

ORIGINAL

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Lancaster County

Honorable Thomas A. Russo, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRANDON HUNTER KENNY RIVERS,

APPELLANT

APPELLATE CASE NO 2016-000402

RECORD ON APPEAL

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County of Lancaster	)	2014-GS-29-1538
	)	2014-GS-29-1539
	)	2014-GS-29-1540
State of South Carolina,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
Brandon Hunter Kenny Rivers.	)	
	)	
	)	

February 16th-19th, 2016
Lancaster, South Carolina

BEFORE:

THE HONORABLE THOMAS A. RUSSO, JUDGE; and a
jury.

APPEARANCES:

ANDREW COOK, ASSISTANT SOLICITOR
Attorney for the State

MARK GRIER, ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

AMINAH R. HARDY
Official Court Reporter

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1 be there, okay? So if you would just call that number
2 after 6:00 this evening and follow whatever the
3 instructions are. All right. So folks, thank you very
4 much. You're free to go.

5 (The jury left open court at 12:53 p.m.)

6 (A recess was taken from 12:54 p.m. to 2:27 p.m.)

7 THE CLERK: Please your left hand on the Bible and
8 raise your right.

9 BRANDON HUNTER KENNY RIVERS, after having been duly
10 sworn, testified as follows:

11 MR. COOK: May it please the Court?

12 THE COURT: Yes, sir.

13 MR. COOK: Your Honor, this is case number
14 2014-GS-29-1541, the State vs. Brandon Hunter Kenny
15 Rivers. This a true bill indictment for failure to stop
16 for a blue light. Mr. Rivers is represented by Mr. Mark
17 Grier. Mr. Grier has indicated to me that his client
18 would like to plead guilty to this charge. This is a
19 straight up plea, Your Honor. There is no negotiation or
20 recommendation.

21 THE COURT: Mr. Rivers, 2014-GS-29-1541 charges you
22 with failure to stop for a blue light and that being a
23 first offense.

24 Is that a three-year statute?

25 MR. COOK: It is three years, Your Honor.

1 THE COURT: It carries a penalty up to three years.
2 Do you understand that, sir?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Understanding the nature of the charge
5 against you and the possible punishment, how do you plead
6 to that charge, sir, guilty or not guilty?

7 THE DEFENDANT: Guilty.

8 THE COURT: Thank you, sir.

9 And Mr. Grier, you represent Mr. Rivers on this
10 matter?

11 MR. GRIER: Yes, Your Honor.

12 THE COURT: Have you discussed with him the charge
13 he's before the jury on -- excuse me, he's before the
14 Court on and his Constitutional rights to a trial?

15 MR. GRIER: I have, Your Honor.

16 THE COURT: Mr. Rivers, you're 19 years of age, sir?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And do you work anywhere or what type of
19 work do you do, sir?

20 THE DEFENDANT: I'm actually on an ankle monitor
21 right now. They didn't put it in my court order to work.

22 MR. GRIER: But what kind of work have you done?

23 THE DEFENDANT: I've done construction work before.
24 That's basically what I've done with the family business,
25 construction. My uncle has a painting and construction

1 business.

2 THE COURT: Are you married or single?

3 THE DEFENDANT: Single.

4 THE COURT: Any children?

5 THE DEFENDANT: No, sir.

6 THE COURT: And did you serve any time on that before
7 you got bonded out?

8 THE DEFENDANT: Yes, sir, I actually served 15 months
9 in the county.

10 MR. GRIER: Four hundred forty-five days.

11 THE COURT: Four forty-five, okay.

12 I know you've gone over your Constitutional rights
13 with Mr. Grier, but I'm going to review those with you.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: If at any time, you have any questions
16 about anything that I go over and you need to talk to
17 Mr. Grier, you let me know and we'll stop and I'll give
18 you whatever time you need, okay?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: As you're aware, this case was called for
21 trial and I know you're going forward on the other
22 charges, but you're entering a plea on this charge. Do
23 you understand that by entering this plea that you give up
24 your right to remain silent as to these charges and the
25 right to a jury trial on this charges? Do you understand

1 that?

