARD: No further questions.

6 THE COURT: All right. Thank you, ma'am. You
7 may step down.

8 MR. RICHARDSON: The State calls Anna Preza to
9 the stand.

10 THE CLERK: If you would, place your left hand on
11 the bible and raise your right hand. Do you solemnly swear
12 or affirm the testimony you're about to give to be the
13 truth, the whole truth and nothing but the truth, so help
14 you God?

15 MS. PREZA: I do.

16 THE CLERK: If you would, have a seat and state
17 your name for the record.

18 MS. PREZA: My name is Anna Preza.

19 ANNA PREZA,

20 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

21 DIRECT EXAMINATION

22 BY MR. RICHARDSON:

23 Q. Ms. Preza, where do you presently live?

24 A. Presently I live at in .

25 Q. Okay. And back in January 18th of 2010, where did you

1 live at that time?

2 A. I lived at

3 Q. Okay. And are you presently working?

4 A. No, sir. I'm at home with my kids.

5 Q. As I told the last witness, that's work. Did you --

6 were you working back on January 18th?

7 A. No, I have four children. I'm a stay-at-home mother.

8 I can't afford daycare to go back to work.

9 Q. Are you married, though?

10 A. Yes.

11 Q. Okay. How long have you been married?

12 A. For three years.

13 Q. Back on January 18th of 2010, at that address that you
14 lived, was that close in proximity to the victim's address?

15 A. Yes, sir. I was the next door neighbor. His sister
16 was on one side and I was on the other.

17 Q. Okay. Did you, in fact, know the victim?

18 A. Yes, I did. He, James, would come over to our house
19 and eat with us sometimes. Him and my husband would drink
20 a couple of beers together. My husband got him a job
21 working at Brooks Painting. And he worked there for some
22 time with them as a helper. He was learning how to paint
23 from them.

24 Q. And how long did you know the victim?

25 A. He had lived there maybe eight months, because I'd

1 lived there before he moved in.

2 Q. And when he would come over, would he -- were your
3 children there?

4 A. Oh, yeah. He would play with the kids. He used to
5 feed my dogs scraps when he had them. He played with the
6 dog. We paid him to cut the grass a couple of times.

7 Q. Okay. Well, let me take your memory back to January
8 18th, 2010. Were you at home that evening?

9 A. Yes, sir.

10 Q. Okay. Were you alone at home or who was in the house?

11 A. Me and my two youngest children were there.

12 Q. And did you go to sleep that night?

13 A. I was watching TV and I dozed off probably around ten-
14 thirty. I had just dozed off prior to -- my husband called
15 me at eleven o'clock to wake me up. He woke me up. He was
16 out of town working.

17 Q. Did you have a conversation with your husband?

18 A. Probably about five minutes.

19 Q. What, if anything, do you remember after that?

20 A. After I hung up the phone with my husband, I went to
21 use the restroom, and then was traveling back to my bedroom
22 when I heard three distinct pops that I thought, you know,
23 the first thing I thought was firecrackers. But who would
24 be shooting firecrackers in January. So immediately after
25 I heard it, I went straight to my bedroom window, because I

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1 had already sat back down on my bed, and opened the window
2 and looked out, when I saw a white car speeding by.

3 Q. Okay. Now, I'll get to the car in a minute.

4 A. Okay.

5 Q. But the pops that you heard, were they quick or were
6 there long spells in between them or how did that ---

7 A. They were in correct measurement from each other.

8 They were exact. It was one, two, three. Pop, pop, pop.

9 Not like firecrackers go -- you know, they got off at
10 different intervals. They were exactly pop, pop, pop.

11 Q. That quick?

12 A. That quick.

13 Q. Now, you said you looked out the window and you saw a
14 vehicle leave.

15 A. Uh-huh (affirmative).

16 Q. Do you know what kind of vehicle it was?

17 A. It was dark. But it was either white or yellow. And
18 it was either a Chevy Cavalier or a Pontiac Sunfire. I
19 know cars. It's just one of my things.

20 Q. And let me hand you what's been marked previously as
21 State's Exhibit, for identification purposes only, Number
22 28. Can you identify that?

23 A. That is a Chevy Cavalier.

24 Q. Okay, ma'am. Can you tell me if that was the car that
25 you saw leaving the scene?

1 A. Yes, sir.

2 Q. It was?

3 A. Yes.

4 THE COURT: Has this been shown to the Defense
5 counsel, Solicitor?

6 MR. RICHARDSON: That's what I was doing, Your
7 Honor. I put it up there.

8 THE COURT: If you would -- any objection to the
9 exhibit from the Defense?

10 MR. MALLARD: No, sir, Your Honor.

11 THE COURT: All right. Without objection. Are
12 you offering that into evidence, Mr. Richardson?

13 MR. RICHARDSON: I would offer it at this time,
14 Your Honor.

15 THE COURT: All right. Before it's published,
16 just make sure it's into evidence before the jury sees it.
17 All right. Exhibit 28, is that right?

18 MR. RICHARDSON: That's correct.

19 THE COURT: All right. Without objection,
20 Exhibit 28 is into evidence.

21 (WHEREUPON, State Exhibit Number 28 was admitted into
22 evidence.)

23 Q. So now that the jury can see that, is that the vehicle
24 you saw leaving the scene?

25 A. Yes, sir.

1 Q. When you saw the vehicle leaving the scene, was it --
2 which way was it going? Did it pull out backwards in the
3 driveway or forwards?

4 A. It took off from the driveway next door. I mean, it
5 immediately took off. It was from a stopping point to
6 speeding in front of my house because I live -- I mean, if
7 you were looking out the door James used regularly, you
8 would see my house, the side of my house. And from my
9 bedroom window I can see the mailbox, which is the end of
10 his driveway, his mailbox. And I saw the car from that
11 stopping point from the mailbox speed towards in town of
12 Easley.

13 Q. Let me show you what's been published as State's --
14 previously been marked as State's Exhibit Number 44 for
15 identification purposes. Do you recognize that?

16 A. Yes. That's James Gibson's trailer.

17 Q. Okay.

18 THE COURT: Any objection from the Defense for
19 this Exhibit?

20 MR. MALLARD: No, Your Honor.

21 THE COURT: Without objection then, this Exhibit
22 -- Number what?

23 MR. RICHARDSON: Number 44, Your Honor.

24 THE COURT: --- 44 is admitted into evidence.

25 (WHEREUPON, State Exhibit Number 44 is admitted into

1 evidence.)

2 Q. Now, ma'am, from this view of this picture, the
3 mailbox you're talking about, is it on there?

4 A. Yes, sir.

5 Q. If you will take this laser pointer and kind of point
6 to where that mailbox is.

7 A. The laser what? Right here.

8 Q. That's the mailbox that you could see from the window?

9 A. Yes, sir.

10 Q. Okay. Where was the car coming from?

11 A. From here. From the driveway right here. And it was
12 speeding up the road, going in this direction.

13 Q. Okay. Did it pass by your house?

14 A. Yes, sir.

15 Q. And when it came out of the driveway, was it going
16 forward?

17 A. Yes.

18 Q. After you saw the car leave ---

19 A. Uh-huh (affirmative).

20 Q. --- what, if anything, happened?

21 A. It was maybe about ten minutes later I heard
22 screaming, which was his sister. I mean, she was screaming
23 hysterically, outside. And which made me pull my jacket
24 on, which I proceeded to look out my children's bedroom
25 window. Because, I just, you know, I wanted to look before

1 I go outside. And I looked out the window and you could
2 see his door standing open and his sister was out there and
3 her husband and the lady, the girl that found him, who was
4 driving a red Grand Am at the time.

5 Q. Okay.

6 A. She was standing out there. And so I went out the
7 front door. And by the time I got to the fence, which is
8 connecting mine and his house, there was an officer on the
9 porch.

10 Q. Okay. And did you remain at the scene?

11 A. Yes. Well, I lived right there so I stayed in my
12 yard.

13 Q. And did you ultimately talk to the police officer
14 about this?

15 A. I talked to a deputy that night and they told me a
16 detective would come over probably the next morning and
17 take my statement.

18 Q. And did you, in fact, give a statement?

19 A. Yes, sir.

20 Q. Thank you, ma'am. That's all the questions I have.
21 Please answer any questions that Defense Counsel may have.

22 **CROSS-EXAMINATION**

23 **BY MR. MALLARD:**

24 Q. Ms. Preza, you say this occurred about what time of
25 night?

1 A. Eleven o'clock was when my husband woke me up, and it
2 was ten to fifteen minutes after that. I mean, around
3 eleven was when I heard the shots. Because I wasn't on the
4 phone with him maybe five minutes and that's when I heard
5 the gunshots.

6 Q. I don't see a street light around this driveway.

7 A. There is a street light. There is one in one of the
8 yards on down the street, which pretty much lights it up
9 out there. And there was one behind James' house, which I
10 don't think is working. And there's one -- I'm not sure
11 whose yard it is, but there are street lights, but you
12 can't see them in the picture. And I had my porch light
13 on, also, so I can pretty much see.

14 Q. But you're saying that you could somehow even that
15 late at night identify a particular car, as opposed to just
16 ---

17 A. I know my cars. That's just one of the things. I can
18 tell cars by what the headlights look like in my rearview
19 mirror.

20 MR. MALLARD: No further questions.

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

22 MR. RICHARDSON: The State calls Matt Brissey to
23 the stand.

24 THE CLERK: If you would, place your left hand on
25 the bible and raise your right hand. Do you solemnly swear

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1 or affirm the testimony you're about to give to be the
2 truth, the whole truth and nothing but the truth, so help
3 you God?

4 MR. BRISSEY: Yes, sir.

5 THE CLERK: If you would, have a seat and state
6 your name for the record.

7 MR. BRISSEY: Matthew Brissey.

8 MATTHEW BRISSEY,

9 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

10 DIRECT EXAMINATION

11 BY MR. RICHARDSON:

12 Q. Mr. Brissey, how old are you?

13 A. I'm nineteen.

14 Q. And where do you presently live on?

15 A. I live on .

16 Q. Okay. And back in January of 2010, where did you live
17 at that time?

18 A. , .

19 Q. Okay. Who did you live with?

20 A. My grandmother.

21 Q. Okay. Now, are you presently working?

22 A. Yes, sir.

23 Q. And where do you work?

24 A. Bradley Construction.

25 Q. Now, do you know Faye Brissey?

1 A. Yes, sir.

2 Q. Who is Faye Brissey?

3 A. She's my cousin.

4 Q. And do you also know the Defendant, Chris Murray?

5 A. Yes, sir.

6 Q. How do you know him?

7 A. We was all in John G. Richardson together.

8 Q. And how long have you known him?

9 A. About two years.

10 Q. Okay. Back in January of 2010, were they living with
11 you?

12 A. They was staying a couple of nights with me at my
13 grandmother's.

14 Q. It's really your grandmother's place?

15 A. Yeah.

16 Q. They were staying there?

17 A. Yes, sir.

18 Q. Okay. And do you know why they were staying there?

19 A. Because Faye's mother didn't want them to be over
20 there for some reason. I didn't ever get that part.

21 Q. Okay. Now, if you would speak up a little bit because
22 I want you to be loud enough that this juror can hear you,
23 okay?

24 A. Yes, sir.

25 Q. You may want to pull up a little bit. Let me take

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Matt Brissey - Direct Examination by Mr. Richardson

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1 your memory back to January, 2010. Did you see the

2 Defendant and Faye Brissey on that day?

3 A. Yes, sir, at seven o'clock.

4 Q. Had you seen them prior to that?

5 A. Yeah.

6 Q. Okay. Now, did you know the Defendant to carry a gun?

7 A. Yes, sir.

8 Q. What kind of gun was that?

9 A. A 380.

10 Q. Okay. What color was it?

11 A. Black.

12 Q. Do you know what type of gun it was?

13 A. No, sir.

14 Q. The brand name?

15 A. No, I don't know the brand.

16 Q. Did you ever see that gun?

17 A. Yes, sir.

18 Q. When did you see it?

19 A. About the second day he was over at my grandma's.

20 Q. Okay. Would this have been the day before?

21 A. The 17th.

22 Q. The 17th?

23 A. Yes, sir.

24 Q. Why did you happen -- why did the Defendant show you

25 the gun?

1 A. He went to my grandmother's field and was shooting it
2 at a tree.

3 Q. Okay. Did you shoot the gun?

4 A. Yes, sir.

5 Q. Did he shoot the gun?

6 A. Yes, sir.

7 Q. What kind of bullets did that gun carry?

8 A. Hollow tip.

9 Q. That's the kind he shot?

10 A. Yes.

11 Q. Was that the kind you shot?

12 A. Yes.

13 Q. Now, You said you saw them on the 18th around seven
14 o'clock. What was going on at seven o'clock?

15 A. Faye was in the bedroom asleep. Christopher Murray
16 went in there and woke her up and asked her if she wanted
17 to go to the store. And they went to the store. And when
18 -- they didn't get back until probably about, I'd say
19 probably about eleven, eleven-fifteen. And Faye was all
20 hysterical and stuff, saying ---

21 Q. What was that word you used?

22 A. Hysterical.

23 Q. Hysterical?

24 A. Yeah. She was crying saying Chris shot James. And
25 Faye went on in the house and Chris explained to me what

1 happened.

2 Q. Okay. Well, we'll get to that in a minute, okay?

3 A. Yes, sir.

4 Q. And what did Chris do when he got back to your house?

5 A. He went in the bedroom and changed clothes.

6 Q. Okay. Do you know what kind of car they were driving?

7 A. I know it was white. It was white. They got it from
8 the Barnett Brothers.

9 Q. Let me show you what's been now marked as State's
10 Exhibit Number 28. Do you recognize that?

11 A. Yes, sir.

12 Q. What is that?

13 A. I don't know what kind of car it is.

14 Q. Well, is that the car that ---

15 A. Yes.

16 Q. --- Faye and the Defendant were driving?

17 A. Yes.

18 Q. Is that the car that they were driving on the 18th?

19 A. Yes, sir.

20 Q. Okay. You stated he came in and changed clothes?

21 A. Yes, sir.

22 Q. Okay. After he's changed clothes did you and the
23 Defendant have a conversation?

24 A. Yes, sir.

25 Q. What did he tell you?

1 A. He said that he went over to James' house and he
2 knocked on the door and James went to open the door and
3 Chris opened the door, and when he opened the door he --
4 Chris hit his self in the mouth with the door. And ---

5 Q. When you say Chris, you're talking about the
6 Defendant?

7 A. Yes.

8 Q. Okay. He hit himself in the mouth. Then what?

9 A. He went and -- he said that there was a struggle, that
10 he was trying to shoot him. He shot one in his wall, one
11 the couch and rolled and James -- he rolled James on his
12 back when they was wrestling and shot him in his chest.

13 Q. Okay.

14 A. And put the couch pillow over him.

15 Q. Okay. He told you about the couch pillow?

16 A. Yes, sir.

17 Q. All right. Did he tell you where he put it on him?

18 A. Yes.

19 Q. Where?

20 A. On the upper part of his body.

21 Q. Okay, sir. Now, did he ever mention anything to you
22 about money?

23 A. He said that he was going over there to try to find
24 some money. That's what he told me.

25 Q. And when you say he, you're talking about the

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1 Defendant?

2 A. Chris.

3 Q. Did he ever tell you whether he found any money or
4 not?

5 A. No, sir.

6 Q. Do you know where the Defendant carried this 380 gun
7 that you referred to?

8 A. When he carried it on me, he kept it in his belt --
9 between his belt and his pants.

10 Q. Okay, sir. Let me hand you what has been previously
11 marked as State's Exhibit Number 23 for identification
12 purposes. Do you recognize that?

13 A. Yes, sir.

14 Q. What is that?

15 A. A 380.

16 Q. Is that the gun that the Defendant had?

17 A. Yes.

18 Q. Is that the gun the Defendant shot with you?

19 A. Yes.

20 Q. Is that the gun you shot?

21 A. Yes.

22 MR. RICHARDSON: At this time, Your Honor, I'd
23 offer this into evidence.

24 THE COURT: Any objection?

25 MR. MALLARD: No, Your Honor.

1 THE COURT: Without objection. Exhibit 23 is
2 into evidence.

3 (WHEREUPON, State Exhibit Number 23 was admitted into
4 evidence.)

5 Q. It may be hard to tell from the picture. Is that a
6 large gun or a small gun?

7 A. Medium sized.

8 Q. Medium? Okay. Did he always carry it in his
9 waistband or just sometimes.

10 A. Every -- sometimes he carried it in the waistband or
11 he kept it in the console of the car.

12 Q. When he told you about what had happened, his version
13 of what had happened, did he ever mention that the victim
14 had any type of weapon?

15 A. No, sir.

16 Q. And did he ever mention anything about a hat?

17 A. He said he lost his hat over there.

18 Q. Did he tell you what kind of hat that was?

19 A. It was a -- I can't remember the name of it. It's a
20 hat you get at Wal-Mart. It's a ---

21 Q. Did he mention the color by chance?

22 A. It was white and I think black. White and black.

23 Q. And how long was he at your home with Faye during this
24 period of time when he's discussing this with you?

25 A. They was only there probably about twenty minutes to

1 get their stuff.

2 Q. And did they leave your home?

3 A. Yeah.

4 Q. Did they -- did he tell you where he was going?

5 A. He said that he was going to go try rob Z-Mart.

6 Q. Besides going to rob Z-Mart, did he say -- state
7 anything else to you?

8 A. He said at the Z-Mart -- he come back for like five
9 minutes and said that Z-Mart was closed. And he said that
10 he was going towards , going towards Spinx and Wal-
11 Mart, that he was going to see if he can do anything there.
12 He said Wal-Mart he couldn't get into because he wasn't
13 going to do it because they had inch glass or something.
14 And the Spinx had too many police in the parking lot.

15 Q. Okay, sir. At any time did he mention Aiken to you?

16 A. He said that he was going over to his sister's house
17 in Aiken.

18 Q. Did you know Chris Murray to be from Aiken?

19 A. Yes, sir.

20 Q. And at some point in time, did the police come and
21 talk to you?

22 A. Yes, sir.

23 Q. And did you voluntarily talk to the police about this
24 case?

25 A. Yes, sir.

1 Q. Did you give them a statement?

2 A. Yes, sir.

3 MR. RICHARDSON: I beg the Court's indulgence.

4 Q. Thank you, sir. That's all the questions I have.

5 Please answer any questions Defense counsel has for you.

6 A. Yes, sir.

7 MR. MALLARD: Your Honor, could I have a moment
8 to consult with my client?

9 THE COURT: Yes, sir.

10 **CROSS-EXAMINATION**

11 **BY MR. MALLARD:**

12 Q. Matt, do you recall seeing Jack Kuykendall that
13 evening?

14 A. Who?

15 Q. Jack Kuykendall?

16 A. Kuykendall? That don't ring a bell.

17 Q. Were Chris and his girlfriend dropped off at your
18 place about the time that this conversation occurred?

19 A. Dropped them off in a Blazer, a silver Blazer?

20 Q. Yeah.

21 A. Yes, sir.

22 Q. Okay. And Faye wasn't with him at that time?

23 A. Yes.

24 Q. She was with him?

25 A. Uh-huh (affirmative).

1 Q. Okay. When you gave your statement to the police, and
2 I'll be glad to show this to you so that you can read it,
3 your conversation, did Chris tell you, and did you not tell
4 the police that, in fact, when Chris was supposed to have
5 opened the door of James' house, that he was immediately
6 hit in the mouth by James?

7 A. Well, the door hit him in the mouth.

8 Q. Okay. Do you recognize that as a copy of the
9 statement that you basically gave?

10 A. Yes.

11 Q. Oh, okay. So that's what you mean when you say that
12 Chris knocked open the door and James opened the door and
13 hit Chris in the mouth?

14 A. Yeah.

15 Q. Okay. Did you also say, as you wrote here, that James
16 grabbed Chris and pulled him in and then started wrestling
17 in the living room floor?

18 A. They was wrestling in the living room.

19 Q. And that there was a shot in the ceiling and -- let's
20 see -- I'll let you look at it. That one hit the wall and
21 then one went in the ceiling?

22 A. One went in the wall and one went in the couch.

23 Q. Prior to this, at around Christmas of that year, did
24 you have an opportunity -- was there a time when you and my
25 client and Chris Meyer and James were together on the

1 corner talking? Do you recall that?

2 A. Me, Chris and James?

3 Q. Yes.

4 A. Yes.

5 Q. Was Chris Meyer there as well?

6 A. It was just me, Chris and then James. That Chris,
7 Chris Meyer.

8 Q. Do you recall what you were talking about then?

9 A. No. But I remember us standing outside talking.

10 Q. Do you recall James attempting to sell Chris a gun at
11 that point?

12 A. No, sir.

13 Q. How close are you to your cousin, Faye?

14 A. I probably go over there and see her probably about
15 once a month.

16 Q. Okay. So you have a pretty close friendship?

17 A. Yeah.

18 Q. It's not just casual. Okay. Had she had a
19 relationship with James before?

20 A. Yes, sir.

21 Q. How did that end?

22 A. I don't know. I just know that they did date before
23 Chris and her got together.

24 Q. Okay. Did she ever tell you anything about James
25 making hostile calls to her?

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1 A. Made a threat to her at one time and he apologized for
2 it. He said that he was going to slit her throat and black
3 her eye. And he apologized. He texted her that playing
4 around and called her back in like ten minutes and said,
5 I'm sorry, I was just playing with you, when he sent the
6 text.

7 Q. You heard the other witness testify that when she got
8 to James' door there was like a bunch of puke on the front
9 porch. How heavily did James drink?

10 MR. RICHARDSON: Your Honor, I object to that
11 question. Relevance.

12 MR. MURRAY: Your Honor, I think it's relevant
13 because ---

14 MR. RICHARDSON: Well, he needs to lay a
15 foundation.

16 THE COURT: I overrule your objection. I'll
17 allow him to ask the question.

18 A. I'd say every time I went over there he drunk, but he
19 didn't drink to get drunk. He would just drank to get
20 buzzed.

21 Q. Did it tend to make him a little angry when he got
22 drunk?

23 A. No, sir.

24 MR. MURRAY: No further questions, Your Honor.

25 THE COURT: Any redirect?

1 MR. RICHARDSON: No, sir. Your Honor, I ask that
2 this witness be excused.

3 THE COURT: Is there any objection to this
4 witness being excused?

5 MR. MALLARD: We would appreciate the ability to
6 recall him possibly later.

7 THE COURT: All right. If you'll remain
8 available, Mr. Brissey.

9 MR. RICHARDSON: The State calls Deputy Robert
10 Hoxit.

11 THE CLERK: If you would, place your left hand on
12 the bible and raise your right hand. Do you solemnly swear
13 or affirm the testimony you're about to give to be the
14 truth, the whole truth and nothing but the truth, so help
15 you God?

16 MR. HOXIT: I do.

17 THE CLERK: Please state your name for the
18 record, please.

19 MR. HOXIT: Deputy Robert Hoxit.

20 ROBERT HOXIT,

21 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION

23 BY MR. RICHARDSON:

24 Q. Deputy, where are you employed?

25 A. Pickens County Sheriff's Office.

1 Q. Okay. And how long have you been with Pickens County?

2 A. For about three years.

3 Q. Okay, sir. And what is your -- in what capacity are
4 you employed with the Pickens County Sheriff's Office?

5 A. I'm not sure.

6 Q. Are you road patrol?

7 A. Yes, sir.

8 Q. So it's your job -- you are on patrol when you're on
9 duty and your dispatched to certain locations?

10 A. Yes, sir.

11 Q. Okay. Now back on January the 18th of 2010, were you
12 working that evening?

13 A. Yes, sir.

14 Q. Okay. And were you dispatched to a location on
15 ?

16 A. Yes, sir.

17 Q. And do you recall what the call was?

18 A. To an unresponsive person lying on the floor.

19 Q. Okay, sir. And do you recall the address?

20 A.

21 Q. Okay, sir. And is , is that
22 located in Pickens County?

23 A. Yes, sir.

24 Q. All right. When you arrived at the scene, what did
25 you initially do?

1 A. When I arrived at the scene, I was met by Mr. Dobbins
2 coming out the door. I asked him to stay outside. I went
3 in and viewed the body laying on the floor with blood on
4 his face.

5 Q. Okay, sir. Let me show you for identification
6 purposes State's Exhibit Number 4. Do you recognize that?

7 A. Yes, sir.

8 Q. Okay. What is it?

9 A. It's Mr. Gibson laying on the floor.

10 Q. Okay, sir. State's Exhibit Number 5 for
11 identification purposes, do you recognize that?

12 A. Yes, sir.

13 Q. And what is that?

14 A. That's Mr. Gibson laying on the floor, the living room
15 floor.

16 Q. And State's Exhibit Number 6 for identification
17 purposes, do you recognize that?

18 A. Yes, sir.

19 Q. And what is that?

20 A. That's Mr. Gibson laying in the living room floor.

21 Q. Okay, sir. And do these pictures substantially
22 establish what you saw when you entered Mr. Gibson's
23 residence?

24 A. Yes, sir.

25 MR. RICHARDSON: Your Honor, at this time, I've

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1 shown counsel these three Exhibits and we offer them into
2 evidence.

3 THE COURT: Any objection to Exhibits 4, 5, and
4 6?

5 MR. MALLARD: No, Your Honor.

6 THE COURT: All right. Without objection, those
7 Exhibits will be admitted into evidence.

8 (WHEREUPON, State Exhibit Numbers 4, 5, and 6 were
9 admitted into evidence.)

10 Q. Yes, sir, if you'd push the red laser button, ---

11 A. Uh-huh (affirmative).

12 Q. --- can you show me where Mr. Gibson is in that
13 picture?

14 A. Right there.

15 Q. Okay. And regarding State's Exhibit Number 6, can you
16 show me Mr. Gibson?

17 A. Right there.

18 Q. Okay, sir. Now, is there a second couch in this
19 residence, do you recall?

20 A. Yes, sir.

21 Q. And where is that?

22 A. Right here.

23 Q. And do you recall seeing any cushions on that couch
24 when you arrived?

25 A. No, sir.

1 Q. Let me hand you what's previously been marked as
2 State's Exhibit Number 8 for identification purposes. Do
3 you recognize that?

4 A. Yes, sir.

5 Q. Okay, sir. And what is that?

6 A. That's the couch on the right, right here.

7 Q. Okay, sir.

8 MR. RICHARDSON: Your Honor, at this time, I
9 would offer -- I've shown it to Defense counsel -- State's
10 Exhibit Number 8 for identification purposes.

11 THE COURT: Any objection?

12 MR. MALLARD: No, Your Honor.

13 THE COURT: Without objection, Exhibit 8 is
14 admitted into evidence.

15 (WHEREUPON, State Exhibit Number 8 was admitted into
16 evidence.)

17 Q. Okay, sir. Was that condition of the couch when you
18 entered the residence?

19 A. Yes, sir.

20 Q. Okay. And can you kind of show the jury from this
21 standpoint where the body was?

22 A. The body would be down here.

23 Q. Okay, sir. And I'm referring to State's Exhibit
24 Number 5. The couch that you just pointed out on State's
25 Exhibit Number 8, where is that?

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1 A. It's right there.

2 Q. Okay. And where's the body of Mr. Gibson?

3 A. It's down here.

4 Q. Any changes from the time you arrived to what you are
5 showing the jury right now?

6 A. No, sir.

7 Q. When you arrive at scene such as this, what is the
8 first thing you do?

9 A. You want to clear the residence, make sure nobody else
10 is in the house for safety precautions.

11 Q. Okay. So when you say clear the residence, you go
12 through the residence?

13 A. Yes, sir. Walk through the residence.

14 Q. And did you do that?

15 A. Yes, sir.

16 Q. Was anybody else located within the residence?

17 A. No, sir.

18 Q. And subsequent to that did you secure the scene?

19 A. Yes, sir.

20 Q. Okay. And what do we mean by securing the scene?

21 A. We put up tape, don't allow anybody else, you know, to
22 enter the home.

23 Q. And did you call anybody else out to the scene from
24 your office?

25 A. Yes, sir, I had dispatch advise medics to enter to

1 take the body.

2 Q. Anybody from your office also come out?

3 A. Yes, sir, I advised them to go ahead and send CID and
4 ID.

5 Q. Who is CID and ID?

6 A. A detective.

7 Q. And ID would be who?

8 A. Lieutenant Robinson.

9 Q. Okay. And did the medics, in fact, come to the scene?

10 A. Yes, sir.

11 Q. That's all the questions I have. Please answer any
12 questions the Defense counsel may have.

13 THE COURT: You may cross-examine the witness.

14 MR. MALLARD: No questions, Your Honor.

15 THE COURT: Thank you, sir. You may step down
16 Officer Hoxit.

17 MR. RICHARDSON: The State calls Bradford Hughes
18 to the stand.

19 THE CLERK: Place your left hand on the bible and
20 raise your right hand, please. Do you solemnly swear or
21 affirm the testimony you're about to give to be the truth,
22 the whole truth and nothing but the truth, so help you God?

23 MR. HUGHES: I do.

24 THE CLERK: State your name for the record,
25 please.

1 MR. HUGHES: My name is Bradford Hughes.

2 BRADFORD HUGHES,

3 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION

5 BY MR. RICHARDSON:

6 Q. Sir, where are you employed?

7 A. Pickens County EMS.

8 Q. And how long have you been employed with Pickens
9 County EMS?

10 A. Six years.

11 Q. Okay, sir. And were you so -- you were employed back
12 on January 18th of 2010?

13 A. Yes, sir.

14 Q. All right. And where, exactly, is the station that
15 you run out of?

16 A. I'm at Medic 8. It's on in Easley.

17 Q. Okay, sir. Now, do you recall on January 18th of 2010
18 being called, dispatched to a residence on
19 ?

20 A. Yes, sir.

21 Q. And did you in fact proceed to ?

22 A. Yes, sir.

23 Q. Prior to getting there, did you ever stop or anything
24 of that nature?

25 A. We do stage, what we call stage. If it's a suspected

1 crime scene, anything that would put us in danger, we don't
2 carry weapons, so we wait for the police to tell us it's
3 cleared the scene.

4 Q. Okay.

5 A. So we did stage momentarily until the police told us
6 it was okay to go on in.

7 Q. Okay. And did you in fact go to ?

8 A. Yes, sir.

9 Q. And what did you view when you arrived there?

10 A. There was a deputy there and we -- he escorted us into
11 the residence, through the door, the pictures I've already
12 seen, through the front door. That's what we found. We
13 found a male lying on his back, on the floor. He appeared
14 to be unresponsive. He wasn't breathing. It was a good
15 deal of blood. We put our cardiac monitor on him to
16 determine if there was any kind of electrical activity in
17 his heart, and there wasn't. That's what we call flat-
18 line. It's asystolic, which means that there's nothing
19 going on with his heart. So he wasn't breathing. He had
20 no pulse. There was a large amount of blood there.

21 Q. Okay. If you could get that laser pointer. There's a
22 red button that will turn it on. On his abdomen area,
23 there appears to be some white splotches there.

24 A. Uh-huh (affirmative).

25 Q. What is that?

- 1 A. That's -- well, there's one and there's the other.
2 Those are electrodes. That's how we watch the heart to see
3 if there's any kind of electrical activity. We actually
4 hooked wires up to those before the picture was taken.
5 Q. Okay, sir. And so you hooked those up?
6 A. Yes, sir.
7 Q. Okay. So you're responsible for putting those on the
8 body?
9 A. Yes, sir.
10 Q. Okay. And is that standard procedure?
11 A. Yes, sir.
12 Q. Okay. Now, you may have answered this question, but
13 upon checking the body what did you ascertain? What did
14 you discover?
15 A. He wasn't breathing. We checked for a pulse manually.
16 He did not have a pulse, and we confirmed that with the
17 cardiac monitor. It'll give you -- you can monitor from
18 different leads, different perspectives in the heart. I
19 have to confirm that from three different perspectives.
20 There was no electrical activity in his heart. He wasn't
21 breathing. There was a large amount of blood. I noticed
22 some blood coming out of his mouth. It was mixed -- it
23 appeared to be bubbly, which indicated to me it was
24 possibly mixed with air. The blood may have come from his
25 lungs possibly. We didn't -- we left the body like it is.

1 I didn't have to cut any clothing. I didn't have to move
2 him to do what I needed to do.

3 Q. Okay, sir. Now, upon ascertaining -- did you testify
4 there was no neurological activity?

5 A. No, sir. We shined the light in his eyes. The black
6 part of your eyes, the pupil, is surrounded by the iris,
7 which is the color part of your eyes, and when you shine a
8 light in someone's eyes, if they're alive, they'll be
9 movement there. It indicates some kind of neurological
10 activity. He didn't have any. There was no response.

11 Q. No movement of the eyes?

12 A. No, sir.

13 Q. And so ultimately what does that tell you?

14 A. That he's dead.

15 Q. And once you get to that point, procedurally what do
16 you do, and what did you do at this scene?

17 A. Procedure is to request the coroner, identify the
18 patient as being signal 9, which is dead, and request the
19 coroner.

20 Q. Once a person is deceased, at that point in time, do
21 you transport the body?

22 A. No, sir.

23 Q. And did you transport this body?

24 A. No, sir.

25 Q. Do you document what you have done at a scene when you

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1 go to a crime scene such as this?

2 A. Yes, sir.

3 Q. And what kind of report is that done on?

4 A. It's called a patient care report.

5 Q. Okay. And, in fact, did you do that in this case?

6 A. Yes, sir.

7 Q. When did you do that?

8 A. As soon as I requested the coroner, my partner and I
9 removed all of our equipment, except for the electrodes
10 that are on him, and we exited the residence. I went to
11 the ambulance and started typing the report, so it was
12 immediately after I had requested the coroner, I wrote my
13 report.

14 Q. And do you recall whether there were any weapons that
15 you saw at the scene?

16 A. I did not notice any weapons.

17 Q. Did you, in fact, report that on the patient care
18 report?

19 A. I did, yes, sir.

20 Q. That's all the questions I have. Thank you, sir.
21 Please answer any questions Defense counsel may have for
22 you.

23 THE COURT: Any cross-examination?

24 MR. MALLARD: No questions, Your Honor.

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

1 Hughes.

2 Mr. Foreman, ladies and gentlemen, this might be a
3 good time to take a short break. I'll ask you to go back
4 to your jury room. And let me remind you again not to
5 discuss the case in any manner. We'll take about a fifteen
6 minute break and call you back in just a while.

7 Everyone else, please remain seated until the jury is
8 dismissed.

9 (WHEREUPON, the jury exited the open court at
10 approximately 2:53 p.m.)

11 THE COURT: All right. We'll be at ease for
12 about a fifteen minute break.

13 THE BAILIFF: The jury is secure, Your Honor.

14 THE COURT: Thank you, Mr. Teal.

15 (WHEREUPON, the court stood at recess for a short
16 break.)

17 THE COURT: Are you ready, Mr. Mallard?

18 MR. MALLARD: Yes, Your Honor.

19 THE COURT: All right. If the jury is ready, Mr.
20 Teal, you can have them come back in.

21 (WHEREUPON, the jury entered the open court at
22 approximately 3:19 p.m.)

23 THE COURT: Solicitor, you may call your next
24 witness.

25 MR. RICHARDSON: Thank you, Your Honor. The

1 State calls Harriett Millman.

2 THE CLERK: If you would, place your left hand on
3 the bible and raise your right hand. Do you solemnly swear
4 or affirm the testimony you're about to give to be the
5 truth, the whole truth and nothing but the truth, so help
6 you God?

7 MS. MILLMAN: I do.

8 THE CLERK: State your name for the record,
9 please.

10 MS. MILLMAN: My name is Harriett Millman.

11 **HARRIET MILLMAN,**

12 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

13 **DIRECT EXAMINATION**

14 **BY MR. RICHARDSON:**

15 Q. Ms. Millman, where do you live?

16 A.

17 Q. And is that in Pickens County?

18 A. Yes.

19 Q. Okay. Are you presently married?

20 A. Yes.

21 Q. Do you have children?

22 A. Yes, four.

23 Q. Pardon?

24 A. Four children.

25 Q. Okay. And are you working?

1 A. Yes.

2 Q. And where do you work?

3 A. K-Mart.

4 Q. And do you know Faye Brissey?

5 A. I don't know her. She's my neighbor. I see her
6 occasionally passing by, but I don't know her on a personal
7 level.

8 Q. Okay. But you do recognize her?

9 A. Yes.

10 Q. All right. Now, let me take your memory back to
11 January 18th of 2010. Did you see Faye Brissey that day?

12 A. Faye came to my house knocking on my door. I had
13 worked third the night before, so it was at one, one-
14 thirty, they come knocking at my door. Faye and Mr.
15 Murray, they come asking for money. And I told them I
16 didn't have any money. They asked me if I knew where to
17 get some money, and I said, no.

18 Q. Okay. Now, approximately what time of day was this?

19 A. It was between one o'clock and one-thirty p.m.

20 Q. Okay. Now, do you recognize the Defendant as being
21 there?

22 A. I do. And also, might I add, when they were on my
23 front doorstep, I felt as if they were trying to come
24 inside my house. I felt threatened enough to where I'd
25 hold the storm door against me. And as soon as I told them

1 I didn't have any money and I didn't know where they could
2 get any, I closed the door and locked it.

3 Q. Okay. Now, did you notice what type of vehicle they
4 were driving?

5 A. A small white vehicle.

6 Q. Let me refer you to what's now been marked State's
7 Exhibit Number 28. Do you recognize that vehicle?

8 A. Yes. They didn't come to my house in that vehicle.
9 The vehicle was -- when I saw the vehicle, they said that
10 they ran out of gas and that's why they needed money. But
11 later on in the day, I did see that vehicle parked on
12 Faye's parent's property.

13 Q. Okay. Now, at some point in time after this, did
14 police officers come to your home?

15 A. They did.

16 Q. Okay. Were they in uniform or plain clothes?

17 A. They were.

18 Q. They were in uniform?

19 A. They were in uniform.

20 Q. Okay. And at that time did you learn that there had
21 been a -- that James Gibson had been shot and killed?

22 A. When they first came to my house, it was early in the
23 morning. We were all asleep. And they didn't tell us what
24 happened at first. They were just looking for my son.

25 Q. Okay. And what's your son's name?

1 A. Christopher Meyer.

2 Q. And where was your son?

3 A. He was with my husband in Georgia. He had left the
4 day before.

5 Q. And what was he doing in Georgia?

6 A. They were doing some flooring work.

7 Q. Did you get in contact with your son?

8 A. I did. I called my husband when the police were at my
9 house.

10 Q. Okay. And did the officers have a -- don't tell me
11 what was said, but did the officers have a conversation
12 with your son?

13 A. They did, over the phone.

14 Q. Over the telephone?

15 A. Yes.

16 Q. Okay. Is your son here today?

17 A. Yes, he is.

18 Q. That's all the questions I have. Please answer any
19 questions the Defense has.

20 THE COURT: Cross-examination.

21 CROSS-EXAMINATION

22 BY MR. MALLARD:

23 Q. Ms. Millman.

24 A. Yes.

25 Q. You say you recognize my client today?

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1 A. Yes. He was at my house on my front doorstep with
2 Faye that afternoon.

3 Q. Earlier, did you not fail to pick him out of a lineup?

4 A. Excuse me?

5 Q. Did you have an opportunity to try to identify him in
6 a lineup?

7 A. I did. I believe I did, yes. Not -- just by a
8 picture.

9 Q. Okay.

10 MR. MALLARD: No further questions.

11 MR. RICHARDSON: Nothing further, Your Honor.

12 THE COURT: Thank you. You may step down.

13 MR. RICHARDSON: The State calls Chris Meyer to
14 the stand.

15 THE CLERK: Place your left hand on the bible and
16 raise your right hand. Do you solemnly swear or affirm the
17 testimony you're about to give to be the truth, the whole
18 truth and nothing but the truth, so help you God?

19 MR. MEYER: I do.

20 THE CLERK: State your name for the record,
21 please.

22 MR. MEYER: My name is Chris Meyer.

23 CHRIS MEYER,

24 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

25 DIRECT EXAMINATION

1 BY MR. RICHARDSON:

2 Q. Sir, how old are you?

3 A. I'm twenty-one.

4 Q. And where do you live?

5 A. I live at in .

6 Q. Okay. And who do you live with?

7 A. I live with my parents.

8 Q. And I'm going to ask you to do me a favor. I'm having
9 a hard time hearing you. I want the jurors to be able to
10 hear you so if you'll lean up just a little bit, it'll pick
11 you up better. Thank you. Now, do you know the victim

12 James Gibson?

13 A. Yeah. We were friends.

14 Q. How long had you know James?

15 A. I'd say roughly between six and eight months.

16 Q. All right. Do you know Faye Brissey?

17 A. Yeah. She was my next door neighbor.

18 Q. And how long did you know Faye Brissey?

19 A. Probably around the same time frame, maybe a few
20 months more.

21 Q. Okay. Excuse me. You're going to have to speak up.

22 A. Oh, I'm sorry.

23 Q. This courtroom is hard to hear in, so you're going to
24 have to speak up, all right?

25 A. Just a few months more than James, maybe a year.

1 Q. Okay. All right. Did you ever know the Defendant,
2 Chris Murray?

3 A. I saw him walking down the street from far away,
4 that's the only time I've ever seen him besides today.

5 Q. Okay. Now, at some point in time did the victim,
6 James, have a conversation with Faye and also the
7 Defendant?

8 A. Yes.

9 Q. Okay. What was the answer?

10 A. Yes.

11 Q. Now, were you a part of that conversation?

12 A. Yeah. I called Faye because James wanted to get a
13 hold of them to try to find Matt.

14 Q. Okay.

15 A. And I was on the phone with Faye for a minute and then
16 James asked to get on the phone with her. And then from
17 there, they started arguing. And that's when the other
18 Chris got on the phone, and him and James started arguing.

19 Q. When you say the other Chris, do you mean Chris ---

20 A. Murray, yeah.

21 Q. Now, how long did that conversation take place?

22 A. It couldn't have been than five, eight minutes.

23 Q. Okay. Now, can you recall how long prior to January
24 18th, 2010, how long prior to that that conversation took
25 place?

1 A. It had to be like a week and a half to two weeks.

2 Q. Okay. Did you know where Faye Brissey and the
3 Defendant were at that time?

4 A. I knew that they were at her mother's house sometimes,
5 but they were all over the place. So I never really ---

6 Q. You say you didn't?

7 A. I knew that they were there sometimes, but I didn't
8 know where -- their whereabouts are at a given time.

9 Q. I guess my question is -- I'm not being clear and I
10 apologize. At the time of the conversation, did you know
11 where their location was, where they were at?

12 A. No.

13 Q. I'm sorry?

14 A. No.

15 Q. Now, you say that this was about two weeks prior to
16 the 18th?

17 A. (Affirmative nod).

18 Q. After that conversation, did you ever have a second
19 conversation with the Defendant?

20 A. Through text messaging. Because Matt told me that
21 they were angry, and I told them that it was no big deal.
22 That James was just messed up. We both were. And just a
23 -- it was no big deal. I apologized because it was my
24 phone. I was the one that talked to him.

25 Q. You apologized to the Defendant?

1 A. Well, to both of them just for -- and the response I
2 got was, it's too late now for all of that. And it's out
3 of our hands. And things of that nature. He didn't want
4 to hear the apology.

5 Q. Who told you it was too late now?

6 A. That would be Chris.

7 Q. Chris being the Defendant?

8 A. Yeah.

9 Q. How long prior to the 18th did that conversation take
10 place?

11 A. The next day after the argument.

12 Q. Now, so -- once again, about two weeks prior to the
13 incident?

14 A. Yeah.

15 Q. Okay. After the Defendant told you it was too late,
16 did you have any further contact with the Defendant?

17 A. The night of the incident.

18 Q. Okay. What happened the night of the incident?

19 A. It was around eight p.m. and he called me saying he
20 needed to talk to me. And I told him I was out of town
21 doing a job. And I told him I would be back in town the
22 next day and I would meet up with him.

23 Q. Okay. Where were you?

24 A. I was in Hamilton Mill, Georgia doing a shower
25 remodel.

1 Q. I'm sorry. What?

2 A. A shower remodel.

3 Q. And what happened during that conversation?

4 A. He just said he needed to speak with me. I already
5 felt that he was probably still agitated from before, but I
6 had every intention of going to meet up with him just to
7 get it all over with, to see what was going on. I told him
8 that I'd be in town the next afternoon late, and that I'd
9 meet up with him. And that was the end of the
10 conversation.

11 Q. Okay. Now, approximately how long did that
12 conversation between you and the Defendant last?

13 A. About five minutes.

14 Q. Okay. And so we're clear, that was on January 18th,
15 2010?

16 A. Yeah.

17 Q. You need to answer ---

18 A. Yes, yes.

19 Q. After that conversation, what, if anything, happened?

20 A. I continued to do the job, went to bed and didn't get
21 a call until about one-thirty. It was the police asking me
22 questions about what had happened.

23 Q. Okay. And did you talk to the police?

24 A. Uh-huh (affirmative).

25 Q. Yes or no?

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1 A. Yes. Sorry.

2 Q. The court reporter has to pick up everything you're
3 saying.

4 A. I'm sorry.

5 Q. She needs to know what you're saying, all right? And
6 you spoke to the officers. Did your mother call you or how
7 did that ---

8 A. I was woken up with a Sheriff on the phone.

9 Q. Who woke you up?

10 A. My dad.

11 Q. And did you, in fact, speak to the police at that
12 time?

13 A. I spoke to them a little bit. They were coming off,
14 like, really aggressively. They were saying that I was
15 like a suspect. I was the only one that hung out with him
16 basically, which made me feel real uneasy about it. And I
17 kind of had a feeling about it, but I wasn't sure. So I
18 told them I didn't really know anything at that point.
19 About ten minutes later they called me back. There was

20 another officer and he was just asking me -- he's like, I
21 really need to know anything that you have to tell me. So
22 I told them about the disagreement that they had earlier.

23 Q. So you informed the police about Faye Brissey and the
24 Defendant Chris Murray?

25 A. Yes.

1 Q. Do you remember which officer you were talking to at
2 that time?

3 A. No. No, I do not.

4 Q. When did you come back to Pickens County?

5 A. We drove back through the night and we were back by
6 morning time.

7 Q. At some point in time did you then again go and talk
8 to a detective?

9 A. Yeah. The next morning.

10 Q. Okay. And was that Detective Michael Baker that sits
11 back here?

12 A. Yes, I recognize him.

13 Q. I'm sorry?

14 A. Yes, I recognize him.

15 Q. Okay. And where did you talk to him?

16 A. In my driveway.

17 Q. At some point in time, did you give him a statement, a
18 written statement, about what you knew about Faye Brissey
19 and the Defendant?

20 A. Yes, that morning.

21 MR. RICHARDSON: Beg the Court's indulgence.

22 Thank you. That's all the questions I have. Please
23 answer any questions Defense counsel may have for you.

24 CROSS-EXAMINATION

25 BY MR. MALLARD:

1 Q. Chris, just to clarify, when you spoke with Chris on
2 the phone after your earlier conversation that James had
3 had with Chris and Faye, did you and my client resolve
4 things?

5 A. It didn't feel like it, no. It felt like he was still
6 angry.

7 Q. Did he not tell you at that point that he had no beef
8 with you ---

9 A. No, not that I remember.

10 Q. --- after the conversation?

11 A. It kind of seemed like -- the day of the incident when
12 he contacted me, it seemed like there was no problem. But
13 the day after the incident when I apologized, it seemed
14 like he was still mad and he wasn't accepting my apology.

15 Q. Thank you.

16 THE COURT: Any redirect?

17 MR. RICHARDSON: Nothing further from the State.

18 THE COURT: All right. Thank you, sir. You may
19 step down.

20 MR. RICHARDSON: The State calls Lieutenant Lane
21 Byers.

22

23 THE CLERK: Do you solemnly swear or affirm the
24 testimony you're about to give to be the truth, the whole
25 truth and nothing but the truth, so help you God?

1 MR. BYERS: I do.

2 THE CLERK: State your name for the record,
3 please.

4 MR. BYERS: Lane Byers.

5 LANE BYERS,

6 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION

8 BY MR. RICHARDSON:

9 Q. Everybody's awake.

10 A. Yeah.

11 Q. Lieutenant, where are you employed?

12 A. At the Pickens County Sheriff's Office.

13 Q. Okay. And in what capacity?

14 A. I'm the Lieutenant Detective with the Sheriff's
15 Office.

16 Q. Okay, sir. And as a Lieutenant Detective, what are
17 your duties?

18 A. We oversee the cases that are assigned. We assist
19 with the cases that are assigned and we work -- the weekend
20 duty, there's two officers that work that are
21 investigators. I'm one of those. And there's numerous
22 other jobs that goes with the investigative side.

23 Q. Okay, sir. Now, in that sense, are you the head of
24 the detectives, so to speak?

25 A. There's a captain that's over me. I've got a group.

1 We do the general investigations. Then we've got a
2 juvenile division and another division that does narcotics.
3 So it's sort of broke down. But we take care of everything
4 else from simple larceny all the way through to murders.

5 Q. Okay, sir. Now, were you working the night of January
6 the 18th?

7 A. Yes. Actually, myself and another detective was
8 working weekend duty, which was actually a three day
9 weekend. We worked Friday, Saturday and Sunday --
10 actually, Friday night, Saturday and Sunday. But this
11 being Martin Luther King Day, we also had that day as a
12 holiday and just two of us were working that day.