2 THE DEFENDANT: On the failure to stop for a blue
3 light?

4 THE COURT: Yes.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Just on the -- you don't give up your --

7 THE DEFENDANT: Yes, sir, I understand.

8 THE COURT: Yeah. Everything I'm going to talk with
9 you about this afternoon with regards to this plea is
10 going to be about just this indictment and not the others.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: So you give up the right to a trial on
13 this one if you plead guilty to it?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And any time you give you a
16 Constitutional right, it's important that it's your
17 decision and not someone else's. It's also important when
18 you give up your right to a trial that you understand that
19 you give up other rights that are connected to that.
20 These are the very rights that you will be exercising on
21 these charges. But on this charge, you understand you
22 give up the right of the presumption of innocence and you
23 give up the right to -- excuse me, you give up the right
24 to presumption of innocence and so because you give up
25 that right by pleading guilty and by entering a guilty

1 plea, you also give up the right to confront the State's
2 witnesses as to this charge. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: In other words, the burden of proof
5 normally is on the State to prove guilt.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: But on this charge, on the blue light
8 charge, because of your plea, they no longer have to prove
9 your guilt on this charge.

10 THE DEFENDANT: Yes, sir.

11 THE COURT: So you give up the right to question the
12 witnesses as to these allegations. Do you understand
13 that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Now, of course, if you had a jury trial,
16 the State's not the only one that could call witnesses.
17 You could have called witness in your defense if you chose
18 to do that or you could remain silent and not testify at
19 all because in this country, a person who is charged with
20 a criminal offense is never required to prove themselves
21 innocent. The burden of proof is on the State. So you
22 could exercise your Constitutional right if you had a
23 trial on this charge and you could remain silent as to
24 these charges.

25 And if you did that, I would tell the members of the

1 jury that the State has the burden of proving your guilt
2 on this failure to stop charge and you don't have to prove
3 anything. You could remain completely silent. And if you
4 did that, I would explain to the jury that they could not
5 in any way consider that as to your guilt or innocence.
6 They could not even take that into their consideration
7 that you did not testify. Because you don't have any
8 burden to prove.

9 THE DEFENDANT: Yes, sir.

10 THE COURT: As a matter of fact, I would take it a
11 step further and tell them that if you remain silent -- if
12 you had a trial on this charge and you remain silent that
13 they could not even discuss that in the jury room at all.
14 Do you understand, sir?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Now, the State has the burden to prove
17 your guilt to this charge. As I said earlier, they have
18 to do it to a unanimous decision. In other words, they
19 have to convince all 12 members of the jury that you were
20 guilty of this charge or they could not convict you.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: But if you did have a jury trial on this
23 charge, and if you were convicted, you could appeal that
24 conviction to a higher court. Do you understand, sir?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Now, you also have an appellate right
2 with regards to your plea here today. In other words, if
3 you wish to appeal my decision on this plea, you can do
4 that, but you would have to file a notice of intent to
5 appeal within 10 days. Do you understand?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Now, Mr. Rivers, understanding you have
8 these rights and that you will not have a jury trial, and
9 that your case will be resolved on this charge pursuant to
10 your plea, do you still want to go forward with your plea
11 on this charge?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right, sir. Now, has anybody
14 promised you anything, held out any hope of reward or
15 threatened you in any way to get you to enter this plea?

16 THE DEFENDANT: No, sir.

17 THE COURT: Are you satisfied with the representation
18 and advice of Mr. Grier?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you have any complaints against him or
21 any member of his office?

22 THE DEFENDANT: No, sir.

23 THE COURT: As you stand before the Court here today,
24 are you under the influence of any substance that would
25 affect your ability to understand what you're doing?

1 THE DEFENDANT: No, sir.

2 THE COURT: Are you entering your plea on this
3 failure to stop charge of your own free will, sir?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And are you guilty of this charge?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: I'm going to get the solicitor to give me
8 a brief run down on the facts. If you would please listen
9 carefully and I'll get back with you in just a few
10 minutes.