13 Q. Okay, sir. Now, during that day or that evening, were
14 you dispatched to ?

15 A. I was paged or texted -- they text our phones now --
16 to respond to a call to the Sheriff's Office, which I
17 called. And they said they had a possible -- they had a
18 death. And they needed CID out there, our detective
19 division, so I instructed them to call Lieutenant Robinson,
20 which they said he was already on the way, and the other
21 detective that was working with me. I told them to send
22 him on out there too.

23 Q. Okay, sir. Now, did you in fact go to

24 ?

25 A. I did.

1 Q. Okay. Did you -- just so we're clear, you mentioned
2 CID. What exactly is that?

3 A. It's Criminal Investigation Division. It's the
4 detectives.

5 Q. Okay. Now, when you got to the scene, what did you
6 see?

7 A. Well, when I got there, there were several officers in
8 the yard standing. There were some patrol cars parked
9 around. There was an ambulance there. I could see the
10 mobile home that we were looking at had the police tape
11 around the front of it there where you would go to the
12 door. And I pulled through a little spot and pulled in the
13 doorway, sort of between the mobile home of the deceased
14 and the one next door. I parked next to a red Pontiac that
15 was parked there.

16 Q. Okay, sir. Let me have you identify what's been
17 previously marked as State's Exhibit Number 9 for
18 identification purposes. Do you recognize that?

19 A. Yes, I do.

20 Q. And what is that?

21 A. That's the home that I responded to at
22 , which is within Pickens County.

23 Q. All right, sir.

24 THE COURT: Any objection to this ---

25 MR. MALLARD: No objection.

1 MR. RICHARDSON: I apologize.

2 THE COURT: What Exhibit is that?

3 MR. RICHARDSON: This is, I'm asking to move it
4 into evidence. It's State's Exhibit Number 9.

5 THE COURT: Number 9 is into evidence without
6 objection.

7 (WHEREUPON, State Exhibit Number 9 was admitted into
8 evidence.)

9 Q. Now, sir, if you could tell me, do you recognize this
10 photograph as being the incident location where James
11 Gibson was found?

12 A. Yes, I do.

13 Q. Okay. And the door that you see open, was that door
14 open when you arrived?

15 A. Yes, it was. When I got there, it was.

16 Q. Okay. And you have previously seen photos -- I'm now
17 referring to State's Exhibit Number 4. Do you recognize
18 that photo?

19 A. Yes, I do.

20 Q. Okay. Is that a view -- what's that a view of?

21 A. That's standing in the doorway that you see, the
22 entrance door from the left side of the mobile home,
23 looking into the living room area. Actually, it's sort of
24 like a living room. The kitchen is just right to the left
25 right there. It's a small kitchen area.

1 Q. Okay, sir. And do you recognize that? Was that the
2 way it was when you arrived?

3 A. Yes, it was.

4 Q. And was the body laying in that position?

5 A. Yes. When I arrived, that's what I saw.

6 Q. Okay. Upon arrival, in your viewing of the scene,
7 what, if anything, did you do at that time?

8 A. When I got there, I was briefed first by the officer
9 that was on the scene, Hoxit, Deputy Hoxit. And he give me
10 a brief of getting a call coming in. And then his
11 supervisor was there, his Sergeant was there. And I told
12 him to hang on. I stepped up to the door. I spoke with --
13 at the time, the coroner had arrived before I got there. I
14 come from Pickens and she lives in Easley, so she'd already
15 got there. So I spoke to Lieutenant Robinson and to her.
16 And actually we haven't gone into the home. They were sort
17 of standing down, waiting on us to get there, so we could
18 go in together to see what we had. We didn't want to mess
19 up any evidence that might be there.

20 Q. Okay, sir. Now, at this point in time, you have a
21 road patrol officer there?

22 A. Yes, sir.

23 Q. Why is it necessary to bring detectives out?

24 A. We start -- they take the initial call. They do the
25 initial report. They do the initial sealing the crime

1 scene, and then we come and take it from an investigative
2 stance and we go from there. Lieutenant Robinson comes
3 out, he does the ID work, which actually does the
4 fingerprints, the pictures, the -- all the identification
5 work that goes with a crime scene.

6 Q. And did you start an investigation into this crime
7 scene?

8 A. I did. When we first went in, we obviously didn't
9 know what we had. You know, you've got to just start with
10 what you've got and work out. So I went out and spoke to
11 Ms. Strickland, just trying to get a determination of what
12 she saw, trying to get some idea. And I instructed -- I'm
13 not sure if I did it right then or I did it just a few
14 minutes later, I had the supervisor to tell his officers to
15 go to each home within sight and sound of the home and see
16 if they saw or heard anything that would give us indicators
17 of what had happened. And I also spoke to the victim's
18 sister and brother-in-law there in the home next to him. I
19 went down and spoke to them. I didn't take the statements.
20 I took verbal from them. Went back up to the house to be
21 with Lieutenant Robinson so we could see what we had. And
22 I had a uniform officer to sit down with them and get a
23 written statement from each one of them after I walked
24 away.

25 Q. You stated you didn't know what you had. Ultimately,

1 did you see anything that indicated that there was foul
2 play involved?

3 A. We had, obviously, some ransacking, I thought, of the
4 home. And it's strictly in that area right there, in that
5 room area right there where this body's found. You've got
6 a sleeping bag right in that area. You've got pillows
7 laying right off the edge of that couch right there.
8 You've got some stuff moved around here. You know, you've
9 got the stuff in the floor along with the body. And it's
10 all there. But if you go back in the kitchen area, there
11 was really no -- nothing, like nothing had been torn up in
12 there. So we saw that. And then we had some blood at the
13 scene. And then we had some blood near the body, too. So
14 we was looking to see what that was.

15 Q. Okay, sir. Let me show you what's been marked as
16 State's Exhibit Number 8. Do you recognize that?

17 A. Yes, I do.

18 Q. What is that?

19 A. That's the couch. As you walk into the door, it will
20 be immediately to your right, right against that outer wall
21 right there. That's the wall where the door is. And
22 that's the wall that faces the . That's
23 the inside part of it.

24 Q. Is that the way it was when you arrived?

25 A. Yes, sir. That's what I remember seeing.

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1 Q. And there is some splotching on a pillow. What is
2 that?

3 A. That's red color that we took to be possibly blood.

4 Q. And I'll refer you to State's Exhibit 6. Is that the
5 location of the body upon your arrival?

6 A. Yes, it is.

7 Q. Did you disturb anything in the residence prior to
8 that?

9 A. No. We stood at the door prior to and looked in. I
10 think the officer had already cleared the home. So instead
11 of going in, we looked to see what we had. I went and did
12 interviews. Came back, met with Lieutenant Robinson and he
13 had been -- he had already started his ID work.

14 Q. Okay. At some point in time did you have an occasion
15 to speak to Chris Meyer who just testified?

16 A. Yes. Information gathered from family and the friends
17 that we knew there, said there was two people that knew him
18 well. One lived down the street and one lived -- they
19 called him ---

20 Q. So we're clear, there's two people that knew who well?

21 A. Knew Chris -- I mean, the deceased.

22 Q. James Gibson?

23 A. Yeah. James Gibson.

24 Q. Okay.

25 A. There was one guy down the street that knew him well,

1 supposedly, and there was a -- what they called a
2 skateboard Chris, that lived in the neighborhood across the
3 street. I went to one house and he didn't know anything,
4 so I went up to the next house and law enforcement, uniform
5 patrol, was already there and that was at Chris Meyer's
6 home up at

7 Q. Okay, sir. And when you got to Chris Meyer's home,
8 what did you do?

9 A. I spoke to Ms. Harriet Millman and she was there. And
10 I told her what I needed. And she said, let me get Chris
11 on the phone. He knows -- and we're looking for something.
12 So by the time I got to that house, we'd done determined
13 that we had a shooting. So we -- she put me on the phone
14 with Chris and I said, Chris, I need to know what you know,
15 anything you know. You know him probably as best of
16 anybody. And, you know, we've got something here we're
17 going to have work with. Somebody's come into the home and
18 we need to know this. And he ---

19 Q. So we're clear. You went to Chris Meyer's because he
20 was friends with the victim?

21 A. Yes, that's what we were there for.

22 Q. Okay.

23 A. They -- Chris said that the only thing he knew --
24 Chris Meyer said the only thing he knew that was -- there
25 had been a problem lately with James Gibson was -- the

1 victim, was that there had been an altercation between his
2 next door neighbor's boyfriend, who was a guy had just come
3 into town just a few days prior. He hadn't been here long.
4 And I don't -- to my recollection, he didn't really
5 remember his name, other than his name was Chris, also.

6 Q. Okay. Now, ultimately, did Chris Meyer give you some
7 information that led you beyond his house?

8 A. Yes. As a matter of fact, the house was pointed out
9 by Ms. Harriet and we went next door to see if we could
10 find Faye where the white car was supposed to be parked.
11 And the way -- I mean, there's street lights there and you
12 can see, but there's still dark shadowed areas. And so we
13 pulled down the hill and back around it, sort of like the
14 last house up on a hill in a cul-de-sac. So we pulled down
15 and looked to see if we could see that white car parked
16 anywhere that we'd done heard about from another neighbor
17 leaving the scene. And now she's mentioning a white car
18 and now we're starting to hear the white car. So we go
19 there to see if we can further this with the white car.

20 Q. And the white car being the car that left the scene
21 after the shooting?

22 A. Yes. The one that the lady was adamant that it was a
23 white or yellow Cavalier. And she was -- she said it was a
24 Cavalier or a Sunbird, but she said it was more likely a
25 Cavalier when we first talked to her.

1 Q. Okay. Now, at this point in time, have you put
2 anything out in regards to that car or are you just
3 looking?

4 A. We're just looking. We really don't know what to put
5 out yet. At the time that we get to Faye's home, we --
6 that's ---

7 Q. That's to Faye Brissey's?

8 A. Faye Brissey, yeah, that lives next door to Ms.
9 Millman. That's the second time we'd heard about the white
10 car and we're starting to develop now a white car and it's
11 been seen there. You know, Chris tells me that there is a
12 confrontation between a guy driving a white car and this
13 deceased victim, so we're going there.

14 Q. When you say Chris tells you that, you're referring to
15 Chris Meyer?

16 A. Chris Meyer.

17 Q. And based upon what you have at that time, what are
18 you doing as far as your investigation?

19 A. We're following a lead. It's a possible -- it's like
20 a thread. You just take that thread and you follow it
21 until you see if you can get to something. And if it falls
22 apart, then we start over and do something else. But you
23 stay with it as long as it can, especially when you can tie
24 it to the crime scene.

25 Q. Okay. And, in fact, were you and other detectives

1 riding the roads in an attempt to find this white car?

2 A. We had a BOLO in-county.

3 Q. Would you explain what a BOLO is?

4 A. Okay. I'm sorry. Be on the look-out. We tell all
5 units to be on the look-out, BOLO, for a white car, maybe a
6 Cavalier. And we've got several units out riding around,
7 looking for this white vehicle. And they're looking in the
8 neighborhoods. They're looking in the streets up in --
9 there's pull-offs in different places down through this
10 area. And it's just right off the edge of 123 between
11 and , this road is. So, you know, we're

12 looking all the way from all the way to Easley and
13 searching all that area back up toward .

14 Q. Okay, sir. And did you ever receive a call about a
15 suspicious white car?

16 A. We had a call that came in while we were there, and
17 actually both myself and the other detective left.

18 Q. When you say while you were there, ---

19 A. At the crime scene.

20 Q. Okay.

21 A. At the crime scene. We left there going to the Spinx
22 on 178 and 123, the big Spinx in , that there was a
23 -- they called in a white car sitting out in the shadows,
24 just past the -- what used to be a Dunkin Donut down there.
25 And there was a car sitting out there. There was people in

1 it, but they wasn't coming around, coming in. They was
2 just sitting back there in the dark and the clerk got
3 nervous and called. And we actually had to ask to
4 run down there to see if they could see something until we
5 could get a unit to it. And they did. But by the time
6 they got there, they said they didn't see any vehicles.

7 Q. Okay, sir. Now, this time period that you were riding
8 around and everybody's looking for this white car, is this
9 actually on January the 19th, the early morning hours?

10 A. Actually, yeah. Well, yeah. By the time I arrived at
11 the crime scene, it was almost midnight. But I got the
12 call a little after eleven-thirty, somewhere right in
13 there. So by the time you get dressed and get there, you
14 know, it's around midnight. So, yeah, everything started
15 from midnight on. We was still working actually from the
16 day before.

17 Q. Okay. Now, on this evening the 18th and the 19th, did
18 y'all ever find a white car?

19 A. No. Not the one we were looking for, no.

20 Q. Okay. And did you stay up all night that night?

21 A. Yes. And all day the next day.

22 Q. At some point in time, did you -- did y'all have
23 morning meetings?

24 A. We do.

25 Q. And is that every morning?

1 A. Yeah. At eight o'clock every morning all of the
2 detectives meet in what we call the -- our conference room.
3 And cases are assigned to each one. There's four
4 detectives that works 178 East, and three works 178 West.
5 So we assign them according to what area you're in. And we
6 pass them out that -- this morning, there was -- a lot of
7 the witnesses had got away from us during the night. There
8 was some that wasn't available except by phone that we had
9 to speak with, and we needed to get those statements
10 documented in a statement form so we would have them for
11 court purposes.

12 Q. Now, during that meeting did you instruct any of the
13 detectives to work the case and do interviews?

14 A. We sort of doled out chores on this. There were
15 certain ones that we needed to find. There was a Detective
16 Baker and a Detective Taylor who were in there. They was
17 two of the detectives that went to Easley to find some of
18 these people that we had missed and get a written statement
19 from them, to help us get that documented.

20 Q. Okay. Now, at some point in time, were arrest
21 warrants issued for the arrest of the Defendant for murder?

22 A. Yes. Later in the day on Tuesday they were issued.

23 Q. Okay. And those arrest warrants were based upon what?

24 A. Matthew Brissey came into the office for his
25 statement. We knew that Brissey lived on . We

1 knew that, through some conversation that Faye and this guy
2 she was with, which had been identified by then as Chris
3 Murray, were staying some out on . So we went --
4 the next day during the day -- now, we watched that house
5 that night just to make sure that there wasn't a white car
6 there. We couldn't find one there. So during the day we
7 go there. I didn't go, but these -- Detective Baker and
8 Taylor was two of the ones that went there. And they
9 interviewed him there and then he came to the office and
10 gave a statement there at the office. And based on that
11 and some other findings that we had, we used that
12 information to present to a Judge for a warrant.

13 Q. Okay. And at some point in time did you interview
14 Donnie Brissey?

15 A. Yes.

16 Q. And did you get any of the information about Chris
17 Murray from him?

18 A. Donnie is Faye's father. That's the house we went to
19 after we left the -- Harriet's house. I met him there. He
20 had some mail that he said -- he knew him as Christopher.
21 He said here's some mail. That's all we got. And it had
22 Christopher R. Murray on it and it had a Manning, South
23 Carolina address on that address to him there. He said,
24 that's his mail.

25 Q. Okay.

1 A. So we started pulling up pictures and stuff at that
2 time of this person that we could find.

3 Q. And did you also receive a cell number, a cell
4 telephone number?

5 A. I got a cell number from him. I don't think it was --
6 it was partially correct. He was trying to work off of
7 memory, but he gave me a cell number that was partially
8 correct.

9 Q. Now, at some point in time the investigation leads to
10 Aiken. Is that correct?

11 A. Yes.

12 Q. And did you personally ever go to Aiken?

13 A. No. I never -- as a matter of fact, from the point
14 that -- that's pretty much where I got with it from that
15 day. From that time on, other officers sort of stepped up
16 and took it from there.

17 Q. Okay. And that being these Detectives who are sitting
18 back here?

19 A. Yes. They were assigned to go to Aiken.

20 Q. Thank you, sir. That's all the questions I have.
21 Please answer any questions Defense counsel may have for
22 you.

23 A. Yes, sir.

24 THE COURT: You may cross-examine the witness.

25 MR. MALLARD: No, Your Honor.

1 THE COURT: No questions. Thank you, sir. You
2 may step down Detective Byers.

3 MR. RICHARDSON: The State calls Lieutenant Tony
4 Robinson to the stand.

5 THE CLERK: Do you solemnly swear or affirm the
6 testimony you're about to give to be the truth, the whole
7 truth and nothing but the truth, so help you God?

8 MR. ROBINSON: I do.

9 THE CLERK: State your name for the record,
10 please.

11 MR. ROBINSON: Tony Dale Robinson.

12 TONY ROBINSON,

13 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION

15 BY MR. RICHARDSON:

16 Q. Lieutenant, you're employed with the Pickens County
17 Sheriff's Office. Is that right?

18 A. I am.

19 Q. In what capacity?

20 A. I'm a Lieutenant over ID Division, which is also known
21 as the Crime Scene Unit.

22 Q. And can you explain what ID Crime Scene Unit does?

23 A. We're the people who go out to crime scenes and
24 collect evidence, take photographs.

25 Q. How long have you been doing that?

1 A. Twenty-one years.

2 Q. Now, back on -- are you pretty much always on call?

3 Is that the way it works?

4 A. There's three of us in my division but that was my
5 weekend, just as it was Lieutenant Byers. I was on call
6 through the long weekend, the holiday weekend.

7 Q. Okay. So you were working on January 18th, 2010. Is
8 that right?

9 A. I had worked that day and was on call that evening.

10 Q. Okay. And, in fact, did you get a call and were you
11 dispatched to a location?

12 A. I did.

13 Q. Okay. And do you recall the address of that location?

14 A. in .

15 Q. And is that in Pickens County?

16 A. It is.

17 Q. When you arrived at the scene, were there other
18 officers there?

19 A. There were several officers on the scene.

20 Q. Okay. Did you see Lieutenant Byers?

21 A. Lieutenant Byers had not arrived yet.

22 Q. Okay. Did he ultimately arrive later on?

23 A. A few minutes later, yes.

24 Q. Okay. Just kind of explain to the jury, when you
25 arrive at what you believe to be a crime scene, what's the

1 first thing that you do?

2 A. The first thing I do is meet with the officers who
3 have initially responded and find out what kind of call
4 they responded to. When I arrived at this scene, they had
5 already stretched some crime scene tape around the mobile
6 home and they were all standing outside waiting on our
7 arrival.

8 Q. Okay, sir. And what's the purpose of the crime scene
9 tape?

10 A. It just helps to keep people away from the scene.
11 It's just kind of a border saying, don't go past this
12 point. That this is a scene that we're securing and we
13 don't want anyone to go any further.

14 Q. Okay, sir. And subsequent to that, what do you do?

15 A. After I spoke with them, I then walked up into the
16 scene and walked up to the door, the front door of the
17 mobile home and looked in to see what we had.

18 Q. Okay, sir. And I'll refer you to what's been marked
19 as State's Exhibit 6. Is that an accurate depiction of
20 what you saw upon your arrival?

21 A. Yes. I took that photograph, and that's basically
22 from the front door area, looking into the living room.

23 Q. Okay. And then so we're clear for the jury, these
24 photographs that have been entered into evidence so far,
25 are these photographs that you took?

1 A. Yes, they are.

2 Q. Okay, sir. Now, when you arrived did you know there
3 was a gunshot situation?

4 A. I did not.

5 Q. Okay. How did you find that out?

6 A. After photographing the scene, it wasn't until I went
7 in and went in with the coroner that we started examining
8 the body that we located the gunshot wound.

9 Q. Okay, sir. And what was the reason then when you
10 initially arrived that you did not see -- know that it was
11 a gunshot wound?

12 A. Due to the position of the shirt. There was a lot of
13 blood. But the position of the shirt, we didn't see any
14 obvious gunshot wound at that time. We just knew we had a
15 scene with a lot of blood and that could come -- there are
16 several different reasons that could be there. So we
17 didn't assume anything.

18 Q. Okay, sir. Let me hand you what's been previously
19 marked as State's Exhibit Number 7 for identification
20 purposes. Do you recognize that?

21 A. I do.

22 Q. What is that?

23 A. That is a photograph -- a close-up photograph of a
24 gunshot wound to Mr. Gibson's chest.

25 Q. Did you take that picture?

1 A. I believe I did. Yes, I did.

2 Q. Does it accurately depict what you viewed at the time
3 this picture was taken?

4 A. It does.

5 MR. RICHARDSON: At this time, Your Honor, I've
6 shown this to Defense counsel. I move that State's Exhibit
7 Number 7 for identification purposes be moved into
8 evidence.

9 THE COURT: Any objection to Exhibit 7?

10 MR. MALLARD: No objection, Your Honor.

11 THE COURT: Without objection, Exhibit 7 is
12 admitted into evidence.

13 (WHEREUPON, State Exhibit Number 7 was admitted into
14 evidence.)

15 Q. That picture, where is the location of that wound?

16 A. The chest area.

17 Q. Okay, sir. Again, referring to State's Exhibit Number
18 6, with -- if you could get the laser pointer. Can you
19 show the jury where on his body approximately that that
20 picture was taken?

21 A. Approximately in this area here.

22 Q. Okay, sir. Now, another duty of yours is to gather
23 any physical evidence that's at the scene. Is that
24 correct?

25 A. That's correct.

1 Q. Did you gather any physical evidence at this ---

2 A. I did.

3 Q. Let me hand you what's previously been marked as
4 State's Exhibit 12, 13, and 14 for identification purposes.
5 Can you identify these photographs?

6 A. Yes, I can.

7 Q. Did you take those photographs?

8 A. I did.

9 Q. What are those photographs of?

10 A. These are close-up photographs -- once I discovered
11 the gunshot wound in his chest, then I started
12 concentrating more on looking for evidence of a shooting.
13 And it was at this point we started finding things on the
14 floor that would indicate a shooting had occurred.

15 Q. Okay, sir.

16 MR. RICHARDSON: Your Honor, I have shown
17 Exhibits 12, 13, and 14 for identification purposes to
18 Defense counsel. I now move that those be placed into
19 evidence.

20 THE COURT: Any objection?

21 MR. MALLARD: No, Your Honor.

22 THE COURT: Without objection, Exhibits 12, 13,
23 and 14 are admitted into evidence.

24 (WHEREUPON, State Exhibit Numbers 12, 13, and 14 are
25 admitted into evidence.)

1 Q. Sir, in reference to Exhibit, State's Exhibit Number
2 12, what is that picture showing?

3 A. That is a picture of a live round of 380 ammunition,
4 which was on the floor near the victim's foot.

5 Q. Okay, sir. If you could take that laser pointer so
6 the jury can see directly what you're referring to.

7 A. Right there.

8 Q. When you say a live round of ammunition, what exactly
9 do you mean?

10 A. That is a round that has not been fired. It is a live
11 bullet.

12 Q. Okay, sir. And what is the purpose of the placement
13 card that has a one right there?

14 A. When I collect evidence, every piece of evidence gets
15 an evidence number, and that is evidence -- that was the
16 first evidence item that I found to collect, so I labeled
17 it number one. And that corresponds with my evidence
18 record sheet, where I write down all my evidence.

19 Q. Okay. That's the number that you assigned it when you
20 put it into evidence?

21 A. That's correct.

22 Q. In reference to State's Exhibit 13, what is that?

23 A. That is item number two. That is a spent 380 shell
24 casing. That means the bullet had been fired out of it and
25 that is the piece of brass, the brass casing that housed

1 the bullet.

2 Q. Okay. To just explain a little bit more, in an
3 automatic weapon how does that -- you're familiar with
4 automatic weapons?

5 A. I am.

6 Q. How does that work, exactly, after a shot is fired?

7 A. When a shot is fired, the pistol cycles and ejects
8 this spent shell casing so that another bullet can feed
9 into the chamber to be ready to be fired.

10 Q. Can also an unspent, an unfired bullet be ejected from
11 a automatic weapon?

12 A. Not unless you fire the weapon. You'd have to do it
13 by hand. It'd have to manually be ejected.

14 Q. That's what I'm asking you.

15 A. Yes. You can eject it, but you would manually do that
16 instead of firing the weapon.

17 Q. Referring to State's Exhibit 14, what is that?

18 A. That is another, a second spent shell casing that I
19 found on the scene.

20 Q. All right, sir. And if you could just take the
21 pointer and point exactly where that is? And would that be
22 item number three?

23 A. That's item number 3. Yes, it is.

24 Q. Now, these three items you've gathered into evidence,
25 what did you do with them?

1 A. Secured them in the evidence room. I carried them
2 back to the Sheriff's Office and secured them in our
3 evidence room.

4 Q. Okay. And at some point in time, did you transport
5 those items to another location?

6 A. All evidence -- all the evidence that needed forensic
7 analysis was transported to Columbia to the SLED Forensic
8 Lab.

9 Q. Okay. And when you do that, did you take it down to
10 Columbia?

11 A. I did.

12 Q. Okay. And when you drop it off at SLED, do you denote
13 that ---

14 A. Yes.

15 Q. --- on the evidence form?

16 A. Yes, I do.

17 Q. After forensics is done with these items, what happens
18 to them?

19 A. After they're finished, they package them and send
20 them -- and we pick them back up from the forensic lab.

21 Q. Okay, sir. And did you, in fact, pick these items
22 back up?

23 A. I did.

24 Q. Okay. Do you have those items with you today?

25 A. I do.

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1 Q. Can you please remove them?

2 A. I can.

3 Q. Thank you, sir. Let me hand you what has been --
4 well, let me just ask you, can you identify this?

5 A. I can.

6 Q. What is that?

7 A. That is item one, the live 380 round.

8 Q. That is shown on the picture?

9 A. It is.

10 MR. RICHARDSON: Your Honor, at this time I would
11 move that the item just described be placed into evidence
12 as the next exhibit. I've shown it to counsel.

13 THE COURT: Have you got more marked? Exhibit 15
14 or 17?

15 MADAM COURT REPORTER: It will be 46.

16 THE COURT: Any objection to this exhibit being
17 admitted into evidence?

18 MR. MALLARD: Just a second, Your Honor.

19 THE COURT: Are you going to introduce all three
20 of them? Why don't you just show them all to him right
21 now.

22 MR. MALLARD: No objection, Your Honor.

23 MR. RICHARDSON: Your Honor, in addition to that,
24 I'm introducing two other items of spent shells that will
25 be State's Exhibit 47 and 48. I've shown them to counsel.

1 THE COURT: All right. Any objection to any of
2 these Exhibits?

3 MR. MALLARD: No, Your Honor.

4 THE COURT: All right. Without objection then,
5 46, 47, and 48 admitted into evidence.

6 (WHEREUPON, State Exhibit Numbers 46, 47, and 48 were
7 marked and admitted into evidence.)

8 Q. Okay. Officer, if you could -- there are certain
9 markings on that packaging. Is that correct?

10 A. Yes.

11 Q. And are there initials on that packaging?

12 A. Yes, there are. Mine.

13 Q. And why do you put your initials on that packaging?

14 A. That's just so that I can identify it when I come to
15 Court later, that this is the item that I collected at that
16 scene.

17 Q. Okay. Referring to State's Exhibit 47, 48, and also
18 46, I hand you those items. Was that done on each and
19 every one of those items?

20 A. Yes, it was.

21 Q. Okay. Are those the rounds, the live round and also
22 the spent rounds that you obtained from the crime scene?

23 A. They are.

24 Q. Okay. Are those also the ones that you delivered to
25 SLED?

1 A. They are.

2 Q. Was any other physical evidence obtained by you at the
3 crime scene?

4 A. Yes, there was.

5 Q. What was that?

6 A. On a shooting situation we do gunshot residue on the
7 victim. In this case, it's standard procedure. So I did
8 the gunshot residue test on Mr. Gibson's hands. I
9 collected a knife with a black handle that was laying on
10 the floor near the body. I collected a glass pipe, a
11 hemostat or forceps, a metal pipe. Both pipes are smoking
12 type pipes is what I'm referring to. And later in the day
13 I went back and collected a blue knit type hat.

14 Q. Now, at some point in time, did you take pictures of
15 entry and exit places of bullets within the residence?

16 A. I did.

17 Q. Let me show you what's previously been marked as
18 State's Exhibit 11 for identification purposes. Can you
19 identify that?

20 A. Yes, I can.

21 Q. And what is that?

22 A. That's a photograph I took of a hole in the wall in
23 the corner of the residence.

24 Q. Okay, sir. And let me have you identify what's been
25 previously marked as State's Exhibit 17. What is that?

1 A. That's a picture that was taken at the residence a few
2 days later. Another projectile or bullet was found in the
3 floor that I did not find that night. And it was found
4 after the family had gone in and removed the couch and they
5 had removed the carpet. And they called me to tell me they
6 found what they believe may be another bullet hole in the
7 floor.

8 Q. Okay, sir. And can you identify, also, what's been
9 marked as State's Exhibit 15?

10 A. That's a closeup picture of the hole in the floor that
11 the family found. And I went in and determined that there
12 was a projectile in that hole.

13 Q. Okay. And State's Exhibit, for identification
14 purposes only, 16?

15 A. That's the projectile that I dug out of that hole in
16 the floor, yes, sir.

17 MR. RICHARDSON: Your Honor, I've shown State's
18 Exhibit Number 11, 15, 16 and 17 to Defense counsel, which
19 were all marked previously for identification purposes. At
20 this time, I would move them into evidence.

21 THE COURT: Any objection?

22 MR. MALLARD: No objection.

23 THE COURT: Without objection, Exhibit 11, 15, 16
24 and 17 are admitted into evidence.

25 (WHEREUPON, State Exhibit Numbers 11, 15, 16 and 17

1 were admitted into evidence.)

2 Q. Lieutenant, I'm referring to State's Exhibit 16. If
3 you could just tell the jury what that is exactly?

4 A. That's the projectile that I dug out of the floor.

5 Q. Okay, sir. And what is that above that projectile?

6 A. Here?

7 Q. Yes.

8 A. That's the hole where the projectile was found.

9 Q. Okay. And what's the purpose of the ruler?

10 A. I usually put a scale, just to help with size later to
11 show what size something is. That's something I carry with
12 me.

13 Q. Okay, sir. And to better explain, you refer to this
14 as a projectile. Exactly what is it?

15 A. It's a bullet. It's a bullet.

16 Q. Is it a fired bullet?

17 A. It is a fired bullet, yes.

18 Q. I'm referring to what's been marked as State's Exhibit
19 15. What is that?

20 A. That's what the hole looked like when I got there that
21 day, and that's what the family had found. They found that
22 hole in the floor and it did look like a hole that would
23 come from a gunshot.

24 Q. Okay. Is that the same hole that is -- now I'm
25 referring to State's Exhibit 16? Is that the same hole?

1 A. It's the same hole. I had to open it up a bit to get
2 the bullet out.

3 Q. Okay. Sir, I'm referring to State's Exhibit 17. What
4 does that show?

5 A. That's a picture looking in the front door of the
6 mobile home. And if you compared that picture to the
7 pictures from the crime scene the night of the crime, you'd
8 see that this is looking in the front door. There's that
9 scale right there on the floor that you saw in that
10 previous photograph, and that hole is right there, right
11 there in front of that fan. So if you compared that
12 photograph to the previous ones from the night of the
13 incident, you'd see that there was a couch right here that
14 has been moved.

15 Q. Now I'm referring to State's Exhibit 11. What is
16 that?

17 A. That's a hole in the wall that we found the night of
18 the scene, that we were initially investigating the crime
19 scene. And it looked to me like a bullet hole through the
20 wall. And that's in the corner of the living room. And
21 that hole goes all the way through and out. So that bullet
22 went through the trailer wall and out.

23 Q. Were you able to obtain a fired bullet from that
24 location?

25 A. No.

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1 Q. What is the purpose of the stick that is sticking out?

2 A. That's a dowel rod that I use to try to determine
3 where the -- to try to get it close to figuring out where
4 that bullet came from, where it was fired from.

5 Q. Now, as far as this location in Pickens County, was
6 that the extent of your investigation?

7 A. Yes.

8 Q. Okay. And at some point in time were you called to
9 another location in regards to this case? Were you called
10 to Aiken?

11 A. I went to Aiken a couple of days later.

12 Q. And at that time, did you obtain further evidence?

13 A. That's where the car was located. And I photographed
14 the car, the white car at that location.

15 MR. RICHARDSON: Your Honor, at this time I would
16 ask -- I would turn Lieutenant Robinson over for
17 questioning by Defense Counsel, but I would ask to be
18 allowed to recall him at a later time.

19 THE COURT: For what purpose?

20 MR. RICHARDSON: Your Honor, there's going to be
21 further investigation in Aiken and that's what I'll be
22 going into there.

23 THE COURT: All right. Any cross-examination
24 now?

25 MR. MALLARD: Just briefly, Your Honor.

1 **CROSS-EXAMINATION**

2 **BY MR. MALLARD:**

3 Q. Sir, so this bullet hole is right near the ceiling
4 then?

5 A. It is.

6 Q. And can you summarize how many -- how many bullet
7 holes did you find?

8 A. There was one in Mr. Gibson's body.

9 Q. Uh-huh (affirmative).

10 A. And there was one in the wall. That's what we found
11 the night of the initial investigation.

12 Q. Uh-huh (affirmative).

13 A. The third hole wasn't found -- the one in the floor
14 wasn't found until a few days later.

15 Q. And this is the one that you described was in the
16 wall?

17 A. That's the one through the wall, yes.

18 Q. That you were just saying. So, the bullets then are
19 sort of diversionary, one way up here, one on the floor,
20 one in his body?

21 A. Yes.

22 MR. MALLARD: No further questions.

23 MR. RICHARDSON: Just briefly.

24 **REDIRECT EXAMINATION**

25 **BY MR. RICHARDSON:**

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1 Q. In regards to that, were you able to ascertain how
2 many shots were fired from your investigation?

3 A. I knew of two for sure because I had two spent shells
4 on the scene. And at that time, we had one through the
5 wall and one in the body. So at that time, I only -- the
6 night of the incident I knew we had two for sure.

7 Q. And so if there were three shots, there would be three
8 spent shells?

9 A. Yes.

10 Q. Did you find a third spent shell?

11 A. I did not find a third spent shell ever.

12 Q. Okay. Could you ascertain the location of where the
13 shooting took place from?

14 A. Everything -- that dowel rod is point back toward the
15 front door. And as you saw in that picture, looking
16 straight in the front door, that bullet hole in the floor
17 was straight in from the front door. So I know those two
18 shots came in from the front door. So I had a total of
19 three shots, but I only found two spent shell casings. I
20 don't know what happened to that third shell casing.

21 Q. Okay. And so that we explain it, an automatic weapon
22 when it ejects a shell, how does it do that?

23 A. It's basically a spring-loaded clip in the magazine
24 and the gun cycles and when it cycles back, when you fire
25 it, the recoil of the slide, what we call it, cycles back

1 and a shell comes out. The slide then falls forward and
2 another bullet from the clip is inserted into the chamber
3 and ready to be fired.

4 Q. And does the gun drop the shell out or does it kick it
5 out?

6 A. It kicks it out several feet.

7 Q. Okay. That's all the questions I have. Thank you.

8 MR. RICHARDSON: At this time I will ask ---

9 THE COURT: All right. Thank you, Mr. Robinson.
10 You may step down.

11 MR. RICHARDSON: The State calls Jack Kuykendall.

12 THE CLERK: Place your left hand on the bible and
13 raise your right hand on the bible. Do you solemnly swear
14 or affirm the testimony you're about to give to be the
15 truth, the whole truth and nothing but the truth, so help
16 you God?

17 MR. KUYKENDALL: I do.

18 THE CLERK: State your name for the record.

19 MR. KUYKENDALL: My name is Jack Kuykendall.

20 **JACK KUYKENDALL,**

21 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

22 **DIRECT EXAMINATION**

23 **BY MR. RICHARDSON:**

24 Q. Sir, how old are you?

25 A. I'm twenty-six.

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- 1 Q. And where do you live?
- 2 A. in .
- 3 Q. Okay, sir. And are you presently married?
- 4 A. I am married but separated.
- 5 Q. Okay, sir. And do you have any children?
- 6 A. No, sir.
- 7 Q. And do you work?
- 8 A. Yes, sir.
- 9 Q. Where do you work?
- 10 A. I work for Harry's Renovation and Landscaping.
- 11 Q. Now, do you know the Defendant, Chris Murray?
- 12 A. Yes, sir.
- 13 Q. How do you know him?
- 14 A. I met him at a motel one night when I was staying
- 15 there. He come to our motel wanting a ride to the store.
- 16 And then we swapped numbers and then we started talking on
- 17 the phone and stuff.
- 18 Q. How long?
- 19 A. Just a couple of months before this incident.
- 20 Q. Now, did you ever know the Defendant to carry a gun?
- 21 A. Yes, sir.
- 22 Q. What kind of gun was it?
- 23 A. A 380.
- 24 Q. Okay. Do you know what kind -- what type of gun?
- 25 A. No, sir.

1 Q. Did you ever see that gun?

2 A. Yes, sir.

3 Q. I'm going to refer you to what's been marked as
4 State's Exhibit Number 23. Do you recognize that?

5 A. Yes, sir.

6 Q. What is that?

7 A. It's a 380.

8 Q. Is that the gun that the Defendant showed you?

9 A. Yes, sir.

10 Q. Did you ever actually handle that gun?

11 A. Yes, sir.

12 Q. Okay. When was that?

13 A. That was about two or three o'clock that afternoon of
14 the 18th of January.

15 Q. The 18th of 2010?

16 A. Yes, sir.

17 Q. Did you ever fire that gun?

18 A. No, sir.

19 Q. Did you ever view the Defendant fire that gun?

20 A. No, sir.

21 Q. Why did he show you the gun?

22 A. We met up at Plez-U and we was just talking and
23 everything. He was kind of like ---

24 Q. Plez-U, so we're clear, which Plez-U was that?

25 A. In Easley right there close to

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- 1 Q. Okay. You met up with him at the Plez-U?
- 2 A. Yes, sir.
- 3 Q. What happened then?
- 4 A. We was just talking and he was kind of happy about it
- 5 and so he pulled it out of the console and showed me. And
- 6 I was checking it out at that time.
- 7 Q. When you say he pulled it out of the console, what
- 8 kind of car was he driving?
- 9 A. It was that white car.
- 10 Q. Okay. I'm going to refer you to what's been marked as
- 11 State's Exhibit Number 28. Do you recognize that?
- 12 A. Yes, sir.
- 13 Q. What is that?
- 14 A. That's the car he was driving when I went up to meet
- 15 him and Faye.
- 16 Q. Did you also know Faye Brissey?
- 17 A. I met them at the same time.
- 18 Q. Were they boyfriend and girlfriend or do you know?
- 19 A. Yes, sir.
- 20 Q. What time -- approximately what time of day was it
- 21 that you first were shown that gun on the 18th?
- 22 A. It was around two or three o'clock in the afternoon.
- 23 Q. And at some point in time, did y'all leave the Plez-U?
- 24 A. Yes, sir.
- 25 Q. And where did you go?

1 A. I followed them to to go by, I guess it
2 was Faye's mother's house. And then he asked if I would
3 follow him to to drop the car off because he was
4 -- they was going to ride with me.

5 Q. Okay, sir. Now, so we're clear, , is that
6 ?

7 A. It's off of . It's a trailer park off
8 of

9 Q. And did you know James Gibson?

10 A. I did not know James.

11 Q. Now, who was -- which car were you in at that
12 particular time?

13 A. When I met them, I was in my car and he was in his.
14 And then I followed him to and dropped his car off.
15 Then we was in my Jeep Cherokee.

16 Q. Okay. And do you know was that the residence that
17 Matt Brissey lived in?

18 A. I'm not sure.

19 Q. Okay. But it was ?

20 A.

21 Q. All right. Where did you go from

22 A. They rode with me because I was going to go get my
23 stuff because that's the day me and my wife separated. And
24 I dropped them off at Dollar General, and I kept the gun
25 with me just because there was some threats the night

1 before. And ---

2 Q. Now, when you say that, you're referring to ---

3 A. To my wife.

4 Q. --- problems between you and your wife?

5 A. Yes, sir.

6 Q. Okay.

7 A. And I got my stuff. Didn't have no problems. So I
8 went back and picked them up.

9 Q. I need for you to speak up a just a little bit. I'm
10 having a hard time hearing you. And I'm sure ---

11 A. I dropped them off at Dollar General and I carried the
12 gun ---

13 Q. When you say them, you're referring to who?

14 A. Faye and Chris.

15 Q. Okay. Chris Murray, the Defendant?

16 A. Yes, sir.

17 Q. Okay. You dropped them off at Dollar General, okay.

18 A. And then I went to the house, got my stuff from my
19 wife and everything. She didn't give me no trouble, so I
20 went and picked them back up immediately.

21 Q. Okay. And where did you pick them back up?

22 A. Dollar General.

23 Q. All right. Where did y'all go then?

24 A. Then the woman that my wife was with, I dropped her

25 off. So we to so I could give her a ride back to

1 the house, referring to my wife.

2 Q. All right. And was the Defendant with you at that
3 time?

4 A. Yes, sir.

5 Q. Where's the gun?

6 A. It was still in my possession.

7 Q. Okay. Now, and where exactly was it?

8 A. It was in the back.

9 Q. Okay. The back seat or ---

10 A. Yes, sir.

11 Q. What kind of car were you driving?

12 A. A Jeep Cherokee.

13 Q. Was it in the back seat or in the very, very back?

14 A. It was tucked in behind the back seat.

15 Q. Okay, sir. Now, at that point in time, where did you
16 go?

17 A. Before I picked my wife up, I grabbed the gun out
18 because I knew she was going to be sitting back there and I
19 put it underneath my seat.

20 Q. Okay.

21 A. And then I dropped her off at her house. And then
22 that's when I told her I'll be back and I was going to take
23 them home.

24 Q. When you say them, once again, who are you talking
25 about?

- 1 A. Chris and Faye.
- 2 Q. Okay. And home where?
- 3 A. I dropped her off in Norris at her residence.
- 4 Q. Okay. And did the Defendant get out in Norris?
- 5 A. No, sir.
- 6 Q. Did he stay with you?
- 7 A. Yes, sir.
- 8 Q. Okay. Where did y'all go at this point in time?
- 9 A. Then I took them to, them as Chris and Faye, took them
- 10 back to and dropped them off.
- 11 Q. All right. Well, I'm a little confused, okay? You
- 12 went to drop Faye Brissey off?
- 13 A. No, my wife at first.
- 14 Q. I see, okay.
- 15 A. And then after I dropped her off, then I took Chris
- 16 and Faye back to .
- 17 Q. Okay. Now, at that point in time, did you actually
- 18 drop them off at ?
- 19 A. Yes, sir.
- 20 Q. Okay. And was that the last time you saw them or did
- 21 you see them again?
- 22 A. That was the last time I seen them.
- 23 Q. Okay. Now, during your travels did you have a
- 24 conversation with the Defendant?
- 25 A. Yes, sir.

1 Q. Well, let me ask you this. When you got back to
2 , what happened to the gun?

3 A. I gave it back to him.

4 Q. Gave it back to Chris?

5 A. Chris, yes, sir.

6 Q. Okay. Now prior to that when you're driving around,
7 did you have a conversation with him?

8 A. Yes, sir.

9 Q. Did you have a conversation about robbing somebody?

10 A. Yes, sir.

11 Q. What did he say to you?

12 A. He asked me if I knew anybody we could hit, referring
13 to robbing them. And I told him no.

14 Q. Okay. You took hit to mean robbery?

15 A. Yes, sir.

16 Q. All right. Now, after you said no, was there any
17 further conversation at that time between you?

18 A. He was explaining to me how Faye and James got into an
19 argument and James ---

20 Q. James who? James Gibson?

21 A. Yes, sir.

22 Q. Okay.

23 A. And said that he got on the phone and got hyped-up
24 with them and started fussing with them. And he said he
25 was going to deal with that later. I thought like fist

- 1 fighting was what he was talking about.
- 2 Q. Okay. And was that before or after he was asking you
- 3 did you know somebody he could rob?
- 4 A. That was before.
- 5 Q. Okay. After he said, do you know anybody we could
- 6 rob, did you ultimately drop him off at ?
- 7 A. Yes, sir.
- 8 Q. Now, subsequently, later, did you receive a text
- 9 message?
- 10 A. Yes, sir.
- 11 Q. And who was that from?
- 12 A. Chris Murray.
- 13 Q. And do you recall about what time you received that
- 14 text message?
- 15 A. It was between about ten-thirty, ten forty-five.
- 16 Q. Okay. And do you recall what that text message said
- 17 to you from Chris Murray?
- 18 A. He said he knew a house that we could go hit if I'd
- 19 come with him.
- 20 Q. Okay. And what did you take was hit?
- 21 A. As to go rob somebody.
- 22 Q. Okay. What was your response to that text message?
- 23 A. I told him it was late, I had to work the next
- 24 morning, so I was going to sleep.
- 25 Q. So did you go with him?

1 A. No, sir.

2 Q. What happened to the text message?

3 A. I didn't respond back to him. I went to sleep and the
4 next morning there was a couple left on the phone saying I
5 need money because -- before I get arrested.

6 Q. Okay. And that was -- who was that text message from?

7 A. That was from Chris Murray.

8 Q. And those text messages that said, I need money before
9 I get arrested, when did you receive those? When did you
10 actually ---

11 A. It was around, I think, twelve-thirty that night.

12 Q. Did you save those text messages?

13 A. No, sir.

14 MR. RICHARDSON: I beg the Court's indulgence.

15 Q. Did the Defendant ever tell you where the house was
16 that he was going to go in? That he was going to hit?

17 A. Yes, when we was driving by when they got in -- Faye
18 and Chris got in the car with me, he'd pointed out the
19 house that James lived in, James Gibson.

20 Q. That's the one, ?

21 A. Yes, sir.

22 Q. Thank you. That's all the questions I have. Please
23 answer any questions Defense Counsel may have.

24 MR. MALLARD: Can I have just a second, Your
25 Honor?

CROSS-EXAMINATION

1

2 **BY MR. MALLARD:**

3 Q. Just to clarify. So earlier that day or that evening
4 on the 18th, you had dropped Chris off with his girlfriend
5 at the Dollar General and you had borrowed the gun just
6 because you needed to pick up some stuff from your house
7 where you'd recently separated from your wife?

8 A. Yes, sir.

9 Q. So you just took the gun there? Did you show it? Was
10 it just for protection or what?

11 A. I just took it for protection because there was some
12 threats the night before, and so I just -- he wouldn't let
13 me just go by myself with the gun completely all the way.
14 So he rode to close to the residence. And then I dropped
15 him off and then went and picked him back up.

16 Q. Okay. Now, when -- after Dollar General, you said you
17 took the gun and you dropped -- did you say that you
18 dropped off -- he and Faye off at ?

19 A. Yes, sir.

20 Q. Okay. Was this -- this was in the neighborhood of
21 James' house or ---

22 A. It was up the street from James' house.

23 Q. Up the street from James' house. And you dropped them
24 both off?

25 A. Yes, sir.

1 Q. About what time was that?

2 A. If I'm not mistaken, it was around six-thirty or
3 seven.

4 Q. Okay. So at that time, Faye was awake?

5 A. Sir?

6 Q. Faye was awake?

7 A. Yes, sir.

8 Q. She was not sleeping in your car or ---

9 A. No, sir.

10 Q. Were you in the courtroom when Matt Brissey testified?

11 A. Yes, sir.

12 Q. So when you were -- when you dropped Chris off, you
13 dropped off Faye with Chris?

14 A. Yes, sir.

15 Q. Okay. Thank you.

16 A. Thank you.

17 MR. RICHARDSON: Nothing further, Your Honor.

18 THE COURT: All right. Thank you. You may step
19 down, sir.

20 MR. RICHARDSON: Your Honor, may we approach?

21 THE COURT: Yes, sir.

22 (WHEREUPON, Mr. Richardson, Mr. Cleveland and Mr.
23 Murray approached the bar.)

24 THE COURT: Mr. Foreman, ladies and gentlemen, we
25 try to be cognizant of your time and I've talked briefly

1 with the attorneys. There are some matters that we need to
2 take care of real briefly, but I'm afraid by the time we
3 get that taken care of and then get ready to call the next
4 witness it might run a little later today than we need to,
5 so we'll break a little early this afternoon. I'll let you
6 go home for the evening. If you would be back at nine
7 o'clock in the morning, we'll be ready to start the case
8 with more testimony then.

9 Let me remind you again, ladies and gentlemen, what
10 I've told you before it bears repeating. You're not to
11 review any matters relating to this, not talk to anyone
12 about the case, not to listen to any media reports or read
13 anything. You've made a high commitment, one of the
14 highest commitments you can ever make to these parties to
15 make a decision based on what takes place in this courtroom
16 and that alone. So I remind you again not to do any kind
17 of independent research or do any kind of investigation.
18 That would be improper. That would be against your oath
19 and against the Order of the Court, of the Chief Justice of
20 our Supreme Court, and my order.

21 Have a good evening. We'll be ready to start back at
22 nine o'clock in the morning. I'll see you then, ladies and
23 gentlemen.

24 (WHEREUPON, the jury exited the open court at
25 approximately 4:38 p.m.)

1 THE COURT: We need to leave a message for our
2 other jurors.

3 Solicitor, do you believe that there will be testimony
4 all day tomorrow?

5 MR. RICHARDSON: Yes, sir.

6 THE COURT: Okay.

7 MR. RICHARDSON: I believe I will finish my case
8 tomorrow.

9 THE COURT: Okay. So we'll have the jury call
10 back sometime tomorrow afternoon to see if things are still
11 going on.

12 The other matters -- I understand from our Thursday
13 hearing on the *Jackson v. Denno* and other matters, that
14 there might be some discussions between the parties about
15 expediting the playing of the videos. And, obviously,
16 y'all can make that decision on behalf of your individual
17 clients as to whether you want everything played or any
18 part of it that you can agree to, but certainly give you an
19 opportunity this afternoon to review any testimony that
20 comes by way of the statements.