11 THE DEFENDANT: Yes, sir.

12 MR. COOK: Thank you, Your Honor. Your Honor, this
13 incident on September the 26th of 2014, around -- a little
14 bit after 10:00 at night. There was a shots fired call
15 out at Lymon Reece Road here in Lancaster County. Deputy
16 Chase Minors heard on the radio. They gave a description
17 of the suspect, that he was on a burgundy, dark brown
18 motorcycle. Said he was headed south on Lynwood Drive.
19 Deputy Minors was in the area. He got onto Lynwood Drive
20 and came up behind the suspect at the time, Mr. Rivers, on
21 the motorcycle at the stoplight at Lynwood Drive and
22 McIlwain Road.

23 Seeing that this was the person that the sheriff's
24 office was looking for in the shooting incident, Deputy
25 Minors hit his blue lights and his siren. He said

1 Mr. Rivers turned around, saw that he was behind him. He
2 was in a fully marked sheriff's car. Mr. Rivers
3 accelerated through the light and went down McIlwain Road.
4 He was going 80 miles an hour in a 45 zone. He -- Deputy
5 Minors called back in to see if he should pursue given the
6 dangerous -- the danger of the situation, how fast he was
7 going. But given this was a shooting investigation, the
8 sheriff's office told him to stay on him, keep pursuing
9 him.

10 They continued down Kershaw Camden Highway onto Boyd
11 Fail Road, where Mr. Rivers was continually going at
12 speeds around 75 miles an hour. He took a left onto Flint
13 Ridge Road running a stop sign and then onto Rob Neal Road
14 and got back up to 80 miles an hour. Ultimately --
15 Mr. Rivers never stopped for the sheriff's office. He
16 wrecked his motorcycle. He went into a ditch.

17 And to back up a little bit, as Deputy Minors is
18 chasing him, he's seeing Mr. Rivers throw stuff out of his
19 jacket. There's what they found later where he tossed out
20 a bottle that Deputy Minors saw break in the road. He's
21 continually chasing him. Mr. Rivers finally goes into a
22 ditch, hits a mailbox and flips his motorcycle. He never
23 voluntarily stopped for the sheriff's office. Deputy
24 Minors and another deputy approached him, guns drawn.
25 He's laying in the grass off the side of the road. They

1 take him into custody there.

2 This pursuit going from the stoplight at McIlwain and
3 Lynwood Drive to where he ultimately ended up was over
4 14 miles. And given the distance, the speed -- and Your
5 Honor, one thing of note that this isn't going to be
6 admissible in trial, but for the purposes of this hearing,
7 at the time this happened, Mr. Rivers was on house arrest
8 and GPS monitoring from an armed robbery and an ABHAN
9 charge from February. In between that time and the time
10 he was arrested on this charge, he had gotten arrested
11 again. He was out -- he shouldn't have even been away
12 from his house, let alone having a high speed chase
13 through Lancaster County.

14 THE COURT: Let me back up so I got the time right.
15 He was charged with an armed robbery?

16 MR. COOK: He was charged with an armed robbery and
17 an ABHAN in February of 2014.

18 THE COURT: 2014, February 2014.

19 MR. COOK: Seven months prior to this incident.

20 THE COURT: Right. He was placed under house
21 arrest --

22 MR. COOK: He was on house arrest --

23 THE COURT: -- and on an ankle monitor?

24 MR. COOK: And ankle monitor.

25 THE COURT: Okay. So now he's out -- allegedly,

1 committing this shooting, which is what brought their
2 attention to him, but he's out on the motorcycle when this
3 occurred?

4 MR. COOK: Correct, Your Honor.

5 THE COURT: All right.

6 MR. COOK: And Your Honor, the State is asking for
7 the full three years on the failure to stop for a blue
8 light. Because I can't think of a situation that would be
9 any more egregious, a high speed chase, the person who is
10 being pursued shouldn't even be out of their house. And
11 just to show the disregard and the -- he's done whatever
12 he wanted to since he got out on bond.