21 We'll be ready to start back at nine o'clock in the
22 morning. Is there anything else we need to take care of
23 while the jury's out today? Anything from the State?

24 MR. RICHARDSON: Nothing from the State.

25 THE COURT: From the Defense?

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1 MR. MALLARD: No, Your Honor.

2 THE COURT: All right. We'll be ready to start
3 back at nine o'clock in the morning. Y'all have a good
4 evening.

5 (WHEREUPON, the court stood at recess for the day.)

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7 (WHEREUPON, State Exhibit Numbers 49 and 50 were
8 marked for identification.)

9 THE COURT: All right. Is there any matters we
10 need to take care of from either of the attorneys before we
11 work on the jury issue? Anything from the State?

12 MR. RICHARDSON: Nothing from the State. I think
13 we've resolved -- just on the record, Your Honor, ---

14 THE COURT: Yes, sir.

15 MR. RICHARDSON: --- we had a conference in your
16 office. There was a redacted portion of a video that Mr.
17 Mallard has wanted to add to. We're going to do that at
18 some point this morning, add what he wants into that part,
19 that portion of the video. I just wanted to clarify that
20 and put that on the record.

21 THE COURT: Is that correct, Mr. Mallard?

22 MR. MALLARD: Yes, sir.

23 THE COURT: All right. We also talked briefly
24 about a juror that has some allergies so what I'd like to
25 do is I just want to interview him on the record. So if I

1 could have the attorneys just come over here and we'll have
2 him come out and we'll be able to get the record from the
3 -- bring him in, yeah. Y'all just come over here so she
4 can pick it all up. I'll ask him a few questions about his
5 condition.

6 (WHEREUPON, Juror Edward Hutton entered the open
7 court.)

8 THE COURT: Come in. How are you doing? We want
9 to talk to you a little bit about your allergy. I
10 understand that you can't tolerate coffee. Is that right?

11 THE JUROR: It gives me a powerful headache. It
12 makes me want to throw up.

13 THE COURT: Is it the brewing or is it just ---

14 THE JUROR: Just the smell. Been that way for a
15 long time. Yesterday after they dumped it out and I was
16 fine the rest of the day.

17 THE COURT: Well, I think the others want to
18 drink coffee. I want you to be able to serve. The only
19 way I know, I talked to you yesterday about accommodating
20 diabetes. We can accommodate coffee too. I guess every
21 time we take a break, I'm not going to deprive thirteen ---

22 THE JUROR: There's only three of them back
23 there drinking it.

24 THE COURT: Three were drinking it? Okay. Do
25 you think the others are going to drink it?

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1 THE JUROR: But anyway, I understand.

2 THE COURT: We can just separate whoever the
3 coffee drinkers are. We just need ---

4 THE JUROR: I hate to be a pain.

5 THE COURT: Well, no, you're not. We can work it
6 out. If only three are drinking then every time we take a
7 break we can just have whoever wants coffee to go to that
8 area. We can work that out. I want you to be able to
9 serve if you can.

10 THE JUROR: Yeah. I'd like to. I even put long
11 pants on today.

12 THE COURT: All right, sir. When we take breaks,
13 we'll just have a coffee room and non-coffee room and we'll
14 let the jurors go to either room they want to.

15 THE JUROR: I appreciate it.

16 THE COURT: Is your health okay today to
17 continue? You said you had a headache.

18 THE JUROR: The girl gave me a couple of
19 Aspirins.

20 THE COURT: You're okay to go today?

21 THE JUROR: Yeah, I'll be all right.

22 THE COURT: Okay. We'll just create two rooms, a
23 coffee room and non-coffee room.

24 THE JUROR: I hate to be so much trouble.

25 THE COURT: Well, no. Coffee and jurors just

1 seem to go together. There's coffee pots everywhere. I
2 understand. I don't drink coffee, but I can smell it. It
3 doesn't bother me. But we'll provide two rooms. We've got
4 another back there where the other bathrooms are and
5 there's a coffee pot. So if a coffee pots in a room, you'd
6 rather not have the coffee. I don't know how easy that
7 would be to take out of ---

8 THE CLERK: Let's find out how many people are
9 going to want coffee so we'll know if we should leave it in
10 here or put it back there.

11 THE COURT: Yeah. Then they can go to either
12 room they want to. We'll just have two jury rooms
13 basically, okay? If you can head on back and then we'll
14 have the jury come out in a minute. You find out about
15 that, Mr. Welborn. Okay? Did y'all have any questions?
16 But we can separate them when they take breaks and have
17 coffee breaks, just like smoking breaks.

18 MR. RICHARDSON: Okay. So you're going to take
19 the jurors that want a coffee break out?

20 THE COURT: Either way. We'll figure that out.

21 MR. RICHARDSON: Okay.

22 THE COURT: It's just like sometimes they take
23 smoking breaks, they go smoke while they're having a break.
24 I'm making the note, a Court Exhibit, that the juror -- the
25 foreperson wrote.

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1 (WHEREUPON, Court Exhibit Number 1 was marked for
2 identification.)

3 THE COURT: Is everybody ready to -- have y'all
4 got it worked out about what we're going to do?

5 MR. WELBORN: Yes, Your Honor.

6 THE COURT: Okay. We've got the coffee moved?

7 MR. WELBORN: Not yet. I'll do that ---

8 THE COURT: Okay. If the jurors are ready, we're
9 ready for them. Okay? You have to check two places now.
10 Just see if they're ready.

11 (WHEREUPON, the jury entered the open court at
12 approximately 9:39 p.m.)

13 THE COURT: Good morning, ladies and gentlemen.
14 We are now ready to proceed with the trial. I apologize for
15 keeping you waiting as we took care of some other matters
16 this morning, but the State's ready now to call its next
17 witness. Solicitor.

18 MR. CLEVELAND: Thank you, Your Honor. The State
19 calls Dr. James Fulcher.

20 THE CLERK: Place your left hand on the bible and
21 raise your right hand. Do you solemnly swear or affirm the
22 testimony you're about to give to be the truth, the whole
23 truth and nothing but the truth, so help you God?

24 DR. FULCHER: I do.

25 THE CLERK: State your name for the record.

1 DR. FULCHER: James William Fulcher, M.D.

2 JAMES WILLIAM FULCHER, M.D.,

3 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION

5 BY MR. CLEVELAND:

6 Q. Thank you, Dr. Fulcher. Will you tell the jury who you
7 work for?

8 A. My name is James William Fulcher. I am the appointed
9 medical examiner for Greenville County and I do forensic
10 medical legal autopsies by contract for the Pickens County
11 Coroner, Candy Kelly.

12 Q. All right. And you've kind of alluded to it, but what
13 are your duties as a forensic medical examiner for
14 Greenville County?

15 A. Absolutely. I perform autopsies. I produce a report
16 based on my findings of these autopsies and I testify in
17 Court based on those autopsy findings. Additionally, I do
18 other things for the County, educational activities and so
19 on.

20 Q. Thank you. What's your educational background that
21 qualifies you for this position?

22 A. Sure. I'm a Medical Doctor, much as you'd see in a
23 pediatrician's office or an internal medicine doctor. I
24 have the same training up through medical school. At that
25 point, I did a four-year residency in anatomic and clinical

1 pathology in Richmond, Virginia. At that point, I then did
2 a one-year fellowship in forensic pathology at the medical
3 examiner's office in Richmond, Virginia. And then I moved
4 here. This is my first job out of training.

5 Q. How many -- just as an estimate, how many autopsies
6 have you performed in your career, both your residency and
7 in your current capacity?

8 A. I've performed approximately six hundred autopsies
9 during my career.

10 Q. Do you have any other experience, other than what
11 you've alluded to in your educational background and
12 everything regarding forensic pathology?

13 A. Sure. When I was in residency as an anatomic and
14 clinical pathologist, part of my interests in forensics
15 stemmed from a part-time job where I acted as a local
16 medical examiner for the City of Richmond and the counties
17 up in Henrico, Chesterfield and -- I think that's in my
18 appointment. And at that point, I did external exams, a
19 case that needed some investigation from the State's, or at
20 that point, the Commonwealth's point of view but did not
21 require a full autopsy. Typically, these were traffic
22 accidents with severe trauma that I could just look at the
23 external body and do toxicology testing and determine a good
24 cause or manner of death without doing a complete autopsy.
25 I performed approximately three hundred and fifty to four

1 hundred of those in the part-time job.

2 Q. And you've testified to your qualifications in forensic
3 pathology. Could you just briefly describe the discipline
4 of forensic pathology?

5 A. Sure. Absolutely. I'm Board Certified in Anatomic
6 Clinical and Forensic Pathology. That basically involves a
7 very large standardized test that you take. The State of
8 South Carolina doesn't absolutely require you be Board
9 Certified as a Forensic Pathologist to perform certain
10 autopsy duties. However, it's a mark of education that, you
11 know, most people would definitely smile upon. Forensic
12 pathology in general is the external examination of the
13 body, documentation of injuries, and more importantly,
14 documentation of internal injuries related to trauma in a
15 case like this. Particularly, the main point being to
16 determine the cause of death. That is, what actually caused
17 this person to die. And then the manner of death, which in
18 South Carolina can be one of several things. It can be a
19 homicide, a suicide, a natural death, undetermined or
20 pending. And pending basically means I'm waiting for
21 additional studies to come in. It takes me approximately,
22 depending on the case, an hour to two hours to perform the
23 autopsy. However, toxicological testing at the lab I use
24 could take weeks to months to do depending on how
25 complicated the specimens are.

1 Q. And throughout your experience and training in forensic
2 pathology, do you have any -- how much experience do you
3 have dealing with cases involving gunshot wounds?

4 A. Approximately twenty to thirty percent of our cases
5 involve gunshot wounds. This is based on both my Richmond
6 experience and here. A majority of those are suicides. We
7 get about two to three times the number of suicides as we do
8 homicides. However, we treat every case with a gunshot
9 wound as if it was a homicide. So the act does not change
10 determination of the range of fire, the type of wound and
11 the wound path and the trajectory does not change based on
12 what it is.

13 Q. And in addition to just that experience, have you had
14 any specialized training regarding gunshot wounds?

15 A. Absolutely. Absolutely. During the Fellowship and the
16 Medical Examiner's Office in Richmond, you spend a two-week
17 period with the head firearms examiner for the Commonwealth
18 of Virginia. At that point, you essentially learn all the
19 -- in generalities, all the things that firearms examiners
20 do so you can apply that to your work. You test fire
21 weapons. You determine range of fire using certain
22 chemicals and various things, stuff that I don't routinely
23 do and I would not testify to the particulars of it, but I
24 have a working understanding of the firearms examiner.

25 Q. And how long did you say you'd been with Greenville

1 County?

2 A. I've been with Greenville County about a year and a
3 half. It will be two years in July.

4 Q. And since you've been with Greenville County, have you
5 ever testified as an expert in Court?

6 A. I have. I've testified once in the State of South
7 Carolina and that's actually in Pickens County last fall.

8 Q. And what discipline did you testify as an expert in?

9 A. I testified as a forensic pathologist and it was also a
10 gunshot wound. So I did testify to some degree to
11 ballistics.

12 Q. Thank you, Dr. Fulcher.

13 A. No problem.

14 MR. CLEVELAND: Your Honor, at this time, the
15 State would move Dr. Fulcher be qualified as an expert in
16 the field of forensic pathology.

17 THE COURT: Is there any Voir Dire from the
18 Defense or any objection to this witness?

19 MR. MALLARD: No objection, Your Honor.

20 THE COURT: Ladies and gentlemen, let me just
21 explain to you a little bit about an expert witness.
22 Normally, a person is not allowed to give an opinion in a
23 courtroom. A person can testify to what they saw or
24 experienced or heard or some other sense. There is an
25 exception when a person is qualified because of education

1 and experience, they're permitted to give their opinion in
2 certain areas of their expertise, in this case of forensic
3 pathology. So an opinion can be given. A reason for that
4 opinion can be given. The fact that is witness is qualified
5 as an expert doesn't mean you have to accept that opinion.
6 It's evidence for you to consider as you would any other
7 evidence and use as you see fit.

8 Solicitor, you may continue.

9 MR. CLEVELAND: Thank you, Your Honor.

10 Q. Dr. Fulcher, how did you become involved with this case
11 today regarding James Gibson?

12 A. Candy Kelly, the Pickens County Coroner, sent this case
13 to us on January 19th, 2010 for autopsy.

14 Q. And did you perform an autopsy on that date?

15 A. I did. I performed an autopsy January 19th, 2010 at
16 eight thirty a.m.

17 Q. And who was present during that autopsy?

18 A. May I refer to my typed notes?

19 Q. Refer to your notes to refresh your memory, yes.

20 A. Thank you. This is the typed autopsy report. Present
21 at this autopsy were Sharon Knight. She is my autopsy
22 assistant. She is the person that assists me with the
23 actual physical mechanics of removing organs. And Tony
24 Robinson from the Pickens County Sheriff's Office.

25 Q. Do you have a standard procedure when you perform this

1 type of autopsy?

2 A. I do. We have a standard procedure, yes.

3 Q. And was that procedure followed in this case?

4 A. Yes.

5 Q. Beginning with your assessment of the deceased,
6 describe for me your findings.

7 A. Sure. When we start a forensic autopsy we spend a
8 great deal of time looking at the external body, documenting
9 things, weight, height, eye color, hair color. We look at
10 the hands to look for injuries to the hands. We look at the
11 face and neck to look for injuries. Really the whole body.
12 And then at that point, we focus on the injury. In this
13 case, it was very obvious there was a gunshot wound to the
14 chest.

15 Q. I'm going to show you what's been marked as State's
16 Exhibits 34 and 35.

17 A. Sure.

18 Q. Would you look at those photos and tell me if you
19 recognize them?

20 A. I recognize these photos. These are photos that I took
21 at autopsy of the decedent, Mr. James Gibson. These are
22 photos of his chest and a close-up of the gunshot wound.

23 MR. MALLARD: No objection, Your Honor.

24 MR. CLEVELAND: Your Honor, at this time the State
25 would request items marked as State's Exhibits 35 and 34 be

1 moved into evidence.

2 THE COURT: Without objection, Exhibits 34 and 35
3 are into evidence and may be published to the jury.

4 MR. CLEVELAND: Thank you, Your Honor.

5 (WHEREUPON, State Exhibit Numbers 34 and 35 were
6 admitted into evidence.)

7 Q. Dr. Fulcher, in front of you there's a laser pointer.

8 A. Yes.

9 Q. Could you point out the gunshot wound you located on
10 the decedent's body?

11 A. Sure. This is the gunshot wound. For orientation,
12 this is his nipple there. And that's the gunshot wound.

13 Q. I'll show you the second photo. Is that a closeup of
14 the same gunshot wound?

15 A. It is. This is a black and white image and it loses a
16 little bit in the black and white, but this is the actual
17 gunshot wound, and this is what I describe as an eccentric
18 deposition of powder and unburnt particles that's largely
19 oriented to the three o'clock position, but the whole is
20 right there.

21 Q. Based on your experience and training, describe for
22 this jury the reason for that deposit?

23 A. Sure. When you fire a weapon, a modern weapon, the
24 cartridge is largely filled with nitrocellulose powder. It
25 doesn't necessarily explode, so much as it burns at an

1 extremely rapid rate. And as it burns, it changes from a
2 solid to a gas. So the way I like to explain to juries
3 about a gunshot wound, take your hand and take a rock and
4 rice and flour and you throw it. When you shoot the weapon,
5 all of those things are leaving muzzle at the same time, but
6 because of the air resistance, the lighter things like the
7 flour are slowed down more. The bullet, the rock, keeps
8 going further. So if I have someone with just a hole with
9 no soot, no powder, I know that the rock made it there but
10 the flour and the rice, which represents soot and stipple --
11 soot is, of course, just soot like out of a fireplace.
12 Stipple are actually little hot particles that are slightly
13 bigger than the soot, and they go a little bit further
14 because they weigh a little bit more. So think of that
15 analogy of throwing the rock, the rice and the flour. Based
16 on my findings, I can then determine general classes of
17 range of fire. In forensic pathology, the general classes
18 are a contact wound, meaning the muzzle of the weapon was
19 literally directly pressed against the skin. A close-range
20 wound, which depending on the weapon, is usually a few
21 inches away. An intermediate range wound, where the weapon
22 is a foot or two away. And a distant wound where it is
23 greater than a couple of feet. And at that point, I really
24 can't give you an exact estimation, because there's no other
25 evidence. Just the bullet made it there.

1 Q. Based on your assessment of this wound, what type of
2 wound would you classify it as?

3 A. I would describe this as a close-range wound for
4 several reasons. If the weapon was hard-pressed against the
5 skin, it forms a good seal against the skin and oftentimes
6 the soot is actually inside the body not on the outside as
7 we see here. This is a fairly close wound. I'd say within
8 an inch or two because we have a very tight -- we can see
9 with the scale, just about an inch across deposition of
10 soot. So I describe this within a few inches. The absolute
11 determination of range of fire is usually performed by a
12 firearms examiner, where they will fire that exact weapon at
13 filter paper and then give you an exact or a more exact
14 number as to range of fire.

15 Q. So just to recapitulate briefly, your estimation is
16 this wound is a couple of inches away, but not pressed --
17 the gun was not pressed directly against the skin?

18 A. No. The gun was not pressed directly against the skin,
19 but it was several inches away or a couple of inches away.

20 Q. Thank you, Doctor.

21 A. You're welcome.

22 Q. Now, moving along did you, after this assessment of the
23 exterior of the decedent's body, did you assess any internal
24 injuries?

25 A. I did. Part of forensic autopsy, of course, is

1 assessing why the person died. Just determining that they
2 were shot isn't enough. We need to determine what organs
3 are damaged.

4 Q. All right. Let's, for lack of a better term, follow
5 the bullet.

6 A. Sure. Absolutely. I'm going to refer to my typed
7 notes to make sure I get this right.

8 Q. What type of injuries did you find within the decedent?

9 A. Absolutely. The bullet enters the chest and fractures
10 the left side of the sternum, the breast bone between the
11 second and third ribs on the left side. It then enters the
12 chest cavity, the actual body cavity to macerate -- and when
13 I say macerate, I mean something is largely destroyed. It's
14 not just cut. Bullets don't cut things, they push through
15 things. They're not sharp objects, they're blunt objects.
16 So it damaged, severely damaged the large artery coming out
17 of the heart called the pulmonary artery. You can think of
18 the heart as two separate pumps. One, the left side pumps
19 blood to the body, but the right side has to pump all of
20 that blood to the lungs for it to get oxygen. This bullet
21 misses aorta, the big vessel that takes blood to the body,
22 but unfortunately, it destroyed the blood that takes -- I'm
23 sorry -- the artery that takes blood from the heart to the
24 lungs. One hundred percent of your blood flow goes through
25 this because one hundred percent of your blood needs to get

1 to the lungs. At that point, it exits that artery and
2 enters the left lower lobe of the lung. The left lung has
3 two lobes. Because this gunshot wound was angled slightly
4 downwards, it exits this artery and goes into the left lower
5 lobe, really at the central portion of the lung and then
6 exits the lateral outside portion of the lung. The bullet
7 then fractures the sixth rib posteriorly to exit the chest
8 cavity and comes to stop under the skin. I actually found
9 the bullet under the skin on the back of the decedent.

10 Q. I'm glad you brought that up. I'm going to show you
11 what's been marked State's Exhibits 40 and 36.

12 A. Yes.

13 Q. Would you look at those photos briefly?

14 A. Yes, I recognize these photos. These are photos I took
15 of both the radiograph I took and the projectile I recovered
16 at autopsy.

17 Q. I'm going to show you also what's been marked as
18 State's Exhibit 49.

19 A. Yes.

20 Q. Do you recognize that item?

21 A. Yes. This is the deformed projectile and a fragment of
22 projectile that I recovered.

23 MR. MALLARD: No objections, Your Honor.

24 MR. CLEVELAND: Your Honor, at this time, the
25 State would request items 49, 40 and 36 be moved into

1 evidence.

2 THE COURT: All right. Without object, those
3 exhibits are admitted into evidence and may be published.

4 (WHEREUPON, State Exhibit Numbers 49, 40 and 36 were
5 admitted into evidence.)

6 Q. All right. Dr. Fulcher, describe for the jury what
7 this photograph depicts?

8 A. Sure. This is a plain filmed radiograph. This
9 radiograph was taken from anterior to posterior, from front
10 to back. It shows collar bones, the right arm, the left
11 arm. You can see the "R" here represents "R", so it's
12 flipped backwards. This is the heart, the outline of the
13 heart. The aorta is coming up here. This is the forward
14 radiopacity which represents the bullet, which is underlying
15 the skin. And this is a small fragment, a jacket, I found
16 slightly lower.

17 Q. Just for reference purposes, could you point out on
18 this x-ray where about the entrance wound is on Mr. Gibson?

19 A. The injury is approximately right here. It's only
20 about an inch superior to where the bullet ended up, and
21 it's just slightly left of the breast bone. So almost at
22 mid-line, but right about there, I'd say. And the bullet
23 ends up here.

24 Q. Very good. And is that the -- I apologize.

25 A. That's okay.

1 Q. Is that what you recovered?

2 A. Yes. This is what I've described as a deformed medium
3 caliber projectile and a fragment of that projectile.

4 Q. And is this the actual projectile?

5 A. Yes, it is. That is the actual projectile.

6 Q. That was recovered from Mr. Gibson. Based upon the
7 injury wound and where you located the projectile, were you
8 able to determine the trajectory of this bullet?

9 A. I was. When I look at the entrance wound, I measure
10 from the top of the body, right or left the midline, and
11 then I do the same thing when I find the bullet or if there
12 is an exit wound, I measure the exit wound. The trajectory
13 of this wound was largely front to back. However, it did
14 deviate slightly right to left, and very slightly downwards.

15 Q. Associated with the injuries that you testified to
16 earlier, was there any internal bleeding that you noticed?

17 A. Yes. Because the pulmonary artery carries one hundred
18 percent of the blood flow from the heart, massive rapid
19 bleeding will occur with any damage to this vessel,
20 particularly massive injury. I found one thousand six
21 hundred CCs, cubic centimeters, of blood in the left side of
22 his chest. In a man this size, that represents
23 approximately one-third of his total blood volume, which is,
24 of course, incompatible with life, to acutely lose one-third
25 of your blood volume.

1 Q. What size was Mr. Gibson?

2 A. Mr. Gibson measured on our certified scale -- our scale
3 is certified every year -- at a hundred and thirty-three
4 pounds. And I measure him at sixty-seven inches in length.

5 Q. That's five feet seven inches tall?

6 A. Correct.

7 Q. Did you have an occasion to observe any blood about Mr.
8 Gibson's face?

9 A. Yes. In my autopsy report I describe that the nares,
10 the external nose and area surrounding it, shows copious
11 blood. This blood is likely due to the damage to the lung.
12 The lung's a very vascular organ and when you perforate it
13 with a bullet, you do cough up blood. And that would
14 explain blood on the face.

15 Q. At the conclusion of this autopsy, did you determine
16 the cause of the death of Mr. Gibson?

17 A. Yes. The cause of death, as I have it written on my
18 typed autopsy report, is a close-range penetrating gunshot
19 wound to the chest.

20 Q. Did you notice anything else during the autopsy that
21 may have contributed to Mr. Gibson's death, other than that
22 close-range gunshot wound?

23 A. I did not, no.

24 Q. Did you determine manner of death in this case?

25 A. The manner of death was determined as a homicide, yes.

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1 Q. How did you make that determination?

2 A. Homicide is a legally neutral term. It does not imply
3 guilt. It's defined as the death of one person by the
4 action or inaction of another. We determine homicide by our
5 autopsy findings, but also scene investigation, coroner's
6 report and general discussion with law enforcement that
7 describes the injuries and the actual scene to us.

8 Q. Thank you, Dr. Fulcher. Answer any questions the
9 Defense may have.

10 A. Thank you, sir.

11 MR. MALLARD: No questions, Your Honor.

12 THE COURT: Thank you, sir. You may step down,
13 Dr. Fulcher.

14 DR. FULCHER: Thank you.

15 MR. CLEVELAND: May this witness be excused, Your
16 Honor?

17 THE COURT: Any objection to the witness being
18 excused?

19 MR. MALLARD: No, Your Honor.

20 THE COURT: Without objection, the witness may be
21 excused.

22 A. Thank you..

23 MR. CLEVELAND: Thank you, Your Honor.

24 MR. RICHARDSON: All right. The State calls
25 Crystal Murray to the stand.

1 THE CLERK: Place your left hand on the bible and
2 raise your right hand. Do you solemnly swear or affirm the
3 testimony you're about to give to be the truth, the whole
4 truth and nothing but the truth, so help you God?

5 MS. MURRAY: I do.

6 THE CLERK: Please have a seat. State your name
7 for the record, please.

8 MS. MURRAY: Crystal Murray.

9 CRYSTAL MURRAY,

10 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

11 DIRECT EXAMINATION

12 BY MR. RICHARDSON:

13 Q. Okay, ma'am. If you would scoot that chair up just a
14 little bit. You've got a soft voice. I want everybody to
15 hear you, including this juror that's as far back as here,
16 okay? Where do you presently live?

17 A. , Aiken, South Carolina.

18 Q. And are you married?

19 A. No.

20 Q. Do you have any children?

21 A. I have custody of my niece.

22 Q. Okay. And custody -- you haven't adopted her, just
23 custody?

24 A. It's like adoption through DSS. I got her when she was
25 two weeks old.

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1 Q. I see. And how old are you?

2 A. I am presently nineteen.

3 Q. Are you working?

4 A. Not at the moment.

5 Q. All right. And I want to take your memory back to
6 January of 2010. Were you living at that address in
7 Aiken, South Carolina at that time?

8 A. Yes, sir.

9 Q. Now, do you know the Defendant, Chris Murray?

10 A. Yes. That's my brother.

11 Q. Okay. Is he your full brother or half-brother?

12 A. We had different daddies, but we have the same mama.

13 Q. Okay.. Now, back in January of 2010, do you recall him
14 giving you a phone call?

15 A. Can you repeat that, please?

16 Q. Yeah. Do you recall him calling you about money?

17 A. Yes.

18 Q. Okay. And did you have a conversation with him about
19 money?

20 A. Yes.

21 Q. And what was that conversation?

22 A. He was wanting me to send him some money. He said that
23 he was wanting to come down here to visit me. And I told
24 him I didn't have any money to send him for gas, because I
25 didn't.

1 Q. Okay. Did you ever send him any?

2 A. No.

3 Q. All right. Now, at some point after that, did you come
4 to have personal contact with the Defendant?

5 A. Yes.

6 Q. Okay. Do you know how long after that conversation it
7 was that you had personal contact with the Defendant?

8 A. I'm not for sure. I think like maybe a day or
9 something.

10 Q. Okay. Now, let me take your memory back to January
11 20th -- excuse me -- January 19th, 2010. Is that the day
12 that you had personal contact with the Defendant?

13 A. I'm not for sure of the dates. I mean, but from me
14 talking to y'all and reading the statements, that sounds
15 about right.

16 Q. Okay. Now, can you tell the jury what happened in that
17 regard?

18 A. In what?

19 Q. When was the first time you saw -- tell the jury when
20 was the first time you saw him?

21 A. On that day, I guess.

22 Q. Yes.

23 A. He showed up to my house, knocking on my door at six
24 o'clock in the morning and just said that he was there to
25 visit. He had already called. He said he had got the gas

- 1 money and come on down.
- 2 Q. Okay. And you say this was six o'clock in the morning?
- 3 A. Yes.
- 4 Q. Was anybody with him?
- 5 A. Yes. He had his girlfriend with him.
- 6 Q. Okay. Did you notice what kind of vehicle they were
- 7 driving?
- 8 A. Yes. A white Cavalier.
- 9 Q. Okay. And could you identify that Cavalier if I showed
- 10 you a picture?
- 11 A. I guess, yeah.
- 12 Q. Let me show you what's been marked as State's Exhibit
- 13 Number 28. Is that the Cavalier?
- 14 A. I believe so, yes.
- 15 Q. Okay. Now, when he arrived at six o'clock in the
- 16 morning, was anybody with him? I may have asked you that
- 17 question. Was anybody with him?
- 18 A. Yes, his girlfriend.
- 19 Q. Okay. And did you know his girlfriend?
- 20 A. No, I had never met her before.
- 21 Q. Okay. Do you know her name?
- 22 A. It was Faye. That's all I remember.
- 23 Q. All right. And this was the first time you had met
- 24 her?
- 25 A. Yes.

1 Q. Okay. Now, at six o'clock in the morning, did you let
2 them in the house or what happened then?

3 A. Yes, I let them in the house.

4 Q. Okay. And what did the Defendant do at that time?

5 A. Honestly, I don't know. Like I told you I have memory
6 loss from that wreck. I know later on that day all I
7 remember is bits and pieces.

8 Q. Okay.

9 A. But on that day, I mean, I remember them sleeping. I
10 mean, I remember cooking, you know, and everybody ate.

11 Q. Okay. So at some point during that day -- when you say
12 them sleeping, who are you talking about?

13 A. Chris and Faye.

14 Q. Okay. You're talking about the Defendant, Chris
15 Murray, and Faye Brissey?

16 A. Yes.

17 Q. Okay. Do you recall how long they slept?

18 A. No, sir.

19 Q. All right. Now ---

20 A. I don't.

21 Q. I'm sorry?

22 A. No, sir, I don't know.

23 Q. Okay. Now, at some point in time, did y'all leave the
24 house together?

25 A. Yes.

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1 Q. Okay. And who left?

2 A. I remember Faye was riding with me and one of my
3 friends I let stay with me at the time. I had to go pay the
4 light bill.

5 Q. Okay.

6 A. And then we come back to the house for the day, the
7 first day.

8 Q. Okay. Did the Defendant go with you at that time?

9 A. Faye or Chris?

10 Q. Chris?

11 A. No.

12 Q. Okay. But Faye did?

13 A. Yeah. Faye and the other girl.

14 Q. Okay. So was anybody else in the house with the
15 Defendant at that time?

16 A. Yes.

17 Q. Who's that?

18 A. My boyfriend, Elijah.

19 Q. And where is your boyfriend, Elijah, now?

20 A. Outside.

21 Q. Okay. And are y'all still together?

22 A. Yes.

23 Q. Now, at some point in time, did you again leave with
24 Faye and go somewhere?

25 A. We all left the next day, I think it was.

1 Q. Okay. And when was that?

2 A. That morning or towards lunch.

3 Q. I'm sorry. Where did you go on that day?

4 A. I went to the Dollar Store and picked up cleaning stuff
5 and then we rode out to a friend of mine's house that was
6 just having a little cookout.

7 Q. Okay. Up until the cookout, at any point in time, did
8 you see the Defendant with a gun?

9 A. No.

10 Q. Did you ever see a gun?

11 A. No.

12 Q. And next to your house, is there another house?

13 A. On one side there is.

14 Q. Okay. How about the other side?

15 A. No. It's woods.

16 Q. Woods?

17 A. Yes.

18 Q. And there's no house on that lot?

19 A. No.

20 Q. When you left to go to the cookout, who went to the
21 cookout with you?

22 A. Everybody.

23 Q. Okay. Who's ---

24 A. All but -- me, Elijah, Chris and Faye.

25 Q. Okay. Now, where was this cookout?

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1 A. I'm not for sure of the name of the road. I know it's
2 off of 302.

3 Q. Okay. Now, was this on January the 20th, 2010?

4 A. I'm not for sure of the date.

5 Q. Okay. Was it the day after he arrived in Aiken?

6 A. Yes.

7 Q. Okay. Now, what happened at the cookout?

8 A. We was all just standing around, cooking on the grill
9 and talking.

10 Q. Okay. At some point in time, did you come to find out
11 that the police were looking for the Defendant, Chris
12 Murray?

13 A. Yes.

14 Q. Okay. When you found that out, what happened?

15 A. Everybody just started panicking. And we was trying to
16 ask him, you know, why. You know, what was going on. And
17 he was saying that we need to drop him off somewhere, so
18 that's what we did. We dropped him off. And I went to my
19 house and that's whenever I seen all y'all.

20 Q. We'll get to that in a minute. But before that, you
21 said you took him to a location?

22 A. Yes.

23 Q. Were you driving?

24 A. No.

25 Q. Was the white Cavalier there at your house at that

1 time?

2 A. No.

3 Q. Was the white Cavalier at the cookout at that time?

4 A. No.

5 Q. Okay. Who was driving when you went to drop him off?

6 A. My -- Elijah.

7 Q. And what kind of car was it?

8 A. Sir?

9 Q. What kind of vehicle was he driving?

10 A. A white truck.

11 Q. A white truck? Now, where did you take Faye and the
12 Defendant, Chris Murray?

13 A. I'm not for sure. It was out in the Wagener area.

14 Q. Okay. Well, is this a rural area?

15 A. A what?

16 Q. A rural area, not a whole lot of houses around?

17 A. I guess. I'm not familiar with that area too much.

18 Q. Okay. Well, how did you know to go to that particular
19 location?

20 A. I didn't.

21 Q. Okay. Who did?

22 A. Elijah.

23 Q. Okay. Where was it that you dropped the Defendants off

24 -- this Defendant off?

25 A. At a house.

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Crystal Murray - Direct Examination by Mr. Richardson

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1 Q. And where did they go once you dropped them off at this
2 house?

3 A. They stayed in a car, an abandoned car.

4 Q. They sat in an abandoned car?

5 A. Yes, sir.

6 Q. And was this a trailer or a house or can you describe
7 that for us?

8 A. I honestly couldn't tell you. All I remember is a
9 lawnmower by the road and a car.

10 Q. Okay. Do you recall if the car was in the front of the
11 house or the back of the house?

12 A. It was in the back like -- yeah.

13 Q. Okay. Now, when you dropped them off at this location,
14 was it night or daytime?

15 A. It was daytime.

16 Q. Okay. Was that -- what did y'all do then?

17 A. I came back home.

18 Q. Was that the last time you saw either Faye Brissey or
19 the Defendant?

20 A. No. Y'all come back to my house that night ---

21 Q. Okay.

22 A. --- with him and I seen him then.

23 Q. All right. And that was after he'd been placed under
24 arrest?

25 A. Yes.

1 Q. Okay. At some point in time, you said you went back to
2 your house. You did not go back to the cookout?

3 A. No.

4 Q. Okay. You went back to your house directly?

5 A. Yes.

6 Q. Okay. At some point in time, did the Aiken Police come
7 to your residence?

8 A. Whenever I got there?

9 Q. Well, at some point in time after you arrived home, did
10 you talk to the police, the Aiken Police?

11 A. Whenever I got there, yes. They was there.

12 Q. Okay. And what did you tell them at that time? You
13 need to speak up.

14 A. I don't know. I mean, ...

15 Q. Well, did you tell them where Chris Murray was?

16 A. Yes. I'm the one that told them.

17 Q. You're the one that told the police?

18 A. Yes.

19 Q. Okay. And was that after they told you what he had
20 been charged with?

21 A. Yes.

22 Q. And did you give an exact address or a location or
23 description? How did you tell them where he was?

24 A. I didn't know the address or nothing. I just explained
25 to them how to get there.

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1 Q. And did you also explain to them that you're the one
2 that took them there?

3 A. Yes.

4 Q. Thank you, Crustal. That's all the questions I have.
5 Please answer any questions Defense counsel may have for
6 you.

7 THE COURT: You may cross-examine the witness, Mr.
8 Mallard.

9 CROSS-EXAMINATION

10 BY MR. MALLARD:

11 Q. Ms. Murray, how long ago was it that you had your
12 wreck?

13 A. I had it November the 20th.

14 Q. And you've experienced some memory loss and problems
15 since then?

16 A. Yes.

17 MR. MALLARD: No further questions, Your Honor.

18 MR. RICHARDSON: Your Honor, just briefly on
19 redirect.

20 REDIRECT EXAMINATION

21 BY MR. RICHARDSON:

22 Q. You had your wreck November what?

23 A. I think it was November the 20th of 2010.

24 Q. Okay. And do you recall giving a written statement to
25 the police on January the 20th of 2010?

1 A. I remember writing it, but I don't remember what it
2 said until I read it today.

3 Q. Okay. Thank you. That's all the questions I have.

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

5 MR. RICHARDSON: The State calls Faye Brissey.

6 Your Honor, the last witness wishes to be excused.

7 THE COURT: Any objection to the last witness
8 being excused?

9 MR. MALLARD: None, Your Honor.

10 THE COURT: Without objection, the witness may be
11 excused.

12 MR. RICHARDSON: Ms. Brissey, come around, please?

13 THE CLERK: Place your left hand on the bible and
14 raise your right hand. Do you solemnly swear or affirm the
15 testimony you're about to give to be the truth, the whole
16 truth and nothing but the truth, so help you God?

17 MS. BRISSEY: I do.

18 THE CLERK: Please have a seat. State your name
19 for the record, please.

20 MS. BRISSEY: Eula Faye Brissey.

21 FAYE BRISSEY,

22 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

23 DIRECT EXAMINATION

24 BY MR. RICHARDSON:

25 Q. Ms. Brissey, how old are you?

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1 A. Twenty-one.

2 Q. Are you married?

3 A. No, sir.

4 Q. Do you have any children?

5 A. No, sir.

6 Q. And where do you presently live?

7 A.

8 Q. So that we're clear, you have been charged with
9 accessory after the fact of murder in this case. Is that
10 correct?

11 A. Yes, sir.

12 Q. And you understand that that's a serious charge. Is
13 that correct?

14 A. Yes, sir.

15 Q. And, in fact, you at some point in time gave a
16 statement to the police. Is that correct?

17 A. Yes, sir.

18 Q. And did you give that statement shortly after your
19 arrest?

20 A. Yes, sir.

21 Q. The Defendant, Chris Murray, do you know him?

22 A. Yes, sir.

23 Q. How long have you known him?

24 A. A little bit over a year.

25 Q. Okay. The victim, James Gibson, did you know him?

1 A. Yes, sir.

2 Q. How did you know him?

3 A. He was my best friend.

4 Q. How long had you known Mr. Gibson before his death?

5 A. A little bit over two -- maybe a little bit over a year
6 before.

7 Q. Now, can you tell the jury when's the first time you
8 met the Defendant, Chris Murray?

9 A. Yes, sir.

10 Q. When's that?

11 A. It was December of '09. I met him through my first
12 cousin. He -- I called my cousin and asked my cousin for --
13 I needed a guy because I was single and my cousin gave me
14 his number and I called him, but then like he told me that
15 he was talking to my best friend.

16 Q. When you say he, you're referring to the Defendant?

17 A. Yes, sir.

18 Q. Okay.

19 A. And he was talking to my best friend, so I called my
20 cousin back and I was like, Dude, he's talking to, you know,
21 he's talking to Brook. And like, he said, well. Then I
22 found out that my cousin was talking to Chris, but talking
23 to my cousin too, so I felt sorry for the Defendant. So I
24 called him three days before Christmas of '09. He came from
25 Louisiana, and I went to pick him up at the bus station in

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1 the morning at like five o'clock in the morning.

2 Q. So the first time you had personal contact, not
3 telephone contact but personal contact, was three days
4 before Christmas of 2009?

5 A. Yes, sir.

6 Q. Okay. So less than one month before this incident took
7 place?

8 A. Yes, sir.

9 Q. Okay. Now, you picked him up at the bus station.
10 Where did he go then?

11 A. He went back to my parents' house and we stayed there
12 for a little while. And then the next day we left and went
13 to Florence, South Carolina.

14 Q. And why did you go to Florence, South Carolina?

15 A. Because his friends lived down there and that's where
16 we moved to.

17 Q. So you moved to Florence, South Carolina ---

18 A. Yes, sir.

19 Q. --- just before Christmas of 2009?

20 A. Yes, sir.

21 Q. How long did you live in Florence, South Carolina?

22 A. A day.

23 Q. And then where did you go?

24 A. Manning, South Carolina.

25 Q. Why did you go to Manning, South Carolina?

1 A. Because there was no room in Florence where his friend
2 lived to live, it wasn't enough beds, so we went to Manning
3 to live with his friend's brother and sister.

4 Q. Okay. Is this still December of 2009?

5 A. Yes, sir.

6 Q. And you stated you went and lived with whom?

7 A. His friend's brother and sister.

8 Q. Okay. And how long did you live in Manning, South
9 Carolina?

10 A. About two to three weeks.

11 Q. All right. Now, in Manning, South Carolina did you
12 ever see the Defendant with any type of weapon?

13 A. Yes, sir.

14 Q. I'm sorry?

15 A. Yes, sir.

16 Q. Do you know what type of weapon that is?

17 A. A 380.

18 Q. Do you know what brand it is?

19 A. No, sir.

20 Q. I'll refer you to State's Exhibit 23. Is that the
21 weapon you saw the Defendant with?

22 A. Yes, sir.

23 Q. Can you tell the jury what kind of bullets he was
24 shooting?

25 A. Hollow tips.

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1 Q. Did you ever see him shoot the weapon?

2 A. I saw him when he first got it, he shot it up in the
3 sky.

4 Q. And was that in Manning, South Carolina?

5 A. Yes, sir.

6 Q. Okay. You may have testified to this. How long did
7 you stay in Manning, South Carolina?

8 A. Two and a half weeks.

9 Q. All right. During your stay in Manning, South
10 Carolina, was there a conversation between you and the
11 victim, James Gibson?

12 A. Yes, sir.

13 Q. Who called whom?

14 A. The Defendant called me -- the victim called me and was
15 like he was going to like slice my throat if I didn't tell
16 him where my cousin was. But then -- you know, and then the
17 Defendant got on the phone and was like, who you going to
18 slice their throat? And the victim was like -- like the
19 other guy that was with the victim was like, I'm talking to
20 a guy. And then they hung up. And then the following next
21 day they texted me and told me they was sorry. But I told
22 them it was okay because I wasn't worrying about it.

23 Q. Did you take that as a serious threat?

24 A. No, I didn't.

25 Q. Had James ever harmed you before?

1 A. No, he hasn't.

2 Q. That telephone conversation happened, I believe you
3 testified, some two weeks before you returned to Easley?

4 A. Yes, sir.

5 Q. Okay. Between that telephone conversation and your
6 return to Easley, are you aware of any contact that the
7 Defendant had with the victim, James Gibson?

8 A. Not as I know of.

9 Q. How did you get back to Easley, South Carolina?

10 A. We took the Greyhound.

11 Q. Do you recall -- I know it's been a long time. Do you
12 recall the date?

13 A. No, sir.

14 Q. Can you tell this jury approximately how long before
15 January 18th it was that you returned?

16 A. It was probably about the first week in January.

17 Q. Now, at some point in time -- well, where did you come
18 to -- when you got back to Easley where did you go?

19 A. We went and stayed with my parents.

20 Q. And did you stay with your parents the entire time?

21 A. No, sir.

22 Q. Where did you go from there?

23 A. We stayed with my cousin on

24 Q. Would that be Matt Brissey?

25 A. Yes, sir.

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1 Q. Now, at this time did you know the Defendant to carry
2 this gun?

3 A. I didn't really see it on him, but I knew of it.

4 Q. Did you ever see him carry the gun?

5 A. No, sir.

6 Q. Now, when you got back to Easley did there come an
7 occasion that y'all, you and the Defendant, purchased a
8 vehicle?

9 A. Yes, sir.

10 Q. Okay. And what kind of vehicle was that?

11 A. I'm not sure what the first car -- the name of it was.

12 Q. Okay. So we don't confuse the jury, you bought one
13 vehicle and you're not sure what kind of car that was?

14 A. Yeah.

15 Q. Okay. Where did you buy it?

16 A. It was at Family Auto in Easley.

17 Q. Okay. And what happened to that vehicle?

18 A. It started tearing up on us on the way to Aiken, South
19 Carolina, the first time.

20 Q. Okay. And then -- so what did you do?

21 A. We turn around and came back to Easley and then the
22 next day we took it back to the car lot and the Defendant
23 was like, either you can give me -- he wanted another car,
24 but the man that sold us the car says if we wasn't
25 satisfied, he was willing to give us our money back. So he

1 gave the Defendant his money back.

2 Q. Did he give the Defendant his money back?

3 A. Yes, he did.

4 Q. After that, did you buy a second car?

5 A. Yes, we did.

6 Q. What kind of car was that?

7 A. Cavalier.

8 Q. What color was that?

9 A. White.

10 Q. I'm referring to State's Exhibit 28. Do you recognize
11 that photograph?

12 A. Yes, sir.

13 Q. And what is that?

14 A. The car that we had.

15 Q. Where did you purchase that vehicle?

16 A. At a junk yard.

17 Q. And did you purchase that vehicle before January 18th
18 of 2010?

19 A. Yes, sir.

20 Q. How much did you purchase the vehicle for?

21 A. Four hundred dollars.

22 Q. Okay. And who paid for the vehicle?

23 A. The Defendant.

24 Q. All right. Was the total price four hundred dollars?

25 A. No, sir.

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1 Q. Is that how much money he gave him?

2 A. Yes, sir.

3 Q. Was any money owed on that car?

4 A. Yes, sir.

5 Q. How much money was owed on that car?

6 A. Two hundred more dollars.

7 Q. Did the Defendant ever get a title to that vehicle?

8 A. No, sir.

9 Q. Why not?

10 A. Because he never went back to pay the man two more
11 hundred dollars.

12 Q. Okay. So the total price of the vehicle ---

13 A. Six hundred dollars.

14 Q. --- was six hundred dollars?

15 A. Yes, sir.

16 Q. If you don't have a title to the vehicle, what do you
17 do about tags?

18 A. I don't know.

19 Q. Did y'all get any tags?

20 A. No, sir.

21 Q. Never got any license plates?

22 A. No, sir.

23 Q. Okay. Let me take your memory back to January 18th of

24 2010, the date of this incident. Where were you that day?

25 A. At

1 Q. Okay. Now, had you been out with the Defendant earlier
2 in the day?

3 A. No, sir. I was at all day.

4 Q. Okay. And at some point in time, did the Defendant
5 want to go somewhere?

6 A. Yes, sir.

7 Q. Can you tell the jury where he wanted to go?

8 A. I was laying in the bed and he came in there and he was
9 like, wake up. And he was like, let's go to the store. So
10 I got up and we went to the store, but it was ---

11 Q. Which store?

12 A. The Z-Mart going towards Anderson.

13 Q. Okay.

14 A. But the store was closed. So we circled around and
15 when we circled around we got on this road ---

16 Q. I don't want to go any further than that. Do you have
17 -- do you know why the Defendant wanted to go to the Z-Mart?

18 A. No, sir.

19 Q. All right. So you stated the store was closed?

20 A. Yes, sir.

21 Q. Was this in the nighttime or the daytime?

22 A. It was about eight-thirty.

23 Q. Then what did you do?

24 A. We went down the road a little bit and we circled
25 around and went onto another road because I thought we was

1 going back to my aunt's house. But we didn't.

2 Q. Okay. Now, at this point in time during your travels,
3 did you see the gun?

4 A No, sir.

5 Q. Had you seen the gun that evening at all?

6 A. No, sir.

7 Q. Who's driving?

8 A. The Defendant.

9 Q. And where are you sitting?

10 A. In the passenger's seat.

11 Q. After Z-Mart, where did you go?

12 A. We hit

13 Q. Okay. Now, who do you know that lives on
14 ?

15 A. My parents.

16 Q. Do they live close to victim, James Gibson?

17 A. Yes, sir.

18 Q. When you got to , what did the
19 Defendant do?

20 A. He went down the road a little bit. He backed up and
21 then turned around. And then he drove back up the road and
22 then he pulled -- well, he backed out into the road and he
23 pulled backwards at the victim's house.

24 Q. James' house?

25 A. Yes, sir.

1 Q. Had you been to James' house before?

2 A. Yes, I have.

3 Q. Referring to State's Exhibit 44. Do you recognize
4 that, ma'am?

5 A. Yes, I do.

6 Q. What is that?

7 A. James' house.

8 Q. You stated -- you just testified that the Defendant
9 backed into this house?

10 A. Yes, sir.

11 Q. What kind of car were you driving at that time?

12 A. The Cavalier.

13 Q. The Cavalier that I just showed you?

14 A. Yes.

15 Q. Okay. There's a laser pointer. Right there, a little
16 red button on it, okay? Push that button and that'll bring
17 out a laser. Can you see it?

18 A. Yes, sir.

19 Q. I want you to show the jury where the Defendant backed
20 his car to?

21 A. Right back there. Right there.

22 Q. Okay. Now, was the back end -- is that a porch?

23 A. Yes.

24 Q. Was the back end of the car to the porch or what part
25 of the car was to the porch?

1 A. The door was to the -- the driver's seat door was to
2 the porch.

3 Q. So was that door ---

4 A. The driver's seat.

5 Q. The driver's side door was to the---

6 A. To the porch, yes.

7 Q. Okay. When James backed in -- excuse me. When the
8 Defendant backed into James' residence, ---

9 A. Yes.

10 Q. --- what did he do?

11 A. He jumped out.

12 Q. Okay. Did he jump out the driver's side?

13 A. Yes.

14 Q. When he jumped out, did he close the door or leave it
15 open?

16 A. He left it open.

17 Q. And where did he go then?

18 A. On the porch.

19 Q. Okay. He was standing on the porch. Can you show us
20 with the laser where you're referring to?

21 A. Right there. Right in front of the door.

22 Q. And if you could point out the door for me. And is
23 that the door that the victim regularly used?

24 A. Yes, sir.

25 Q. When he jumped on the porch, did he put anything on?

1 A. He put a thing around his face so nobody couldn't see
2 him. And then he looked and saw a car at the stop sign, he
3 jerked it down. When he jerked it down, that's when the
4 victim answered the door.

5 Q. And what was it he had on his face?

6 A. Some kind of toboggan thing, like a little toboggan
7 thing.

8 Q. When the victim answered the door, what took place
9 next?

10 A. The victim -- sorry. I'm sorry. The Defendant went in
11 and when he went in, I heard gunshots.

12 Q. Okay. Let's talk about that for a minute. He goes
13 inside the trailer?

14 A. Yes.

15 Q. Were you able to see James at that time?

16 A. No.

17 Q. Were you able to see the Defendant?

18 A. No.

19 Q. You said you heard, what did you hear?

20 A. I heard three gunshots.

21 Q. All right. How long between the time he got to the
22 door and entered in your estimation was it that you heard
23 the first gunshot?

24 A. Not even a second.

25 Q. Okay. Is it fair to say it was almost immediate?

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- 1 A. Yes.
- 2 Q. The three gunshots you heard, were they staggered or in
- 3 succession? Do you know what I mean by that terminology?
- 4 A. They were like back to back.
- 5 Q. Can you describe it to the jury?
- 6 A. Bang, bang, bang.
- 7 Q. Just like that, bang, bang, bang?
- 8 A. Yes.
- 9 Q. And that was one second after he entered the residence?
- 10 A. Yes.
- 11 Q. After those three shots, did he come back out?
- 12 A. Yes.
- 13 Q. And where did the Defendant go?
- 14 A. He jumped in the car.
- 15 Q. Okay. Did he jump in the driver's side?
- 16 A. Yes.
- 17 Q. At this point in time, did you see the gun?
- 18 A. No.
- 19 Q. When he got in the driver's side, what did he do?
- 20 A. He took off.
- 21 Q. Did he take off slow?
- 22 A. No. He speed up.
- 23 Q. Okay. And did y'all proceed back down -- did you come
- 24 straight out of this driveway?
- 25 A. Yes.

1 Q. And which way did you go?

2 A. Right.

3 Q. Right?

4 A. Yes.

5 Q. And then where did you go?

6 A. Across the bridge, across the 123, and that's when he
7 told me he killed James.

8 Q. Okay. He told you he killed James. Had you asked him
9 any questions before that?

10 A. No.

11 Q. Well, what was your response to that?

12 A. No, you didn't.

13 Q. Where did you go from there?

14 A. Back to my aunt's house on

15 Q. Did the Defendant have a cell phone?

16 A. Yes.

17 Q. Did he ever call the police on that cell phone?

18 A. No.

19 Q. Did he ever call anybody on that cell phone after the
20 shooting?

21 A. I don't think -- I can't -- I don't think so. I'm not
22 sure though.

23 Q. You stated you went back to ?

24 A. Yes.

25 Q. Okay. And so we can refresh the jury's memory, where

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1 is that?

2 A. At my aunt's house.

3 Q. Okay. Is that where Matt Brissey lived?

4 A. Yes.

5 Q. All right. And when you got back to Matt Brissey's
6 house on , did y'all get out of the vehicle?

7 A. Yes.

8 Q. And where did you go?

9 A. Into the house.

10 Q. When you went into the house, what did the Defendant
11 do?

12 A. He went and changed clothes.

13 Q. Where in the house did he go change clothes?

14 A. The bedroom.

15 Q. Could you see him changing clothes?

16 A. No.

17 Q. At this point in time, did you see the gun?

18 A. No.

19 Q. What did you do?

20 A. I went outside on the porch and he was inside and I was
21 outside, like standing on the porch.

22 Q. Okay. And what did he say to you when he came out on
23 the porch?

24 A. He looked at me, and he was like, we got to get the
25 hell out of Easley.

1 Q. Okay. And where did you go from there?

2 A. We went -- after we -- we got into the car and we went
3 to HotSpot over there by Speedway going toward, you know,
4 the Easley Pickens Speedway. We went to that HotSpot.

5 Q. Okay. And at this point in time, did you have any
6 money?

7 A. No.

8 Q. As far as you knew, did the Defendant have any money?

9 A. No.

10 Q. Do you recall him, the Defendant, previously looking
11 for money?

12 A. Yes.

13 Q. When you went to the HotSpot -- did you say HotSpot?

14 A. Yes.

15 Q. Okay. Did y'all get money at the HotSpot?

16 A. Yes.

17 Q. Okay. Did somebody give y'all money?

18 A. Yes.

19 Q. All right. Do you recall how much that was?

20 A. Ten dollars.

21 Q. And what did you do with that ten dollars?

22 A. Put it in gas.

23 Q. Where did you go after the HotSpot?

24 A. Powdersville.

25 Q. Okay. What's in Powdersville?

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1 A. We was headed towards Aiken and there was this young
2 girl driving a mustang, pumping gas, and the Defendant
3 pulled up behind her and was talking to her. And he got
4 back into the car and he was like, we're going to follow
5 this girl to Pumpers over there in Powdersville and -- so we
6 did. And she filled the car the rest of the way up out of
7 her own pocket.

8 Q. Okay. Did you ever go to Spinx or Dodges?

9 A. We went to Dodges.

10 Q. And what happened there?

11 A. He got five dollars from the lady that was working
12 there.

13 Q. After Pumpers in Powdersville -- well, let me just ask
14 you, how long from the time you left Matt Brissey's house
15 until you got on the road to Aiken?

16 A. Midnight maybe. Because we stopped all them stops and
17 stuff.

18 Q. All right. After Pumpers where did you go?

19 A. We went towards Aiken.

20 Q. Did you go the most direct route? Do you know?

21 A. No.

22 Q. Well, where did you go?

23 A. We -- I guess it was the Interstate because we hit like
24 the toll booth. We went down where there wasn't no cars or
25 nothing.

1 Q. Did you eventually get on back roads?

2 A. I guess you'd call it back roads. There was nothing
3 but woods in front of us and stuff.

4 Q. Now, where did you go once you headed to Aiken? Where
5 did you go?

6 A. Well, when we got into Aiken, we went to the hospital
7 in Aiken County.

8 Q. All right. Let's explain that to the jury. Why did
9 you go to the hospital?

10 A. Because I was hurting?

11 Q. And where were you hurting?

12 A. In my stomach.

13 Q. Okay. Did they find anything out?

14 A. No.

15 Q. Didn't really diagnose you with anything?

16 A. No. They just told me there wasn't nothing wrong, that
17 I was just hurting, sharp pains.

18 Q. Were you pregnant?

19 A. We thought we was, but I wasn't.

20 Q. All right. So you go to the hospital. After that,
21 what did you do?

22 A. We went to his sister's house, but she was asleep, so
23 we left. And when we was leaving, his sister called and we
24 went back to her house.

25 Q. So we're clear, his sister's name is?

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- 1 A. Crystal.
- 2 Q. Crystal Murray?
- 3 A. I guess.
- 4 Q. You just know her as Crystal?
- 5 A. Yeah.
- 6 Q. Ultimately, did you go -- you went to Crystal's house.
- 7 Did she let you in?
- 8 A. Yes.
- 9 Q. Okay. What did you do then?
- 10 A. He went and took a shower and passed out on the couch.
- 11 Q. When you say he took a shower ---
- 12 A. The Defendant.
- 13 Q. The Defendant took a shower?
- 14 A. Yes.
- 15 Q. Okay. And when you say passed out on the couch, were
- 16 y'all ---
- 17 A. We was asleep. Like, we went to sleep.
- 18 Q. When you say passed out, you just went to sleep?
- 19 A. Yeah.
- 20 Q. Had you drank anything or anything like that?
- 21 A. No.
- 22 Q. How long did you sleep?
- 23 A. About two hours.
- 24 Q. Is it fair to say you went to sleep immediately upon
- 25 getting there?

1 A. Yes.

2 Q. After you got up, what did you do?

3 A. Me and Crystal went to the park to take her kid and we
4 spent a couple -- like a couple of hours at the park.

5 Q. Okay. And was the Defendant with you at that ---

6 A. No, he wasn't.

7 Q. And after that, where did you go?

8 A. We went back to the house.

9 Q. And was the Defendant at the house?

10 A. Yes.

11 Q. At this time that you went back to the house, was the
12 Cavalier at the house?

13 A. No.

14 Q. Did you know where the Cavalier was?

15 A. No.

16 Q. But the Defendant was at the house?

17 A. Yes.

18 Q. Do you recall what you did the remainder of that day?

19 A. We just stayed at the house that day.

20 Q. Okay. Did you stay another night at Crystal's?

21 A. Yes.

22 Q. And did you sleep all that night?

23 A. Yes.

24 Q. You went to bed at normal hours, got up at normal
25 hours?

1 A. Yes.

2 Q. Okay. Did you get a good sleep in?

3 A. No, not really.

4 Q. Did the Defendant sleep?

5 A. I'm not sure.

6 Q. Okay. At that point -- the next day, did you go
7 anywhere?

8 A. Yes.

9 Q. And where did you go?

10 A. To a cookout.

11 Q. Whose cookout was this?

12 A. Some family members of his.

13 Q. When you say his, ---

14 A. The Defendant's.

15 Q. And how long were you at the cookout?

16 A. Not even an hour.

17 Q. What happened at the cookout?

18 A. This lady came and said that the cops was looking for
19 us and that we needed to hurry up and get off because her
20 husband wasn't going to lie for us. So we jumped in the
21 truck and we left.

22 Q. And at this point in time, did you realize that you
23 were in trouble?

24 A. Kind of, yeah.

25 Q. And did you realize that the Defendant was in trouble?

1 A. Yes. I mean, I knew he was in trouble, but I didn't --
2 really didn't think about me, you know.

3 Q. Okay. Where did you go?

4 A. His sister took us to this house -- I can't remember
5 the name of the road or whatever, but his sister took us to
6 this house and left us and said she was going to come back
7 in a few hours to pick us up. And so we stayed behind this
8 house in the car, and ---

9 Q. What kind of car was it?

10 A. It was an old beat up car. I don't know the name --
11 what kind it was.

12 Q. Do you know if it could run?

13 A. Huh?

14 Q. Could it run?

15 A. I don't know.

16 Q. Did it appear to be abandoned?

17 A. Yeah. It was looking pretty bad.

18 Q. Okay. Is this daytime or nighttime?

19 A. It was getting dark.

20 Q. And how long did you stay in the car?

21 A. Oh, we just like -- he said that if everything was good
22 he was going to like leave because he said there was like a
23 restaurant a little bit up the road.

24 Q. When you say he, ----

25 A. The Defendant. He said that we was going to go get

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1 something to eat. But then about seven minutes, six-thirty,
2 seven o'clock, that's when the cops pulled up.

3 Q. They pulled up to where this abandoned car was?

4 A. Yes.

5 Q. What happened then? Did you run?

6 A. Yes, I did.

7 Q. Why did you run?

8 A. I was scared. I was -- didn't know what to do. I've
9 never been in trouble before. I didn't know to stay or run.

10 Q. I'm sorry. I didn't mean to cut you off.

11 A. That's okay.

12 Q. And before you ran, did the Defendant say anything to
13 you?

14 A. He said that -- he's like -- he said that there was a
15 bunch of people -- I was like, there's a bunch of people on
16 that road because that road was little. And he was, like,
17 you stay here for a minute. And then a spotlight went
18 around. And when the spotlight went around, he jumped --
19 he's like, baby run. And I jumped out and I ran. I was
20 scared.

21 Q. Did you get very far?

22 A. No.

23 Q. Were you told to stop by the police?

24 A. I mean, I fell. Like, it was dark when we ran in the
25 woods so I fell over a stump. And I heard the police

1 officer say, if you run, I'll shoot. So I just stayed
2 there.

3 Q. At that time, were you arrested?

4 A. They came over there and they put me in handcuffs and
5 sit me down. They read me my rights. And then that's when
6 they told me that I got charged.

7 Q. They told you you were charged with accessory after the
8 fact?

9 A. To a murder, yes..

10 Q. Right?

11 A. Yes.

12 Q. The same charges you've got pending right now with me,
13 right?

14 A. Yes.

15 Q. Now, after they mirandized you and told you your
16 rights, that's what that is, right?

17 A. Yes.

18 Q. Okay. Did you give the police a statement?

19 A. Not that night.

20 Q. Did you ultimately give the police a statement?

21 A. Yeah. When I got back to Pickens County.

22 Q. And did you give that voluntarily of your own free
23 will?

24 A. Yeah.

25 Q. Did the police force you, coerce you in any way to give

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1 that statement?

2 A. No.

3 MR. RICHARDSON: Beg the Court's indulgence.

4 Q. Back to being at the victim's house. When the car
5 pulled in and he got out and shot as you testified to, how
6 long were you at the victim's house total, estimated time?

7 A. Not long. We just pulled up. He jumped out.

8 Q. Okay. Now, you've given a statement to the police?

9 A. Yes.

10 Q. At any time did they make you any promises for you to
11 give that statement?

12 A. No.

13 Q. You spoke to me prior to this case. Is that correct?

14 A. Yes, I did.

15 Q. You were represented by counsel. Is that correct?

16 A. Yes, sir.

17 Q. And he was present during at least one of our
18 conversations. Is that correct?

19 A. Yes, sir.

20 Q. Have I made any promises for your testimony?

21 A. No, sir.

22 Q. You understand that you're facing a good bit of prison
23 time. Is that correct?

24 A. Yes, sir.

25 Q. Is today what you're telling the truth?

1 A. Yes, sir.

2 Q. Thank you. That's all the questions I have.

3 THE COURT: This might be a good time for us to
4 take a short break. Mr. Foreman, ladies and gentlemen, I'll
5 ask you to go back to your jury room. Don't discuss the
6 case, of course. We'll continue with this testimony of this
7 witness later. We'll take about a ten minute break.

8 Everyone please remain seated while the jury retires to the
9 jury room.

10 (WHEREUPON, the jury exited the open court at
11 approximately 10:49 a.m.)

12 THE BAILIFF: The jury is secure.

13 THE COURT: All right. Ms. Brissey, you may step
14 down. Let me remind you, while we're on break, you're not
15 to discuss your testimony with anyone. We'll take a ten
16 minute break. Be ready to start back with cross-
17 examination.

18 (WHEREUPON, the Court stood at recess for a short
19 break.)

20 THE COURT: Are you ready for your cross-
21 examination, Mr. Mallard?

22 MR. MALLARD: Yes, sir.

23 THE COURT: All right. If the jury's ready, Mr.
24 Teal, you may have them come in.

25 (WHEREUPON, the jury entered the open court at

1 approximately 11:04 a.m.)

2 THE COURT: Mr. Mallard, you may cross-examine the
3 witness if you choose to.

4 CROSS-EXAMINATION

5 BY MR. MALLARD:

6 Q. Ms. Brissey, you mentioned that you and Chris were
7 under the impression that you were pregnant, right?

8 A. Yes.

9 Q. Okay. And when you went for this examination at the
10 Aiken County Hospital, they actually gave you a test?

11 A. Uh-huh (affirmative).

12 Q. But when they gave you the results, Chris wasn't in the
13 room, was he?

14 A. Yes, he was.

15 Q. On the day that the crime occurred, you had testified
16 that you were sleeping that day prior to his, Chris', waking
17 you up to go to a store, then go out?

18 A. Yes.

19 Q. So you don't remember then going with Jack Kuykendall
20 over to and then being dropped off with
21 Chris at the Dollar General while Jack went to recover the
22 items from his ex-wife, soon to be ex-wife?

23 A. No.

24 Q. And you're saying too that you were unaware that the
25 tags on the car that you were driving were stolen?

1 A. No.

2 Q. And you weren't aware that they were stolen, in fact,
3 from a neighbor of your parents?

4 A. Yes.

5 Q. You were aware of it?

6 A. I was. I knew that he stole their tags.

7 Q. Now, on the day that y'all went over to James' house,
8 you say he went to the door?

9 A. Yes.

10 Q. Could you see what was happening in the door?

11 A. No.

12 Q. Did they get into a fight?

13 A. I don't know.

14 Q. Do you recall telling the police that you saw through
15 the window that they were fighting?

16 A. I don't remember it now in my statement. But I wasn't
17 like -- I couldn't really see what they were doing. I just
18 was in the car. I heard the gunshots.

19 Q. Is it your testimony that in fact you didn't have
20 continuing problems with James?

21 A. Say what?

22 Q. He made this phone call.

23 A. Yes.

24 Q. But prior to that, had you not complained of his
25 behavior and how he treated you?

1 A. No. James was my best friend. He never once hurt me
2 or once done nothing, except that night. But I did not take
3 to heart because I knew he was not serious about it. James
4 would not hurt nobody.

5 Q. And I believe you told me that, when I interviewed you,
6 that you thought James wouldn't have been serious because he
7 would have been under the influence of drugs at the time?

8 A. I do think he was drinking because he wasn't his self.
9 James was a drunker. I mean, that's just him. That was his
10 day. That's who he was. He was twenty-one years old. I
11 mean, that was him. He loved his life and I knew for a fact
12 that boy would never hurt me. Never.

13 Q. Now, prior to the car that y'all went down to Aiken in,
14 this other car that you had for a while, do you recall a
15 time when you, your cousin Matt, and Chris were out driving
16 together and happened to see James skateboarding?

17 A. We passed James skateboarding once, and he was coming
18 back from the store. But we didn't -- but that was the only
19 time we seen him.

20 Q. When you saw him skateboarding, did you not -- or were
21 you joking when you told Chris or Matt, well, let's run him
22 over?

23 A. I didn't ever say, let's run James over. That never
24 came out of my mouth. Never.

25 Q. Okay. All right. Thank you.

1 MR. MALLARD: No further questions.

2 MR. RICHARDSON: Nothing further, Your Honor.

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

5 MR. MALLARD: Your Honor.

6 THE COURT: Yes, sir.

7 MR. MALLARD: I'm sorry. Could I ask one more
8 question while she's on the stand?

9 THE COURT: Yes, sir.

10 CROSS-EXAMINATION CONTINUED

11 BY MR. MALLARD:

12 Q. When James -- I mean, excuse me, when Chris went into
13 the trailer ---

14 A. Yes.

15 Q. --- What were you aware that you he had on him at the
16 time?

17 A. He had a toboggan on or something that goes around his
18 neck.

19 Q. Okay.

20 A. He had it on his face.

21 Q. And was he carrying anything with him?

22 A. I didn't see him. He might have had the gun on him at
23 the time. I did not see him reach to grab the gun. I
24 didn't see it.

25 Q. Do you remember -- do you recall an electrician's

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1 knife that he carried around?

2 A. No.

3 Q. Okay.

4 MR. MALLARD: Thank you, Your Honor.

5 THE COURT: All right. Thank you, ma'am. You may
6 step down.

7 MR. RICHARDSON: Your Honor, may this witness be
8 excused?

9 THE COURT: Is there any objection to this witness
10 being excused?

11 MR. MALLARD: Yes, Your Honor. We might need to
12 recall her.

13 THE COURT: All right. She'll stay under subpoena
14 then.

15 MR. RICHARDSON: The State Calls Sergeant Blevins
16 to the stand.

17 THE CLERK: Place your left hand on the bible and
18 raise your right hand. Do you solemnly swear or affirm the
19 testimony you're about to give to be the truth, the whole
20 truth and nothing but the truth, so help you God?

21 MR. BLEVINS: Yes, ma'am.

22 THE CLERK: State your name for the record,
23 please.

24 MR. BLEVINS: David Blevins.

25 **DAVID BLEVINS,**

1 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

2 **DIRECT EXAMINATION**

3 **BY MR. RICHARDSON:**

4 Q. Sergeant, where are you employed?

5 A. Aiken County Sheriff's Office.

6 Q. And are you a Detective there?

7 A. Yes, sir.

8 Q. How long have you been in law enforcement?

9 A. Eighteen years.

10 Q. Back in January, specifically January 20th of 2010,
11 were you working that day?

12 A. Yes, I was.

13 Q. Okay. And did you have an occasion to come in contact
14 with certain detectives from the Pickens County Police
15 Department?

16 A. Yes, I did.

17 Q. And what was that in regards to?

18 A. My supervisor, Captain Owens, approached me and asked
19 me to assist Detectives Taylor and Baker in assisting in
20 searching for a suspect that they wanted for murder in
21 Pickens County.

22 Q. I'm going to -- if you'll do me a favor, just pull up a
23 little bit so we can pick you up a little better. There's
24 bad acoustics in this courtroom. And who was that suspect?

25 A. Christopher Murray.

1 Q. Now, did you know who Christopher Murray was?

2 A. Yes, sir.

3 Q. Did you have ideas of where you may could locate him?

4 A. Yes, sir.

5 Q. All right. And did you assist the Pickens County

6 Police Department in locating the Defendant?

7 A. Yes, I did.

8 Q. What did you do first?

9 A. Detective Taylor and Baker had an initial starting
10 address with them when they came down, which was to a
11 location in the -- on what we call the south side of Aiken.

12 We went down there initially to make contact. Nobody was
13 home. We proceeded from there to various other relatives
14 throughout the county that I was aware of and just proceeded
15 up to the fact that we were told that he was at the

16

17 Q. Okay. And to refresh the jury's memory,

18 is whose address?

19 A. That's Crystal Murray's. That's his sister.

20 Q. Okay. And at that time, did you proceed to

21 ?

22 A. That's correct.

23 Q. And did you have a conversation with Crystal Murray?

24 A. Yes.

25 Q. Okay. And from that conversation, were you able to

1 ascertain where the Defendant may be located?

2 A. Yes.

3 Q. Okay. And where was that?

4 A. We found out -- it was determined that the road name
5 was , which is in the eastern portion of Aiken
6 County. It's in a rural area. She did not know the exact
7 numerical address, but she described the house. It had a
8 broken down John Deere tractor, I believe, riding lawnmower
9 in the front.

10 Q. And were you familiar with that area?

11 A. Yes.

12 Q. And did you, yourself, and other deputies proceed to
13 that area?

14 A. Yes, sir. After the interview with Crystal was over
15 with, I notified Captain Owens again, at which point he
16 determined to go ahead and call out the bloodhound tracking
17 team, along with some extra deputies and we proceeded to an
18 intersection of that road and and
19 established a perimeter around the area.

20 Q. When you say perimeter, just to tell the jury exactly
21 what that is?

22 A. Anytime we call out our bloodhounds tracking team, we
23 set up a ring, so to speak, of deputies and a road patrol to
24 kind of secure an area where the dogs may be tracking or
25 where a suspect may be initially located.

1 Q. Okay, sir. And from that point what -- at this point
2 when you're establishing a perimeter, are the detectives
3 from Pickens County, are they with you?

4 A. That's correct.

5 Q. Okay. Are they in your vehicles or do they have their
6 own separate vehicles?

7 A. One was in -- Detective Baker was in my vehicle with
8 me. Detective Taylor was in a vehicle with Investigator
9 Burgmann.

10 Q. Okay. And once the perimeter was established, what did
11 you do?

12 A. We proceeded to go down looking for the
13 description of the house being the one Crystal gave us.

14 Q. Okay, sir. And did you locate that particular
15 residence?

16 A. Yes, we did.

17 Q. Okay. And when you located that residence, what did
18 you see?

19 A. As we went by the residence, I initially had passed it.
20 I was in the lead car. One of the -- Investigator Burgmann
21 was behind us. They called out on the radio that there was
22 two suspects running from an abandoned car behind the
23 residence, at which point we turned in and observed a female
24 and a male running into the wood line.

25 Q. Okay, sir. You noticed a male and a female running?

1 A. Correct.

2 Q. Is that what you testified to?

3 A. Correct.

4 Q. Okay. Where were they running from?

5 A. They were running from an abandoned car that was parked
6 behind the residence.

7 Q. Okay, sir. Now, were they apprehended?

8 A. Yes, they were.

9 Q. You just saw the testimony of Faye Brissey?

10 A. Correct.

11 Q. Was she apprehended? How long did it take to apprehend
12 her?

13 A. I would say within seconds of us pulling in and getting
14 out of the car.

15 Q. Okay. Did you see her apprehended?

16 A. Yes.

17 Q. Who actually arrested her?

18 A. Myself and Detective Baker were the ones who actually
19 physically took her into custody.

20 Q. Okay, sir. Now, when you took Faye Brissey into
21 custody, where did you take her?

22 A. We brought her back to the area of the abandoned car
23 where the -- where we saw them run from, and just kind of
24 sat her down right there for the moment.

25 Q. Okay. Now, at this particular time, was the Defendant

1 Chris Murray in custody?

2 A. No, he was not.

3 Q. Okay. At some point in time, did y'all, your agency,
4 get Christopher Murray into custody?

5 A. Yes, sir.

6 Q. Okay. Approximately how long after he ran was it that
7 he was taken into your custody?

8 A. Within twenty to thirty minutes.

9 Q. Okay, sir. And was canine out there?

10 A. Yes.

11 Q. The canine unit?

12 A. Yes. The bloodhound team, yes, sir.

13 Q. All right. And were they involved?

14 A. Correct. When we observed the two subjects running
15 from the car, we -- like I say, we got Ms. Brissey
16 immediately. Once the Defendant hit the wood line, one of
17 the deputies marked a spot where he went in, and at that
18 point in time two of our trackers with a bloodhound went in
19 after him.

20 Q. Okay, sir. And were you present when the Defendant,
21 Christopher Murray, was apprehended and brought out of the
22 woods?

23 A. Yes.

24 Q. Do you know where he was found?

25 A. He was found approximately a hundred yards or so into

1 the woods. They described like a creek bed down in the back
2 of these pretty thick woods. They found him laying down.

3 Q. And did these woods have briars and things of that
4 nature?

5 A. Yes, sir. Very thick vines, briars.

6 Q. Did you view the Defendant when he came out of the
7 woods?

8 A. Yes, I did.

9 Q. How close were you to him?

10 A. I could reach out and touch him at times.

11 Q. Okay. Did you notice any injury to the Defendant?.

12 A. No.

13 Q. Did you notice any bruising on his face?

14 A. No.

15 Q. Any cuts on his head?

16 A. Nothing other than maybe he would have gotten running
17 through the woods or something to that effect, but nothing
18 severe or significant.

19 Q. Okay, sir. Did you notice any bruising whatsoever on
20 his body?

21 A. No.

22 Q. Just so we're clear for the jury, this was on January
23 the 20th?

24 A. Correct.

25 Q. Now, where was the Defendant taken at this time?

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1 A. Once he was apprehended, he was placed into a marked
2 patrol which was parked out on the street of this location.

3 Q. Okay. And had Pickens County had any contact with him
4 prior to that?

5 A. Just when they were bringing him out of the woods to
6 the car, they had read him his *Miranda* Rights and explained
7 to him why they were here.

8 Q. Okay. So did you hear the Detective read him his
9 *Miranda* Rights?

10 A. Yes, sir.

11 Q. And you've read *Miranda* before?

12 A. Yes, sir.

13 Q. Plenty of times?

14 A. Yes, sir.

15 Q. Were all of his rights given to him?

16 A. Yes, sir.

17 Q. Now, I believe you testified, and correct me if I
18 wrong, that he was placed into a patrol unit?

19 A. Yes, he was.

20 Q. That would be an Aiken Sheriff's -- Aiken County
21 Sheriff's Office Patrol unit?

22 A. Yes, sir.

23 Q. Now, from this area where you apprehended him, where
24 did you go next?

25 A. Once the Detectives from Pickens County talked to him,

1 they told me that he had gave me them a location of where
2 the vehicle was parked, that they had drove down, which was
3 located on , which was not too far from where we
4 were at.

5 Q. Do you recall what kind of vehicle -- well, let me ask
6 you. At that point in time, did y'all proceed to that
7 location?

8 A. Correct.

9 Q. Was the Defendant with y'all?

10 A. He was in the patrol car that we followed to the
11 location.

12 Q. Okay. And you proceeded to that location?

13 A. Yes, sir.

14 Q. And did you at that time view the vehicle?

15 A. Yes, I did.

16 Q. Do you recall what kind of vehicle it was?

17 A. It was a white Cavalier.

18 Q. Referring to State's Exhibit 28, do you recognize that,
19 sir?

20 A. Yes, I do.

21 Q. And what is that?

22 A. That's the white Cavalier we found at the
23 address.

24 Q. And that's where the Defendant led you?

25 A. Correct.

1 Q. Describe to the jury where that car was and how it was
2 parked?

3 A. is a -- more or less a dead-end dirt road
4 off of a paved road in the same area of the county that we
5 apprehended the Defendant in. The house is at the very
6 dead-end. It's a two-story type house and in the back yard,
7 there was two older vehicles parked. The white Cavalier was
8 backed into the -- right up against the wood line, in
9 between the two other vehicles.

10 Q. Now, at this point, are you involved with any
11 conversations with the Defendant at all?

12 A. No.

13 Q. Okay. Who was involved? Did you see anybody involved
14 with any conversations with the Defendant?

15 A. Detective Baker and Detective Taylor.

16 Q. And where was that conversation between the Defendant
17 and those Detectives taking place, do you recall?

18 A. In the patrol car that the Defendant was riding in.

19 Q. Okay, sir. Now, as far as the car is concerned, what
20 did y'all do with the vehicle, this vehicle?

21 A. Once the Detectives were through questioning the
22 Defendant about the car, they asked if we could secure it
23 for him. I notified our rotational wrecker, I believe it
24 was Eddie's Towing or Wayne's Towing -- excuse me -- came
25 out. They secured the vehicle and then we escorted it back

1 to our -- to the Sheriff's Office in Aiken.

2 Q. All right, sir. And once again referring to State's
3 Exhibit 28, is that y'all's impound?

4 A. Correct. That's the new facility we built to put
5 vehicles in.

6 Q. And is that where you turned over control of that
7 vehicle to Pickens County?

8 A. Yes, sir.

9 Q. Now, at some point in time there was an interview of
10 the Defendant at the Pickens County Sheriff's Office --
11 excuse me -- the Aiken County Sheriff's Office.

12 A. Yes.

13 Q. Do you recall that?

14 A. Yes.

15 Q. Were you involved with that?

16 A. I offered our interview room to the Pickens County
17 Detectives, being that it had video recording equipment and
18 they used it. And I set the machine up for them so they
19 could conduct an interview.

20 Q. Yes, sir. Now, at some point in time, did the
21 Defendant lead you to a second location?

22 A. Yes.

23 Q. And where was that location?

24 A. That would be a wooded lot next door to
25 , which would be his sister's address.

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1 Q. Let me hand you what's been marked as State's Exhibit
2 Number 45 for identification purposes. Do you recognize
3 that?

4 A. Yes.

5 Q. And what is that?

6 A. That is the intersection of and
7 , which would contain the empty lot.

8 MR. RICHARDSON: Your Honor, I've shown State's
9 Exhibit, for identification purposes only, 45 to Defense
10 counsel. I now ask that it be placed into evidence.

11 MR. MALLARD: Without objection.

12 THE COURT: Without objection, Exhibit 45 is into
13 evidence. It may be published.

14 (WHEREUPON, State Exhibit Number 45 was admitted into
15 evidence.)

16 Q. Okay, sir. There is a laser pointer. If you could
17 grab that and push the red button, that will bring the laser
18 up. You've got the laser on the house right there. Whose
19 house is that?

20 A. That's , which would be Crystal's
21 house.

22 Q. Okay. And, in fact, was that where you were when y'all
23 spoke to Crystal?

24 A. Yes.

25 Q. Okay. Can you point with the laser to the empty lot

1 where the gun was found?

2 A. The gun was found -- there's a fence line that runs
3 right along here. And then goes back to -- there's another
4 house back here, and then the empty lot's right here. It
5 was in this square.

6 Q. And were you present when that gun was found?

7 A. Yes, sir.

8 Q. Okay, sir. Did you view that gun?

9 A. Yes, I did.

10 MR. RICHARDSON: Your Honor, at this time, I am
11 going to mark the weapon for identification purposes only.

12 THE COURT: Yes, sir.

13 MR. RICHARDSON: Do you have any further
14 instruction ---

15 THE COURT: No. Has the exhibit been shown to the
16 Defense Counsel?

17 MR. RICHARDSON: I'm getting ready to do that. I
18 didn't know if you wanted to ---

19 THE COURT: I'll do that when it gets into
20 evidence.

21 Q. Sir, I'm showing you what's been marked as State's
22 Exhibit Number 50 for identification purposes. Do you
23 recognize that?

24 A. Yes, I do.

25 Q. And what is that?

1 A. That is a Hi-point 380 semi-automatic handgun.

2 Q. Okay. And ---

3 MR. RICHARDSON: Your Honor, I've shown this to
4 Defense counsel. At this time, I'm moving this into
5 evidence, State's Exhibit Number 50.

6 THE COURT: Is there any objection to the ---

7 MR. MALLARD: No, Your Honor.

8 THE COURT: That is Number 50?

9 MR. RICHARDSON: Yes, sir.

10 THE COURT: All right. Without objection State's
11 Exhibit Number 50 is admitted into evidence.

12 (WHEREUPON, State Exhibit Number 50 was admitted into
13 evidence.)

14 THE COURT: Solicitor, has that gun been disabled?

15 MR. RICHARDSON: It has. It has been secured for
16 court purposes with binding and no clip in the gun.

17 THE COURT: All right. Ladies and gentlemen, for
18 your benefit and everyone's benefit, I wanted you to know
19 that that gun has been disabled. It's been examined by law
20 enforcement and declared to be disabled. It'll not be
21 pointed at you in any way, even though it is disabled. But
22 I wanted you to be assured that the weapon would not be able
23 to fire any kind of bullets during the course of this trial
24 and the law enforcement has assured us that it is a
25 nonfunctional weapon for your examination.

1 You may proceed, Solicitor.

2 MR. RICHARDSON: Thank you, sir.

3 Q. Does that gun denote on it what type of weapon it is?

4 A. Yes, it does.

5 Q. Okay. And what kind of a weapon that is?

6 A. Yes.

7 Q. Okay. What type of weapon is it?

8 A. It's a Hi-point 380 ACP caliber.

9 Q. And is that the gun retrieved next to Crystal's house?

10 A. Yes, it is.

11 (WHEREUPON, State Exhibit Number 51 was marked for

12 identification.)

13 Q. Sir, I'm going to hand you what's been marked State's

14 Exhibit 51 for identification purposes only. Can you tell

15 me what that package contains?

16 A. It contains one magazine for the Hi-point 380 and five
17 hollow point 380 bullets that were removed from it.

18 Q. Okay, sir. And did you remove it or were you present
19 when it ---

20 A. I was present when it was removed.

21 Q. Okay, sir. And was it unloaded at that time?

22 A. Yes, it was.

23 MR. RICHARDSON: At this time I would move that
24 State's Exhibit 51 for identification purposes be moved into
25 evidence.

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1 THE COURT: Any objection?

2 MR. MALLARD: No, Your Honor.

3 THE COURT: Without objection, Exhibit 51 is
4 admitted into evidence.

5 (WHEREUPON, State Exhibit Number 51 is admitted into
6 evidence.)

7 Q. When the gun was found, was the clip in the gun?

8 A. Yes, it was.

9 Q. Was the clip loaded with those bullets?

10 A. Correct.

11 Q. And what type of bullets were those?

12 A. They're jacketed hollow point, 380 ACP.

13 Q. Did you take any pictures at the scene?

14 A. I did not.

15 Q. Okay. Did one of your cohorts, Detectives, did they
16 take pictures?

17 A. Yeah. Investigator Burgmann photographed the recovery
18 of the gun.

19 Q. And that gun, was it transferred directly from you and
20 your officers to the Pickens County Sheriff's Office?

21 A. Yes.

22 Q. Do you recall which officer it went to?

23 A. It went to Detective Baker, I believe.

24 Q. And, also, the unspent hollow point bullets, were they
25 also transferred by you and your agency to the Pickens

1 County Sheriff's Office?

2 A. Yes, sir.

3 Q. Was that also to Detective Baker?

4 A. Yes, sir.

5 Q. That's all the questions I have. Please answer any
6 questions the Defense may have.

7 MR. MALLARD: If I could have just a second?

8 THE COURT: Yes, sir.

9 **CROSS-EXAMINATION**

10 **BY MR. MALLARD:**

11 Q. Officer, did you happen to -- okay. So when you
12 recovered the gun, it was buried. How far down was it?

13 A. Twelve inches maybe, roughly. Well, roughly.

14 Q. Do you recall whether or not the safety was on it?

15 A. I do not recall, no, sir.

16 Q. Thank you.

17 MR. MALLARD: No further questions.

18 MR. RICHARDSON: That's all from the State.

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

20 MR. RICHARDSON: The State calls officer -- excuse
21 me -- Sergeant Kurt Burgmann.

22 THE CLERK: Place you left hand on the bible.

23 Raise your right hand. Do you solemnly swear or affirm the
24 testimony you're about to give to be the truth, the whole
25 truth and nothing but the truth, so help you God?

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1 MR. BURGMANN: I do.

2 THE CLERK: State your name for the record,
3 please.

4 MR. BURGMANN: Kurt Burgmann.

5 KURT BURGMANN,

6 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION

8 BY MR. RICHARDSON:

9 Q. I apologize for saying your name wrong. Sergeant,
10 where are you employed?

11 A. Aiken County Sheriff's Office.

12 Q. And how long have you been employed in law enforcement?

13 A. About seventeen, almost eighteen years.

14 Q. And you're a Sergeant. Is that just a Sergeant in
15 general or are you a Detective?

16 A. I'm an investigator at the Sheriff's Office.

17 Q. Okay, sir. Now, were you working on January the 20th,
18 2010?

19 A. Yes, sir.

20 Q. And did you have contact in some form or fashion with
21 the Pickens County Sheriff's Office on that date?

22 A. Yes, sir, I did.

23 Q. Okay. Was that in Aiken County?

24 A. Yes, sir, it was.

25 Q. Okay. And just generally for the jury, when you had

1 contact with them, what did you do? What was your
2 involvement?

3 A. Captain Owens requested myself and Investigator Blevins
4 to assist them with a murder investigation, being that the
5 suspect was possibly within Aiken County.

6 Q. Okay, sir. And did you proceed to assist in locating
7 the Defendant?

8 A. That is correct.

9 Q. And did that take you out to a location where the
10 Defendant was, in fact, found?

11 A. Yes, sir, it did.

12 Q. And what was that location?

13 A. It was going to be off -- once we got the information,
14 like I said, we deployed to at

15 and waited on our Aiken bloodhound tracking team to
16 show up. Once they did, we moved in search of the possible
17 target location. At that point in time, I observed a white
18 female and a white male run from an abandoned car, which we
19 believed to be the target house and headed towards the wood
20 line. I then went to the back to where the abandoned car
21 was, myself and one of the Pickens County Detectives exited
22 our vehicle. I checked the abandoned vehicle where they had
23 run out from to make sure there was nobody else inside
24 there. The Defendant, Ms. Brissey, I believe is her last
25 name, fell in the wood line. We ordered her to stay down,

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1 stay down. And that's when investigator Blevins and the
2 other Pickens County Detective took her into custody.

3 Q. And did you remain at the scene long enough that you
4 were there when the Defendant, Chris Murray, was also
5 apprehended?

6 A. Yes, sir. I took up a position at the edge of the wood
7 line with my patrol rifle, being the fact that there was a
8 possible armed murder suspect in the wood line. So I was
9 securing the perimeter of the other units that were still on
10 scene speaking with the other Defendant.

11 Q. Okay, sir. And, in fact, did you view the Defendant
12 after he was apprehended?

13 A. I saw him for a brief period, sir.

14 Q. And was he a long distance from you? How close were
15 you?

16 A. Probably myself to you I'd say, sir.

17 Q. Okay. And from what you could see, was the Defendant
18 injured in any way?

19 A. No, sir, not that I could see.

20 Q. Did you see any contusions about his head, body or
21 anything?

22 A. No, sir. Nothing I could see that was visible.

23 Q. Now, were you involved in locating -- well, let me ask
24 you this. Were you involved in locating the vehicle, the
25 white Chevy?

1 A. Yes, sir, myself and Investigator Blevins, we followed
2 the patrol unit that had the Defendant in it to that
3 location on, I believe it was

4 Q. Okay, sir. And subsequent to that, were you taken to
5 another location?

6 A. The vehicle had been the first location. And then
7 after we left with the vehicle, after the vehicle was towed,
8 we did go to back to, I believe it's
9 Crystal Murray, his sister's location.

10 Q. Okay.

11 A. On

12 Q. I'll refer you to what's been marked as State's Exhibit
13 45. Can you see that?

14 A. Yes, sir, I can.

15 Q. All right. Is that the location you're referring to?

16 A. Yes, sir. That would be the location.

17 Q. Okay, sir. And if you can get the laser pointer. Were
18 you involved in the -- did the Defendant take y'all there?

19 A. Yes, sir. I was in the second to last vehicle in that
20 I followed in behind Investigator Blevins and them. But,
21 yes, he too us to that location.

22 Q. Okay. And at that point did he show you where this Hi-
23 point 380 was located?

24 A. Yes, sir, he did. He took us to where it was located.

25 Q. And can you generally point that laser to where that

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1 location is?

2 A. Yes, sir. It's going to be the wooded lot adjacent to
3 the house. It'll be right -- probably in -- right in this
4 general area right about here.

5 Q. Okay. Now, is there a fence in that area?

6 A. Yes, sir. There's an fence line that runs right down
7 the edge of the driveway of the residence.

8 Q. And if could you just point real quick to where
9 Crystal's house was -- is?

10 A. It would be right there, sir.

11 Q. Okay. Is that fence -- do you recall how tall that
12 fence is?

13 A. Not a hundred percent. It was, I want to say, a
14 chainlink fence. I'm not sure if it was only a six footer
15 or a four footer.

16 Q. Okay. Well, let me ask you this. As part of your
17 investigation, were part of your duties that night to take
18 pictures?

19 A. Yes, sir, I did. I brought along a camera to take
20 photographs.

21 Q. Okay. Let me hand you what's been marked as State's
22 Exhibit 19, 22, 20, 21, 24, 27, 25, 26, and 18 for
23 identification purposes only. If you could review those
24 Exhibits for identification purposes. Okay. So are those
25 the exhibits -- did you review all of those exhibits?

1 A. Yes, sir, I've looked at those photographs.

2 Q. Okay. Are these photographs that you took?

3 A. Yes, sir. Those are the photographs that I took in the
4 recovery of the weapon.

5 Q. Okay, sir. And these photographs accurately depict
6 what was shown -- what you saw that evening?

7 A. That is correct, sir.

8 Q. Okay. And these photographs, were they taken January
9 the 20th of 2010?

10 A. Yes, sir.

11 MR. RICHARDSON: Your Honor, I've shown Exhibits
12 19, 22, 20, 21, 24, 27, 25, 26 and 18 to Defense Counsel.
13 At this time I would move that they be placed into evidence.

14 MR. MALLARD: No objection.

15 THE COURT: Without objection, those photographs
16 may be placed into evidence and may be published to the
17 jury.

18 (WHEREUPON, State Exhibit Numbers 19, 22, 20, 21, 24,
19 27, 25, 26 and 18 were admitted into evidence.)

20 Q. Okay, sir, I'm going to try to do this in some kind of
21 logical order. I'm referring to what's now State's Exhibit
22 18. Can you tell the jury what that is? And you can use
23 the laser pointer. Just push the red button.

24 A. That's not wanting to go on. Basically, what you see
25 in the door right there, that's going to be

1 . That's going to be the Defendant's sister's house.

2 The steel colored bar that's running across the -- by the
3 top of it right there is going to be where the fence is.
4 Basically, I'm taking the picture looking at the house,
5 standing over the hole where the weapon was found.

6 Q. Okay, sir. Referring to State's Exhibit 19, what is
7 that?

8 A. This is going to be the area the Defendant took us and
9 stated that -- where the disturbed earth is, near where the
10 leaning tree, he stated is where the gun was buried. And I
11 photographed -- you can see where the disturbed earth is
12 around -- where all the leaves had fallen around it.

13 Q. At this point in time, had anybody disturbed that area
14 from your office of the Pickens County Sheriff's Office?

15 A. To the best of my knowledge, no, sir.

16 Q. And is that where the former picture was taken from?

17 A. Yes, sir. It was right in that area.

18 Q. Referring to State's Exhibit 22, sir, what is that?
19 What is that?

20 A. Once the earth was uncovered at that spot, the blue bag
21 and everything down in the bottom of the hole, that was what
22 we believed to be the firearm.

23 Q. Okay. And is that -- you viewed that bag that night?

24 A. Yes, sir, I did. That was photographed in the hole
25 from the previous pictures as depicted. That's looking down

1 into the hole.

2 Q. Okay. Is it tied or anything of that nature?

3 A. To my knowledge it's knotted up.

4 Q. Okay. Referring to State's Exhibit 20, sir, what is
5 that showing?

6 A. That's showing a blue bag that's been opened, looking
7 down into the bag where there's a clear plastic bag and
8 which is containing a firearm.

9 Q. Okay, sir. Referring to State's Exhibit 21, what is
10 that, sir?

11 A. This is after we retrieved -- we knew it was a firearm
12 we retrieved out of the woods. We went back to Investigator
13 Blevins' car. The plastic bag with the firearm in it was
14 removed from the blue bag and placed on the back of
15 Investigator Blevins' car.

16 Q. Okay, sir. There's a certain wrapping, I believe, on
17 that gun at that time?

18 A. Yes, sir. It's along the lines of a clear plastic.

19 Q. Okay, sir. Is that the way you found it inside the
20 blue bag?

21 A. Yes, sir, to the best of my knowledge.

22 Q. Okay, sir. And is that the same gun that you have
23 sitting before you marked as State's Exhibit 50?

24 A. Yes, sir. It's showing with the magazine still intact
25 in the magazine well.

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1 Q. Does that gun -- do you have knowledge of that gun
2 having a serial number?

3 A. Yes, sir. I took two additional photographs on return
4 to the Sheriff's Office. Like I said, we had a secure
5 location. I obtained what we call a firearms box. That's
6 how we place our evidence, such as firearms or knives. We
7 have separate boxes for that. I retrieved a box for Pickens
8 County and the weapon was placed in the box and I IDed the
9 serial number on the bottom of the gun confirming that was
10 the gun that we took into evidence, along with the
11 manufacturer's make and the caliber on the other side.

12 Q. Okay, sir. And I'm referring to Exhibit 27. Is that a
13 picture of the serial number?

14 A. Yes, sir, it is.

15 Q. And does that match the serial number that's on the
16 weapon that's marked State's Exhibit 50?

17 A. Yes, sir. It does.

18 Q. Thank you. Sir, referring to what's been marked as
19 State's Exhibit 26, what is that?

20 A. That is going to be manufacturer, the model and the
21 caliber of the firearm that I have up here in front of me.
22 It's a Hi-point firearm with a caliber of 380 ACP.

23 Q. Okay, sir. And does that picture of the firearm
24 correspond with the firearm that you have in front of you
25 marked State's Exhibit 50?

1 A. Yes, sir, it does. Make, model, caliber and serial
2 number do match.

3 Q. I'm referring to State's Exhibit 23. Did you take this
4 picture?

5 A. Yes, sir, I did. That was taken at the scene outside
6 of the normal wrapper as Investigator Blevins was doing the
7 evidence sheet.

8 Q. Is that the same weapon that you have before you,
9 State's Exhibit 50?

10 A. To my knowledge, yes, sir.

11 Q. Referring to State's Exhibit 24, what does that show?

12 A. It's depicting the magazine removed from the weapon.
13 Again, it's on the back of Investigator Blevins' car. It
14 has the magazine containing the hollow point ammunition.

15 Q. And that magazine and hollow point ammunition was
16 turned over to the Pickens County Sheriff's Office?

17 A. Yes, sir, along with the firearm.

18 Q. And is the magazine loaded in that picture?

19 A. Yes, sir. The magazine is loaded in that picture.

20 Q. I'm referring to State's Exhibit 25. What is that?

21 A. That would be the magazine and the five rounds of
22 ammunition that have been removed from the magazine that was
23 in the weapon.

24 Q. Okay, sir. And I refer you to State's Exhibit 51. Is
25 that the same magazine and ammunition that is in that

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1 picture depicted?

2 A. Yes, sir, it is.

3 Q. And that's the picture referred to in the State's
4 Exhibit 25. What kind of bullets were these?

5 A. They're 380 caliber ACP, hollow point ammunition.

6 Q. Okay. What's the difference between a hollow point and
7 another type of ammunition?

8 A. You have the hollow point and then you have like either
9 a ball or they have truncated cones. Basically, it's meant
10 for target practice and stuff like that or you can carry
11 what they call ball ammunition, that's where it's rounded
12 over. The hollow points are meant to open up and expand is
13 what it is. They're designed more of a personal defense
14 type round.

15 Q. Okay, sir. And when you say hollow points, is there
16 actually a hollow in the point?

17 A. Yes, sir. It's kind of the -- they cut the circular
18 dome out so it's flat and then they -- basically they drill
19 or they tap down into it, so you've got a hollow cavity in
20 there.

21 Q. Yes, sir. Thank you, sir. Please answer any questions
22 that Defense Counsel may have.

23 MR. MALLARD: Your Honor?

24 THE COURT: Yes, sir.

25 MR. MALLARD: I wanted to ask about one of these

1 photos, but I wanted to show it to my client first.

2 THE COURT: Yes, sir. Go right ahead.

3 CROSS-EXAMINATION

4 BY MR. MALLARD:

5 Q. I'm showing you State's Exhibit 24. Can you tell from
6 that photograph whether or not the safety is on?

7 A. I can't be a hundred percent, but I'd say it is
8 possibly engaged.

9 Q. Okay.

10 A. In looking at this weapon in the condition that it's
11 in, it looks like the lever is up. It's possibly engaged.

12 Q. Is it -- obviously, a safety can be disarmed
13 deliberately. Are there other occasions when safeties on
14 this sort of weapon can be accidentally disengaged?