13 And I want to bring to the Court's attention, the
14 codefendant in his armed robbery, ABHAN from February, who
15 he is prohibited by his bond order to be around is with
16 him in the courtroom. He's been with him all day.
17 They've been together in the parking lot. He's sitting
18 here with him. He was in the jury selection room. And
19 his bond says he's to have no contact with this gentleman,
20 but here he is bringing him with him, hanging out with him
21 today. Nothing that anybody tells him to do he goes along
22 with.

23 The only thing that he's done since he was arrested
24 in February of 2014 is to comply with his house arrest
25 since he got out on bond in December. I talked to the

1 monitoring agency, he didn't have any violations. But
2 knowing that he's got a trial coming up in February, he
3 stayed at his house. But other than then, he was doing
4 whatever he wanted to for that period of time he wasn't
5 locked up. He was locked up 445 days at the county on the
6 three attempted murders and this charge. I would ask that
7 he get the full three years and then still have -- serve
8 the remaining balance of whatever a three-year sentence
9 would be after the time is calculated after the 445 days.

10 THE COURT: Let me ask you this because I tend to get
11 a little confused. The attempted murder charges that
12 we're here for trial occurred at the same time as this,
13 September --

14 MR. COOK: Yes, sir.

15 THE COURT: -- of 2014? Okay. And so the 445, is
16 from that incarceration to now?

17 MR. GRIER: Is it. It's from September the 26th of
18 2014 to now.

19 THE COURT: The armed robbery charge, is that still a
20 pending charge?

21 MR. COOK: It is. And that is February of 2014. And
22 that's the thing, it's not a pending charge, it's not
23 admissible as far as the trial.

24 THE COURT: I understand, yeah. Okay. But all that
25 is to support your position?

1 MR. COOK: For the three years, yes, sir, Your Honor.

2 THE COURT: Let me back up a little bit. Mr. Rivers,
3 you've heard the facts surrounding the charge itself?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Those facts concerning the charge itself,
6 are those facts correct, sir?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: I find that the State has provided a
9 substantial factual basis to support Mr. Rivers's plea to
10 the failure to stop for a blue light charge. I believe
11 that his decision to enter this plea has been done freely
12 and voluntarily and intelligently. He's had the advice of
13 counsel and outstanding attorney in Mr. Grier. Mr. Rivers
14 has indicated he is satisfied with the representation and
15 the advice that Mr. Grier has provided and I'm going to
16 accept his plea.

17 Mr. Grier, I'll be happy to hear from you, sir.

18 MR. GRIER: Thank you, Your Honor. First of all, if
19 I had known that the gentleman who has shown up to this
20 public forum, which he's got the right to come to, but I
21 certainly would have asked Mr. Britt -- advised my client
22 and Mr. Britt that he should not be in the presence and be
23 tagging along to see the proceedings.

24 THE COURT: Can I ask a question about that? Did you
25 say that Mr. Britt is a codefendant?

1 MR. COOK: He was a codefendant in the armed robbery,
2 ABHAN charge.

3 THE COURT: The no contact order, does that apply to
4 Mr. Britt as well?

5 MR. COOK: It's to his codefendant, yes, sir.

6 THE COURT: In other words, Mr. Britt is also under
7 the same order not to have contact?

8 MR. COOK: He has already disposed his charges in
9 relation to that case, but it still applies to Mr. Rivers.

10 THE COURT: Sure. Absolutely.

11 MR. COOK: And to Mr. Grier's point that this is a
12 public forum and Mr. Britt has an opportunity to be here,
13 the day after Mr. Rivers got out of jail on bond on this
14 charge, he was with Mr. Rivers hanging out at his house
15 together. They've been hanging out together since he got
16 out of jail despite the fact that they're not supposed to
17 have any contact with each other.

18 THE COURT: I didn't realize Mr. Britt's charges were
19 taken care of. If they weren't, I was going to have him
20 put in custody.