15 A. I'm not quite sure how you want -- how that question is
16 exactly. I mean, if it's on safe, can it be accidentally
17 hit and disengaged? It's possible. I can't say that it can
18 or can't, depending -- like I said, I don't own this
19 firearm, don't know how soft the safety is, if it can be
20 bumped or not, so I can't say that it can or cannot.

21 Q. Thank you.

22 MR. MALLARD: No further questions, Your Honor.

23 THE COURT: Any redirect?

24 MR. RICHARDSON: No redirect.

25 THE COURT: All right. Thank you, officer. You

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1 may step down.

2 MR. BURGMANN: Yes, sir.

3 MR. RICHARDSON: I would ask that this witness be
4 excused.

5 THE COURT: Any objection to this witness being
6 excused?

7 MR. MALLARD: No, Your Honor.

8 THE COURT: Without objection. He may be excused.

9 MR. RICHARDSON: The State calls Deputy Mike
10 Goodwin to the stand.

11 THE CLERK: Place your left hand on the bible and
12 raise your right hand. Do you solemnly swear or affirm the
13 testimony you're about to give to be the truth, the whole
14 truth and nothing but the truth, so help you God?

15 MR. GOODWIN: I do.

16 THE CLERK: State your name for the record,
17 please.

18 MR. GOODWIN: Mike Goodwin.

19 MIKE GOODWIN,

20 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

21 DIRECT EXAMINATION

22 BY MR. RICHARDSON:

23 Q. Deputy, where are employed?

24 A. Aiken County Sheriff's Office.

25 Q. Okay. And in what capacity are you employed there?

1 A. I'm a road patrol deputy.

2 Q. Okay, sir. And were you so employed back on January
3 20th of 2010?

4 A. I was.

5 Q. Okay, sir. And I tell you what, if you'll move up just
6 a bit, I'm having a hard time hearing you. I want everybody
7 to hear you. On that date, were you dispatched to a
8 location on January 20th of 2010?

9 A. I was.

10 Q. Okay. Where was that?

11 A. On . I'm sorry. On
12 off

13 Q. All right. And what was your purpose of going to, I
14 believe you said, on ?

15 A. It was.

16 Q. What was your purpose of going there?

17 A. To relieve the day shift officers who were on perimeter
18 there in search of a murder suspect from Pickens.

19 Q. Okay, sir. And is it fair to say you were a supporting
20 officer?

21 A. It is.

22 Q. And what, exactly, is a supporting officer? What do
23 y'all do?

24 A. We basically maintain the perimeter, make sure nobody
25 gets out of the perimeter while the dogs are on the ground

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1 when they're in search of a suspect.

2 Q. Okay. Now, at some point in time, did you see the
3 Defendant apprehended and put into custody?

4 A. I did not see the actual custody or apprehension. I
5 arrived shortly after that occurred, to secure him into what
6 we call a caged car.

7 Q. Well, was he secured in your vehicle?

8 A. He was.

9 Q. Okay, sir. Now, just briefly, your vehicle is a
10 typical police patrol car?

11 A. It is.

12 Q. Nothing unusual about it?

13 A. (Negative nod.)

14 Q. And you also have cameras in that vehicle?

15 A. I do. All of our patrol vehicles are equipped with an
16 in-car video system. My vehicle is also equipped with a
17 webcam that's tied to an NVT that records everything that
18 occurs in the backseat of the patrol car.

19 Q. Okay, sir. Now, exactly where is this webcam in your
20 car?

21 A. It's mounted behind the driver's seat on the cage that
22 faces down on the rear passenger seat where the suspect
23 sits, mainly for contraband control.

24 Q. Okay. So would you just briefly explain what you mean
25 by contraband control?

1 A. Sometimes during an arrest, suspects are able to slip
2 things by a pat search where they'll try to stuff those
3 items inside a patrol car and leave those items in the
4 patrol car once they're taking out of the patrol car and put
5 in the jail. This camera eliminates the need to prove that
6 because it records all their activities in the back seat
7 better than the in-car video can because it doesn't go
8 through a window. It's straight on them from the back seat.

9 Q. Okay, sir. Now, on this evening, was that camera
10 working?

11 A. It was.

12 Q. And was it on?

13 A. It was.

14 Q. And was the Defendant placed in your patrol car?

15 A. He was.

16 Q. And were you transporting him?

17 A. I was.

18 Q. Okay. From the place that he was apprehended, where
19 did you transport him?

20 A. We went from to to a
21 location where there was a vehicle that was driven down from
22 Pickens County.

23 Q. Okay, sir. Now, when you were at the -- did you see
24 this vehicle that we're referring to?

25 A. I did.

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1 Q. Okay. And what kind of vehicle was it?

2 A. It was a white convertible Cavalier.

3 Q. Okay. I'm referring to State's 28. Is that it?

4 A. It is.

5 Q. Okay, sir. Now, when you got to that scene, was your
6 camera working?

7 A. It was.

8 Q. Was it on?

9 A. It was.

10 Q. All right. Did -- were you aware at that time the
11 Defendant had been *Mirandized*?

12 A. I was.

13 Q. Okay. And did he have certain conversations -- don't
14 tell me what was said, but did he have conversations with
15 Detective Mark Taylor and Detective Michael Baker?

16 A. He did.

17 Q. Okay. And was that in the vicinity of your patrol car?

18 A. It was.

19 Q. And you saw that?

20 A. I did.

21 Q. Okay, sir. And did he also subsequently make
22 statements to you inside that patrol car?

23 A. He did.

24 Q. At any time was he forced or coerced to make a
25 statement?

1 A. He was not.

2 Q. At any time did he not voluntarily and of his own free
3 will give a statement?

4 A. He did not?

5 Q. Did you ever hear him exert his right to an attorney?

6 A. No.

7 Q. Were you close to the Defendant? Did you see him up
8 close?

9 A. I did.

10 Q. Did he have any injuries about his person?

11 A. He did not.

12 Q. Sir, I'm going to hand you what's been marked as
13 State's Exhibit 43 for identification purposes only. If you
14 can open that, please, sir, and view it. Have you
15 previously viewed the video that was taken from your car on
16 the evening of January 20th of 2010, of the Defendant, Art
17 Taylor, Detective Baker and yourself?

18 A. I have.

19 Q. Okay. Is that a copy of that video?

20 A. It is.

21 Q. Okay. And from what you've viewed does that accurately
22 depict what was said and stated on that evening?

23 A. Yes, it does.

24 MR. RICHARDSON: Your Honor, I have shown Defense
25 Counsel what's been marked as State's Exhibit 43 for

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1 identification purposes. I would now move that into
2 evidence.

3 THE COURT: Subject to the objection, I'll allow
4 the exhibit into evidence.

5 MR. RICHARDSON: Thank you.

6 (WHEREUPON, State Exhibit Number 43 was admitted into
7 evidence.)

8 Q. Thank you, sir.

9 MR. RICHARDSON: That's all the questions I have
10 at this time.

11 THE COURT: Any cross-examination?

12 MR. MALLARD: No questions, Your Honor.

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

14 MR. RICHARDSON: The State would call Detective
15 Art Taylor to the stand.

16 THE CLERK: Do you solemnly swear or affirm the
17 testimony you're about to give to be the truth, the whole
18 truth and nothing but the truth, so help you God?

19 MR. TAYLOR: I do.

20 THE CLERK: State your name for the record,
21 please.

22 MR. TAYLOR: James Art Taylor.

23 ART TAYLOR,

24 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

25 DIRECT EXAMINATION

1 BY MR. RICHARDSON:

2 Q. Detective Taylor, are you employed at the Pickens
3 County Sheriff's Office?

4 A. I am.

5 Q. How long have you been there?

6 A. For seventeen years.

7 Q. Okay. And in what capacity are you employed today?

8 A. Detective.

9 Q. All right. And were you so employed as a Detective
10 back on January the 20th, 2010?

11 A. Yes, sir.

12 Q. And on that date did you investigate a case involving
13 the Defendant, Chris Murray?

14 A. I did.

15 Q. Did that investigation take you to Aiken County?

16 A. Yes, sir.

17 Q. Okay. Where did you go initially when you arrived in
18 Aiken County?

19 A. We first went to the Sheriff's Office and met with two
20 investigators from Aiken County and advised them why we were
21 there. And we did have active warrants on the two suspects.

22 Q. Okay, sir. And were you involved in the search of
23 those suspects?

24 A. Yes, sir. We just had prior knowledge that they were
25 they. We didn't know if they were still there. We just

1 wanted to go and check with family members and find out
2 where they were at or maybe a location that they had left
3 and went to.

4 Q. Ultimately, did you find the Defendant, Chris Murray?

5 A. Yes, we did.

6 Q. And were you present when he was apprehended?

7 A. When they brought -- he was apprehended in the woods.
8 I wasn't present there. But when they brought him out of
9 the woods, I was present in the yard, back yard.

10 Q. Okay, sir. And did you approach the Defendant at that
11 time or did they bring the Defendant to you?

12 A. They brought him to me.

13 Q. Okay. And at that time, what happened?

14 A. At that time, I advised him that I was from Pickens
15 County and that we had active warrants on him for murder.
16 And he started to say something at that time and I stopped
17 him, and I advised him that I needed to advise him of his
18 rights before he made any other statements.

19 Q. Okay, sir. Did you, in fact, advise him of his rights?

20 A. I did.

21 Q. Okay. And did you do that verbally?

22 A. Yes, sir.

23 Q. Okay. You didn't do it on a sheet or any -- have him
24 sign anything?

25 A. No, sir. I did it from a rights card that I carry in

1 my wallet.

2 Q. All right. Do you have that card on you today?

3 A. Give me one second to find it, please. Yes.

4 Q. And is that the card that you read the Defendant's
5 rights from?

6 A. It is.

7 Q. Can you read what you read to the Defendant on that
8 evening?

9 A. You have the right to remain silent. Anything you say
10 can and will be used against you in a court of law. You
11 have the right to talk to an attorney and have him or her
12 present with you while you're being questioned. If you
13 cannot afford to hire an attorney, one will be appointed to
14 represent you before any questioning if you wish. You can
15 decide at any time to exercise these rights and not answer
16 any questions or make any statements. Do you understand
17 your rights as explained to you. And at the time he advised
18 yes. And then I went on to ask him, having these rights in
19 mind, would you feel free to talk to me. He said, yes.

20 Q. Now, did you speak to him right there?

21 A. I did. I just asked him -- the main question I asked
22 him at that point was where the vehicle was that they were
23 in, they had driven down from Pickens County? He advised
24 that he had sold it back to the person that he had bought it
25 from. And I advised him I knew that was a lie because we

1 knew where he had purchased the vehicle. And then at that
2 time he says, well, I'll show you where the vehicle is at.
3 And there was more people coming out from the woods and
4 everything and he started getting hesitant. And at that
5 point, we went ahead and placed him into a patrol car and I
6 advised him we would talk again later.

7 Q. Okay, sir. Now, did you have conversations with him
8 while he was in the patrol car, along with Detective Baker?

9 A. Yes. That's after we found the vehicle.

10 Q. Okay. At one point in time, was it just you talking to
11 him?

12 A. Yes.

13 Q. And then was it a second point in time that it was both
14 you and Detective Baker?

15 A. Yes.

16 Q. At the point that you're just talking to him, what was
17 the gist of that conversation?

18 A. We was trying to find out where the weapon was he had
19 used in this case. His first questions were what we had him
20 charged with. And, also, he wanted to know how his
21 girlfriend, Faye, was doing. He wanted to know her
22 condition and everything. And then he talked about the
23 weapon. He said that as far as he knew, he had left it at
24 the scene because he'd blacked out during some of the
25 episodes of what ---

1 Q. Would you say that again? As far as he knew, he'd left
2 it at the scene?

3 A. Yes.

4 Q. What did you take that to mean?

5 A. At the crime scene where the offense occurred on
6

7 Q. Okay. Has he been committal to you at this point
8 regarding where the weapon is?

9 A. No, he's not telling us where it's at. I mean, by
10 saying it was at the crime scene, obviously, I'd already
11 known that it wasn't at the crime scene. I told him that.
12 And then he would go into accounts of what evidence we had.
13 I advised him we couldn't go into that. And we'd make small
14 talk here and there. And then eventually he did say that he
15 tossed it out the window.

16 Q. Okay. And what was your response to that?

17 A. That response, I advised him that we would like to know
18 where it's at. I said, any person out here could get a hold
19 of that weapon and he just gets off ---

20 Q. Was there any particular person you were referring to
21 that could get a hold of that weapon?

22 A. Oh, a child or anyone. He gets off the subject and
23 goes to something else again, and then we come back to it
24 again later on. And then he comes to the fact that he had
25 buried the weapon.

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1 Q. Now, have you previously watched the in-car cam that
2 Officer Goodwin just spoke about?

3 A. Yes.

4 Q. Is that you on that in-car cam?

5 A. Yes.

6 Q. Okay. It's kind of difficult to hear, but what you're
7 telling the jury right now is what's on that video?

8 A. Yes.

9 MR. RICHARDSON: At this time, Your Honor, I would
10 ask to publish to the jury State's Exhibit Number 43.

11 THE COURT: All right. About how long will that
12 be?

13 MR. RICHARDSON: I believe Defense Counsel says
14 it's about forty, forty-five minutes.

15 THE COURT: All right. Ladies and gentlemen of
16 the jury, before we start this, would you like to take a
17 short break? We'll let you go back just for a moment and
18 then we'll show the video and be ready to break for lunch.
19 I'll give you a short break before the forty-five minutes.
20 You've been sitting over an hour. Don't discuss the case
21 while you're back in your jury room. Everyone else please
22 remain seated.

23 (WHEREUPON, the jury exited the open court at
24 approximately 12:11 p.m.)

25 THE COURT: All right. Let's take a short break.

1 You can step down, Officer Taylor. Don't discuss your
2 testimony with anyone while we're taking -- let's take a ten
3 minute break and then we'll try to get this witness
4 concluded before lunch.

5 (WHEREUPON, the Court stood at recess for a short
6 break.)

7 THE COURT: Is the State ready to proceed?

8 MR. RICHARDSON: The State's ready.

9 THE COURT: Is the Defense ready to proceed?

10 MR. MALLARD: Yes, Your Honor.

11 THE COURT: If the jury's ready have them come in,
12 Mr. Teal.

13 (WHEREUPON, the jury entered the open court at
14 approximately 12:23 p.m.)

15 THE COURT: All right. Solicitor, you may proceed
16 with your case.

17 MR. RICHARDSON: I would ask to publish the
18 Exhibit.

19 THE COURT: All right, sir.

20 (WHEREUPON, State Exhibit Number 43 was published for
21 the jury.)

22 THE COURT: Mr. Foreman, ladies and gentlemen,
23 this might be a good time to take a break now rather than
24 having any more cross-examination or direct examination.
25 I'll remind you again while you're out and about, don't

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1 discuss the case with anyone. Don't let anyone discuss the
2 case with you. Remember the commitment you've made to these
3 parties. If you'll be back at two-thirty, we'll be ready.
4 That gives you a little more than an hour and we'll be ready
5 to start with the examination of this witness at two-thirty.
6 You're excused at this time, ladies and gentlemen. Everyone
7 else please remain seated.

8 (WHEREUPON, the jury exited the open court at
9 approximately 1:08 p.m.)

10 THE BAILIFF: The door is closed, Your Honor.

11 THE COURT: All right. We'll be at ease until
12 two-thirty. I remind you, Officer Taylor, don't discuss
13 your testimony with anyone while we're on our break.

14 MR. TAYLOR: Yes, sir.

15 THE COURT: We'll be back at two-thirty.

16 (WHEREUPON, the court stood at recess for a lunch
17 break.)

18 (WHEREUPON, State Exhibit Number 52 is marked for
19 identification.)

20 (WHEREUPON, Court Exhibit Number 2 was marked for
21 identification.)

22 THE COURT: Thank you. Please be seated, ladies
23 and gentlemen.

24 THE COURT: Is the State ready to proceed?

25 MR. RICHARDSON: Yes, Your Honor.

1 THE COURT: Is the Defense ready?

2 MR. MALLARD: Yes, Your Honor.

3 THE COURT: All right. If the jury's ready you
4 can have them come in, Mr. Teal.

5 (WHEREUPON, the jury entered the open court at
6 approximately 2:35 p.m.)

7 THE COURT: Solicitor, you can continue your
8 direct examination of the witness.

9 MR. RICHARDSON: Thank you, Your Honor.

10 **DIRECT EXAMINATION CONTINUED**

11 **BY MR. RICHARDSON:**

12 Q. Detective, so we're clear, on the video that was shown
13 to the jury just prior to lunch, that was you and this
14 Defendant having a conversation?

15 A. Yes, sir.

16 Q. Along with Detective Michael Baker?

17 A. Yes, sir.

18 Q. Okay. And at the end when he is talking, are you
19 there?

20 A. Yes, I am.

21 Q. Okay. At the very end when he's in the patrol car?

22 A. At the very end. No, not when he's in the patrol
23 himself.

24 Q. And that was to the patrolman that testified earlier?

25 A. Yes, sir.

1 Q. Okay. And when you were questioning or basically
2 having a conversation with the Defendant, how close were you
3 to him?

4 A. I was probably within inches, I mean, a foot or so from
5 him.

6 Q. And did you notice any injuries to his head or any part
7 of his body?

8 A. None at all. The only thing that I noticed was maybe
9 like little scratches from briars or whatever when he ran
10 into the woods.

11 Q. Okay, sir. Now, subsequent to this, where did y'all
12 take the Defendant?

13 A. After we had the car towed off, we left and went back
14 to the Sheriff's Office to put the car in the impound. Then
15 we left from the impound yard to where his
16 sister lives.

17 Q. Okay. And was that in reference to locating the gun?

18 A. Yes, sir.

19 Q. Okay. And at some time, did you take the Defendant to
20 the Aiken County Sheriff's Office for an interview?

21 A. Yes, sir. Right after we'd found the gun, we took him
22 to Aiken County Sheriff's Office to conduct an interview
23 there at the office itself.

24 Q. Okay. And were you present during that interview?

25 A. I was.

1 Q. Okay. However, was it Detective Baker who did the
2 actual questioning?

3 A. It was.

4 Q. Okay. And prior to going, did y'all give the Defendant
5 any food or anything like that?

6 A. If I remember right, there was a cheeseburger from
7 Burger King and then he also had a Mountain Dew once we got
8 there.

9 Q. And that was prior to the interview?

10 A. Yes, sir.

11 Q. And that interview was also videotaped?

12 A. Yes, sir.

13 Q. Thank you, sir. That's all the questions I have.
14 Please answer any questions Defense Counsel has for you.

15 **CROSS-EXAMINATION**

16 **BY MR. MALLARD:**

17 Q. Detective Taylor, just a couple of questions. A couple
18 of things I noticed from that interview. At one point in
19 the conversation when you're on the tape, you're heard
20 asking the Defendant, is that your baby she's carrying? And
21 then later on we hear Chris say, how did y'all -- how did
22 you know about the baby? Did y'all go to the hospital? And
23 you respond, no, she told us. What can you tell me about
24 that? Did you have a conversation with Faye about her being
25 pregnant?

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1 A. She advised us after she came out of the woods that she
2 was pregnant.

3 Q. Okay. So she clearly told y'all this even after her
4 Aiken Hospital exam?

5 A. I don't know anything about an exam.

6 Q. Okay. The other thing, was it your impression as well
7 that Chris, at least, seemed to believe that she was
8 pregnant?

9 MR. RICHARDSON: Your Honor, I'm going to object
10 to that question. That's asking for speculation and asking
11 ---

12 THE COURT: Rephrase your question, if you would.

13 Q. Okay. When you are talking about the possible dangers
14 involving the gun just being found by somebody and you
15 mention it might be found by a child. Do you recall when he
16 seems to repeat the phrase, my child, and then continuing
17 that discussion, seemed to talk about my child wandering
18 off.

19 A. I recall him saying that. Yes, I do.

20 Q. And this is, this is like the first time that somebody
21 from the Aiken Sheriff's Department has talked to my client,
22 right? I mean, in reference to this incident.

23 A. It's the first time I've made contact with him.

24 Q. Okay. And so even in the initial interview, he told
25 you that there had been a fight with the deceased, and the

1 deceased had been on top of him?

2 A. Yes, he did.

3 Q. Okay. And when he talked about the gun, what did he
4 say about it being on safety?

5 A. He didn't say anything to me. That was when he talked
6 to the deputy from Aiken County.

7 Q. All right. Okay. Thank you.

8 A. I mean, I saw it on the video just like you did.

9 Q. Thank you.

10 MR. MALLARD: No further questions.

11 MR. RICHARDSON: Nothing further from this
12 witness.

13 THE COURT: All right. Thank you. You may step
14 down, Mr. Taylor.

15 MR. RICHARDSON: The State calls Detective Michael
16 Baker.

17 THE CLERK: Place your left hand on the bible and
18 raise your right hand. Do you solemnly swear or affirm the
19 testimony you're about to give to be the truth, the whole
20 truth and nothing but the truth, so help you God?

21 MR. BAKER: I do.

22 THE CLERK: state your name for the record,
23 please.

24 MR. BAKER: Michael Baker.

25 MICHAEL BAKER,

1 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

2 DIRECT EXAMINATION

3 BY MR. RICHARDSON:

4 Q. Detective, where are you employed?

5 A. With the Pickens County Sheriff's Office.

6 Q. And in what capacity?

7 A. I'm a detective.

8 Q. And how long have you been in law enforcement?

9 A. I've been at the Pickens County Sheriff's Office and in
10 law enforcement about nine years.

11 Q. Okay, sir. And how long have you been a detective?

12 A. I've been -- two and a half years.

13 Q. Okay, sir. Now, let me take your memory back to
14 January the 19th of 2010. Did you have an occasion to
15 become involved in an investigation of a case against Chris
16 Murray?

17 A. I did.

18 Q. How did that come to be?

19 A. I came to work. It was a Tuesday morning, and like
20 every morning we go to our morning briefing, first thing,
21 sitting around the table, lieutenant's advising us of the
22 murder that occurred on his weekend duty.

23 Q. And that would be Lieutenant Byers?

24 A. Yes. Lieutenant Byers.

25 Q. Were you given any instructions on the investigation of

1 the case?

2 A. I was, yes, sir. My Captain, Captain Smith, instructed
3 me to interview James Gibson's immediate neighbor, Ms. Anna
4 Preza, as well as Chris Meyer and Harriet Millman.

5 Q. Okay. And these are all people that have testified
6 yesterday in front of this jury?

7 A. Yes, sir.

8 Q. Now, did you in fact interview these people?

9 A. I did.

10 Q. Okay. Now, from your interviews of the people here in
11 Pickens County, did that lead you to any conclusions?

12 A. Yes, sir. With the interview of Ms. Preza and Ms.
13 Millman and Chris Meyer, it led me to the conclusion that we
14 were looking for possibly a white colored Chevy Cavalier and
15 also a person of interest being Christopher Murray and Faye
16 Brissey.

17 Q. Did you also have an occasion to interview Matt
18 Brissey?

19 A. I did, yes, sir. That same day.

20 Q. The same day?

21 A. Yes, sir.

22 Q. At some point in time did you decide it was necessary
23 to go to Aiken, South Carolina?

24 A. Yes, sir.

25 Q. Okay. And do you know when that was?

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1 A. It was the -- it was advised to me -- I was instructed
2 on the 20th to go to Aiken County and meet with Captain
3 Owens.

4 Q. Okay. And did you in fact do that?

5 A. I did.

6 Q. Okay, sir. And so we're clear, I think I may have said
7 the 19th. You went to Aiken on the 20th?

8 A. Yes, sir.

9 Q. Okay. And what was your purpose of going to Aiken?

10 A. The purpose of going to Aiken and meeting with Captain
11 Owens of the Aiken County Sheriff's Office was to meet up
12 with Detectives Blevins and Kurt Burgmann to facilitate the
13 apprehension of Christopher Murray and Faye Brissey.

14 Q. Okay, sir. And were you involved in looking for them
15 at that time?

16 A. I was, yes, sir.

17 Q. And there's been a lot of testimony about that. But,
18 just generally, did you in fact go to these different places
19 and talk to people and eventually go to, I believe it was,

20 ?

21 A. ?

22 Q. Yes. Did you go to ?

23 A. Yes, sir. Crystal Murray's house. We started there
24 first. She wasn't there. Went to several other family
25 members of Christopher Murray's, found out that he and Ms.

1 Brissey had been with Crystal on the 19th. At that point,
2 we went back to Crystal's house to wait for her and got
3 there about the same time she did.

4 Q. And was it from Crystal Murray that you ascertained
5 where the Defendant possibly was?

6 A. Yes, sir.

7 Q. Okay. And where was that? Do you recall?

8 A. That was -- I cannot recall the name of the street.

9 She gave the description of the residence and where it was
10 located. Detectives Burgmann and Blevins were familiar with
11 that are.

12 Q. And did you ride with them or follow them out there?

13 A. Yes. I rode with Detective Blevins and Detective
14 Taylor rode with Detective Burgmann.

15 Q. Okay, sir. Now, you saw the video. Were you in the
16 courtroom when the video was playing earlier this morning?

17 A. Yes, sir.

18 Q. Okay. And are you on that video?

19 A. Yes, sir.

20 Q. Okay. Is that who he's talking to towards the end?

21 A. Yes, sir, towards the end.

22 Q. Now, the video will stand on its own. But based upon
23 that conversation, did you in fact go to another location?

24 A. Yes, sir.

25 Q. And where was that?

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1 A. That was Crystal Murray's residence, a vacant lot right
2 beside Crystal Murray's residence.

3 Q. Okay.

4 A. On

5 Q. All right. And were you present -- what was the reason
6 for going there?

7 A. To look for the gun.

8 Q. Okay. And were you present when the gun was found?

9 A. Yes, sir.

10 Q. Okay, sir. Now, so that we're clear, the gun has been
11 marked now as State's Exhibit 50. Do you recognize that?

12 A. Yes, sir, I do.

13 Q. And is that the gun that was obtained in Aiken County?

14 A. Yes, sir.

15 Q. Is that the gun that was obtained on the adjacent
16 property to Crystal Murray's?

17 A. Yes, sir.

18 Q. And State's Exhibit 51, do you recognize that?

19 A. I do, yes, sir.

20 Q. Okay. And what is that?

21 A. This is the magazine clip that was inside the
22 semiautomatic Hi-point when we recovered it.

23 Q. Okay. All right. And if you'll flip it over, do you
24 recognize that?

25 A. I do, yes, sir.

1 Q. And what is that?

2 A. These are the hollow point bullets which were inside
3 the magazine that was recovered.

4 Q. Now, did you take possession of those items down in
5 Aiken?

6 A. I did, yes, sir.

7 Q. Okay. And did you secure those items?

8 A. I did, yes, sir.

9 Q. Okay. And what did you do with those items from Aiken
10 back to Pickens?

11 A. When I got back to Pickens, I turned them over to our
12 ID lieutenant, Lieutenant Robinson.

13 Q. This gentleman sitting back here who's already
14 testified?

15 A. Yes, sir.

16 Q. Okay. Now, after you located the gun, did you have an
17 occasion to go back to the Aiken County Sheriff's Office?

18 A. I did, yes, sir, the following day.

19 Q. I'm sorry?

20 A. The following day.

21 Q. Okay. That was following ---

22 A. I'm sorry. Yes. After the gun, yes, we did go back to
23 the Aiken County Sheriff's for an interview.

24 Q. Okay. That evening?

25 A. Yes, sir.

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1 Q. Did you stop anywhere along the way?

2 A. I did not. Detectives Taylor and Detective Burgmann
3 stopped and got us some cheeseburgers from Burger King.

4 Q. Okay. Was the Defendant also fed?

5 A. It's my impression that he was. I know he was given a
6 Mountain Dew.

7 Q. All right, sir. Now, at some point when you get back
8 to the Aiken Sheriff's Office, is it your intent to
9 interview the Defendant?

10 A. Yes, sir.

11 Q. Okay. Now, procedurally in doing so, what is the first
12 thing that you do prior to interviewing any defendant?

13 A. The first thing during a proper interview with a
14 defendant is to provide him with his written *Miranda* rights.

15 Q. Okay, sir. And did you do that?

16 A. I did, yes, sir.

17 Q. Let me hand you what's been marked as State's Exhibit
18 Number 2 for identification purposes. Can you identify that
19 for me?

20 A. I can, yes, sir.

21 Q. And what is that?

22 A. This is the *Miranda* -- written *Miranda* form Waiver of
23 Rights that we use when we're interviewing.

24 MR. RICHARDSON: Your Honor, I have shown State's
25 Exhibit for identification purposes Number 2 to Defense

1 Counsel. At this time, I ask that it be introduced into
2 evidence.

3 THE COURT: Any objection?

4 MR. MALLARD: No, Your Honor.

5 THE COURT: Without objection, Exhibit 2 is into
6 evidence.

7 (WHEREUPON, State Exhibit Number 2 was admitted into
8 evidence.)

9 Q. Okay, sir. Now, I'll show you again State's Exhibit
10 Number 2. It's now into evidence. Is that a form that is
11 typically used by the Pickens County Sheriff's Office?

12 A. Yes, sir, it is.

13 Q. Okay. And does that form establish the rights of a
14 defendant?

15 A. Yes, sir.

16 Q. Okay. Now, when was that form filled out?

17 A. This form was filled out on the 20th of 2010 -- January
18 20th, 2010 at approximately ten thirty-two p.m.

19 Q. Okay, sir. And can you -- was this in regards to
20 Christopher Murray?

21 A. Yes, sir, it was.

22 Q. Okay. And was that form either read by him or read by
23 you?

24 A. It was both.

25 Q. Okay. Can you tell the jury the rights that were read

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1 to him?

2 A. Yes, sir. Would you like me to read it or do you want
3 me to just tell them?

4 Q. You could read it off the sheet, just like you told
5 him.

6 A. Okay. First I read his advisement of rights to him,
7 which I'll do now. Before we ask you any questions, you
8 must understand your rights. You have the right to remain
9 silent. Anything you say can be used against in a court.
10 You have the right to talk to a lawyer for advice before we
11 ask you any questions and to have him or her with you during
12 questioning. If you have no money to pay a lawyer's fee,
13 the court will appoint one to represent you without cost, if
14 you wish. If you decide to answer questions without a
15 lawyer present, you will still have the right to stop
16 answering at any time. You also have the right to stop
17 answering at any time until you talk to a lawyer. Those are
18 the rights that I read to him. I also read the bottom part
19 which is the advisement that he has read them. I have read
20 this statement of my rights and I understand what my rights
21 are. I'm willing to make a statement and answer questions.
22 I do not want a lawyer at this time. I understand and know
23 what I am doing. No promises or threats have been made to
24 me and no pressure or coercion of any kind has been used
25 against me.

1 Q. Thank you, sir. Now, for the benefit of the jury, is
2 that what you just read to them?

3 A. Yes, sir.

4 Q. Okay, sir. If you could get the laser pointer out. Is
5 it working?

6 A. Yes, it is.

7 Q. Okay. Can you show where it's dated?

8 A. It's dated right there, January 20th, 2010.

9 Q. Okay, sir. And at what time?

10 A. Approximately ten thirty-two p.m.

11 Q. Okay. There are certain marks made next to the rights.
12 What are those?

13 A. Those are Christopher Murray's initials. After I read
14 him his Advisement of Rights, I handed him this paper, told
15 him to read each line to himself and then initial that he
16 understood. I then asked him to read this part out loud to
17 me, just so I could make sure that he was able to read, as
18 he told me he was.

19 Q. Okay, sir. And did you state he did in fact read that
20 out loud?

21 A. He did, yes, sir.

22 Q. Okay. Is there a signature on it?

23 A. There is. It's right there.

24 Q. And whose signature is on it?

25 A. Christopher Murray.

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1 Q. And did you witness his signature?

2 A. I did.

3 Q. And did you denote that you witnessed his signature?

4 A. I did by my witness signature there, along with
5 Detective Taylor.

6 Q. Okay. And that was the Detective that just testified?

7 A. Yes, sir.

8 Q. Okay, sir. And what is -- at the very bottom what is
9 this?

10 A. That's his date of birth and Social Security Number,
11 which he filled out himself.

12 Q. Okay, sir. Now, after this form was done -- let me ask
13 you. Did he at any time after waiving his rights then again
14 invoke his rights?

15 A. No, sir.

16 Q. And he has a right to do that?

17 A. Yes, sir, at any time.

18 Q. He never asked for an attorney?

19 A. No, sir.

20 Q. He never asked -- told you he wanted to stop talking?

21 A. No, sir.

22 Q. Did you force or coerce him into signing this statement
23 in any way?

24 A. I did not.

25 Q. Did he sign it voluntarily and of his own free will.

1 A. He did.

2 Q. Did he give you a statement voluntarily and of his own
3 free will?

4 A. He did.

5 Q. Now, are you aware that Aiken County has a videotaping
6 capability of interviews?

7 A. I was, yes, sir.

8 Q. Okay. And did you know when the interview took place
9 that you were going to tape that interview?

10 A. Yes, sir. We thought it was a good tool to use. We
11 don't have that our Sheriff's Office and we wanted to take
12 advantage of it.

13 Q. Yes, sir. And did you obtain a copy of that interview?

14 A. I did, yes, sir.

15 Q. And after obtaining a copy of the video of your
16 interview of the Defendant, did you review that?

17 A. I did, yes, sir.

18 Q. Let me hand you what's been marked as State's Exhibit 3
19 for identification purposes. Do you recognize that?

20 A. I do.

21 Q. What is that?

22 A. This is the copy of the video interview received at
23 Aiken County Sheriff's Office.

24 Q. Okay, sir. When you obtained a copy of this, did you
25 bring it back to Pickens County?

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1 A. I did.

2 Q. And did it remain in your possession until delivered to
3 my office?

4 A. It did.

5 MR. RICHARDSON: Your Honor, I've shown what's
6 been marked as State's Exhibit 3 for identification purposes
7 to Defense Counsel. I now ask that it be admitted into
8 evidence and published.

9 THE COURT: All right. Subject to objection,
10 Exhibit 3 is admitted into evidence.

11 (WHEREUPON, State Exhibit Number 3 was admitted into
12 evidence.)

13 (WHEREUPON, State Exhibit Number 3 was published for
14 the jury.)

15 MR. RICHARDSON: Your Honor, would you like for me
16 to continue my examination?

17 THE COURT: Let's take a short break, ladies and
18 gentlemen. I'll let you go back to your jury room. I
19 remind you again not to discuss the case. We'll continue
20 with the examination. You've been sitting a while. We'll
21 take a short break. Everyone else please remain seated.

22 (WHEREUPON, the jury exited the open court at
23 approximately 3:54 p.m.)

24 THE BAILIFF: The jury's secure, Your Honor.

25 THE COURT: All right. Let's take a short break,

1 officer.

2 (WHEREUPON, the court stood at recess for a short
3 break.)

4 THE COURT: Is the State ready to proceed?

5 MR. RICHARDSON: The State's ready, Your Honor.

6 THE COURT: Is the Defense ready to proceed?

7 MR. MALLARD: Yes, Your Honor.

8 THE COURT: If the jury's ready, you can have them
9 come in, Mr. Teal.

10 (WHEREUPON, the jury entered the open court at
11 approximately 4:28 p.m.)

12 THE COURT: Thank you, Mr. Foreman and ladies and
13 gentlemen.

14 You may proceed with your direct examination of the
15 witness, Solicitor.

16 MR. RICHARDSON: Thank you, Your Honor.

17 **DIRECT EXAMINATION CONTINUED**

18 **BY MR. RICHARDSON:**

19 Q. Now, Detective, after y'all leave the room, which is
20 shown in the video that we just saw, is there any -- I'm
21 sorry.

22 A. Yes, sir.

23 Q. Is there any further conversations or questioning of
24 any type of the Defendant that was out of sight or out of
25 sound of the video that we heard?

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1 A. No, there was not.

2 Q. Okay, sir. Now, at some point in time did you obtain
3 possession of the Defendant's cell phone?

4 A. I did.

5 Q. Okay. And how did you do that?

6 A. There was a bag located at Crystal Murray's residence
7 by Detective Platt with the Aiken County Sheriff's Office
8 during the Consent to Search. That bag was brought back to
9 the Pickens County Sheriff's Office where I obtained a
10 search warrant to search it. Upon searching it, I located a
11 cell phone.

12 Q. The search warrant that you obtained to search the bag
13 was obtained from a Magistrate Judge in this County?

14 A. Yes, sir, in Pickens County.

15 Q. And upon receiving the phone, what did you do at that
16 time?

17 A. Upon receiving the phone, I obtained another search
18 warrant to search the contents of the phone, which I was
19 able to do in Pickens County. The battery was separate from
20 the phone. They were both in the bag. I put the battery
21 back in the phone, hooked it up to a charger and at that
22 point was able to look inside the phone.

23 Q. Okay, sir. And let me hand you what's been previously
24 marked as State's Exhibit for identification purposes,
25 State's Exhibit 31, 32 and 33. Do you recognize those

1 photos?

2 A. I do.

3 Q. And what are those photos of?

4 A. These are photos of the phone located within the bag.

5 Q. Okay, sir. And is this the phone that you obtained
6 from -- the Defendant's phone that you obtained?

7 A. Yes, sir.

8 Q. Okay, sir.

9 A. And when I say bag, Crystal Murray, whose residence the
10 bag was located at, stated this was the bag that her brother
11 Christopher Murray brought to her house.

12 Q. Okay, sir.

13 MR. MALLARD: Objection, Your Honor. May I
14 clarify? Did you say that Crystal Murray was the person who
15 gave you the consent to search the bag?

16 MR. BAKER: Gave consent to Investigator Platt
17 with the Aiken County Sheriff's Office to investigate -- I'm
18 sorry.

19 MR. RICHARDSON: Your Honor, I'd ask that he state
20 his motion.

21 THE COURT: All right. Ladies and gentlemen, let
22 me just ask you if you'll go back to your jury room just for
23 a moment while I take care of this legal matter. I'm sorry.
24 But don't discuss the case. We'll take care of this matter
25 outside of your presence, please, of the motion.

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1 (WHEREUPON, the jury exited the open court at
2 approximately 4:31 p.m.)

3 THE BAILIFF: The jury's secure, Your Honor.

4 THE COURT: All right. Mr. Mallard, your
5 objection.

6 MR. MALLARD: Your Honor, I would just move to
7 exclude the contents of the bag. If they obtained -- if he
8 obtained Crystal Murray's permission to search the bag after
9 Crystal Murray had clearly said it was the bag the Defendant
10 brought with him, it's not clear to me why just the fact
11 that the bag is at her house gives her some sort of landlord
12 right to consent to its search, when it is already known
13 that the bag belonged to my client.

14 THE COURT: This was not obtained by search
15 warrant but by consent. Is that correct?

16 MR. RICHARDSON: Correct. It was within her
17 house. She consented to a search of her house, at which
18 time they obtained the bag that belonged to the Defendant.
19 They brought the bag back to Pickens County, got a search
20 warrant for the contents of the bag and then searched the
21 bag, in which they found the phone.

22 THE COURT: Okay.

23 MR. MALLARD: So the search -- okay.

24 THE COURT: So the search of the bag took place
25 subject to a warrant here in Pickens County?

1 MR. RICHARDSON: That's correct. That's what the
2 officer ---

3 MR. MALLARD: I withdraw my motion, Your Honor.

4 THE COURT: Yes, sir. All right. So what you're
5 offering now are the pictures or the ---

6 MR. RICHARDSON: These are the pictures of the
7 cell phone and certain text messages that were on that
8 phone. The officer also testified he got a separate search
9 warrant for it and obtained the text messages.

10 THE COURT: Okay. Is there any objection to the
11 pictures?

12 MR. MALLARD: No, Your Honor.

13 THE COURT: All right. Is the bag going to be
14 introduced into evidence?

15 MR. RICHARDSON: No, sir.

16 THE COURT: Okay. Just the pictures. Is that all
17 that's related to the phone, the pictures?

18 MR. RICHARDSON: Yes, sir.

19 THE COURT: All right. And you have no objection
20 to those now based upon the ---

21 MR. MALLARD: No, Your Honor.

22 THE COURT: All right. If the jury's ready, you
23 can have them come back.

24 (WHEREUPON, the jury entered the open court at
25 approximately 4:34 p.m.)

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1 THE COURT: Solicitor, you may continue your
2 examination of the witness.

3 MR. RICHARDSON: Thank you, Your Honor.

4 I have shown Defense Counsel State's Exhibit 31, 32,
5 and 33 previously marked for identification purposes. I
6 would now ask that they be moved into evidence.

7 THE COURT: Any objection to these Exhibits?

8 MR. MALLARD: No, Your Honor.

9 THE COURT: Without objection, Exhibits 31 through
10 33 are admitted into evidence.

11 (WHEREUPON, State Exhibit Numbers 31, 32, and 33 were
12 admitted into evidence.)

13 Q. Okay, sir. I'm referring to State's Exhibit 31 now in
14 evidence. What is that?

15 A. That's the cell phone located within Christopher
16 Murray's bag.

17 Q. Okay, sir. And now referring to State's Exhibit Number
18 32, what is that?

19 A. That's a text message we viewed on the same phone.

20 Q. And can you read that text message to the jury, please,
21 sir?

22 A. I can. It states, I need money. I have to get out of
23 here before I go to jail.

24 Q. Okay. And who is that to?

25 A. That is to Jack.

1 Q. Okay, sir. And referring to State's Exhibit Number 33,
2 what is that?

3 A. That's the same text message highlighted showing at
4 twelve thirty-five a.m.

5 Q. Twelve thirty-five a.m. delivery?

6 A. Yes.

7 Q. And what does it say?

8 A. I'm sorry. What are you pointing at?

9 Q. Can you read what it says at twelve thirty-five?

10 A. I need money to -- I need money. I have to get out of
11 here before I go to jail.

12 Q. Okay, sir. Thank you, sir. That's all the questions I
13 have. Please answer any questions Defense Counsel may have.

14 THE COURT: You may cross-examine the witness.

15 **CROSS-EXAMINATION**

16 **BY MR. MALLARD:**

17 Q. Detective Baker, I believe that one of the reasons you
18 said that you went down to Aiken in the first place was
19 based upon your interview with Matt Brissey, correct?

20 A. Yes, sir.

21 Q. And so you took Matt Brissey's statement and got his
22 input as to what Chris may have said before you interviewed
23 my client, correct?

24 A. Yes, sir. I interviewed Matt Brissey before I even met
25 Christopher Murray.

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1 Q. I'm interested in and wonder if you remember what Matt
2 said that Chris had told him at the time. And I have here,
3 if you need to refresh your memory, a copy of a statement
4 from Matt Brissey. I don't know if you need any other notes
5 before you can testify as to this or not.

6 A. No. This is fine.

7 Q. Okay.

8 A. Would you like me to read it in its entirety or ---

9 Q. Let's see. Yeah. I guess go ahead and read it ---

10 MR. RICHARDSON: Your Honor, ---

11 Q. --- in its entirety because otherwise it will be ---

12 MR. RICHARDSON: Your Honor, at this time, I
13 object. Can I approach?

14 THE COURT: Yes, sir. If I could talk to the
15 attorneys.

16 (WHEREUPON, Mr. Richardson, Mr. Cleveland and Mr.
17 Mallard approached the bar.)

18 THE COURT: Objection is noted. Overrule. You
19 may proceed with your questioning, Mr. Mallard.

20 MR. RICHARDSON: Your Honor, the objection is
21 overruled?

22 (WHEREUPON, Mr. Richardson, Mr. Cleveland and Mr.
23 Mallard approached the bar.)

24 A. You were interested in knowing what they said in
25 reference to the incident itself, correct?

1 Q. Yes.

2 A. Okay. I think I skipped ahead to that part if you'd
3 like me to start from there.

4 Q. Okay. Start with, from Faye coming over.

5 A. Okay. They get to Matt Brissey's house that night.
6 Faye said that Chris killed James and then Chris -- this is
7 first person from Matthew Brissey. He says, and then Chris
8 told me the whole story, that when he got there Chris
9 knocked on the door and James opened the door and hit Chris
10 in the mouth and Chris jerked the door open and tried to
11 kick James. James grabbed Chris' foot and pulled him in,
12 and then they started wrestling in the living room and the
13 first shot hit the wall, and then the second one hit the
14 ceiling, and the third one, he put the gun, the 380 that had
15 hollow tips to his chest and shot him. And that he, James,
16 was bleeding out the mouth. And the whole time Faye was out
17 in the car. And he got the car from Barlet Brothers. And
18 went to find money there. Do you want the rest of it?

19 Q. Not necessarily.

20 A. Okay.

21 Q. Okay. My client appears very reticent to say hardly
22 anything at all, what he told Matt. What was your
23 impression after speaking with both of them about what had
24 possibly occurred?

25 A. After speaking with Matt?

1 Q. Yeah. And my client as well.

2 A. Well, after speaking with Matt, it indicated -- the
3 case at that point took a turn towards Aiken. It indicated
4 that Christopher Murray, Christopher Murray was in fact the
5 suspect we were looking for in this case. And that he most
6 likely went to Aiken because he needed gas money from Matt
7 to get to Aiken, which is what he told Matt. He told Matt
8 intimate details of the shooting. And that's where we went
9 from there.

10 Q. Okay. All right. Thank you.

11 MR. MALLARD: No further questions.

12 THE COURT: Any redirect?

13 MR. RICHARDSON: Yes, sir.

14 **REDIRECT EXAMINATION**

15 **BY MR. RICHARDSON:**

16 Q. Officer, I hand you this. Do you recognize that?

17 A. I do, yes, sir.

18 Q. What is that?

19 A. This is the statement taken from Matthew Neil Brissey
20 by myself and Lieutenant Lane Byers.

21 Q. Okay, sir.

22 MR. RICHARDSON: Your Honor, at this time, I'd
23 like to mark this for identification purposes.

24 THE COURT: For identification purposes.

25 (WHEREUPON, State Exhibit Number 53 was marked for

1 identification.)

2 Q. Okay, sir. I will again hand you State's Exhibit 53.

3 Is that the statement that you were just reading from that
4 Defense Counsel had given you?

5 A. Yes, sir.

6 Q. Did he have you read the entire statement?

7 A. No, sir. Just the middle section.

8 Q. Okay.

9 MR. RICHARDSON: Your Honor, at this time I offer
10 State's Exhibit Number 53 for identification purposes into
11 evidence. I've shown it to Defense Counsel.

12 THE COURT: Any objection?

13 MR. MALLARD: None.

14 THE COURT: Without objection, Exhibit 53 is
15 admitted into evidence.

16 (WHEREUPON, State Exhibit Number 53 was admitted into
17 evidence.)

18 Q. Sir, please publish that entire statement to the jury.

19 A. Okay. I, Matthew Brissey, have completed the eleventh
20 grade and can read and write. Well, Chris and Faye came
21 down from Manning. They were staying with Faye's mama three
22 days or four and Faye and her mother got into a fight and
23 Chris and Faye came to stay with me, because they didn't
24 have no place to go. And they -- well, Christopher Murray
25 said he was going to get James. And then the next day he

1 said the same thing. And then the next night, they left and
2 then came back. Chris and Faye, that is who I am talking
3 about. Faye said that Chris killed James and then Chris
4 told me the whole story. That when he got there, Chris
5 knocked on the door and James opened the door and hit Chris
6 in the mouth. And Chris jerked the door open and tried to
7 kick James. James grabbed Chris' foot and pulled him in,
8 and then they started wrestling in the living room. And
9 first shot hit the wall, and then the second one hit the
10 ceiling, and the third one he put the gun, the 380 that had
11 hollow point tips, to his chest and shot him. And that he,
12 James, was bleeding out the mouth. And the whole time, Faye
13 was out in the car. And he got the car from Barlet
14 Brothers. And went to find money there and he threw the
15 couch pillow on his body, meaning James' body. And the
16 woman bought the gun to rob Wendy's in Florence. He even
17 said that he was going to rob Z-Mart, but they was closed.
18 And then he went to Wal-Mart. And he said that they had an
19 inch glass window and something about the door would lock.
20 He said he went to Spinx and they was a cop there or
21 something like that. That's the end of it.

22 Q. Okay, sir. And at the beginning of the statement, did
23 he state that he was going to get James?

24 A. Yes, sir, he did.

25 Q. Okay, sir. And the conversation that's going on there

1 is between Matt Brissey and the Defendant. Is that correct?

2 A. Yes, sir.

3 Q. Is that what the Defendant told you in the interview on
4 the video?

5 A. No, sir, he would not tell me those things.

6 Q. Thank you, sir.

7 MR. RICHARDSON: That's all the questions I have.

8 THE COURT: All right. Thank you, sir. You may
9 step down.

10 MR. RICHARDSON: Your Honor, the State would
11 recall Lieutenant Tony Robinson.

12 THE COURT: Mr. Robinson, let me remind you,
13 you're still under oath from your testimony earlier.

14 TONY ROBINSON,

15 BEING PREVIOUSLY DULY SWORN, TESTIFIED AS FOLLOWS:

16 DIRECT EXAMINATION

17 BY MR. RICHARDSON:

18 Q. You testified earlier that you went out to the scene
19 and gathered certain evidence?

20 A. I did.

21 Q. Okay. At some point in time, did you return back to
22 the scene?

23 A. I returned to that scene at least two other times.

24 Initially, it was dark. It was in the middle of the night
25 that I went, and then I went back in the daylight to search

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1 again. And then I actually went back a third time when they
2 -- the family found that bullet in the floor that I
3 testified to.