21 MR. GRIER: Your Honor, Mr. Rivers says he thought
22 that Mr. Britt's charges, having been disposed of, meant
23 he did not -- that didn't apply anymore since he was no
24 longer a codefendant with him.

25 THE COURT: He's always a codefendant, he's just a

1 codefendant that resolved his case.

2 MR. GRIER: Well, I --

3 THE COURT: But anyway.

4 MR. GRIER: -- don't know, but he believed that he
5 was no longer a codefendant. He's convicted and so he's
6 not a defendant at this point would be the argument that
7 he would make about that -- or in his mind, that's what he
8 believed, Your Honor. And I don't think he's just being
9 indifferent and willfully saying -- he wouldn't have
10 walked in this courtroom if he thought that was wrong. I
11 didn't sense it, I didn't know it and I didn't recognize
12 the guy or I would have taken care of it, you better
13 believe that.

14 THE COURT: Sure.

15 MR. GRIER: So Your Honor, I ask you to please
16 accept -- I know ignorance is no excuse for not following
17 the law, but I believe it's pretty easy to imagine how
18 someone might be confused under those circumstances in
19 term of Mr. Britt. But I will make sure that that problem
20 doesn't occur again.

21 Your Honor, I think he told you what kind of work he
22 has done. He has not been able to work, although he had
23 contacted the clerk's office and had made overtures about
24 trying to work while he's been out on this bond and wanted
25 to work. And he's got a one-year-old daughter, I believe.

1 And his mom and fiancé are in the courtroom as well and
2 they support him and love him and are here on his behalf,
3 Your Honor. I don't know if you want to hear his criminal
4 record?

5 THE COURT: I do.

6 MR. GRIER: I'll tell you, it's not extensive,
7 obviously. He's 19 years old and does not have an
8 extensive criminal record.

9 MR. COOK: But Your Honor, in 2010, he's got a
10 burglary second degree and a malicious injury to property.
11 He also has a 2014 assault and battery third and assault
12 and battery second. Assault and battery second is one
13 issue that we took up with Your Honor in chambers. Some
14 possible technicality with the magistrate's court
15 disposing that case outside their jurisdiction; however,
16 on his rap sheet, he does have assault and battery second
17 degree. Also, another malicious injury to property in
18 June of 2014, which is also within the time frame that he
19 was supposed to be on house arrest, Your Honor.

20 THE COURT: All right. Anything further, Mr. Grier?

21 MR. GRIER: Your Honor, as my client notes, the
22 malicious injury to property did happen at his house where
23 he was residing at the time. Your Honor, given that -- I
24 mean, this is his first general sessions charge. I don't
25 think -- he's done 445 days. The pending -- the jury will

1 decide his culpability with the rest of it, but it seems
2 the 445 days is a significant stretch for a failure to
3 stop for a blue light first offense. And even in light of
4 the other issues that's he's had with the law that time
5 served sentence would be the appropriate penalty for his
6 transgression, Your Honor. We ask you sentence him to
7 time served. I believe that would be appropriate.

8 THE COURT: Mr. Rivers, anything you want to tell the
9 Court?

10 THE DEFENDANT: Yes, sir. I would like to say I
11 stand here and I'm totally guilty for everything. I did
12 break my bond. I did do the house arrest. I slipped my
13 bracelet off. I have done that. I have made mistakes.
14 When I caught my first charge, I was 17. But I can stand
15 here in front of you and everybody in this courtroom and
16 sit here and tell you now that after I've come from that
17 county jail and done the 16, 15 months, it's really
18 changed me in a way. And certain people might not believe
19 it, they might not want to hear it.

20 But what they didn't bring up, while I was on house
21 arrest, I actually got accepted to a college in Orlando,
22 Florida. I tried to come to court to get so I could go
23 down there. They denied that. I mean, there's so many
24 things that I really have tried to do before I even caught
25 my attempted murder charges. I have made a big progress

1 in my life. These are not things that I'm trying to
2 change, these are things I've already changed. That's why
3 I come here. I could have easily said forget it and ran
4 from this trial, but I actually filed for a fast and
5 speedy trial myself while I was in the county jail because
6 I'm here to prove my innocence today in front of you and
7 everybody in the court. And I would just like to say I
8 really do apologize for my actions and everything that I
9 have done.