4 Q. Okay, sir. And let me hand you what's been marked as
5 State's Exhibit 52 for identification purposes. What is
6 that?

7 A. That is the bullet or projectile, as I called it, that
8 I dug out of the floor, that we saw pictures of yesterday.

9 Q. Okay, sir.

10 MR. RICHARDSON: I've shown State's Exhibit 52 to
11 Defense Counsel. I would ask that it be moved into
12 evidence, please, sir.

13 THE COURT: Any objection?

14 MR. MALLARD: None, Your Honor.

15 THE COURT: Without objection, Exhibit 52 is into
16 evidence.

17 (WHEREUPON, State Exhibit Number 52 was admitted into
18 evidence.)

19 Q. And I believe you testified -- did you go to the
20 autopsy? Or I think the pathologist testified you went to
21 the autopsy?

22 A. I did go to the autopsy.

23 Q. Okay, sir. And did you take pictures of the autopsy?

24 A. I did.

25 Q. Okay, sir. And did you also obtain evidence at the

1 autopsy?

2 A. I did.

3 Q. Okay. Let me hand you State's Exhibit, I believe it's
4 49, that's been placed into evidence. Do you recognize
5 that?

6 A. Yes.

7 Q. What is it?

8 A. That's the projectile or bullet that was removed from
9 the body of James Gibson.

10 Q. Okay. And you took possession of that?

11 A. I did.

12 Q. Did you do anything further with that?

13 A. I sent it to SLED with the other evidence to be
14 analyzed.

15 Q. And in the other evidence, I'll hand you what's been
16 marked as State's Exhibit 50. Do you recognize that?

17 A. I do.

18 Q. What is that?

19 A. That is the pistol that was turned over to me by --
20 from Detective Baker.

21 Q. And when Detective Baker handed you that pistol or
22 turned it over to you, what did you do with it?

23 A. It was in a box and I photographed it and then I
24 secured into evidence to be sent to SLED also.

25 Q. And was it also sent to SLED?

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1 A. It was.

2 Q. And did you retrieve the items?

3 A. I did.

4 Q. Likewise, State's Exhibit 51 that's been placed into
5 evidence. What is that?

6 A. That's the magazine clip for that pistol and the five
7 live rounds that were in the magazine when it was turned
8 over to me.

9 Q. Okay. And who turned that over to you?

10 A. Detective Baker.

11 Q. And what did you do with it after it was turned over?

12 A. The same thing. I photographed it and sent it to SLED
13 after that.

14 Q. Okay. And did you secure it also in the evidence room
15 before you took it to SLED?

16 A. Yes. Everything's secured in the evidence room and
17 then I transported it a few days later to SLED.

18 Q. Okay. And did you obtain that package back from SLED?

19 A. I did.

20 Q. Yourself?

21 A. I did.

22 Q. Thank you, sir. That's all the questions I have.

23 Please answer any questions Defense Counsel may have for
24 you.

25

CROSS-EXAMINATION

1 BY MR. MALLARD:

2 Q. Lieutenant Robinson, did you also get a knife, an
3 electrician's knife with a black handle, from the scene?

4 A. I did. I don't know if it's an electrician's knife.
5 It's a knife.

6 Q. Okay. And was the handle rubber?

7 A. It was. It's a black handle.

8 Q. So you were unable to get any prints or anything from
9 it?

10 A. I did not get any prints from the knife, no.

11 Q. Thank you.

12 MR. MALLARD: No further questions.

13 MR. RICHARDSON: Nothing further.

14 THE COURT: You may step down, Officer Robinson.
15 You may call your next witness, Solicitor.

16 MR. CLEVELAND: Thank you, Your Honor. The State
17 calls Suzanne Cromer to the stand.

18 THE CLERK: Do you solemnly swear or affirm the
19 testimony you're about to give to be the truth, the whole
20 truth and nothing but the truth, so help you God?

21 MS. CROMER: I do.

22 THE CLERK: If you would, have a seat and state
23 your name for the record.

24 MS. CROMER: My name is Suzanne Cromer.

25 SUZANNE CROMER,

1 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

2 **DIRECT EXAMINATION**

3 **BY MR. CLEVELAND:**

4 Q. Ms. Cromer, who do you work for?

5 A. I'm employed by the South Carolina Law Enforcement
6 Division, commonly referred to as SLED.

7 Q. And in what capacity do you work for SLED?

8 A. I am a firearm and tool mark examiner.

9 Q. How long have you served in that capacity?

10 A. I have been in my position eleven and a half years.

11 Q. Could you tell the jury about your educational
12 background that qualifies you to be a firearms examiner?

13 A. Yes, sir. I received a Bachelor's Degree from Clemson
14 University. I did some graduate work at the University of
15 South Carolina in Criminal Justice. I was hired on at SLED.
16 I completed their in-house training program for firearm and
17 tool mark examiners. It is an intense study program. It's
18 more of an apprenticeship, if you will. It's a three to
19 five year program, where I study under five court qualified
20 firearms examiners. We take written tests, oral tests,
21 practical exercise, and upon completion we are allowed to
22 actually work our own cases. I have taken classes through
23 the Association of Firearm and Tool Mark Examiners. Some of
24 them being seminars on ethics, some of them being seminars
25 on barrel making. I have also taken a class on Hi-point

1 Firearm familiarization from the owner/founder of that
2 company. I am a Glock armour, which means I am certified to
3 work on Glock, which is a type of firearm. I have taken
4 seminars through the South Carolina Chapter of the
5 International Association for Identification, most pertinent
6 being shooting scene reconstruction. I have also taken
7 classes through the Bureau of Alcohol, Tobacco and Firearms
8 on serial number restoration, and Integrated Ballistics
9 Identification Network, or IBIS.

10 Q. Very good. And in addition to identification of
11 firearms, does your training -- do you have any training as
12 far as the function, operation, maintenance, etcetera, of
13 firearms?

14 A. Yes, sir. Like I said, I took a Hi-point
15 familiarization course with the owner/manufacturer/inventor
16 of the Hi-point firearm.

17 Q. Very good. Have you ever testified as an expert in
18 Courts of this State or anywhere else?

19 A. Yes, sir. I've testified approximately forty-five
20 times in Federal and State Court.

21 Q. And in what discipline were you qualified as an expert
22 in those Courts?

23 A. Firearm and tool mark identification.

24 MR. CLEVELAND: Your Honor, at this time, the
25 State would present Ms. Cromer as an expert in firearms and

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1 tool mark identification.

2 THE COURT: Any Voir Dire questions or any
3 objection?

4 MR. MALLARD: No, Your Honor.

5 THE COURT: Without objection, the witness will be
6 qualified as an expert.

7 Q. Ms. Cromer, how did you get involved with this case?

8 A. I received some evidence from our log-in department
9 that was submitted from the Pickens County Sheriff's Office.

10 Q. Do you know who submitted it from Pickens County?

11 A. Yes, sir. I believe it was Tony Robinson.

12 Q. Once that evidence was submitted to your organization,
13 to SLED, how did it come to your hands?

14 A. When a sheriff's office or police department submits
15 evidence, they actually come to our lab in Columbia. They
16 come into our evidence control or log-in department. It's
17 supposed to be sealed when it gets there. Our log-in
18 technicians will enter in any information about the case,
19 such as suspect, victim, incident date, where it occurred,
20 and then they mark the evidence or the boxes that contain
21 the evidence to what departments it needs to go to, if it
22 needs to go to DNA, if it needs to go to firearms. And then
23 they secure it in our locked evidence room, and I get a
24 notification over the computer that I have evidence
25 downstairs.

1 Q. Did Pickens County request your services in this case?

2 A. They requested firearms assistance on the actual
3 evidence.

4 Q. Now, is SLED a secure facility to the point where once
5 the evidence is presented, given to y'all, can anyone tamper
6 with it or anything like that outside of ---

7 A. No, sir. No, sir. Once evidence is at SLED, it is --
8 every time it changes hands, if that log-in technician goes
9 into the back room to get that evidence, she will scan
10 herself into the computer and each piece of evidence or
11 container is given a bar code. It's scanned. So when she
12 grabs it off of that shelf, she's going to scan it to
13 herself. Then she will scan it to me. I have my own
14 personal bar code as does every person that works at SLED.
15 Then I check it. I make sure that the container doesn't
16 look like it's tampered with or opened. I actually take a
17 picture of the container when I get it. Then, if there's
18 any type of looking like it had been tampered with or
19 anything, that's documented. So that way we know. So once
20 I finish with it, I will take it back down to the log-in
21 technicians. They will scan it back into their custody and
22 then scan it back into the sealed vault.

23 Q. Did -- everybody in your organization who touched this
24 evidence, was that document?

25 A. Yes, sir, it is document.

1 Q. When you received this evidence, did you notice of any
2 abnormalities in that documentation or was it complete?

3 A. That was complete.

4 Q. I'm going to hand you some items now, beginning with
5 State's Exhibit Number 50 into evidence. Can you examine
6 that item, please?

7 A. What I'm doing is looking for my markings. Yes, sir.
8 This is the firearm I examined and I know that because I
9 marked a semiautomatic firearm just as this in several
10 locations. As it's packaged, I can only look at one. But I
11 mark it on the back of the slide, the mag well and the
12 barrel with my lab number, my item number and my initials.

13 Q. How did you put those markings on that gun?

14 A. We engrave them, actually, on the firearm with an
15 electric pencil.

16 Q. All right. Very good. I show you State's Exhibits 47
17 and 48. Did you examine those two items?

18 A. First off, these are still in a sealed container with
19 my initials and seal date. And, again, I'm looking for my
20 engravings. Yes, sir. I engraved on both of these
21 cartridge cases my lab number, my item number and my
22 initials.

23 Q. Three more now, State's Exhibit 52, State's Exhibit 46,
24 an unfired shell casing, and State's Exhibit 49 into
25 evidence, projectile.

1 A. Again, I'm looking for my markings. This was one fired
2 bullet still in my container, with my initials and my seal
3 date. It was my item seven. Again, I'm also looking for my
4 engravings. This is also engraved. That's my lab number,
5 my item number and my initials and is actually still in the
6 sealed container with my initials and seal date. This is my
7 item number six, a fired bullet with a bullet jacket
8 fragment. Or a bullet fragment, excuse me. It was my item
9 six and it's again still in the sealed container with my
10 initials and seal date.

11 Q. For the court reporter, would you refer to the State's
12 Exhibit Number of the item?

13 A. State's Exhibit 49.

14 Q. Thank you. And lastly, I'm going to hand you State's
15 Exhibit 51, would you examine the items in that bag as well?

16 A. State's Exhibit 51 is a magazine and five unfired
17 jacketed hollow point bullets with speeder head stamp.
18 Again, these all bear my lab number, my item number, and my
19 initials, and seal date and initials.

20 Q. So just to summarize briefly, I handed you a gun?

21 A. Yes, sir.

22 Q. Two shell -- two fired shell casings, two bullets or
23 projectiles, one live round, and a magazine and five unfired
24 bullets, correct?

25 A. That is correct.

1 Q. Did you examine each of those items throughout your
2 course of duty at SLED?

3 A. Yes, sir. I examined each one of these items.

4 Q. All right. Ms. Cromer, I want to start with the gun in
5 this case.

6 A. Okay.

7 Q. You've testified that's the gun that you've tested. Is
8 that the gun as it was submitted to SLED? Anything abnormal
9 about it?

10 A. Well, it was not cable tied when I received it.

11 Q. All right. What type gun is that?

12 A. This is a Hi-point Firearm, model CF380, 380 auto,
13 semiautomatic pistol, serial number P899596.

14 Q. You mentioned a course you took on Hi-point Firearms.
15 Is that the type of firearm that was the subject of that
16 course?

17 A. Yes, it is.

18 Q. Are you familiar with that gun there?

19 A. Yes, sir.

20 Q. Did you test that gun for proper function?

21 A. Yes, I did.

22 Q. Was it functioning properly?

23 A. Yes, it was.

24 Q. What is the capacity of that gun? And what I mean by
25 that is how many rounds will that gun hold?

1 A. This firearm without the magazine will only hold one.

2 The magazine that I received with the firearm will hold
3 eight. So together, if it's fully loaded, one in the
4 chamber and eight in the magazine, it will hold nine.

5 Q. And you testified that was a 380 caliber gun. Does the
6 caliber of that gun match the caliber of the shell casings
7 and live rounds that you examined?

8 A. Yes, sir. All of the ammunition components I received
9 are consistent with being 380 auto.

10 Q. Were the fired projectiles, does that match basically
11 the characteristics of the caliber of that gun?

12 A. Yes, sir. The fired projectiles that I received were
13 also 380 auto, and they were also jacketed hollow points
14 with an enclosed base, copper jacket, all about ninety
15 grains.

16 Q. Now, I want to discuss with the jury a little bit about
17 the function of that firearm.

18 A. Yes, sir.

19 Q. Would you please illustrate for the jury how to load
20 that -- how that firearm is loaded, best you can - I know
21 it's in the package - and how it was fired.

22 A. Okay. If I was going to load this firearm, I would --
23 you can load it one of two ways. You can actually open,
24 hold open the slide and drop a cartridge into the chamber.
25 Or you can load the magazine, pull the slide back and let it

1 fly forward, which will chamber a round.

2 Q. Now, how do you unload that firearm?

3 A. I would remove the magazine by -- there's a magazine
4 release button right here, and I would hit that magazine
5 release button. I would make sure my safety is off, and
6 then I would pull the slide rearward and any round that was
7 in the chamber would come out.

8 Q. You mentioned a safety. What safety features does this
9 gun possess?

10 A. It has two safety features. It has a rotating thumb
11 safety, as you can see right here, which actually blocks the
12 firing pin. And it also has a magazine safety, meaning that
13 it cannot be fired unless the magazine is in the firearm.

14 Q. Now, Ms. Cromer, let's just get right down to it. What
15 steps are required to fire that firearm once it's loaded
16 like you've described, the way you've described the magazine
17 is loaded and the slide is racked?

18 A. Okay. There's a round in the chamber, my safety has to
19 be off. If there's a round already in the chamber, all I
20 have to do is pull the trigger.

21 Q. Why do you say the safety has to be off?

22 A. Because I tested this firearm's safety and it would not
23 fire with the safety on.

24 Q. Okay. What about the action of racking the slide, can
25 you accomplish that with the safety on?

1 A. No, sir. As you can see, the safety actually fits up
2 into the slide. So you have to turn this -- push the safety
3 down or cut it off to be able to pull the slide rearward.

4 Q. When the safety is down and there's a gun in the
5 chamber -- and there's a shell in the chamber, a round in
6 the chamber, what do you have to do to shoot it?

7 A. Pull the trigger.

8 Q. To make the gun fire a successive shot after that, what
9 do you have to do then?

10 A. Pull the trigger.

11 Q. No other intermittent steps in between?

12 A. No. Because once you fire a round, this is a typical
13 bolt action firearm. What it will do is, just pulling the
14 trigger will cause the ignition, cause the firing pin to hit
15 the primer of the cartridge case, that causes the sparks,
16 which go through the flash hole, which ignite the gun
17 powder. That gun powder starts burning. It's building up
18 pressure. It's going to push that bullet down the barrel.
19 But, also, it's pushing that cartridge case back into the
20 slide of the firearm. So while it's doing that, it's under
21 spring tension, so that -- this slide -- I'm sorry. This
22 slide is going to move rearward while that bullet is going
23 out -- down the barrel. So while it's coming rearward,
24 there's what's called an ejector, which looks little claw.
25 It fits over the rim in the cartridge case head, and it's

1 holding the cartridge case with the slide. So when it hits
2 a certain point, it's going to hit what's called an ejector,
3 which in these firearms is actually the firing pin. So it's
4 going to hit the firing pin again and cause it to turn, so
5 that cartridge case can come out that ejection port. Once
6 it comes out the ejection port and the slide hits its
7 rearmost point, because of the spring tension, it's going to
8 just automatically come forward again. And when it does,
9 it's going to hit, as long as there's another round in the
10 magazine, it'll push that round that's on the top of the
11 magazine into the chamber.

12 Q. So it's fair to say every time you pull the trigger
13 you're not only shooting a round, but it reloads itself?

14 A. That's correct.

15 Q. You mentioned ejecting a shell. What -- that happens
16 automatically?

17 A. Yes, sir.

18 Q. What action by -- does the shell merely drop out of the
19 gun or is it essentially ---

20 A. As you can see, it's going to eject towards the right.
21 There are so many factors that can hinder ejection.
22 Actually, operator error can hinder ejection. If you are
23 not supporting the gun enough, then that slide is not only
24 going to move the frame of the gun, it's going to move the
25 whole gun. So that slide's not going to have that tension

1 to come all the way to its rearmost point. So what you can
2 have is what's called a stovepipe. So that fired cartridge
3 case can be stuck in the ejection port because it didn't hit
4 all the way backwards, it didn't hit the ejector properly
5 and it's going to get stuck in the gun. It's usually
6 ejected out and to the right.

7 Q. So it's fair to say that even on a properly functioning
8 firearm like that, that a shell casing may get stuck in the
9 gun ---

10 A. Yes, sir.

11 Q. --- instead of being ejected?

12 A. Yes, sir.

13 Q. Is that due to bad design or is that due to operator
14 error?

15 A. That's usually due to operator error, like I said, not
16 supporting the frame enough.

17 Q. Now, we're talking about ejecting shell casings. If
18 you wanted to eject an unspent live round, like State's
19 Exhibit 46, from that firearm, how would you accomplish that
20 just for ---

21 A. I would make sure the safety's off, and I would pull
22 the slide rearward.

23 Q. When you say pull the slide rearward, is that a one-
24 hand operation or a two-hand operation?

25 A. Usually, you'd have to hold the gun in one hand and

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1 push that slide back with your other.

2 Q. Is it something that could easily accidentally happen?

3 A. No, sir.

4 Q. All right. Thank you. Did you test the trigger
5 mechanism on this firearm at all?

6 A. Yes, sir, I did. What we do is we test trigger pull
7 weight, and that's how many pounds of pressure is needed to
8 be applied to the trigger of this firearm to make it fire.
9 And this particular firearm took between eight and a fourth
10 to eight and three-fourths pounds of pressure, meaning it
11 would not fire at eight and a fourth pounds, but would
12 always fire at eight and three-fourths pounds, which is
13 about approximately to a gallon of water.

14 Q. Lifting a gallon of water with one finger?

15 A. With your trigger finger, yes.

16 Q. Very good. Again, functioning properly?

17 A. Yes, sir.

18 Q. Thank you. Ms. Cromer, I want to move on to the fired
19 evidence in this case. First, did you test fire this
20 weapon?

21 A. Yes, sir, I did. Four times.

22 Q. What procedure do you follow when you test fire this
23 ammo, where do you do it? Just enlighten the jury, please?

24 A. We have in our building -- we are actually on the
25 second floor of our lab. We have a horizontal tank -- sorry

1 -- vertical tank that goes all the way down to the first
2 floor. And we shoot into that steel tank, which is full of
3 water because it will slow down the bullet without adding to
4 or taking from the margins that are left from the gun. I
5 determine what I'm going to test fire by looking at my
6 evidence, and I will shoot similar ammunition to what I've
7 received in the case.

8 Q. All right. Before we get into any type of comparison
9 or anything, is it fair to say that the bullet part of the
10 unfired cartridges look substantially different from the
11 fired bullets?

12 A. Yes, sir. Jacketed hollow points, which are what these
13 are, are made to what we call mushroom when they hit
14 something. They're supposed to hit something and expend all
15 of their energy into that person or object so that way it
16 has the most effectiveness. So what you can have is what
17 looks like the petals are folded back and it kind of looks
18 like a mushroom. What's happened here is it didn't fully
19 mushroom. It might have hit something that got into the
20 nose cavity before it could actually start to mushroom.

21 Q. Just to clarify, when you say effectiveness of the
22 bullet, what exactly do you mean?

23 A. Stopping power. That's why most officers use jacketed
24 hollow points.

25 Q. Would it be fair to say they're the most deadly, more

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1 deadly than the other types of ammo?

2 A. I think all ammo's deadly. But, yeah, I think it's
3 more effective that way.

4 Q. Thank you. When you test fired this gun, what was your
5 desire or what was your goal in test firing samples from
6 this gun, comparing that to the evidence that you had?

7 A. When we receive a case, basically we're trying to
8 answer the question, was my fired evidence fired from this
9 firearm? So the first thing I do is I look at the gun, make
10 sure it works like it's supposed to and that it's safe to
11 fire. Then I move on to my fired evidence and see what it
12 has on it. Because we have what's called a general rifling
13 characteristics, that's what we're looking at. Starting
14 with the bullets, I look at them and see what the general
15 rifling characteristics are. First off, is it 380 auto
16 caliber, because that's the type of firearm I have. Then I
17 move to the type of rifling that's put on this bullet by the
18 firearm that fired it. Rifling is what's put in a gun
19 barrel to put rotary motion on the bullet. It's very
20 similar to a quarterback who throws a football. He puts it
21 into a tight spiral so it goes more accurately to its target
22 or receiver. Well, that's what the rifling in a gun barrel
23 does. What it's going to do is make is spiral in a tight
24 spiral. Hi-point firearms is unique in that it's the only
25 know manufacturer at this time that uses nine lands and

1 grooves with a left twist. When I received my two evidence
2 bullets, I noticed that they had nine lands and grooves with
3 a left twist. So I knew I had to shoot similar ammunition
4 to this. So what I did is I went and got some more
5 ammunition from -- we have a reference collection of
6 ammunition in our lab. I mark those bullets and then I go
7 to that two-story tank of water and I shoot the firearm. I
8 pull those test specimens out of the water, and then I take
9 them back to my comparison microscope. And what I'm doing
10 is looking at those individual characteristics or flaws, if
11 you will - it looks like scratches - that are in the rifling
12 or on the cartridge case.

13 Q. In this case, did you compare the bullets you received
14 from Pickens County with the test-fired bullets?

15 A. I first looked at my test-fired bullets and bullets
16 that came out of this firearm were poorly engaged in the
17 rifling. I don't know if it was because maybe the barrel
18 was a thousandths of an inch too big or what, but they were
19 just very poorly marked. So I could not match those test
20 specimens back to each other. I did try to look at them
21 against my evidence bullets, but my evidence bullets were
22 also very poorly engaged and very poorly marked, so I could
23 not render a conclusive statement about these.

24 Q. Now, you could not render a conclusive statement;
25 however, were there similarities between your test-fired

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1 bullets and the bullets submitted to you from Pickens

2 County?

3 A. Yes, sir. Like I said, these both had -- they were
4 both the right caliber, they're both 380 auto. They both
5 had 9-left rifling, which I knew to be a Hi-point. And they
6 were also poorly, poorly marked just as my test specimens
7 were.

8 Q. So while you cannot conclusively state that those
9 bullets were, to a degree of scientific certainty fired from
10 that firearm, it's certainly possible that those bullets
11 were fired from that firearm?

12 A. I could not rule out this firearm as firing this
13 evidence, but I also could not say that it did, the fired
14 bullets.

15 Q. Now, let's move to the cartridge casings. Did you also
16 test the cartridge casings that were submitted to you as
17 testimony earlier indicated were collected from James
18 Gibson's house?

19 A. Yes, sir, I did. Just like I said with the bullets, I
20 take back those test cartridge cases that I fired knowingly
21 from this firearm and look at them on my comparison
22 microscope to see how well they match up, what type of
23 defects I'm looking for. What we look at when we're looking
24 at fired cartridge cases, is primarily five areas. The
25 breach face, which is the head of the cartridge case. When

1 I talked about all that pressure pushing the cartridge case
2 back into the gun, well, it's pushing it back into the
3 breeches of the gun. And when it's made, any defections,
4 imperfections that are left there can be imprinted on this
5 cartridge case. Also, the firing pin. When it strikes the
6 primer, it can leave defects if there's any defects on the
7 firing pen. The ejector can leave marks, the extractor can
8 leave marks, and also the chamber of the firearm as well.

9 So once I looked at my test specimens that I knowingly
10 fired, then I compared them to these cartridge cases. And I
11 determined that these fired cartridge cases, in my opinion,
12 were fired by this firearm.

13 Q. So just to review, this weapon -- the testimony that
14 you weren't privy to earlier today, discovered in Aiken,
15 South Carolina -- did fire those cartridge casings that were
16 found at the victim's house?

17 A. Yes, sir.

18 Q. Is your science peer reviewed within your office?

19 A. Yes, sir. Our lab is what's ASCLAD Accredited, ASCLAD
20 is American Society of Crime Lab Directors, so we have
21 certain quality assurance protocols that we have to me. And
22 one of our checks and balances, if you will, is a micro-
23 verification process. Every conclusion, and we only render
24 usually one of four conclusions. Positive, it was fired by
25 this gun. Negative, no it was not fired by this gun.

1 Unsuitable or too damaged to determine whether or not it had
2 been fired by anything, or inconclusive, we just can't tell
3 either way. So anytime we render one of those four
4 conclusions, we have to have another court qualified
5 firearms examiner agree before we can issue a report.

6 Q. Thank you. And did this second scientist that looked
7 at your test fires agree that that gun fired those shell
8 casings?

9 A. Yes, they did.

10 Q. Thank you, Ms. Cromer. Answer any questions the
11 Defense may have may have for you. That's all I have.

12 **CROSS-EXAMINATION**

13 **BY MR. MALLARD:**

14 Q. I didn't quite understand the discussion of the
15 safeties. You said there was a rotating thumb safety and a
16 magazine safety?

17 A. Yes, sir. There's two safeties on that firearm.

18 Q. Which means?

19 A. The rotating thumb safety can be manually turned on and
20 off, which will prevent fire from the firearm. Also that
21 the magazine has to be inserted into the magazine well of
22 the firearm to be fired.

23 Q. Okay. So if the magazine is inserted ---

24 A. Uh-huh (affirmative).

25 Q. --- then if the other safety is on, it still wouldn't

1 fire?

2 A. That's correct.

3 Q. How hard or soft is it to do the rotating thumb safety?

4 Is that something ---

5 A. It is just a right rotating thing that you can hit with
6 your thumb while you're holding it. We don't -- we do not
7 measure the pounds of pressure that it would take to turn on
8 and off the safety.

9 Q. Okay. Is it impossible that the safety could be turned
10 off accidentally?

11 A. I'm not going to say it's not impossible. I don't know
12 how the gun was being held.

13 MR. MALLARD: No further questions, Your Honor.

14 THE COURT: Any redirect?

15 MR. CLEVELAND: Nothing more from this witness.

16 THE COURT: All right. Thank you, ma'am. You may
17 be -- you may step down. Any objection to this witness
18 being excused?

19 MR. MALLARD: No, Your Honor.

20 THE COURT: Without objection, the witness may be
21 excused. Is the State ready to proceed with its next
22 witness?

23 MR. RICHARDSON: Your Honor, that's the case for
24 the State.

25 THE COURT: All right. Mr. Foreman and ladies and

1 gentlemen of the jury, we've heard all the evidence the
2 State has to offer. Certainly, we haven't heard the entire
3 case. You haven't heard my instructions on the law
4 particularly. We're going to take a break now. This is a
5 good time to break for the evening. We've got some matters
6 we're going to need to take care of legally - we're at that
7 stage of the trial - either this afternoon or might run into
8 in the morning, so rather than having you come in at nine,
9 I'm going to ask if you would report at ten o'clock. That
10 means if we don't get things accomplished tonight, that will
11 give us a little time in the morning to get that done as
12 well.

13 I'll remind you again the oath you've taken, the
14 commitment you've made to these parties to not discuss the
15 case, not to let anyone else discuss it with you, not to be
16 privy to any news articles. You'll have time to do all of
17 that. We'll hopefully finish this case tomorrow or
18 certainly by the next day, and you'll have time to refresh
19 yourselves on anything that is out there from opinions of
20 your family and friends to any news articles. But while the
21 trial is going on, you should refrain from that. That's the
22 instruction from the Court and from our Chief Justice.

23 Likewise, I remind you again not to do any kind of
24 independent research or try to do any analysis of words
25 you've heard or the things you've heard. You'll have all

1 the evidence you need. That's what you're going to make
2 this decision from, the evidence in this courtroom, the law
3 that I give you and that alone.

4 I look forward to seeing you back at ten o'clock in the
5 morning, ladies and gentlemen. Have a good evening tonight.

6 Everyone else, please remain seated.

7 (WHEREUPON, the jury exited the open court at
8 approximately 5:24 p.m.)

9 THE COURT: Gentlemen, I'll be glad to work a
10 little longer tonight, before we do motions and otherwise.
11 I would like to take the opportunity this evening to, Mr.
12 Mallard, go over with your client his right to testify and
13 make sure on the record that he understands. I certainly am
14 not going to get a commitment from him tonight, but he'll
15 have a chance to talk with you further about that. But we
16 can certainly delay until tomorrow morning the -- any
17 motions that anyone has or other matters that we need to
18 take care of as far as the status of the case we're in. I
19 guess all the exhibits that were marked for identification
20 are into evidence.

21 MR. RICHARDSON: Yes, Your Honor, we would -- as a
22 matter of fact, we just double checked that, I believe ---

23 THE COURT: Okay.

24 MR. RICHARDSON: --- that would be the case, if
25 Defense Counsel wants to examine them.

1 THE COURT: Okay. We can look over that or y'all
2 can look over that.

3 Is there anything that y'all just feel like we need to
4 care of this afternoon. Otherwise, I'll talk to your client
5 briefly. Mr. Mallard, if you and Mr. Murray would come
6 forward, just stand here in front of the clerk, please.

7 (WHEREUPON, Mr. Mallard and the Defendant approach the
8 bar.)

9 THE COURT: Mr. Mallard (sic), if you'll just
10 stand right there with your attorney. If you would raise
11 your -- Mr. Murray, would you raise your right hand, please?
12 Do you swear or affirm the testimony you're about to give me
13 will be the truth, the whole truth, and nothing but the
14 truth so help you God?

15 MR. MURRAY: Yes, sir.

16 THE COURT: Mr. Murray, I need to -- I'm sure
17 you've had a chance to go over with your attorney your
18 rights about testifying and so forth, but I want to explain
19 those rights to you now and be satisfied in my own mind that
20 you understand those rights before we go forward.

21 We've reached the stage of the case starting tomorrow
22 where you may present a defense if you choose to. You have
23 a right to claim the protections, however, under our
24 Constitution in South Carolina under Article One. You have
25 the same protections under our United States Constitution.

1 The Fifth Amendment thereto says that no person shall be
2 compelled in any criminal case to be a witness against
3 himself. Now, what this means, Mr. Murray, is that you
4 can't be required to testify in the case. You have a right
5 to testify if you choose to. But nobody can make you
6 testify. That's a personal right that you enjoy. No one
7 can waive this right except you.

8 Now, you may decide that you want to testify. And if
9 you do, you'll be subject to the same rules that govern
10 other witnesses, you'll be examined and cross-examined on
11 any relevant issue in the case. In addition, if you have
12 convictions involving dishonesty or false statements or any
13 crime that's punishable by imprisonment for more than one
14 year and I determine that the probative value of admitting
15 that evidence outweighs any prejudicial effect to you, then
16 the Solicitor would be able to introduce your record to
17 attack your credibility.

18 Now, if you decide to testify, this decision on your
19 part must be freely and voluntarily and intelligently made
20 by you, with the knowledge of the protections given you
21 under the Fifth Amendment and the consequences of your
22 decision to testify.

23 Now, Mr. Murray, you may decide not to testify and if
24 you make that decision and exercise your rights, then I'll
25 instruct the jury that they cannot give the fact that you

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1 did not testify any consideration whatsoever, that there's
2 to be absolutely no prejudice to you because you did not
3 testify. Whether to testify or not, testify is left entirely
4 up to you. Certainly you can talk with your attorney.
5 You'll have an opportunity to talk with him this evening or
6 in the morning. You can talk to anyone else you may feel
7 like you'd like to talk with about this, but that decision
8 of whether to testify or not is left entirely up to you and
9 you alone.

10 Do you understand what I've explained to you?

11 MR. MURRAY: Yes, sir.

12 THE COURT: Okay. Are there any questions you
13 have of me about these rights you have under our
14 Constitution to testify or not testify?

15 MR. MURRAY: No, sir.

16 THE COURT: All right. Thank you, sir. You can
17 return to your seat with your attorney.

18 All right. As I mentioned to the attorneys at one of
19 our conferences that if you have requests for charge
20 certainly you can get them to my law clerk first thing in
21 the morning. That will help us and we'll have a chance to
22 further settle the charge and the verdict forms and so forth
23 tomorrow.

24 If y'all could be here about nine-thirty, that'll give
25 us a chance to see what we need to get cleaned up

1 administratively before we actually start the rest of the
2 case. Y'all have a good evening. See you back at nine-
3 thirty in the morning, the attorneys.

4 (WHEREUPON, the court stood at recess for the day.)

5 April 20, 2011

6 (WHEREUPON, Court convened with all parties present and
7 the following proceedings were had.)

8 MR. MALLARD: Your Honor, are we going to be
9 dealing with preliminary matters first or are we going to
10 begin taking testimony for the Defense?

11 THE COURT: We'll need to do whatever motions that
12 you have. And are you going to put up a defense? Are you
13 going to have witnesses testify?

14 MR. MALLARD: I'm going to have -- yes.

15 THE COURT: Okay. Well, we might just ought to
16 defer the -- and if we need to give the jury a longer break
17 to get -- it's really hard to know what we're going to be
18 charging until we hear all the evidence, so we'll just do
19 our motions and so forth, and then bring the jury back and
20 call on you to call your first witness. And then we'll go
21 from there.

22 Well, now, I guess we need to continue settling the
23 record about any impeachable offenses that the State intends
24 to use. We need to take care of that now, too. So we
25 probably need to get your client in here and go over the

1 motions about any impeachable offenses that may take place
2 if he chooses to testify. I'll hear from them and we'll
3 know, we'll know what the game plan is and what the ground
4 rules are before he testifies so he can make an intelligent
5 choice about that.

6 MR. MALLARD: Your Honor, there's been a change.
7 It's extremely doubtful that my client is going to testify.

8 THE COURT: But other witnesses are going to
9 testify?

10 MR. MALLARD: Yes.

11 THE COURT: All right.

12 MR. MALLARD: So, if ---

13 THE COURT: But we still need to -- I want to
14 clarify that.

15 MR. MALLARD: Okay.

16 THE COURT: Because he may decide to -- so that
17 he'll know what impeachable offenses that may be used
18 against him. So, obviously, so that we sort of know where
19 we're going, what we'll do is I'll hear your motions on the
20 record with your client here. We'll go over the -- whatever
21 the State wants to put up that they feel like they could
22 impeach him on. I'll hear that, and make a ruling as to
23 whether or not they'll be allowed to use it. Then you can
24 call your witnesses after those are in, and see if there's
25 any reply from the State. We will then -- of course, once

1 you put up your witnesses, then you'll make the first
2 argument and the State will make the last argument.
3 Whereas, it would be reversed, of course, if you didn't put
4 up any witnesses at all. And then I'll charge them on the
5 law. But we'll have a conference to decide what verdict
6 forms that we're going to have and the requests for charges.
7 Do y'all have printed out requests for charges?

8 MR. MALLARD: Your Honor, I don't. I just ---

9 THE COURT: Okay. I don't know if the State does,
10 but if you have any, we can talk about them. I mean, I'll
11 accept them orally. But if you had anything printed out it
12 might be good for Mr. Mallard now to be looking those over.
13 But otherwise, we can go through that. We'll take time --
14 after all the evidence is in, we'll then take a legal matter
15 break to work on the charge and the verdict forms and so
16 forth. So everybody sort of know where we're going?

17 So right now we'll hear your motions. We'll settle the
18 record as far as any impeachable offenses, if he testifies,
19 then we'll hear the remaining witnesses for the case and
20 then we'll have our charging conference.

21 Okay. Anything else we need to take care of now since
22 we know where we're going. If you'd bring in Mr. Murray.

23
24 All right. I understand the jury is here. Is there
25 any matters we need to take care of as far as motions or any

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1 other legal matters before we settle the record on the
2 impeachable offenses under Rule 404? Any motions from the
3 State or from the Defense? Do you have a motion?

4 MR. MALLARD: Nothing, Your Honor, except for
5 charging.

6 MR. RICHARDSON: I would ask the Defense to make a
7 motion ---

8 THE COURT: Well, I don't know if you want to make
9 a motion for a directed verdict at this time. We'd talked
10 about that earlier to -- obviously, any motion for a
11 directed verdict that would be made that we mentioned just
12 before Mr. Murray came out here, I must weigh in a light
13 most favorable to the non-moving party. And I find that
14 there is sufficient evidence to present the case to a jury
15 for disposition and any motion for a directed verdict at
16 this stage would be respectfully denied. I think it's clear
17 to both parties that, obviously, there's conflicting
18 evidence. Obviously from what I've heard, there's
19 conflicts. But I'm not one to -- it's not my job to weigh
20 the evidence at this stage. It's just to determine if
21 there's any substantial circumstantial evidence or any
22 direct evidence which could reasonably tend to prove the
23 guilt of the accused, from which it can be fairly and
24 logically deduced. I don't think this is a case in which
25 there's a total failure of competent evidence as to the

1 charge that's been alleged. And therefore, I believe this
2 is a jury matter to be determined. I would not be granting
3 any motion for dismissal or directed verdict at this stage.

4 Are there any other matters we need to take care?

5 Based upon the instructions or the dialogue I had with Mr.
6 Murray yesterday, if he chooses to testify -- I haven't
7 asked him. I don't know. But if he chooses to testify,
8 does the State intend to have any prior criminal acts to --
9 which it would want to impeach Mr. Murray?

10 MR. RICHARDSON: Yes, Your Honor. It's a juvenile
11 record and if you'll allow me -- if the Court is okay with
12 our open forum, that I will disseminate that record to you
13 and my basis behind my steps to impeach him if he takes the
14 stand.

15 THE COURT: Has the Defense Counsel seen the
16 record?

17 MR. RICHARDSON: I've told him what's on it.

18 THE COURT: All right. All right. I'll be glad
19 to review anything that you have or if you'd just show it to
20 him in case there's any objections to any of those matters.
21 I'll certainly be glad to hear from you, Mr. Richardson.

22 I think I misstated a Rule earlier. I think I said
23 404. Of course, I'm talking about Rule 609 for an
24 impeachable record.

25 MR. MALLARD: Your Honor, we would respectfully

1 ask the Court to not allow them in. Aside from the fact
2 that they expunged, that process should have some degree of
3 integrity. Two of the three charges are at this point nine
4 years old. So not only were they done when he was a
5 juvenile, they were done nine years ago. I think that it's
6 too remote and individuals change too much during, you know,
7 younger teenage years for those to be relevant.

8 THE COURT: Okay. Could I review the list?

9 MR. RICHARDSON: For the record, I'm handing up
10 the juvenile record for Christopher Robert Murray. Judge,
11 the ones that I would seek to impeach on are highlighted.
12 One offense on the first page and two offenses on the last
13 page.

14 THE COURT: All right. We'll make this a Court
15 Exhibit.

16 (WHEREUPON, Court Exhibit Number 3 was marked for
17 identification.)

18 MR. RICHARDSON: Judge, would you like for me to
19 pass up any supporting case law?

20 THE COURT: Yes, sir, I'll be glad to hear from
21 you on any case law that you have.

22 MR. RICHARDSON: Judge, would you like to hear
23 from me or do you want ---

24 THE COURT: No. Let me just scan these and then
25 I'll be glad to hear from you, Mr. Richardson.

1 All right. Mr. Richardson, I'll be glad to hear from
2 you.

3 MR. RICHARDSON: Your Honor, I've passed up to the
4 Court and also to Defense Counsel, *State versus Mallory*.
5 That's cited as 270 SC 519, 242 SE2d 693. That case states
6 that the foregoing sections contain no direct prohibition
7 against use of juvenile -- excuse me -- against the use of a
8 Defendant's juvenile record to impeach him in a later
9 criminal prosecution, and no reason appears to require such
10 instruction. And they referred to a North Carolina case at
11 that time, where the North Carolina Supreme Court was faced
12 with a similar situation and where that North Carolina Court
13 soundly held that though the Defendant's juvenile offenses
14 were later an adjudication or conviction, it could be used
15 against him for impeachment purposes in a subsequent
16 criminal trial. He could be found guilty of the conduct,
17 which if committed by an adult, would be criminal. There's
18 support -- there's a later case that I also handed to you
19 and Defense Counsel, *State v. Sparkman*. The cite is 287 SC
20 489, 339 SE2d 865. This is an affirming opinion, affirming
21 that previous case law cited where that Court found that
22 there is no direct prohibition against the use of juvenile
23 adjudications to impeach either a Defendant or a non-party
24 witness. That case actually goes on, Your Honor, to cite
25 the right of confrontation is paramount to the State's

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1 policy of protecting a juvenile defendant, language to that
2 effect.

3 Your Honor?

4 THE COURT: Yes, sir.

5 MR. RICHARDSON: If it please the Court and in
6 candor, as my duty as a Court Officer, I will refer to you
7 Rule 609, ---

8 THE COURT: Right.

9 MR. RICHARDSON: --- Sub-section D, that actually
10 just came to my attention, for your analysis versus that
11 case law. And I think we have a -- we may have a
12 conflicting -- it appears we have a conflicting rule versus
13 that case law.

14 THE COURT: Well, while the Rule in the cases may
15 very well allow this in, I think the cases that have been
16 submitted to me, while not more than ten years old, a couple
17 of them are almost there and the other almost five years
18 old. I respectfully deny your opportunity, Solicitor, to
19 put these in. While it might meet the case law and it might
20 meet the Rules of Evidence, I'm also bound by Rule 403. And
21 I believe that, although it might be relevant and it might
22 be impeachable, that the probative value of asking Mr.
23 Murray anything about these property crimes, while a
24 juvenile, would substantially outweigh the prejudicial
25 effect -- or the prejudicial effect would substantially

1 outweigh the probative value, so I'm going to respectfully
2 deny your opportunity to examine him on those matters, Mr.
3 Richardson.

4 So if the Defendant chooses to testify there will be no
5 questions from the State as to any prior record that he has
6 as a juvenile. Based upon the submission that was given to
7 me, I find the prejudicial effect outweighs the probative
8 value.

9 Any other matters we need to take care of before -- how
10 many witnesses do you expect to call, Mr. Mallard?

11 MR. MALLARD: Approximately three.

12 THE COURT: All right. Well, I know that that's
13 always on-going as to what witness testifies, but we'll be
14 ready to hear the testimony then.

15 If the jury is ready, Mr. Teal, you can have them come
16 in.

17 (WHEREUPON, the jury entered the open court at
18 approximately 10:34 a.m.)

19 THE COURT: Good morning, Mr. Foreman, ladies and
20 gentlemen. We are now ready to proceed with the trial of
21 the case. The State has rested.

22 Mr. Mallard, you may call your first witness for the
23 Defense.

24 MR. MALLARD: I would recall Faye Brissey to the
25 stand.

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1 THE COURT: Who did you ask for?

2 MR. MALLARD: Faye Brissey.

3 THE COURT: All right. Ms. Burgess. I mean,
4 excuse me, Ms. Brissey. Ms. Brissey, if you'd come around,
5 please. I'll remind you, you're still under oath from your
6 testimony the other day. If you'd just please have a seat
7 and pull yourself up close to the microphone.

8 FAYE BRISSEY,

9 BEING PREVIOUSLY DULY SWORN, TESTIFIED AS FOLLOWS:

10 DIRECT EXAMINATION

11 BY MR. MALLARD:

12 Q. Ms. Brissey, you recall giving a written statement to
13 the police about this case, do you not?

14 A. Yes, I do.

15 Q. In your statement, you indicated that Christopher
16 Murray knocked on the door, James answered, they started
17 fighting. How did you know they were fighting?

18 A. Because he told me when he got into the car. When he
19 got out, he came back out and he got into the car and we
20 crossed the bridge and that's when he told me that he shot
21 him and everything.

22 Q. But you didn't know about ---

23 A. Like I said, the night that I got arrested I was
24 scared. I'd never been in trouble with the law, and I
25 wasn't my -- I wasn't in -- I'm not going to lie. I really

1 was scared and nervous because I never had a dealing one-on-
2 one with cops. So the things I said in my statement wasn't
3 really true because I was scared.

4 Q. Okay. All right. Thank you.

5 MR. MALLARD: That's all.

6 THE COURT: Any cross-examination?

7 MR. RICHARDSON: Yes, Your Honor.

8 **CROSS-EXAMINATION**

9 **BY MR. RICHARDSON:**

10 Q. Ms. Brissey, in fact -- well, let me hand you -- do you
11 recognize this?

12 A. Yes.

13 Q. Okay. What is that?

14 A. My statement.

15 Q. Okay. On the very last line of this statement that you
16 gave to the police, what did you tell the police?

17 A. That when we crossed the bridge ...

18 Q. I'm sorry. Didn't you tell the police in the last line
19 of this that he told me all this when we crossed the bridge?

20 A. Uh-huh (affirmative).

21 Q. Yes or no?

22 A. Yes.

23 Q. And that's what you put in your statement?

24 A. Yes.

25 Q. And that's what you're referring to when you were

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1 talking about them fighting?

2 A. Yes.

3 Q. The Defendant told you they were fighting. Is that
4 right?

5 A. Yes.

6 Q. Thank you.

7 THE COURT: Any redirect? Any redirect?

8 MR. MALLARD: No, Your Honor.

9 THE COURT: All right. You may step down, Ms.

10 Brissey. Thank you. Call your next witness.

11 MR. MALLARD: I would recall Detective Baker to
12 the stand.

13 THE COURT: Again, Officer Baker, I'll remind you,
14 you're under oath. If you'll just take your seat, please.

15 MICHAEL BAKER,

16 BEING PREVIOUSLY DULY SWORN, TESTIFIED AS FOLLOWS:

17 DIRECT EXAMINATION

18 BY MR. MALLARD:

19 Q. Detective Baker, when you were interviewing Ms.

20 Brissey, do you recall how she said she knew that the
21 Defendant and James were fighting?

22 A. Yes, sir, I do. During our interview she stated that
23 she could see, I believe she put it, fists flying through
24 the window.

25 Q. Okay. Have you been to the site of the mobile home?

1 A. I've driven past it.

2 Q. But you haven't been in the mobile home?

3 A. I was not the on-scene investigator.

4 Q. Has Detective Taylor been in the mobile home?

5 A. I can't answer for him.

6 Q. Okay. All right. Thank you.

7 MR. MALLARD: That's all.

8 THE COURT: Any cross-examination?

9 MR. RICHARDSON: Nothing, Your Honor, from the
10 State.

11 THE COURT: All right. Thank you, Officer Baker.
12 You may step down.

13 MR. MALLARD: I would now call Rebecca Eileen
14 Chastain to the stand, please.

15 THE COURT: Ms. Chastain, if you'll come around
16 and be sworn, please.

17 THE CLERK: Place your left hand on the bible and
18 raise your right hand. Do you solemnly swear or affirm the
19 testimony you're about to give to be the truth, the whole
20 truth and nothing but the truth, so help you God?

21 MS. CHASTAIN: Yes, I do.

22 THE CLERK: State your name for the record,
23 please.

24 MS. CHASTAIN: Rebecca Lynn Chastain Espinoza.

25 REBECCA CHASTAIN,

1 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

2 **DIRECT EXAMINATION**

3 **BY MR. MALLARD:**

4 Q. Ms. Chastain, do you recall giving a statement to the
5 police in this case?

6 A. Yes, sir.

7 Q. I read your statement and I'm going to ask for some
8 clarification. I would ask you to tell me how you knew when
9 you said -- and if you would like to read this, you could --
10 but the guy that was killed was the one ---

11 MR. RICHARDSON: Your Honor, I'm going to object.
12 He's asked the question of the witness.

13 THE COURT: Just show her the -- let her refresh
14 herself with the statement and then you can ask her any
15 questions you want to off of the statement.

16 MR. MALLARD: Okay.

17 Q. The statement that I'm looking at, specifically the
18 last sentence.

19 A. Yes.

20 THE COURT: Give her an opportunity to refresh
21 herself about the statement.

22 A. This was what was told to me at Bi-Lo when my ---

23 MR. RICHARDSON: Your Honor, I'm going to object
24 to any hearsay.

25 THE COURT: Okay.

1 A. It was by Murray.

2 MR. MALLARD: Your Honor, may I ask a question.

3 THE COURT: You didn't ask a question. Ask a
4 question and then I can rule upon the objection. All right,
5 sir?

6 MR. MALLARD: Okay.

7 Q. Okay. What I wanted to know was how you knew -- this
8 is just very now and specific -- how you knew that Faye
9 wanted to get even with the deceased. Did she say anything
10 herself ---

11 MR. RICHARDSON: Your Honor, I object to any
12 hearsay?

13 A. No.

14 THE COURT: I over -- hang on just a minute,
15 ma'am.

16 MR. MALLARD: Your Honor.

17 THE COURT: I'll overrule the objection. I'll
18 allow her to testify as to ---

19 MR. MALLARD: I'm asking her specifically anything
20 that she actually was -- actually heard in conversation.

21 THE COURT: All right.

22 MR. RICHARDSON: Your Honor, that's hearsay.

23 THE COURT: Well, I'll allow you to recall the
24 witness if you need to. You may ask your question, Mr.
25 Mallard.

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1 Q. I'm talking about did Faye say anything to you that
2 expressed her motivations regarding this?