10 MR. GRIER: Judge, that is true. We did request a
11 speedy trial and he did get accepted to mechanics school
12 in the interim.

13 And one thing in a positive vein that I think the
14 Court should know about, we were ready to try this case.
15 We were keyed up to go back in November and,
16 unfortunately, his mother had a heart attack. And she was
17 determined she was coming to court if he was going to
18 court. Against doctor's orders, she left the hospital.
19 And Mr. Rivers said, I'd rather it be delayed. If my
20 mother comes, she's in danger. If we have the trial and
21 she can't come, she's in danger. I thought that was --
22 showed some maturity that despite his desire to get this
23 resolved, we asked for a continuance.

24 THE COURT: I got it. Let me -- and again, just
25 trying to get my head around all the logistics here. The

1 status of the armed robbery, is it still pending?

2 MR. COOK: It is still pending, Your Honor.

3 THE COURT: Is there an issue why that hasn't been
4 tried yet?

5 MR. COOK: We decided to try this case. There was a
6 plea offer that encompassed everything. We just chose
7 this as the case to try first, Your Honor.

8 THE COURT: Okay.

9 MR. COOK: Your Honor, as far as applauding his good
10 behavior, I mean, he's been out --

11 THE COURT: Well, I haven't heard any good behavior.

12 MR. COOK: Right. Since he's been out, he got
13 arrested last week again at his house. There's no
14 disposition on that, but I mean --

15 THE COURT: I understand.

16 MR. GRIER: Judge, if I could?

17 THE COURT: You're making efforts to do the right
18 thing as far as trying to get enrolled in school and those
19 things. That's all well and good, but --

20 MR. GRIER: Your Honor, if I may, his mother was
21 being held kind of as a hostage by her boyfriend and he
22 yanked the mirror off the guy's car and -- for the charges
23 for last year and the guy signed a warrant for malicious
24 injury to property.

25 THE COURT: Well, here's the thing and this is the

1 main concern. First of all, I just want to preface by
2 saying, I'm really not considering at all -- number one,
3 because I don't think it's appropriate. But I'm not
4 considering at all the attempted murder charges because
5 for all we know, when the dust settles on those cases this
6 week, you may be found not guilty and they don't matter
7 anyway. So that's not an issue for me in this charge.

8 The issue for me in this charge is, you know, what --
9 the solicitor brought it out and I don't disagree with
10 him, is it's egregious because you're on house arrest on a
11 very serious charge, and I don't know whether you're
12 guilty or not on that charge, but armed robbery is a
13 serious charge.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And you're placed on house arrest and to
16 your own admission, and I'll give you credit for that, you
17 slipped out of it and got in trouble with law enforcement
18 on this case -- this traffic stop, which attempted to be a
19 traffic stop and then you just ignored it. And I've got
20 every belief that had you not wrecked, you would have
21 continued on and maybe even lost the police and gotten
22 away with it. I don't know. But it's dangerous.
23 Thankfully, I don't know how you escaped serious injury,
24 but you don't seem to be seriously injured. I'm sure you
25 were injured, but the point is you're going through places

1 where other people are and you could have easily caused
2 either very serious injury or death to anybody who
3 happened to get involved, other cars on the highway, the
4 officer pursuing. It's just -- it's not a good situation.

5 On indictment 2014-GS-29-1541, the sentence of the
6 Court is that -- failure to stop for a blue light is that
7 you be committed to state Department of Corrections for a
8 period of three years. Give you credit for the 445 days
9 that you have served.

10 I usually -- I try to give credit to someone who
11 takes responsibility, but in light of the fact that this
12 was a situation where you're violating the conditions of
13 your bond, it just -- it just didn't warrant that in my
14 opinion. Although you're going to get credit for the 445
15 days, which under a normal situation, you probably have
16 served this sentence, if not, just --

17 MR. GRIER: Couple months.

18 THE COURT: -- little more to do. But I think that's
19 appropriate under the facts of the matter. So good luck
20 to you, sir.