3 A. No.

4 Q. Okay. And so you just knew this from?

5 A. Some points that he had made to me in Bi-Lo.

6 Q. But nothing from Faye herself?

7 A. Faye was there, but she did not say anything.

8 Q. Okay. Thank you.

9 A. Uh-huh (affirmative).

10 THE COURT: Any cross-examination?

11 MR. RICHARDSON: Yes, Your Honor.

12 **CROSS-EXAMINATION**

13 **BY MR. RICHARDSON:**

14 Q. Ms. Chastain, you gave a statement to the police. Is
15 that correct?

16 A. Yes, I did.

17 Q. And in that statement, did you in fact tell the police
18 that you knew the Defendant to have a gun?

19 A. Yes, I did.

20 Q. How did you know that?

21 A. We were in Bi-Lo in Easley and he had gotten into an
22 argument with me and he told me he had something in his
23 pocket that would take care of me. And I was actually on my
24 cell phone calling Easley Police and he took off.

25 Q. Okay, ma'am. And did you also know that the Defendant

1 had threatened people with that gun?

2 A. I had heard it, only through hearsay.

3 Q. Okay. And you put that in your statement. Is that
4 right?

5 A. Uh-huh (affirmative).

6 Q. And at the time that he was making these threats
7 directly to you, was he calling you bad names?

8 A. Yes, he was.

9 Q. Was he using foul language?

10 A. I don't think he was using foul language because --
11 well, he just told me that he did have something in his
12 pocket that would take care of me. And I said, that's fine.
13 So I was going to get my phone to call the police because
14 all the stuff they have for the tags and stuff and he took
15 off.

16 Q. And did you take his comments to you to be a threat to
17 you?

18 A. Yes, I did. Because I've heard through hearsay that he
19 said the bullet was meant for my house.

20 Q. Okay.

21 MR. MALLARD: Objection, Your Honor.

22 THE COURT: I overrule your objection.

23 Q. What was the last thing you said?

24 A. That the bullet was meant for my house.

25 Q. Okay, ma'am. And in your statement did you also -- did

1 he also tell you he was going to take care of the boys that
2 did Faye wrong?

3 A. The ones that were -- he was going to take care of the
4 people that were hurting her is what he had said to me in
5 the Bi-Lo.

6 Q. The Defendant told you that?

7 A. Yes, he did.

8 Q. That they were going to pay for it?

9 A. Uh-huh (affirmative). Because he was in an argument
10 with me over something that wasn't none of his business, is
11 what it was. And that's the first time I seen him.

12 Q. Did he ever convey to you that he needed money to get
13 back to Aiken?

14 A. No, because through hearsay all you hear was robbing,
15 and robbing, and robbing. So, you know, no.

16 Q. When you robbing, are you ---

17 A. I'm talking about robbing people and getting the money
18 any way he could.

19 MR. MALLARD: Judge.

20 THE COURT: I sustain the objection. That has no
21 relevance to this case. Okay, sir.

22 MR. RICHARDSON: Your Honor, he put the witness
23 up.

24 THE COURT: I realize that.

25 MR. RICHARDSON: That's all the questions I have.

1 THE COURT: All right. You may step down. You
2 may call your next witness.

3 MR. MALLARD: No further witnesses, Your Honor.

4 THE COURT: All right. Anything in reply?

5 MR. RICHARDSON: No reply, Your Honor.

6 THE COURT: All right. Ladies and gentlemen, I'm
7 going to ask you to go back to your jury room. We have some
8 matters of law we need to take care of as far as my
9 instruction to you. We'll try not to keep you too long, but
10 if you need to stretch your legs, the bailiffs will
11 certainly let you do that. But we'll take a break as long
12 we need to get some legal matters resolved. We'll call you
13 back and then I'll instruct you on the law after the
14 attorneys have a chance to address you in their closing
15 statements.

16 Again, I remind you, even though you've heard all the
17 evidence in the case, you have not heard my instructions so
18 don't discuss the case in any manner whatsoever. You may
19 retire to your jury room.

20 (WHEREUPON, the jury exited the open court at
21 approximately 10:39 a.m.)

22 THE BAILIFF: The jury's secure, Your Honor.

23 THE COURT: All right. Thank you.

24 All right. Are there any motions or any requests for
25 charge from either side? We'll try to -- obviously, I'll be

1 charging the normal instructions that I have as far as the
2 presumption of innocence and the burden of proof. I'll be
3 charging, as I told Mr. Murray yesterday, the fact that he
4 did not testify, I would instruct the jury about that. I'll
5 certainly explain to them what a reasonable doubt is and
6 about direct and circumstantial evidence, credibility of
7 witnesses. Are there any other particular charges that any
8 of you -- either of you have? And then ---

9 MR. MALLARD: Your Honor?

10 THE COURT: Yes, sir.

11 MR. RICHARDSON: Your Honor, I'm sorry. Before we
12 get into charges, I want to make a clarification for the
13 record.

14 THE COURT: Yes, sir.

15 MR. RICHARDSON: You sustained an objection when I
16 was questioning her about statements that were made about
17 robbing. The reason that I brought that up -- and I
18 understand your position on that. For the record, the
19 reason that was brought up was because throughout this case,
20 there's been indications that the Defendant robbed people.
21 That's the reason why I brought it up. The door was open
22 once she was put on the stand and the Defense Counsel asked
23 the questions he did.

24 THE COURT: All right, sir.

25 MR. RICHARDSON: Thank you.

1 THE COURT: Mr. Mallard, did you have anything you
2 wanted -- I didn't know if you were about to stand up.

3 MR. MALLARD: Your Honor.

4 THE COURT: Yes, sir. Excuse me?

5 MR. MALLARD: May I go ahead and make a request
6 for a charge at this time?

7 THE COURT: Yes, sir. I'll be glad to hear from
8 you and certainly from the Solicitor about this. I realize
9 that lawyers have strategies for calling witnesses and not
10 calling witnesses and the way they try their cases. My job,
11 of course, is to do my very best to conform the charge to
12 the facts and the evidence that's been presented during the
13 trial. And I'll certainly try to weigh any request for
14 charge from either side that -- certainly, I'll try to
15 accommodate any of those if I find the evidence is there.
16 And I'll be glad to hear from each of you as to any requests
17 for charge that you have. Mr. Mallard, what particular
18 would you request that I charge?

19 MR. MALLARD: Your Honor, I would trust you have
20 whatever standard charge you want to make. But I wanted to
21 make an argument at this point in favor of a charge of
22 voluntary manslaughter. I imagine it's pretty much the same
23 on ---

24 THE COURT: Does the State have an objection to
25 that charge?

1 MR. RICHARDSON: I'll leave it in the Court's
2 discretion.

3 THE COURT: Okay. I'll charge -- I think there's
4 sufficient evidence that I've reviewed from -- again, I've
5 got a charge based upon the one requesting in the light most
6 favorable to -- if there's any evidence at all, I think
7 there is sufficient evidence to at least warrant the charge
8 of voluntary manslaughter. And in this case I will charge
9 voluntary manslaughter. And how about involuntary
10 manslaughter? Is there request from either side about
11 involuntary manslaughter.

12 MR. RICHARDSON: We'd object to that from the
13 State.

14 MR. MALLARD: We would request a charge for
15 involuntary manslaughter.

16 THE COURT: Where is the evidence for that, Mr.
17 Mallard? And certainly I'll be glad to hear from the State
18 as far as his opposition to that. I guess self-defense, we
19 need to probably talk about that too.

20 MR. MALLARD: From *State v. Smith*, involuntary
21 manslaughter is the unintentional killing of another without
22 malice, or while engaged in an unlawful activity, not
23 amounting to a felony and not naturally intending to cause
24 death or great bodily harm.

25 In terms of support from that definition, one of the

1 ways at least the jury can view the evidence is that when
2 Chris came to James' house he may have had a gun on him, but
3 it's certainly been his testimony from the tapes and
4 directly through Matt Brissey that he wasn't pointing it at
5 him, but may have -- after being hit, may have been involved
6 in a scuffle at the doorway. He would not have anticipated
7 that that would result in great bodily harm, not at least
8 until James actually grabbed the gun.

9 Alternatively, going there with a gun just to talk to
10 somebody, which at some point in the tapes he suggested
11 that's what he was doing, could be viewed as a legal
12 activity, particularly since there's evidence that James let
13 him in. He didn't invade the house. But at the same time
14 could be viewed as having a reckless disregard for the
15 safety of others. Just in that that's sort of a stupid
16 thing to do.

17 Now, I realize that involuntary manslaughter can't be
18 charged if it is necessarily a presenting and pointing a
19 loaded or unloaded firearm at someone. But in the case that
20 decided that reads, the presenting of the firearm was this
21 guy who said he was about to commit suicide, pulled the gun,
22 waived it around in the air and apparently accidentally shot
23 his wife or ex-wife. And the Court ruled that even if he
24 didn't point it at her, that he was presenting it, because
25 he was like waving it around in the air. So I think that

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1 it's a question for the jury to decide whether or not Chris
2 had the gun out and pointed when he approached James' house.
3 Or whether or not it was in fact still in his belt and it
4 only came out in the course of the scuffle.

5 THE COURT: Solicitor, I'll be glad to hear from
6 you in the response as to whether involuntary manslaughter
7 should be charged.

8 MR. RICHARDSON: Your Honor, I think a key
9 component of that is an unintentional killing. By the
10 Defendant's own testimony through videotape, he pointed the
11 gun and it took a while to get to that point, but he shot
12 three times. Not once. Three times. He pointed the gun at
13 the decedent, the victim, and shot him in the chest. That,
14 in and of itself, takes it totally out of the realm of
15 involuntary manslaughter.

16 In addition, by his own testimony, by his own
17 statement, he had that gun in his waistband. At some point
18 in time, he had to pull that gun out. I submit to the Court
19 that he cocked that gun. As the expert ---

20 THE COURT: Well, why do you say he had to pull it
21 out? Is there evidence that he pulled out?

22 MR. RICHARDSON: He said it was in waistband and
23 he had it in his hand. And that, in and of itself, I would
24 submit he pulled it out.

25 THE COURT: Wasn't there testimony -- again, I'm

1 trying to weigh it all and I want you to clarify me that it
2 was in his waistband, then it was on the floor, then it was
3 in his hand?

4 MR. RICHARDSON: There may have been mention of
5 that, Your Honor, but he was -- let's assume -- let's go
6 with that.

7 THE COURT: All right.

8 MR. RICHARDSON: It's on the ground. Okay. Let's
9 go with that. He still has to pick the gun up -- you heard
10 the expert testify that in order to work that gun, it's a
11 two-handed deal, a two-handed weapon. He has to cock that
12 gun at some point in time. An unspent shell was found on
13 the floor that came out of that weapon. And he cocked that
14 gun with two hands at some time. That is not an
15 unintentional killing. And I don't think there's any jury
16 question. What we do know for a fact is that he went there
17 with the gun in his waistband. That's illegal. He had a
18 gun illegally, and he had a gun on his person illegally.

19 MR. MALLARD: Well, regarding the expert, is there
20 any evidence that the bullet, the unfired bullet, actually
21 went through the chamber and it didn't misfire before it
22 even reached the chamber?

23 MR. RICHARDSON: The evidence is that gun holds
24 nine shots. We had five in the clip. We had three shots,
25 testified. And I think that, in and of itself, Judge, takes

1 it out of involuntary manslaughter. It's not one shot.
2 It's three shots. And that there were three shots and that
3 the gun holds a total of nine. So there has to be a ninth
4 shot in there. That shot, I submit to the Court, was in the
5 barrel. It was cocked out by his actions. I don't -- I
6 just don't -- I don't see any evidence of an unintentional
7 killing.

8 MR. MALLARD: There is evidence, Your Honor, that
9 they, that they scuffled, that the gun was in play between
10 them. A possibility that in fact the safety wasn't -- came
11 unlocked accidentally. I think there were several things
12 that indicated that it possibly could have been involuntary.

13 MR. RICHARDSON: Your Honor, I would reiterate,
14 based upon his testimony -- let's assume even further in
15 light of the way he's trying to frame it, that the gun is
16 picked up off the floor. He still -- let's assume that he
17 didn't have to cock it. He still has to pick that gun up
18 and aim it and shoot it. He gave video statements to that
19 point. He shot the gun three times until he hit the boy and
20 killed him.

21 THE COURT: Did he say that?

22 MR. RICHARDSON: Yes.

23 THE COURT: I shot it three times until I killed
24 him.

25 MR. RICHARDSON: No, he didn't say that. That's

1 from me. Until he shot him and killed him. He said he knew
2 he shot him. We have evidence there were three shots.

3 MR. MALLARD: I don't think there was evidence
4 that he deliberately shot him. I mean, one of the shots
5 went to the ceiling and one went to the floor. They were
6 all over the place.

7 Your Honor, there was repeated testimony or repeated
8 comments by the Defendant in all of his statements that the
9 deceased was on top of him, that they were -- and that they
10 were struggling for the gun with it being between them. In
11 those circumstances, at that range, it could have easily
12 gone off accidentally.

13 MR. RICHARDSON: Three times?

14 MR. MALLARD: Your Honor.

15 THE COURT: Yes, sir.

16 MR. MALLARD: In the course of the fight my
17 client's contention was the whole time was to hold on to the
18 gun to keep the other guy from getting it. Application of
19 pressure by the deceased to resist and stuff could have also
20 ---

21 MR. RICHARDSON: There's no testimony at all to
22 support that.

23 THE COURT: I agree with you there. Let's move on
24 to the self-defense. Is the Defense asking for a self-
25 defense charge? Does the State have a position on that?

1 MR. RICHARDSON: Yes, sir, we would object to
2 that.

3 THE COURT: And why would you object to self-
4 defense?

5 MR. RICHARDSON: The first and main element of
6 self-defense is that the Defendant cannot be at all at fault
7 in bringing on the difficulty at all. That's the first
8 element. He goes to the victim's house. Regardless of what
9 happens, he goes to the victim's house by his own testimony.
10 They get into a fight. That's his position. They get into
11 a fight. He's at fault, also, if you take his word for it.
12 Also, he takes a weapon to the residence. There's no
13 testimony whatsoever that the victim had any type of weapon.
14 He goes to his home. He's carrying -- once again, carrying
15 it in his waistband. This is all from his testimony. He is
16 involved with the difficulty. It's very clear he's involved
17 with the difficulty. There was testimony about telephone
18 conversations. There was testimony that he was out to get
19 James. There is nothing in the record that shows that he
20 was not without the difficulty. That's the first element
21 alone that precludes any type of self-defense charge. He
22 has to be in imminent danger or believe he's in imminent
23 danger of losing his life, such that a reasonable person
24 would. He's the only one with a weapon and he's in somebody
25 else's home.

1 THE COURT: Wasn't there a knife there from
2 somewhere?

3 MR. RICHARDSON: I think there was some testimony,
4 but again -- once again we go back. The Defendant never
5 said anything about a knife. He had no injuries about him.
6 And he had a gun that he brought to somebody else's home.
7 And he was there. He had a vehicle there. He could have
8 fled the situation. That's another element. All of that is
9 in testimony. There's no testimony or evidence that shows
10 otherwise. And, Judge, as far as the knife is concerned, I
11 believe there's testimony it was a steak knife and it's a
12 knife that was in the house, that I have in my house.

13 THE COURT: I thought there -- I don't know. Is
14 it into evidence, a picture of it? Was it not on the floor?

15 MR. RICHARDSON: Not that I'm aware of it.

16 THE COURT: Okay. I thought there was a knife
17 found on the ---

18 MR. RICHARDSON: I think the officer testified it
19 was a steak knife that they obtained at the scene. There's
20 no indication that knife was ever ---

21 THE COURT: I thought it was an electrical knife,
22 is what I thought I heard in evidence.

23 MR. MURRAY: In evidence, that was correct.

24 THE COURT: That it was used with electricity, but
25 I might have missed that too.

1 MR. MURRAY: It definitely was an electrical.

2 THE COURT: I thought there was a knife in that
3 room.

4 MR. RICHARDSON: There may have been testimony to
5 that, but there's no -- that's my point. There's no
6 testimony that that knife was ever presented, used. The
7 Defendant was not harmed, he was not injured. There's
8 absolutely no testimony at all that the victim was involved
9 in using a weapon at all.

10 MR. MALLARD: Your Honor.

11 THE COURT: Yes, sir.

12 MR. MALLARD: Until the gun has been presented, if
13 he's just carrying it, he goes there to talk, is he
14 responsible for the immediate conflict if it isn't pulled
15 out. We had corresponding -- sort of a corresponding
16 situation with Kuykendall who was talking about borrowing
17 the Defendant's gun just to have on him to go pick up some
18 stuff from his ex-wife. The mere fact that it's on him
19 doesn't render him the aggressor. If there were a struggle
20 for the gun, that's -- that places him in danger. Finally,
21 although normally, normally he would have a responsibility
22 to retreat, is this something he can get out of once the guy
23 is on him or if just ...

24 MR. RICHARDSON: And, Your Honor, just a brief
25 response to that.

1 THE COURT: Yes, sir.

2 MR. RICHARDSON: It's not who's the aggressor.
3 The first element is, are you at fault at all? That's the
4 element. It doesn't matter who the aggressor is. Are you
5 at fault at all in the difficulty? In other words, you
6 can't have fault, ---

7 THE COURT: Didn't I ---

8 MR. RICHARDSON: --- you can't have fault and
9 claim self-defense?

10 THE COURT: Well, again, I've got to charge if
11 there's evidence. Wasn't there evidence that -- and, again,
12 I'm not going on credibility of evidence. I'm talking about
13 evidence.

14 MR. RICHARDSON: Sure.

15 THE COURT: Isn't there evidence that when he
16 arrived he was struck on the head by the victim, he was
17 dragged by a leg -- I don't remember who this was from ---

18 MR. MALLARD: It was into evidence for the State,
19 Yes.

20 THE COURT: --- the victim dragged him by the leg
21 into the house and then the fight ensued. Wasn't there some
22 evidence to that?

23 MR. RICHARDSON: That's what the Defendant -- that
24 was one of the things that the Defendant told Brissey. Once
25 again, he didn't tell the police that.

1 THE COURT: But that can -- the jury has that
2 evidence, don't they?

3 MR. MALLARD: Yes.

4 THE COURT: He told Brissey, and isn't that
5 evidence for the ---

6 MR. RICHARDSON: Okay. Well, let's assume that's
7 true.

8 THE COURT: Okay.

9 MR. RICHARDSON: Is there not fault in going to
10 another person's home with a gun, illegally on your person,
11 and he stated that he was going over there to talk to him
12 about not calling his girlfriend. Those, in and of itself,
13 appear to show fault. And then you have the question of
14 whether -- the flight and things like that.

15 THE COURT: Well, that doesn't get into self-
16 defense, I don't think, does it?

17 MR. RICHARDSON: Well, if he has to -- I disagree,
18 Your Honor, respectfully. If he has the capability of
19 leaving, that's part of the self-defense evidence. There
20 was no other probable means ---

21 THE COURT: But he fled, he fled after the victim
22 was no longer an -- or in his view an aggressor.

23 MR. RICHARDSON: I'm saying that he has an
24 opportunity to flee. Also ---

25 THE COURT: But at what stage? Again, just

1 looking at the evidence, when did he have the opportunity to
2 flee? After he was drug into the house? If the evidence,
3 if the evidence -- the jury's going to believe it or not
4 believe it. He gets hit on the house, he's drug into the
5 house, he has a -- I think the demonstration was, his head's
6 in the chest and the other person is over him, he sees the
7 gun on the floor, when does he have an opportunity to flee?

8 MR. RICHARDSON: Well, ---

9 THE COURT: To get out of that grasp and run out,
10 I guess?

11 MR. RICHARDSON: How was he dragged into the
12 house?

13 THE COURT: Well, I'm just -- I'm not saying --
14 I'm just saying there's some evidence.

15 MR. RICHARDSON: Well, we know that mutual combat
16 in and of itself doesn't establish ---

17 THE COURT: Well, I don't believe there's any
18 evidence of mutual combat that I've heard as to -- that they
19 arranged to have -- obviously, I gathered that Mr. -- that
20 James was rather surprised by him showing up.

21 I just feel like I need to charge whatever evidence is
22 there, and I'm willing to listen to both of you. And you
23 certainly are presenting your position well, Mr. Richardson,
24 as far as why there is no self-defense.

25 MR. RICHARDSON: Well, Your Honor, if that's the

1 position the Court's going to take, is that the evidence is
2 there, and I maintain for the State that you're at fault
3 when you go to another person's home carrying a gun
4 illegally and that gun ends up killing somebody through your
5 own hand. My position is is that, in and of itself,
6 precludes self-defense. In light of that, the Castle
7 Doctrine, which is -- we've flipped it around here --
8 certainly allows a person to defend themselves in their own
9 home. If you are inclined to charge self-defense, then I
10 would ask for a charge of the Castle Doctrine.

11 MR. MALLARD: We would have no objections to that,
12 Your Honor.

13 THE COURT: Well, I don't want to create more
14 confusion for the jury on that, which relates to the victim
15 in the case. Doesn't the Castle Doctrine relate to the
16 charge against the homeowner?

17 MR. RICHARDSON: Well, that's what I was referring
18 to as the flip situation.

19 THE COURT: I mean, do you want that charged to
20 the jury?

21 MR. RICHARDSON: That a person in his own home has
22 a right to protect himself. If you're charging self-
23 defense.

24 THE COURT: Yes, sir. Did you have something
25 else, Mr. Mallard?

1 MR. MALLARD: He's not pointing or brandishing the
2 gun when he walked in.

3 THE COURT: Yes, sir.

4 MR. MALLARD: And he had the right to carry it in
5 his car, so when does it become illegal.

6 THE COURT: Well, I think the issue is whether or
7 not carrying of the weapon ... [Mr. Mallard's cell phone
8 interruption]

9 All right. Any other requests for charge? So far
10 we've talked about voluntary and involuntary and self-
11 defense. Are there any other particular requests for charge
12 for either side?

13 MR. RICHARDSON: I'm just inclined to -- depending
14 on your ruling on self-defense ---

15 THE COURT: Excuse me?

16 MR. RICHARDSON: I said, depending upon your
17 ruling on the self-defense, then I would ask for ---

18 THE COURT: If I charge self-defense, you want the
19 Castle Doctrine charged?

20 MR. RICHARDSON: That's correct, Your Honor.

21 THE COURT: Okay. Any other charge matters we
22 need to talk about?

23 MR. RICHARDSON: No, Your Honor.

24 THE COURT: Anything from the Defense?

25 MR. MALLARD: No.

1 THE COURT: All right. Let's take a short break.

2 I need to -- I don't know if any of you -- I've read some of
3 the cases that even Mr. Mallard has referred to, the Reece
4 case, some of the others relating to some of these issues.

5 I gather that we really don't have a major dispute over
6 whether voluntary manslaughter should be charged. There may

7 be a dispute at least on the other two. Let's take a short

8 break. I'll try to get some verdict forms prepared. I'll

9 give you a ruling, certainly, so you'll know before you

10 argue to the jury, what I'll be charging on those matters.

11 How long do you anticipate talking to the jury, Mr.

12 Richardson?

13 MR. RICHARDSON: The last time I said that, I said

14 twenty minutes and I went forty-five, so I'm not real good

15 at judging. I would say thirty, forty-five minutes.

16 THE COURT: Okay. Mr. Mallard, how long do you

17 anticipate? I'm not shutting either one of you down. A

18 reasonable time. You take what you need to go over all the

19 salient points that you think are appropriate for the jury

20 to be considered. Do you have any idea about how long

21 you'll be taking?

22 MR. MALLARD: About fifteen, Your Honor.

23 THE COURT: Fifteen minutes. All right, sir. I'm

24 just trying to work around lunchtime and otherwise whether

25 we need to order lunch for the jury.

1 All right. Let's take about a fifteen minute break and
2 let me check some law and we'll get a verdict form ready for
3 y'all to look at.

4 (WHEREUPON, the court stood at recess for a short
5 break.)

6 THE COURT: All right. Gentlemen, I've read
7 recent case law on the involuntary charge that I've brought
8 up to both of you, and I think the -- I don't remember any
9 testimony -- there was testimony, as I can remember, about a
10 struggle going on, but I never really heard anything about a
11 fight over the weapon. Based upon the recent cases of *State*
12 *v. Brayboy* and *State v. Rivera*, I'm not going to charge
13 involuntary manslaughter. I will be charging voluntary
14 manslaughter. I will be -- I think there is sufficient
15 evidence to charge self-defense. I will be charging self-
16 defense.

17 So the verdict forms, I'll let y'all look over them,
18 will be for a finding of guilty or not guilty on the murder
19 charge or a finding of guilty or not guilty on voluntary
20 manslaughter. I've got a verdict form. I'll be glad to --
21 Ms. Garret, if you would, just show it to the attorneys so
22 that they'll know what -- do we need to make any corrections
23 on that? If y'all will just look that over and make sure
24 that everything's spelled right and in proper order.

25 MR. RICHARDSON: Can you -- do you have a ruling

1 on the Castle Doctrine?

2 THE COURT: I'll briefly charge them. I'm not
3 going to do the statute that we have, but I'll tell them
4 that any person on their own premises has a right to protect
5 themselves from any danger of bodily harm or death.

6 MR. RICHARDSON: Thank you, Your Honor.

7 THE COURT: I'll cover that.

8 MR. RICHARDSON: Your Honor, the State has no
9 objection to the verdict form.

10 THE COURT: Anything from the Defense?

11 MR. MALLARD: No, Your Honor.

12 THE COURT: All right. So that you'll know what
13 the verdict form is and what I'm charging, I'll charge that
14 along with the other matters of the charge. I'm also going
15 to tell the jury that we'll be ordering lunch for them.
16 Hopefully, we can get the arguments and the charge in in the
17 next hour, hour and fifteen minutes. We'll have lunch here
18 for them about one fifteen. Anything else before the jury
19 comes back?

20 MR. RICHARDSON: Nothing from the State.

21 MR. MALLARD: Nothing from the Defense, Your
22 Honor.

23 THE COURT: Okay. All right. Again, on the -- on
24 your arguments then, of course, Mr. Mallard, you'll go first
25 and then the State will have their argument to the jury, and

1 then I'll tell them I'll instruct them on the law after
2 that.

3 MR. MALLARD: All right.

4 THE COURT: All right. If the jury's ready, Mr.
5 Teal, you can have them come in.

6 (WHEREUPON, the jury entered the open court at
7 approximately 12:02 p.m.)

8 THE COURT: Thank you for your patience with us,
9 ladies and gentlemen. As I went through some of those legal
10 matters that I told you about that I want to make sure I
11 hear all the matters I need to and do the research that I'm
12 required to do to make good rulings on the law. I
13 appreciate your patience with us.

14 We are now ready to proceed with the closing statements
15 the attorneys are about to make to you. I've told you
16 throughout that the evidence that you'll have is what you
17 hear from the witness stand, the documents that have been
18 presented through exhibits and that alone. What the lawyers
19 have to say to you, that's not evidence. I urge you to
20 listen carefully as they talk with you. I'm confident that
21 each of them can give you some insights to hopefully help
22 you in your deliberations that will take place soon. After
23 they've had a chance to address you, I'll instruct you on
24 the law and then the case will be yours to decide what the
25 facts are.

1 Mr. Mallard, you may address the jury in your closing
2 statement?

3 MR. MALLARD: Thank you, Your Honor.

4 **CLOSING STATEMENT**

5 **BY MR. MALLARD:**

6 Ladies and gentlemen of the jury, when this incident
7 occurred, there were only two people besides the deceased
8 there, Faye Brissey and my client. I would submit that Faye
9 Brissey is really not credible. One of the things, if you
10 will recall the testimony of Jack Kuykendall, he talked
11 about that the day that James died, and that very day he
12 said he had followed the two of them to and
13 dropped Chris' car off, and then he dropped them both off at
14 the Dollar General while he went to -- while he borrowed the
15 gun and went to pick up stuff from his ex-wife. He then
16 returns to the Dollar General and picks them up and takes
17 them back to Matt's house. Her testimony, on the other
18 hand, is that she wasn't there. She said that when he comes
19 back he brings Chris, and Chris comes in and wakes her up to
20 take her to the store.

21 So we have contradictory evidence from another, another
22 evidence there. And then we have, and this really
23 influences everything, Faye's great pregnancy ploy. Her
24 telling the Defendant that she was pregnant and she
25 testifies that they were at the Aiken Hospital and he heard

1 that she wasn't. But then after that, we hear from the
2 Detective, and you certainly heard the tapes of Chris and he
3 is absolutely under the conviction that she is definitely,
4 definitely pregnant. And he asks the detective, well, how
5 did you know? And he responds, well, Faye told us. So at
6 this point she's lying to the detectives, as well as Chris,
7 about her being pregnant. And he goes on and on with this.
8 That's why I had you listen to those prolonged conversations
9 in the car, asking about when they arrested her if she was
10 down on her stomach because he was concerned that if she's
11 pregnant and maybe the baby will be hurt. It affects
12 things. But we are what we are.

13 I would suggest that Chris told the truth. It was
14 really to protecting Faye. He went out of his way to
15 inquire about what she was being charged with and wanted to
16 apologize to her. That, of course, was motivated partially
17 by concern for her and partially by concern for the unborn
18 child of his that he thought she carried.

19 And finally you heard the testimony of Detective Baker,
20 I believe it was. Faye says at one point, you know, now,
21 that she only knew about what happened, in terms of the
22 fight between Chris and James, on the basis of what Chris
23 told her. But she clearly indicated to the detective that
24 she saw it through the window. Do you have a picture of the
25 window? I question whether the window was even there. So I

1 don't think Faye is really a very believable source.

2 Now, Chris talks on and on. But in the course of that
3 talking he proves -- eventually he leads the officers to the
4 car, which in essence proves him to be pretty reliable. So
5 when he is talking on those tapes about the conflict itself
6 with James, and he goes to the door and he is stupid enough
7 to have, you know, the gun on him, but he's wanting to talk,
8 but he is immediately, immediately struck by James. And at
9 this point, they are in a life and death struggle. And
10 Chris talked to you about how, you know, at one point James
11 is on top of him, the gun is there and he has to struggle to
12 maintain control of the gun.

13 The Judge is going to instruct you on voluntary
14 manslaughter, which has two basic elements, one of them
15 legal provocation and the other heat of passion. Some of
16 the case laws will instruct you that being struck, and you
17 need to listen to the Judge's ruling on the law rather than
18 mine, but being struck is legal provocation. There's no
19 indication from anyone that when he goes to James' house,
20 when he first entered his house, he was clearly invited in.
21 And then he's, you know, he's struck and has to respond to
22 that. And there is testimony, second-hand testimony,
23 through what Matt Brissey may have given, about his being
24 dragged in and wrestling on the floor. And there is
25 significant indication of a struggle. I would submit that

1 other evidence of a struggle, of a struggle rather than just
2 cold blooded intent to kill him on Chris' part, is the fact
3 of the gunshot was -- I mean, the gunshots go all over the
4 place. One was in the corner, one hit the ceiling, one hits
5 the floor, etcetera. If he had wanted to simply kill James,
6 I mean, he could have had the gun ready, pointed and just
7 done it as soon as he hit the door. There wouldn't have
8 been any need for a fight or the disarray that you saw in
9 the photographs of the trailer. It would have been, you
10 know, fairly simple to get him and get him one time. I
11 would suggest there's evidence that, in fact, that there was
12 a struggle.

13 And in addition to there being some provocation, the
14 fact of having to struggle for a gun, to hold on to it so
15 the other person doesn't get you and kill you first is
16 passion. It's fear. And I would strongly suggest that the
17 evidence is there for manslaughter rather than for murder.

18 I have to admit I'm not really, really strong in
19 ballistics so what I say here is largely based on some other
20 input. But there are three different ways -- things to
21 identify, the markings on the bullet, the markings on the
22 hammer pin, the back of the casing, the markings on the
23 casing caused by the chamber. I don't believe there were
24 any markings on the casing of the live chamber that was
25 found, the bullet that was not spent. And the State will

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1 say there was. But our position was -- is that a
2 malfunction of a live round could be caused by a spent
3 casing stuck inside the chamber.

4 In conclusion, as you consider and weigh the
5 alternatives -- excuse me. You will also be charged on
6 self-defense. Normally, one does have a duty to retreat if
7 you are claiming self-defense. But in this case once he got
8 there, once he was, like, surprised by the immediate
9 physical attack of James, once James was on top of him, I'll
10 submit that he really couldn't get away at that point. That
11 he was really in a struggle to the death, that it was really
12 either his life or James' that would be taken.

13 And so I would seriously ask you not to render a
14 verdict of guilty of murder and to consider seriously your
15 responsibility to require the State to prove every element
16 of its case and to give the benefit of a reasonable doubt to
17 my client. Thank you.

18 THE COURT: Could I see the attorneys here just
19 for a moment, please?

20 (WHEREUPON, Mr. Richardson, Mr. Cleveland and Mr.
21 Mallard approached the bar.)

22 THE COURT: All right. Solicitor, you may address
23 the jury in your closing.

24 MR. RICHARDSON: May it please the Court, Mr.
25 Mallard.

1 **CLOSING STATEMENT**

2 **BY MR. RICHARDSON:**

3 Good afternoon, ladies and gentlemen. I didn't
4 previously introduce myself as far as this formal panel is
5 concerned, but I am Doug Richardson and I am the Chief
6 Prosecutor on this case.

7 We've come to closing arguments now. I know it's been
8 two days of trial. We're in our third day now, half-way
9 through that day. I would ask just a little bit more of
10 your time. Just as soon as I'm finished, the Judge will
11 talk to you and this thing will be in your lap and you can
12 go discuss it. So I appreciate just a little bit more of
13 your time that you graciously have given this case.

14 Now, ladies and gentlemen, the Defense has told you
15 there are two decisions that you've got to make between
16 charges, that's a murder charge and a voluntary
17 manslaughter. The Judge is going to charge you as to what
18 those are. But briefly, murder is killing of another human
19 being with malice aforethought.

20 Voluntary manslaughter requires two separate things.
21 There has to be a killing in a sudden -- and I'm going to
22 get to this later -- in a sudden heat of passion, and -- not
23 just one thing. And there has to be some type of legal
24 provocation.

25 In addition to that, the Judge will charge you as to

1 self-defense. Self-defense is a defense that requires a lot
2 of different things. One of the main things is that the
3 Defendant himself cannot have any fault in bringing on the
4 difficulty. None whatsoever. He must think he's in
5 imminent danger of serious bodily injury or death. In
6 addition to that, as a jury, you must find a reasonable
7 person would think they were in danger of their life and had
8 to take action necessary to save their life. Lastly, they
9 must not have the opportunity to flee. He has the
10 opportunity to flee, then it's not self-defense. So you
11 have all four of those that I just discussed. Not just one.
12 Just one of those will prevent it from being self-defense.

13 Now, you also are going to hear, and I believe the
14 Defense attorney allude to it briefly about reasonable
15 doubt. Reasonable doubt is a term of art that we use. The
16 Judge will charge you to what that is. However, I'd like to
17 -- and a way to explain what reasonable doubt is, is
18 basically it's common sense. Y'all have come off the
19 streets from your jobs, everyday people who are not in
20 courtrooms everyday, and you use your common sense in
21 ascertaining what happened on the night of January 18th,
22 2010. What I mean by common sense -- now, I'm not a hunter.
23 I don't hunt. A lot of people do hunt. But as an analogy,
24 if myself and the Defense attorney were out hunting deer and
25 we're out in a field and off in the distance in that field

1 in the early morning hours there's a deer. And I have a
2 rifle and I pull that rifle up and he's standing right there
3 next to me, Defense Counsel is standing right there next to
4 me, and I pull that rifle up, bam. I shoot one time. The
5 gun goes off, the deer falls. And I say, hey, what a great
6 shot. I just killed that deer. Defense Counsel may tell
7 you, no, there's reasonable doubt. That deer had a heart
8 attack. That's how it died. That's reasonable doubt. What
9 does your common sense tell you, ladies and gentlemen? That
10 deer died because of my gunshot. That's what I'm talking
11 about today. That's what I'm asking you as a jury to use in
12 ascertaining what happened on the night of January 18th of
13 2010.

14 This case starts approximately three weeks prior to the
15 killing of James Gibson. Three weeks prior to that, there
16 is a telephone call made by Chris Meyer to Faye Brissey.
17 Keep in mind this is three weeks beforehand. This telephone
18 call is made to them and where were they? Remember the
19 testimony. Where were they? Manning, South Carolina.
20 Chris Meyer was here. And there's no question and the State
21 concedes that there was an argument over that telephone
22 three weeks prior. Now, what happens. There's a brief
23 conversation and they hang up. The next day -- and I should
24 say the victim of the case got on the phone and had a
25 discussion with the Defendant. There was an argument

1 between them on that phone. The next day there's further
2 conversation where there's an apology made. But the
3 Defendant and the victim, James Gibson, never have another
4 conversation. Three weeks prior. They don't have any
5 further conversation. At any time did you hear any
6 testimony that the Defendant and the victim had any further
7 conversation? What happens? We know one thing, he's in
8 Manning, South Carolina and he has a gun. He has this gun.
9 This gun that he, by his own testimony, the videotape,
10 concedes was given to him by a lady and that he carried,
11 carried this gun he had in Manning, South Carolina. I can't
12 remember all the testimony how it goes. The great thing is,
13 there's twelve of y'all and y'all can put every piece
14 together. But at some point in time after that
15 conversation, he and Faye Brissey get on a bus and return to
16 Easley. And he returns to Easley with that weapon. No
17 conversations between the victim and the Defendant. He's
18 back in Easley. I believe the testimony was, is they get
19 back to Easley, he's still got the gun, he's still carrying
20 the gun and they go out and they buy car. The car that
21 you've seen on the camera here throughout this week and they
22 purchase that car. And I believe this is one week -- I
23 believe the testimony will show you that it was one week
24 prior to the killing of James Gibson. One week. No
25 conversation between the Defendant and the victim in one

1 week. They purchase the car. Throughout this case -- and
2 I'll point out as we go along, throughout this case money
3 becomes an issue. Money is an issue. I will submit to you
4 that is the real motive. James Gibson was being targeted.
5 He was a man who lived alone. They knew he lived alone.
6 The Defendant didn't like him. But still no conversations
7 between them. They purchased this car -- once again, we get
8 back to money. He doesn't have enough money to pay for it
9 all. The testimony was he paid four hundred dollars, still
10 owed two hundred, couldn't get a title. The testimony
11 further revealed that they were looking for money for gas.
12 This is going on the week before. At some point in time,
13 they're at Faye Brissey's mother's house, they move in with
14 Matt. I believe the testimony was two or three days before.
15 Once again, nothing about any conversations between the
16 victim and the Defendant.

17 Voluntary manslaughter requires a sudden heat of
18 passion. There cannot be a cooling down period. The Judge
19 is going to tell you that. We're about two weeks into this,
20 he's back in Easley. All of a sudden we've got witnesses
21 coming up and testifying that the Defendant was talking
22 about robbing people. And you notice it wasn't just one
23 witness that testified to that.

24 Let's talk about Jack Kuykendall's testimony. He
25 doesn't have a dog in that fight. He met up with the

1 Defendant the day of the murder and had discussions with him
2 about that gun. He identified the gun. I showed him the
3 gun and he identified the gun. He said, yes, I saw that
4 gun. I held that gun. This gun is the Defendant's gun. I
5 think you've heard ample testimony that this gun is the
6 Defendant's gun. It may have been given to him by a
7 girlfriend. He never explained to the police why it was
8 given to him. But it was given to him. Mr. Kuykendall gets
9 up there and states, he asked me in the car did I know
10 anybody we could hit? This is the day of the murder. Do I
11 know anybody we can hit? I believe Jack's response was no.
12 Later he takes him and they separate and what does Mr.
13 Kuykendall testify to then? Later that evening he got a
14 text message from the Defendant, and I believe his testimony
15 it was about ten forty-five. I know a house we can hit.
16 Recall the time of the killing, ladies and gentlemen? It
17 wasn't much longer after that. I know a house we can hit.
18 Who was the Defendant talking about? Was it just a
19 coincidence that the murder takes place shortly thereafter?
20 Jack's response was, I'm out. I'm not involved. I've got
21 to go to work tomorrow. And coincidentally, the police
22 searched the Defendant's phone and at -- I don't believe
23 this one shows it -- but at twelve thirty-five, twelve
24 thirty-five a.m., just after the murder, there's a text
25 message to Jack saying, I need money. I have to get out of

1 Easley. Remember, I keep coming back to money. He needs
2 money. And he's talking about robbing people.

3 Who else did he talk about robbing people to? Is it
4 just a coincidence that two witnesses get up and talk about
5 this? How about Matt? He says to Matt that he's going to
6 rob the Z-Mart. Remember that? The Z-Mart. Do you
7 remember where he went right before the murder? He went to
8 the Z-Mart. What was the problem? The problem was the Z-
9 Mart was closed. I submit to you he was going to the Z-Mart
10 to do exactly what he told Matt.

11 Now, he's got a problem. He needs money. He needs
12 money. Who is a convenient target at eleven o'clock at
13 night. So once again, we're all the way up to the murder.
14 There's no conversation between the victim and the
15 Defendant. None. What did he tell Matt, though? He was
16 going to get him. He was going to get him. He told Matt he
17 was going to him. That came in in these statements into
18 evidence. He said, I am going to get James. He said it
19 twice to him. We have money, we have a dislike for an
20 individual. So what does he do? At this point in time,
21 he's got this gun, you've heard plenty of testimony he
22 carried it and he carried it in his waistband. He kept it
23 on his person a lot of the time. He leaves and he goes to
24 James' house. He goes to James' own home. He was living
25 with Matt. He could have left the weapon, could have left

1 the pistol at Matt's house, could have left the pistol in
2 the car. Allegedly, he wants y'all to believe that he was
3 going to go up at eleven-thirty at night or eleven o'clock
4 at night, after he was getting ready to rob the Z-Mart with
5 a gun in his waistband, he's just going to knock and say,
6 man, you've got to quit calling my girlfriend.

7 Now, where do we hear that the victim was even calling
8 the girlfriend. We heard one conversation, one time. This
9 is three weeks later. He's going up to knock on the door
10 and they want to have you believe that he is going to simply
11 say, you need to stop calling my girlfriend. He doesn't
12 call the police about the phone call. And he doesn't call
13 the police at all. I'll get to that in just a moment. At
14 eleven-thirty at night when he's in need of money --
15 remember Harriet Millman, remember her? That was the day of
16 the murder, two o'clock in the afternoon, they're over at
17 Harriet's house asking for money. She said she was scared.
18 She thought they were going to come in. Asking for money.
19 Who else did the Defendant ask for money? Remember his
20 sister, his own blood? She got up here and testified the
21 day of the murder he asked her to wire him money. That's
22 what this case is about.

23 They get to the victim's house. Faye Brissey, he made
24 allegations about her credibility, etcetera. Well, she's
25 got charges against her. She's been charged in this case.

1 And she got up on the stand, she admitted to the charges.
2 She admitted to it. And I'm going to deal with her later.
3 She told y'all that he got out of the car immediately. And
4 that's another thing, we do have witnesses that verify what
5 Faye says, when she says they backed the car into the yard,
6 backed the car up to the porch. He's just going to go up
7 and talk about, don't call my girlfriend. He's going to
8 bring his girlfriend there to talk to him about it. Make no
9 mistake about it, Faye's involved in this. But other
10 witnesses who have no dog in this fight, who saw it, and I
11 believe there were two of them saw that car backed up to the
12 porch. Once again, the Defense Counsel focuses on what one
13 person said. What did he tell you about all of these other
14 witnesses that say he backed up, he was driving slowly
15 through the neighborhood? He passes the house. He backs
16 in. Why would you back in, why would you back in if all
17 you're going to say is, don't call my girlfriend again. The
18 car is backed into the porch. Notice the driver's side is
19 right there at the porch, according to the testimony. He
20 opens the door and immediately jumps on the porch. Now Faye
21 says that he put on a mask and then pulled it back off. He
22 pulled it up. He was going to rob him. He pulls it up, saw
23 a car and he pulled it back off. She could have very easily
24 just said he put a mask on. She's not trying to deceive
25 somebody on that point. He put a mask on and he left it on.

1 She said he pulled it back off.

2 At this point in time, James answers the door of his
3 own home. Now, ladies and gentlemen, there's been some
4 testimony about a struggle, and there may have been a
5 struggle. Do you remember first of all the Defendant saying
6 his eyes got real big? Why did his eyes get real big?
7 Maybe his eyes got real big because there was a gun. And
8 this is very important. There may have been a struggle.
9 But you're in your own home and you're facing an armed
10 individual. You may struggle to save your life. That's a
11 distinct possibility. There may have been a struggle. It's
12 still murder. Who's got the gun and who does not have a
13 weapon? Did you ever hear the Defendant ever say that the
14 victim had a weapon, did you ever hear that? No. There was
15 no weapon, no gun. There's one, it's the Defendant's, the
16 Defendant has that. So his eyes probably did get big, and
17 there very well may have been a struggle. But remember,
18 ladies and gentlemen, there were several witnesses that
19 testified -- once again, these witnesses have no dog in this
20 fight -- that verify what Faye said. There were three shots
21 and they heard three shots and they were distinct shots that
22 were separated, bam, bam, bam, I believe is the way the
23 testimony was. They weren't bam, we have a struggle, bam,
24 and then bam, it wasn't like that. It was bam, bam, bam.
25 Bam, bam, bam, that's exactly what Faye said happened. And

1 remember what else she said, no longer than ten seconds
2 after they had got there did she hear those shots. How much
3 of a conversation, how much of a deal can you have in ten
4 seconds. I submit to you that he opened the door and he may
5 have hit the Defendant with the door, the door opens
6 outwards. You have a picture here of the trailer. It opens
7 outwards. That may have happened. But that doesn't excuse
8 somebody shooting and killing you, somebody playing God and
9 taking your life.

10 Now, let's talk a little bit about that struggle, a
11 fight, that's the way they want you to believe it. What
12 injuries? Did you hear the testimony of the police
13 officers? There were no injuries. The only time he had
14 injuries is because of him running from them. No injuries.
15 There was no injuries about his face. There was no blood,
16 there was no contusions, there no bruising. Nothing. No
17 injury to the face. I submit to you, ladies and gentlemen,
18 that he was at that house to find money and that it went
19 downhill and he shot that gun three times. Not once, not
20 twice. He shot it three times. And as he said in his own
21 testimony, he got him right here. You heard the pathologist
22 testify, right through his chest, right through his artery.
23 Dead. That's malice. It's malice from the get-go. There's
24 no sudden heat of passion and there certainly is not legal
25 provocation. The man's in his own home. Your home is your

1 castle.

2 What does the Defendant do next? Let's talk a little
3 bit about malice and what he does following this, which
4 becomes as important. Remember the first witness, or she
5 may have been -- the person to find the body. Do you
6 remember what she testified to? That there was a pillow,
7 there was a pillow on of James' head and his upper body.
8 She couldn't see his face. She is seeing the same thing
9 this man saw after he killed him. That, ladies and
10 gentlemen, is what the Defendant saw when he left that home.
11 I would submit to you, he told Matt that he was looking for
12 money after he killed him. He was looking for money after
13 he killed him. Once again, we're back to money again. That
14 is what the Defendant saw. He put a pillow on the head of
15 that individual. How is that corroborated? How do we know
16 that? Well, there's blood on the pillow. And, of course,
17 we have a witness who testified to it. What does he do?
18 Tell me that he saw that and he saw this. That's what he
19 saw. He gives him absolutely no help. He runs. They want
20 you to believe it's either self-defense or this is just
21 manslaughter? He runs from the residence. He doesn't walk.
22 He runs. And he gets back in that car. You know, it would
23 have been real easy, ladies and gentlemen, no matter what
24 happened in that home, it would have been real easy for
25 somebody to call EMS. He went back to Matt's house, he

1 could have called them from there. He could have called
2 them from his cell phone. And if he is afraid his number is
3 going to be picked up, which obviously he knew he was in
4 trouble, and we'll get to that in a minute, did he make any
5 effort whatsoever to save James' life? He left the man to
6 die in his own home. Malice. He left him to die in his own
7 home. We don't know if he would have died or not, but he
8 made no effort whatsoever to save that man's life. Do you
9 think he cared about him? And so he leaves.

10 What's he going to do now? He goes back to Matt's
11 house. He gives Matt a story of what happened. Now, how do
12 we know that Matt is telling the truth? Well, Matt told us
13 about -- it's in his statement -- told us about the pillows
14 that were on the body. So we've got Matt saying, yeah, he
15 came in and he told me he put pillows on the body. We have
16 a witness who got up and said when she went and found him,
17 there was a pillow on his face. She lifted it up and she
18 started screaming and ran from the house. She saw the exact
19 same thing the Defendant saw. Pillows are an important part
20 of Matt's testimony because it corroborates what the
21 Defendant told him about it. There's no other way he could
22 know that. There's no other way. So Matt talks about him
23 going and robbing places or wanting to rob places. Once
24 again, we're back to the money. Matt also knows from the
25 Defendant that there's three bullets, three shots. Now keep

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1 in mind, and I'm going to take you -- I'm going to skip
2 ahead a little bit. These officers interviewed the
3 Defendant and he gave a statement freely and voluntarily.
4 I'll submit to you he didn't tell them everything. He told
5 Matt a lot more than he told those officers. He never told
6 the officers about the pillows. And guess what, from the
7 get-go, from the start of this, he did not tell the officers
8 about three shots until the very end. After some
9 questioning by Detective Baker at the very end, he finally
10 concedes, okay, there was three shots. But he wouldn't say
11 anything before. He had a convenient memory problem. He
12 didn't tell everything. So he runs to a -- he goes back, he
13 changes clothes. I wonder why that was. He changes clothes
14 at Matt's house. He says, I've got to get out of Easley.
15 He sends a text, I've got to get out of Easley. He's in
16 trouble and he knows it. He takes the gun with him. Once
17 again, we're back to money. He cannot get to Aiken, he has
18 no gas. So what does he do? He goes to three separate
19 stations to get money for gas. I mean, he's got a problem
20 robbing these places. You heard the places he went to. He
21 went to Dodges, he went to Palmers and he went to the Hot
22 Spot, places with a lot of people around. So he gets gas
23 money and he flees to Aiken. He still hasn't called
24 anybody. Still hasn't called EMS. Still hasn't called the
25 police. But they're going to say self-defense, and

1 voluntary manslaughter? You know, he flees. He's getting
2 out of Dodge.

3 And he goes to Aiken, goes to his sister's house. You
4 heard his sister come in here and testified, a reluctant
5 witness, but she got involved. He gets there at her house
6 at six o'clock in the morning. This is a mind thing. This
7 is the Defendant's mind thing. I don't care about James is
8 dead now. His mind is, I'm going to sleep. She testified
9 he came in and went in and went to sleep. That's a depraved
10 heart. I don't know how long they sleep. I can't gather
11 all the events that took place. But at some point in time,
12 he decides, I've got to get rid of this gun. I've got to
13 hide this car. And, in fact, he does that. Do you remember
14 why is his car at his uncle's house at the back of the lot,
15 backed in? And his uncle takes him back -- or somebody
16 takes him back to Crystal's house? Why did he have to put
17 that car there? He's hiding it. The gun, and it's
18 interesting about the gun because it's not just that he hid
19 the gun, but how he hid the gun. He hides it in a lot
20 that's adjacent to Crystal's house in two bags. He's got
21 that gun wrapped up. He has put two bags on the gun. And
22 this isn't the bag. There are two bags on the gun. And you
23 can see the pictures as the officer was taking it, as they
24 were digging it up, you could see both bags to protect that
25 gun. He's going back to get it. He wants to get the gun

1 again. He's going to let everything settle down and he's
2 going to have -- he knows the exact spot. He led the
3 officers there. And I'll get to that in just a minute. He
4 led the officers there. He knows the exact spot. He's
5 going back there to get that gun one day. He was protecting
6 that gun for a purpose. In fact, it's still loaded.

7 Back to his mindset. He goes to a cookout. He is at a
8 cookout. He's out having fun, eating some food while James
9 lies in a morgue. Does he care about James at that point in
10 time? No, he cares about himself because then they found
11 out the police are coming. And what happens? They hide out
12 in an abandoned car some miles away in a rural part of Aiken
13 County. They hide out in an abandoned car. Once again,
14 he's hiding. We get to that point of the abandoned car and
15 he goes further. At this point, the police arrive. They
16 figure it out through Crystal because Crystal helped to hide
17 him out, no question about it. She found out what he was
18 charged with. She says, I've got to come clean. So she
19 told them. And what does he do? A last ditch effort. This
20 is the man that's asking you today to go back there and let
21 him off. His last ditch effort is he runs and lies down in
22 a creek bed. Thank God for the canine because they found
23 him. Then at this point in time, ladies and gentlemen, he's
24 caught and he knows it. He's put in the back seat of the
25 car and you've seen the video of that. Incredible.

1 We have some lies that start out immediately. The
2 officers are attempting to find the gun for lots of reason.
3 They want to know where the gun is. What's the first thing
4 he says on the videotape when they ask him about the gun?
5 Where's the gun? I don't know. I just don't know. Lie
6 number one. They keep questioning and questioning, they are
7 very concerned about finding that gun, not only as evidence,
8 because somebody could get hurt out there with it. Well, I
9 think I may have thrown the gun out the window. Lie number
10 two, I threw the gun out the window. Lie number two.
11 Eventually, the officers, after some conversation, they get
12 his memory right and he knows that he needs to come clean as
13 much as he can. He knows he's in a lot of trouble. Faye's
14 gone. Faye's not with him. He keeps asking about Faye. He
15 wants Faye with him because she hasn't talked. But Faye's
16 gone. He knows that. He knows that somebody is talking to
17 her. So he starts coming up with whatever way he can excuse
18 this murder. And that's where we get down to this is just a
19 fight. And I've gone through every single reason why this
20 is not just a fight. He's trying to help himself out as
21 much as possible, because he knows that this detective and
22 that detective, the Pickens County Sheriff's Office and the
23 Aiken County Sheriff's Office have enough evidence against
24 him at that point to cause him a lot of problems. And, you
25 know, he doesn't tell the story from the get-go. He tells

1 more and more, little piece by piece as he's going. But he
2 never tells the entire story. He never tells about going to
3 Z-Mart. He never tells about the pillows. He never tells
4 about backing the car into James' yard. And he won't even
5 tell about the number of shots until the very end. It's
6 convenient. His lack of memory is convenient. He didn't
7 fill in the gaps.

8 But the evidence, ladies and gentlemen, shows that this
9 Defendant as he sits here went to a man's home, James' home,
10 with this weapon in his waistband, without any care to
11 James. And I think it's self-evident about that. He pulled
12 this gun out. He didn't shoot one time, he shot three
13 times, killing him in his own home, and he left the man
14 there to die. That is murder, murder, murder. And I ask
15 respectfully that you come back with a verdict of murder.
16 Guilty. Thank you.

17 **CHARGE**

18 **BY THE COURT:**

19 Mr. Foreman, ladies and gentlemen, it is now my
20 responsibility to instruct you on the law of the case. I
21 remind you, the fact that I have an indictment before me and
22 that indictment has been read to you, that's not evidence.
23 The fact that the Defendant in this case has been arrested
24 and charged and indicted is not to be considered by you
25 toward guilt in any way. The indictment is merely the paper

1 by which the case is brought to this Court for disposition
2 by you, the jury.

3 Now, in this case the Defendant has entered a plea of
4 not guilty to that indictment. That plea places the burden
5 on the State to prove the Defendant's guilt. A person
6 charged with committing a criminal offense in South
7 Carolina, no matter how serious it may be, would never be
8 required to prove himself innocent. That's an important
9 rule of law, ladies and gentlemen, that in a criminal trial
10 the Defendant will always be presumed to be innocent of the
11 charge to which an indictment was issued unless guilt has
12 been proven by evidence satisfying you of that guilt beyond
13 a reasonable doubt. Presumption of innocence doesn't end
14 when you begin your deliberations. It accompanies the
15 Defendant throughout the trial until you've reached a
16 verdict of guilt based upon evidence satisfying you of that
17 guilt beyond a reasonable doubt.

18 Oftentimes, presumption of innocence has been described
19 as a robe of righteousness that's placed about the shoulders
20 of a Defendant and remains with that Defendant until it's
21 been stripped from him by evidence satisfying you,, the jury
22 of that Defendant's guilt beyond a reasonable doubt.
23 Presumption of innocence isn't a mere legal theory. It's
24 not a legal phrase that's tossed about, it is a substantial
25 right to which every Defendant is entitled unless you, the

1 jury, are satisfied from the evidence of that Defendant's
2 guilt beyond a reasonable doubt.

3 I've used the phrase reasonable doubt. You may ask
4 yourself what is reasonable doubt in the law. A reasonable
5 doubt is the kind of doubt that would cause a reasonable
6 person to hesitate to act. Now, some of you in the past,
7 ladies and gentlemen, may have served as a juror, you were
8 serving in a civil matter and a Judge told you that it was
9 only necessary to prove that a fact was more likely true
10 than not true by what was called the preponderance of the
11 evidence or the greater weight of the evidence. In criminal
12 cases, the State's proof is more powerful than that. It
13 must be beyond a reasonable doubt. Proof beyond a
14 reasonable doubt would be proof that leaves you firmly
15 convinced of the Defendant's guilt.

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

25 Now, I remind you that during the trial you and I have

1 had duties to perform. As the Trial Judge, it's been my
2 responsibility to preside over the trial of the case, to
3 rule on the admissibility of evidence that has been offered
4 during the trial. You're to consider only the competent
5 evidence that is before you, the testimony, the exhibits
6 that are made a part of the record and that alone. My job
7 also is to charge you the law applicable to the case. As
8 the presiding Judge, I am the sole Judge of the law. It's
9 your duty as jurors to accept that law and apply the law as
10 I state it to you. Some of you may already have an idea of
11 what the law is in a case such as this or even a notion
12 about what the law ought to be in a case such as this. If
13 you have such an idea and it's in conflict with what I now
14 tell you the law is, then you must abandon such notion
15 because under your oath, you've sworn to accept the law and
16 apply the law just as I state it to you now.

17 Every case that's tried in this courtroom before a
18 jury, that jury becomes the sole, exclusive judge of the
19 facts of the case. The Trial Judge can't intimate or state
20 or comment on or make any statement whatsoever to a trial
21 jury about the facts in a case. Since you the jury are the
22 sole judges of the facts, you're not to infer from what I've
23 said during the progress of the trial, any rulings I've made
24 on the inadmissibility of evidence or otherwise, anything I
25 say to you now in the course of this instruction to you that

1 I have an opinion about the facts. I don't have an opinion
2 about the facts. The law of South Carolina, the
3 Constitution of our State, does not allow a Trial Judge to
4 have an opinion about the facts. That's a matter solely up
5 to you, the jury, to determine. And as jurors, it's your
6 duty to decide the effect and the value, the weight and the
7 truth of the evidence that's presented during the trial.
8 Normally, there's two types of evidence. There's direct
9 evidence and there's circumstantial evidence. Direct
10 evidence is the testimony of a person who claims to have
11 actual knowledge of a fact, such as an eyewitness. It's
12 evidence which immediately establishes the main fact to be
13 proved. Circumstantial evidence is proof of a chain of
14 facts and circumstances that indicate the existence of a
15 fact. It's evidence which immediately establishes
16 collateral facts from which the main fact may be inferred.
17 In other words, circumstantial evidence is based on
18 inference and not upon personal knowledge and observation.
19 The law makes absolutely no distinction between the weight
20 or the value to be given either direct evidence or
21 circumstantial evidence, nor is a greater degree of
22 certainty required of circumstantial evidence than of direct
23 evidence. You should weigh all of the evidence, ladies and
24 gentlemen, in this case, and after weighing that evidence,
25 if you're not convinced of the guilt of the Defendant beyond

1 a reasonable doubt, then you, of course, must find the
2 Defendant not guilty.

3 Necessarily, you must determine the credibility of
4 witnesses who testified in the case. Credibility simply
5 means believability. It becomes your duty as jurors to
6 analyze and evaluate the evidence, determine which evidence
7 convinces you of its truth. In determining the
8 believability of witnesses who've testified in this case,
9 you can believe one witness over several witnesses. You can
10 believe several witnesses over one witness. In your
11 discretion, you can believe part of the testimony of a
12 witness, reject the remaining part of the testimony of that
13 very same witness. And you can believe the testimony of a
14 witness in its entirety or you can reject the testimony of a
15 witness in its entirety. You can consider whether a witness
16 had any bias or prejudice or other motive in the case. You
17 can consider the demeanor, the appearance of that witness
18 while on the witness stand, was he or she straightforward or
19 hesitate in answering? Was the testimony of that witness
20 consistent or inconsistent? How did the witness come to
21 know the facts to which he or she testified, the ability to
22 know those facts? Was the testimony of a witness
23 strengthened or weakened by other testimony or other
24 evidence. It's totally your prerogative, ladies and
25 gentlemen, to determine the credibility of witnesses.

1 Now, the rules of evidence ordinarily would not permit
2 a witness to testify to opinions or conclusions, but there
3 is an exception to this and that is for what we call expert
4 witnesses. A witness who by education and experience has
5 become an expert in some art or science or profession or
6 calling may state an opinion as to any relevant and material
7 matter in which that witness claims to be an expert and may
8 also state the reason for that opinion. Now, you should
9 consider any expert opinion received in evidence in this
10 case, and like other evidence, give it the weight that you
11 think it deserves. If you decide the opinion of the expert
12 witness is not based on sufficient education and experience
13 or if you conclude that the reasons given in support of that
14 opinion are not sound or that the opinion is outweighed by
15 other evidence, you can disregard that opinion entirely. An
16 expert witness' testimony is to be given no greater weight
17 than that of any other witness simply because that witness
18 is an expert. Further, you're not required to accept an
19 expert's opinion, even though it may be uncontradicted.

20 Now, in order to establish criminal liability, criminal
21 intent is required and it must be proven by the State beyond
22 a reasonable doubt. Criminal intent is always a matter that
23 must be determined by a jury from the circumstances
24 surrounding the situation. There's no way, of course, to
25 prove intent to a mathematical certainty. There's no way

1 that medical science has devised that we can dissect a
2 person's brain and determine what that person had in mind,
3 so the law says that criminal intent may be inferred from
4 the circumstances shown to have existed. It's not necessary
5 to establish intent by direct and positive evidence, but
6 intent may be established by inference in the same way as
7 any other facts, by taking into consideration the acts of
8 the parties, all the facts and circumstances in the case.
9 Criminal intent is a mental state. It's a conscious
10 wrongdoing. It's up to you to determine what the Defendant
11 intended to do based upon the circumstances shown to have
12 existed.

13 I instruct you, ladies and gentlemen, and I emphasize
14 to you, the fact that the Defendant did not testify in this
15 case is not a factor to be considered by you in your
16 deliberations, in your consideration of the question of the
17 guilt or the innocence of the Defendant. It must not be
18 considered by you in any manner whatsoever. A Defendant has
19 a constitutional right to remain silent. The assertion of
20 this right must not be considered by you in your
21 deliberations. I repeat, under your oath, you're to draw no
22 conclusions whatsoever from the fact that the Defendant in
23 this case did not testify. The fact that the Defendant
24 chose not to testify should not even be discussed by you in
25 the jury room. The burden of proof, as I've stated, is on

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1 the State of South Carolina. The Defendant is not required
2 to prove his innocence. That burden remains on the State to
3 prove guilt beyond a reasonable doubt.

4 Now, statements alleged to have been made by the
5 Defendant have been admitted into evidence in this case, and
6 while the Court has determined that the statements are
7 admissible, I instruct you that you make the ultimate
8 decision of whether or not the Defendant made the statement.
9 If the Defendant did make the statement, you must determine
10 whether the statement was made by the Defendant voluntarily
11 and of his own free will. This means that the statement was
12 not caused by pressure or force or fear, threats, coercion
13 or intimidation or by hope or promise of leniency or reward
14 of any kind. In determining whether the statement was
15 voluntary, you should consider both the characteristics of
16 the Defendant, the details of the questioning. Among the
17 factors you can decide are the age of the Defendant and the
18 education or lack thereof, the abilities and capacities of
19 the Defendant, the background, the environment, the place
20 and the length of the detention, the nature of the
21 questioning, the advice or lack thereof of the Defendant of
22 his Constitutional Rights, including but not limited to the
23 right to remain silent. Any statement could be used against
24 him in a court of law. The right to have a lawyer present
25 and if he could not afford a lawyer, a lawyer could be

1 appointed to represent him without any cost. That he could
2 stop making statements at any time. You must carefully
3 consider all the surrounding circumstances before you give
4 any weight to any alleged statement. The State has the
5 burden of proving beyond a reasonable doubt that the alleged
6 statement was voluntary. If you determine it was, you may
7 give the statement any further consideration that you deem
8 proper. You must decide what weight, if any, should be
9 given to the alleged statement. If you determine that the
10 alleged statement was not the free and voluntary statement
11 of the Defendant then, of course, you should give no
12 consideration to that statement whatsoever.

13 Mr. Foreman, ladies and gentlemen, in this case the
14 Defendant is charged with the criminal offense of murder.
15 The State must prove beyond a reasonable doubt that the
16 Defendant killed another person with malice aforethought.
17 Malice is hatred or ill will or hostility towards another
18 person. It's the intentional doing of a wrongful act
19 without just cause or excuse and with an intent to inflict
20 an injury or under circumstances that the law will infer an
21 evil intent. Malice aforethought does not require that
22 malice exists for any particular time before the act is
23 committed, but malice must exist in the mind of the
24 Defendant just before and at the time of the act of being
25 committed. Therefore, there must be a combination of the

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1 previous evil intent and the act. Malice aforethought may
2 be expressed or inferred. These terms expressed or inferred
3 do not mean different kinds of malice, but merely the manner
4 in which the malice may be shown to exist. That is either
5 by direct evidence or inference from the facts and
6 circumstances which are proved. Expressed malice is shown
7 when a person speaks words which express hatred or ill will
8 for another when that person prepared beforehand to do an
9 act which was later accomplished. In other words, an
10 example would be lying in wait for a person or any other
11 acts or preparation going to show the deed was within that
12 Defendant's mind would be expressed malice. Malice may be
13 inferred from conduct showing a total disregard for human
14 life.

15 Now, ladies and gentlemen, if you find in this case
16 that the State has failed to prove beyond a reasonable doubt
17 that the Defendant committed murder, you may consider
18 whether the State has proved beyond a reasonable doubt that
19 the Defendant committed voluntary manslaughter. To prove
20 voluntary manslaughter, the State must prove beyond a
21 reasonable doubt that the Defendant took the life of another
22 in the sudden heat of passion based on sufficient legal
23 provocation. Both heat of passion and sufficient legal
24 provocation must be present at the time of the killing to
25 constitute voluntary manslaughter. Sudden heat of passion

1 may, for a time, affect a person's self-control or
2 temporarily disturb a person's reason. This sudden heat of
3 passion must be the type that would make an ordinary person
4 unable to coolly reflect on his actions and would produce an
5 uncontrollable impulse to do violence. Sufficient legal
6 provocation must be the type that would make a person of
7 ordinary reason and caution become enraged and to lose
8 control temporarily. The provocation needed for voluntary
9 manslaughter must come from some act of or related to the
10 victim. Words alone, however vulgar or insulting, are not
11 enough to be legal provocation where death is caused by the
12 use of a deadly weapons. The words must be accompanied by
13 some overt, threatening act which could have produced the
14 heat of passion. If the heat of passion had cooled or if
15 there was enough time between the provocation, if any, and
16 the killing for the passion of a reasonable person to cool,
17 the killing would not be voluntary manslaughter. In
18 deciding whether a reasonable person would have had enough
19 time to cool off, you should consider all the circumstances
20 surrounding the killing. You may consider the nature of the
21 provocation, if any, the Defendant's mental and physical
22 state, circumstances and relationships between the parties.

23 The Defendant has raised the defense of self-defense
24 and self-defense is a complete defense and if it is
25 established, you must find the Defendant not guilty. The

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1 State has the burden of disproving self-defense by proof
2 beyond a reasonable doubt. If you have a reasonable doubt
3 of the Defendant's guilt after considering all of the
4 evidence, including the evidence of self-defense, then you
5 must find the Defendant not guilty. On the other hand, if
6 you have no reasonable doubt of the Defendant's guilt after
7 considering all of the evidence, including the evidence of
8 self-defense, then you must find the Defendant guilty.

9 Now, to establish self-defense, first of all, the
10 Defendant must be without fault in bringing on the
11 difficulty. If the Defendant's conduct was the type which
12 was reasonably calculated to and did provoke a deadly
13 assault, the Defendant would be at fault in bringing on the
14 difficulty and would not be entitled to an acquittal based
15 on self-defense. The second element of self-defense is the
16 Defendant was actually in imminent danger of death or
17 serious bodily injury or that the Defendant actually
18 believed he was in imminent danger of death or serious
19 bodily injury. If the Defendant was actually in imminent
20 danger, it must be shown that the circumstances would have
21 warranted a person of ordinary firmness and courage to
22 strike the fatal blow to prevent death or serious bodily
23 injury. If the Defendant believed he was in imminent danger
24 of death or serious bodily injury, it must be shown that a
25 reasonably prudent person of ordinary firmness and courage

1 would have had that same belief. In deciding whether the
2 Defendant actually was or believed he was in imminent danger
3 of death or serious bodily injury, you should consider all
4 the facts and circumstances surrounding this offense,
5 including the physical condition and characteristics of the
6 Defendant and of the victim. The Defendant does not have to
7 show that he was in actual danger. It's enough that the
8 Defendant believed he was in imminent danger. A reasonably
9 prudent person of ordinary firmness and courage would have
10 had that same belief. The Defendant has the right to act on
11 appearances even though the Defendant's belief may have
12 been mistaken. It's for you to decide the Defendant's fear
13 of immediate danger of death or serious bodily injury,
14 whether it was reasonable and would have been felt by an
15 ordinary person in the same situation.

16 The final element of self-defense is that the Defendant
17 had no other probable way of avoiding the danger of death or
18 serious bodily injury than to act as the Defendant did in
19 this particular instance.

20 Now, no person has a duty to retreat when in their own
21 home. Every person has a right to use the necessary force
22 to protect himself or herself from great bodily harm or
23 death while in his or her own home.

24 Now, ladies and gentlemen, I've prepared a verdict
25 form. Mr. Foreman, I believe it will be self-explanatory.

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1 If you find the State has met its burden of proof as to the
2 murder charge, then, of course, you'd find a verdict of
3 guilty, if they've met their burden of proof beyond a
4 reasonable doubt. If you find the State has failed to meet
5 its burden of proof on that charge, then, of course, your
6 verdict would be not guilty. The lesser included offense of
7 voluntary manslaughter, if you find the State has not met
8 its burden of proof on the murder charge, then you would
9 examine the voluntary manslaughter charge and determine the
10 same facts based upon the law that I've given you, whether
11 or not the facts show that the State has met its burden of
12 proof to prove the Defendant guilt of that charge. I've
13 listed the possible choices, either guilty or not guilty.
14 There's no significance whatsoever in the order in which
15 they're listed. One has to be listed before the other.
16 When the jury has reached its verdict, Mr. Foreman, you will
17 merely check the appropriate block, sign your name on behalf
18 of your fellow jurors and date it and we will then receive
19 the verdict form back here in the courtroom.

20 I remind you that all twelve of you must agree upon a
21 verdict. Your verdict can't be based upon sympathy or
22 passion or prejudice or emotion or any other consideration
23 not in evidence. I remind you again, ladies and gentlemen,
24 that you're free to ask me any questions regarding the law
25 in the case. But remember, it's impermissible for me to

1 answer any questions relating to the facts in the case.

2 That's your duty as the sole fact finders.

3 At this time, ladies and gentlemen, I'm going to ask
4 you if you would retire to your jury room. Don't discuss
5 the case just yet. There's one final matter of law that I
6 need to take care of with the attorneys. I understand the
7 Clerk has provided some food for you for lunch. If you will
8 just hesitate -- if you want to start eating that's fine,
9 but hesitate on discussing the case until I give you
10 instructions to do so and we'll send the verdict form back
11 with the exhibits for you to examine as well. Among the
12 exhibits, of course, we have a weapon and we have some
13 ammunition. I'm going to have the evidence sent back, but
14 I'll not have those at the same time in your presence.
15 We'll leave the ammunition out here. If you want to see it,
16 you can send the gun out. Let the bailiffs know and we'll
17 then let you examine the ammunition. Again, I know the gun
18 has been disabled, but for precaution purposes, I want to
19 make sure everyone is safe. So we'll keep that exhibit out
20 here, but you can examine it any time you need to. Just let
21 us know that. If you'll go back to your jury room at this
22 time. Don't discuss the case just yet and we'll have
23 further instructions for you in a moment.

24 (WHEREUPON, the jury exited the open court at
25 approximately 1:18 p.m.)

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1 THE BAILIFF: The jury's secure, Your Honor.

2 THE COURT: All right. Any exceptions to the
3 charge?

4 MR. RICHARDSON: No objections or exceptions from
5 the State.

6 THE COURT: From the Defense?

7 MR. MALLARD: No objections, Your Honor.

8 THE COURT: All right. If y'all would make sure
9 all the exhibits are in order. Mr. Teal, I guess what we'll
10 do, I understand we have some lunch for them. Just as a
11 precaution, I'm going to have the two alternates, if they --
12 I'm going to discharge them. If they -- if y'all have a
13 place for them, if they want lunch, we can offer it to them.
14 But, of course, we're not going to have them eat with the
15 other jurors, so that they can start. They might want to
16 deliberate while they're eating. I don't know if they do or
17 not. But when we send the verdict form back with all the
18 exhibits, make sure, Ms. Hanks, that you just keep the
19 bullets here.

20 MADAM COURT REPORTER: Okay.

21 THE COURT: And have the two alternates come out,
22 and then you can tell them they can start their
23 deliberations. Just tell them we will be right with them.
24 We need to send the exhibits back, and then we'll have the
25 alternates come out when that goes back.

1 Mr. Mallard and Mr. Richardson, are the CD's clear?

2 Are they clean? I mean, they're clean CD's, right?

3 MR. CLEVELAND: They're clean, but they're digital
4 copies. They're not DVD's that they can watch.

5 THE COURT: So the only way they can be watched is
6 on a computer, right?

7 MR. CLEVELAND: Yes.

8 THE COURT: So if they want to see them, then
9 we'll bring them back out here and let them see whatever
10 they want to see. They won't be able to view them back
11 there then.

12 MR. CLEVELAND: No, Your Honor.

13 THE COURT: Okay. I just wanted to clarify that.
14 Okay. Y'all have it all boxed up? Have you got everything?
15 Have the alternates -- have you taken that in yet? Just
16 have the alternates come out when you ...

17 (WHEREUPON, the verdict forms and exhibits were
18 delivered to the jury, with the exception of State's
19 Exhibit Numbers 46 and 51, and deliberations began at
20 approximately 1:27 p.m.)

21 THE COURT: Mr. Waldrop, Mr. McNeely, thank you
22 very much for participating with us this week. You've been
23 good jurors. Your fellow jurors have survived, so we won't
24 need your services in deliberating. They've ordered some
25 lunch. You're welcome to have lunch. You can't have lunch

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1 with the other jurors. They can start their deliberations.
2 You're welcome to stay with us or you're welcome to go at
3 this time. We won't need your services tomorrow or the rest
4 of the week, but thank you very much for serving with us
5 this week. And I hope it was an education experience for
6 you. We appreciated you being here and the conscientious
7 effort I saw that you gave as you listened. So you are free
8 to go for the week. If either of you need a statement for
9 your employers, the clerk's office will have that for you.
10 If you'll just stop by there and let them write a statement
11 out for you. But you're welcome to stay or you're welcome
12 to go. Thank you, very much.

13 (WHEREUPON, the alternate jurors were dismissed at
14 approximately 1:30 p.m.)

15 THE COURT: All right. We'll be at ease until we
16 hear from our jury.

17 (WHEREUPON, the Court stood at recess awaiting the
18 verdict of the jury.)

19 THE COURT: Thank you. Keep your seats, ladies
20 and gentlemen. All right. I understand the jury has
21 reached a verdict. Is there any matters that we need to
22 take care of on the record before we receive the verdict
23 from the jury. Anything from the State?

24 MR. RICHARDSON: Nothing from the State, Your
25 Honor.

1 THE COURT: From the Defense?

2 MR. MALLARD: No, Your Honor.

3 THE COURT: For the benefit of the parties and the
4 lawyers and audience, obviously, this is a very emotion
5 filled case, it naturally would be with the tragedy that
6 occurred. This jury has listened carefully to the evidence
7 and has deliberated. We're going to accept that verdict,
8 and I know we're emotional people by nature, but if anybody
9 in the audience or any of the parties feel like they just
10 can't control their emotion when this verdict is read and
11 announced, this will be a time for you to excuse yourself
12 from the courtroom. There'll be opportunity for you to find
13 out what the verdict was and reflect upon it and show your
14 emotion, but I'm expecting everybody in the audience to be
15 on perfect decorum when this verdict is announced. Be it
16 one of elation for some or one of sadness for others, it's
17 going to be a verdict that we're going to respect and you'll
18 have an opportunity to share your emotions after the jury is
19 dismissed. So if any person feels like they just can't
20 control their emotion because of the nature of this case, I
21 can certainly understand that and respect that, but this
22 will be time for you to excuse yourself from the courtroom
23 before we bring the jury back. So I'll give anyone an
24 opportunity to do that that feels they might not be able to
25 contain themselves.

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1 A couple of folks just came in. I want to emphasize
2 again for those who just came in, we're going to respect the
3 verdict of the jury. If you feel like you cannot control
4 your emotion when the jury verdict is announced, this will
5 be a time to excuse yourself from the courtroom. You can
6 then come in once the jury is dismissed. But whatever the
7 verdict is, we're going to accept that verdict with proper
8 decorum from everyone in the audience. If you feel like --
9 to the folks that just came in, if you feel like you can't
10 contain yourself when the verdict is announced, now is the
11 time for you to step outside and you can come right back in
12 and hear the verdict from some of your friends. I'm
13 expecting everyone to abide by the instructions I've given.

14 All right. If the jury's ready, Mr. Teal, you may have
15 them come in.

16 (WHEREUPON, the jury entered the open court at
17 approximately 2:16 p.m.)

18 THE COURT: Mr. Foreman, I understand the jury has
19 reached a verdict. Is that correct?

20 MR. FOREMAN: Yes, sir, it is.

21 THE COURT: Is it a unanimous verdict?

22 MR. FOREMAN: Yes, sir, it is.

23 THE COURT: If you would, please hand the verdict
24 form to the bailiff.

25 (WHEREUPON, the verdict form was handed up to the

1 Court.)

2 THE COURT: Mr. Clerk, you may publish the
3 verdict.

4 THE CLERK: This is case number 2011-GS-39-26, the
5 State of South Carolina versus Christopher Robert Murray.
6 As to the charge of murder, we, the jury unanimously find
7 the Defendant, Christopher Robert Murray guilty.

8 Is this your verdict and still your verdict so say you
9 all by raising your right hand.

10 (WHEREUPON, all jurors' right hands were raised.)

11 THE CLERK: Thank you very much.

12 THE COURT: Are there any matters we need to take
13 care of with the jury on this case? Anything from the
14 State?

15 MR. RICHARDSON: Nothing further from the State,
16 Your Honor.

17 THE COURT: From the Defense?

18 MR. MALLARD: No, Your Honor.

19 THE COURT: Ladies and gentlemen, thank you very
20 much for your participation in this case. I know that it's
21 never a pleasant task to serve as a juror and at this time
22 of year, it might even be a greater inconvenience for you,
23 but I'm so grateful. I said when we started this case and
24 when you were qualified earlier, I'm a strong believer in
25 the jury system, that good folks in our community with good

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1 common sense can hear the facts and make a determination as
2 to what the facts are from the evidence, and I'm grateful
3 that you've been a fellow judge with me this week.

4 We have other matters to take care of the rest of the
5 week that will not involve a need of a jury, so you're
6 excused for the week from your jury service. Some of you
7 may need a statement for your employer that you've been here
8 this week. If that's the case, please stop by the clerk's
9 office. They'll have that available for you.

10 As you may recall on Monday, I asked the questions
11 about folks who had served on jury in State Court for the
12 last two calendar years, that you would be exempted from
13 jury service. And, of course, that will now apply to you.
14 You have served in 2011. So if you get a Summons to appear
15 in the Court of General Sessions or the Court of Common
16 Pleas in 2012 or 2013, then you can claim that exemption and
17 excuse yourself from jury service. I hope you won't. I
18 hope the process that we've been in this week will be one
19 that you'll cherish and that you won't want to claim that
20 exemption, but you'll want to again serve as a juror. I'm
21 confident that if ever you're faced, I hope it doesn't
22 happen to you, that you're sitting at the instead of in the
23 jury box, someone has brought a lawsuit against you over an
24 automobile accident or a contract dispute or you've been
25 charged with some offense, that you'll have good solid

1 jurors sitting in that box such as you to decide the facts
2 in your case.

3 You've directly participated in your government this
4 week. You may recall from civics class of years ago for
5 some of us, not so long ago for others, that the three
6 branches of government, the Executive, the Legislative, and
7 the Judicial Branch, some of us will never have an
8 opportunity to legislate. We won't get to pass a law and be
9 part of that process. We can contact our legislators. We
10 can tell them that, well, we need to pass this law or repeal
11 that law, but we can't directly participate in that part of
12 our government. The same under the Executive Branch. One
13 of you may one day want to run for Mayor of your town or you
14 may decide to run for Governor or President or some other
15 Executive office and you can then execute those laws that
16 are passed by our legislature. But short of that, you're
17 not ever going to have an opportunity to be the Executive of
18 a State or a local government. But the Judicial Branch,
19 you've been judges. You've directly participated in that
20 branch of our government this week by serving as a juror and
21 for that I'm grateful and our community is grateful for your
22 service and your willingness to serve. You've been a
23 conscientious group. I've enjoyed working with you. It's
24 been a pleasure for you to have you sitting there and
25 helping us with this case.

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1 You're dismissed at this time, ladies and gentlemen. I
2 will ask the Foreman, if you would, please, there's one
3 additional paper I need to have you sign. If you'll just
4 meet with the Clerk in the hallway, he'll get you to sign
5 that. The rest of you are dismissed. Thank you very much
6 for you jury service this week, ladies and gentlemen.
7 Everyone else, please remain seated.

8 (WHEREUPON, the jury exited the open court at
9 approximately 2:23 p.m.)

10 THE COURT: We'll wait just a moment until the
11 Clerk gets back.

12 All right. Any matters for the record that we need to
13 take care of before sentence is imposed? I'll be glad to
14 hear from -- anything from the State or from the Defense?

15 MR. RICHARDSON: Your Honor, there's nothing other
16 than I would like to be heard on the sentencing.

17 THE COURT: All right, sir. Anything, Mr.
18 Mallard?

19 MR. MALLARD: Your Honor, I don't know if you have
20 time to do it, but I would like about fifteen minutes to try
21 to call his family. His mother was attempting the other day
22 when she was in Court to try to get me a little bit of
23 information about his background.

24 THE COURT: All right. That's reasonable. I'll
25 -- any post-trial motions are denied at this time and I'll

1 certainly give us a fifteen minute break to have any follow-
2 up conversation with the mother that you may need. So we'll
3 be at ease for about fifteen minutes and then we'll be ready
4 to start back at quarter till.

5 (WHEREUPON, the court stood at recess for a short
6 break.)

7 THE COURT: All right. Anything else we need to
8 take care of before we have the sentencing?

9 Are you ready to proceed, Mr. Mallard?

10 MR. MALLARD: Yes, Your Honor.

11 THE COURT: If you would come forward with your
12 client, please. And I'll certainly be glad to hear from the
13 Solicitor, and then I'll be glad to hear from you and from
14 your client if he'd like to address me, as well.

15 (WHEREUPON, the Defendant, Mr. Mallard and Mr.
16 Richardson approached the bar.)

17 THE COURT: Solicitor?

18 MR. RICHARDSON: Thank you, Your Honor. If it
19 please the Court.

20 Your Honor, this, from my viewpoint is the epitome of a
21 case that calls for a life sentence. You've heard the
22 facts. I'm not going to reiterate what was stated in the
23 Court. But it's our position that this involved a robbery.
24 It's our position that it was premeditated. And I think the
25 facts support that. His actions after the crime are

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1 determinative of that. He did not know if that individual
2 was dead. He did not call for any type of help for that
3 individual. In fact, he tried to hide the body. Based upon
4 those actions and how the events took place, we would ask
5 for the maximum sentence by law and that would be life, Your
6 Honor.

7 THE COURT: All right. Thank you. Anybody else
8 -- is that all from the State?

9 MR. RICHARDSON: Your Honor, the victims are too
10 -- they're too upset to be here and do not wish to speak,
11 the victim's family.

12 THE COURT: Mr. Mallard, I'll be glad to hear from
13 you and certainly anyone else that would like to address me.

14 MR. MALLARD: Your Honor, we would urge leniency.
15 My client is only twenty-one years old. He will, in thirty
16 years, be a completely different person from who he is now.
17 There is evidence that he needed money, of course, to get
18 back to Aiken. There's also evidence that they way they got
19 that was to like beg, basically. He didn't have it even
20 after, even after the killing.

21 And given the reality of the amount of blood and
22 whatever, I'm not sure anybody seeing that could have
23 possibly thought the Defendant (sic) was alive. But be that
24 as it may, my client has a tenth grade education, got a GED.
25 He's worked as an electrician's helper.

1 I spoke with his mother to find out a little more about
2 what the family history of abuse exactly entailed from Bobby
3 Murray, his step-father. Bobby Murray's criminal record is
4 outlined in the discovery materials. She basically told me
5 that it wasn't until a couple of years ago that she found
6 out that all of the kids had been sexually abused. The boys
7 basically wouldn't tell. The girls would report it and then
8 recant. The children were frequently physically abused and
9 she would try to stop it. When she did or objected, Bobby
10 Murray would either place a knife to her throat and at a
11 point she said he, like, cocked a shotgun to her head and
12 just sort of pulled it back and threatened her that way. He
13 would make threats against Chris' actual father. So for
14 years she was, like, unable to tell her son who his real dad
15 was, because he would be in danger. It wasn't until a
16 couple of years ago that he discovered that his daddy, who
17 he thought was his daddy, wasn't his daddy. After that, he
18 did make contact with his father and spent a while with him
19 in Louisiana, working with him. She also indicated that
20 most of her kids have a drug problem and said that that
21 flows from the fact that the step-father, Bobby Murray, had
22 actually forced crack on the kids, leaving them with that,
23 you know, that sort of problem.

24 Other than that, Your Honor, all I can tell you is I've
25 known Chris now for over a year. I find him to be engaging.

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1 I've heard him, I know, express sorrow to me about the
2 death, and I believe he has some real new found faith.
3 Chris, did you want to say anything?

4 MR. MURRAY: Yeah. It's obvious -- I wasn't going
5 to bring it up, it's something I hate to talk about, I hate
6 to think about, but my childhood was terrible. I mean, as
7 he said, I was physically and sexually abused, actually
8 forced to sleep with both of my sisters and crack was forced
9 on me. He didn't actually make us smoke it. He would break
10 it down and it was injected in us. He always told us that
11 if we ever told, he would kill our mom, my dad or anybody we
12 care about. You know, he started threatening our lives and
13 it's pretty much -- today is probably the first time I've
14 actually cried in front of anybody in years. He'd beat us
15 and then we'd cry and then he'd say if you want to cry, I'll
16 give you something to cry about and beat us again. When we
17 got to the point where we didn't cry no more, he'd beat us
18 for not crying. There was times when he would make me and
19 my brother stand in the corner on one foot for days at a
20 time. One time in particular, he put a hundred pound bag of
21 dog food in between us and told us if we wanted to eat, that
22 was our food.

23 We've been in and out of DSS all our lives. I've never
24 really talked about all this. I did speak with a
25 psychiatrist about it. I was diagnosed with post traumatic

1 stress disorder and severe anxiety and manic depression, I
2 think it said.

3 I just want to say I never meant for anybody to get
4 hurt, not like this. Even in my video, I was talking about
5 fighting. I don't even like to fight. I mean, because of
6 how I was raised up. It's no secret, I have a juvenile
7 record. When I was down there, I pretty much, you could say
8 I was scared to fight for anything. Anything I got was
9 taken from me. I know you probably hear a lot of this
10 stuff. That's why I wasn't going to say nothing about it.
11 But my mom mentioned it to my lawyer, Gary, and he's
12 mentioned it to you and so I figured I should give you some
13 insight on it.

14 MR. MALLARD: While it doesn't excuse it, it does
15 put it into some sort of context, Your Honor.

16 THE COURT: I appreciate you sharing that with me,
17 Mr. Mallard. And I appreciated what you've shared with me
18 as well, Mr. Murray. Obviously, y'all had a year to get to
19 know each other and I haven't had that long. And you've got
20 extensive notebooks of evidence and notes and trial
21 strategies and matters of that nature and obviously know --
22 have known about the history of the family and talked with
23 family members. It's a tragic, tragic situation.
24 Unfortunately, I don't have Bobby Murray before me today.
25 But a life has been taken at a young age.

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1 I know that you have other cases on the Pickens County
2 docket, Mr. Mallard, but I think this has been an agonizing
3 case for you and certainly for your client. It's been very
4 emotional and agonizing for the victims as well, and just
5 the turmoil that's created in families with the loss of a
6 loved one.

7 I wish I had the power, Mr. Murray, and others, to
8 solve the ills of our world. The abuse of children is just
9 a tragic event that creates a lot of dysfunctional families.
10 We can't lose sight of the fact that because of that or
11 because of your action -- we've got to be responsible for
12 our own actions, as well. We've lost a family member and a
13 young man, also. You've been imprisoned and you'll continue
14 to be imprisoned. Your prison has perhaps already been in
15 existence in your young life, imprisoned with drugs and
16 other activities that didn't give you the freedom that you
17 really needed to have a way to get along in society. I'm
18 confident that you have the potential to make something of
19 yourself, even while you're incarcerated. You can have a
20 meaningful existence there and there's always people that
21 you can positively influence, even while behind bars.

22 This is case 2011-GS-39-26. The sentence of the Court
23 is that the Defendant be committed to the State Department
24 of Corrections for a period of forty years.

25 The Court will be in recess until nine o'clock in the

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1 morning.

2

3 (END OF REQUESTED TRANSCRIPT OF RECORD)

CERTIFICATE OF REPORTER

1

2

3 I, the undersigned Danette P. Hanks, Official Court
4 Reporter for the Thirteenth Judicial Circuit of the State of
5 South Carolina, do hereby certify that the foregoing is a
6 true, accurate, and complete transcript of record of all the
7 proceedings had and evidence introduced in the trial/hearing
8 of the captioned case, relative to appeal, in the Circuit
9 Court for Pickens County, South Carolina, on the 18th day of
10 April, 2011.

11 This transcript may contain quoted material. Such
12 material is reproduced as read by the speaker.

13 I do further certify that I am neither of kin, counsel,
14 nor interest to any party hereto.

15

August 31, 2011

16

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Circuit Court Reporter

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Pickens County

G. Edward Welmaker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHRISTOPHER MURRAY,

APPELLANT

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court reversibly erred by failing to charge the lesser-included offense of involuntary manslaughter where evidence was present in the record indicating a struggle occurred between Appellant and the decedent?

STATEMENT OF THE CASE

Appellant Christopher Robert Murray was indicted on January 18, 2011 by the Pickens County Grand Jury for murder. R.* (Indictment). His case proceeded to trial before the Honorable G. Edward Welmaker and a jury on April 14, and 18 through 20, 2011. Tr. 1; Tr. 9, ln. 1; Tr. 64, ln. 4; Tr. 227, ln. 6; Tr. 398, ln. 5. Gary Mallard (Counsel) represented Appellant, while the State was represented by Doug Richardson and Baker Cleveland. Tr. 1.

The jury found Appellant guilty as charged. Tr. 480, ll. 4-10. The trial court imposed a sentence of forty years incarceration. Tr. 489, ll. 22-24; R.* (Sentence sheet).

STATEMENT OF THE FACTS

Appellant and his girlfriend, Faye Brissey (codefendant) arrived at the mobile home of James Gibson (Gibson) at approximately 11:00 pm on January 18, 2010. Appellant left his car with the codefendant inside of it, walked to Gibson's door, and knocked. By at least one account placed into evidence at trial,¹ the following incident occurred:

[Gibson] opened the door and hit [Appellant] in the mouth. And [Appellant] jerked the door open and tried to kick [Gibson]. [Gibson] grabbed [Appellant's] foot and pulled him in, and then they started wrestling in the living room. And the first shot hit the wall, and then the second one hit the ceiling, and the third one he put the gun, the 380 that had hollow point tips, to his chest and shot him.

Tr. 367, ll. 4-13; R* (State's Exhibit #53, Voluntary Statement of Matt Brissey). Further, Brissey's trial testimony likewise confirmed a struggle occurred in Gibson's trailer:

[H]e said that there was a struggle, that he was trying to shoot him. He shot one in his wall, one the couch and rolled [Gibson]—he rolled [Gibson] on his back when they was wrestling and shot him in his chest.

Tr. 144, ll. 9-12.

Investigation confirmed that there was one bullet hole in the living room floor beneath the couch, and another in the wall near the ceiling. Tr. 206, ll. 1-12; Tr. 208, ll. 15-25; Tr. 210, ll. 3-21. Further, the forensic pathologist, Dr. James William Fulcher (Fulcher),

¹ This account was from Matthew Brissey's (Brissey) written statement, who gave the statement to law enforcement about the incident based upon what Appellant told him at approximately 11:15 pm on January 18, 2010. Tr. 142, ll. 15-25; Tr. 367, ll. 4-13; R* (State's Exhibit #53, Voluntary Statement of Matt Brissey). Brissey is the cousin of the codefendant, and both Appellant and the codefendant stayed at the same residence as Brissey. Tr. 140, ll. 2-20.

also confirmed that the fatal gunshot wound to Gibson's chest was fired from close range, within only one to two inches away. Tr. 241, ll. 1-19; Tr. 246, ll. 17-19.

Additionally, Detective James Art Taylor (Taylor) of the Pickens County Sheriff's Office, who interrogated Appellant on at least two occasions, admitted at trial that Appellant told him that there was a fight with Gibson, and that Gibson had been on top of him. Tr. 341, ln. 24—Tr. 342, ln. 2; R.* (State's Exhibit #1, DVD of in-car video). Appellant was again interrogated about the events of January 20, 2010, by Detective Michael Baker while at the Aiken County Sheriff's Office, which was videotaped. R.* (State's Exhibit #3, DVD of Interview). Finally, Lieutenant Tony Robinson (Robinson) of the Pickens County Sheriff's Office crime scene unit revealed that a black handled knife was recovered from Gibson's residence that was lying on the floor near Gibson. Tr. 205, ll. 2-10; Tr. 372, ll. 2-10.

At the jury charge conference, Counsel requested instruction not only on self-defense and voluntary manslaughter, but also on involuntary manslaughter. Tr. 419, ln. 29—Tr. 421, ln. 14. Specifically, Counsel first argued that Appellant was not directly pointing the gun at Gibson; rather, Appellant and Gibson were involved in a scuffle at the doorway. As such, Appellant would not have anticipated that such activity would have resulted in great bodily harm, "not at least until Gibson actually grabbed the gun." Tr. 419, ln. 20—Tr. 420, ln. 8. Counsel also argued in the alternative that carrying the gun just to talk with Gibson, "which at some point the tapes suggested that's what [Appellant] was doing, could be viewed as legal activity, particularly since there's evidence that [Gibson] let [Appellant] in. He didn't invade the house." As such, Counsel asserted it was simply a reckless disregard for the safety of others.

Finally, Counsel argued that the issue of whether Appellant had the gun out and pointed it at Gibson, or whether the gun was still in Appellant's belt and only came out in the course of the scuffle was a matter for the jury to decide. Tr. 421, ll. 1-4. In sum, Counsel argued that "[t]here is evidence . . . that they scuffled, that the gun was in play between them." Tr. 423, ll. 8-12. Counsel further pointed to the randomness of the two other bullet holes as indicating the shots were fired during a struggle between Gibson and Appellant at close range, and that "there was repeated testimony or repeated comments by the [Appellant] in all of his statements that the deceased was on top of him, . . . and that they were struggling for the gun with it being between them." Tr. 424, ll. 3-12.

The State responded that the killing was intentional based on Appellant's statement, and that the gun was pointed at Gibson when he was shot in the chest. Tr. 421, ll. 8-15. After the trial court pointed out that it wanted the State "to clarify [for] me that it was in his waistband, then it was on the floor, then it was in his hand," the State conceded that "[t]here may have been mention of that;" however, the State then averred that, even if the gun was on the ground, Appellant still had to pick-up the gun, cock it with two hands, and shoot it. The State further argued the mere possession of the gun by Appellant on his person was illegal. Tr. 421, ln. 25—Tr. 422, ln. 18. Finally, the State asserted involuntary manslaughter was inappropriate because three shots were fired. Tr. 422, ln. 23-Tr. 424, ln. 2.

The trial court agreed to charge the jury regarding the law of self-defense and voluntary manslaughter, but refused to charge involuntary manslaughter. Tr. 434, ll. 6-16. The jury found Appellant guilty of murder, and the trial court imposed a forty year sentence. Tr. 480, ll. 4-10; Tr. 489, ll. 22-24.

This appeal follows.

Involuntary manslaughter is the unintentional killing of another without malice, but while engaged in an unlawful activity not naturally tending to cause death or great bodily harm; or (2) the unintentional killing of another without malice, while engaged in a lawful activity with reckless disregard for the safety of others. State v. Crosby, 355 S.C. 47, 51-2, 584 S.E.2d 110, 112 (2003); see also State v. Light, 378 S.C. 641, 648, 664 S.E.2d 465, 468 (2008); Burriss, 334 S.C. 256, 265, 513 S.E.2d 104, 109 (1999). Further, evidence of a struggle over a weapon between a defendant and victim supports submission of an involuntary manslaughter charge. Tisdale v. State, 378 S.C. 122, 125, 662 S.E.2d 410, 412 (2008); Casey, 305 S.C. at 447, 409 S.E.2d at 392.

In the case at bar, evidence is present in the record supporting the charge of involuntary manslaughter. First, Brissey's oral testimony and written statement readily indicate that the gun was fired during a struggle between Gibson and Appellant. Further, evidence is also present in the record from Appellant's statements that Gibson was on top of him when the two were struggling on the living room floor. This much is corroborated by the physical evidence in the case, which indicates not only that two shots were fired into random locations (the floor beneath the couch, and the wall next to the ceiling), but also that the gun was at close-range—within one to two inches of Gibson's chest—when the fatal shot fired. Thus, evidence is present in the record that the fatal shot was fired during a struggle over the weapon. Accordingly, Appellant was entitled to a jury instruction on involuntary manslaughter, and the trial court erred by failing to do so. See, e.g., Tisdale, 378 S.C. at 125, 662 S.E.2d at 412; Casey, 305 S.C. at 447, 409 S.E.2d at 392.