21 (A recess was taken from 2:54 to 3:01 p.m.)

22 MR. GRIER: Judge, while we're waiting, one of the
23 things you said we could put on the record, we had an
24 issue with the jury this morning.

25 THE COURT: Oh, yes. We can do that.

1 MR. GRIER: If you want to do that, we can try to
2 make some productive use of time.

3 THE COURT: That will work.

4 MR. GRIER: If I'm not interrupting something else
5 you're doing.

6 THE COURT: It's not more productive than what you're
7 asking.

8 MR. GRIER: Okay. Your Honor, during jury selection,
9 I had moved that Lamar Moore be struck for cause or --
10 and, of course, we didn't want to interfere with -- do
11 that in front of the jury. And you indicated that we
12 could memorialize that by putting that on the record.
13 That was Juror No. 93, Lamar Moore.

14 THE COURT: That's right. And I think, if I'm not
15 mistaken, Mr. Moore, when we were going through the
16 qualification process for this case, stood up and said
17 that one of the witnesses, who I believe was Phillip Hall,
18 was some relation to his wife, to Mr. Moore's wife, so he
19 had some relation with Hall.

20 MR. COOK: Your Honor, to clarify, when Mr. Hall's
21 name was given as a potential witness, there was no --
22 there was no identification as far as whether that was an
23 law enforcement officer.

24 THE COURT: Right.

25 MR. COOK: And Officer Hall is here. There is

1 another Phillip Hall I know of in town, so we don't have
2 any clarification whether it was this Phillip Hall or
3 another Phillip Hall, so that's just -- for the record, I
4 don't think that --

5 THE COURT: Is the other Phillip Hall a law
6 enforcement officer?

7 MR. COOK: No. But he didn't --

8 MR. GRIER: No, Your Honor, he's not.

9 MR. COOK: But when they asked if he knew anybody in
10 law enforcement --

11 THE COURT: That's when he stood. In other words, he
12 didn't stand when I called out --

13 MR. COOK: The name.

14 THE COURT: -- the name.

15 MR. GRIER: It was in response to the law enforcement
16 question.

17 THE COURT: It was his response to the law
18 enforcement question. So a couple things -- and I don't
19 mean to -- I don't know a thing about the family
20 relationship, but apparently, he didn't recognize the name
21 Phillip Hall as a relative at the time I called the name
22 out, but he did know that there was a person on the -- his
23 wife's side of the family that was in law enforcement,
24 which turned out to be Mr. Hall?

25 MR. COOK: Okay, I got you.

1 THE COURT: Is that right?

2 MR. GRIER: That's my understanding.

3 THE COURT: But I did -- just for the record, I did
4 then clearly ask him, taking all that into consideration,
5 would that have any effect on your ability to give both
6 the state and the defense a fair and impartial trial and
7 he indicated it would not.

8 And I believe -- if I'm not mistaken, I believe,
9 Mr. Grier, that you ended up exercising your final strike
10 on Mr. Moore?

11 THE CLERK: Yes.

12 THE COURT: Is that correct? I think that was
13 No. 10.

14 MR. GRIER: Yes, sir, it was.

15 THE COURT: Okay. And that was -- we already had 10
16 jurors in place. All right.

17 MR. GRIER: Yes, sir.

18 THE COURT: But anyway, we'll certainly note your
19 exception to that ruling and I'll --

20 MR. GRIER: Thank you, Your Honor.

21 THE COURT: -- note that.

22 MR. GRIER: The only other matter would be our
23 in-camera conversation about the admissibility of the GSR
24 on the gloves. You had mentioned that you would -- your
25 intention would be to admit that. We can address that --

1 well, I guess that could come up in front of the jury
2 today. But I objected to that as not being relevant by
3 Rule 402, or if it is relevant being more prejudicial than
4 probative.

5 I -- you know, given that guns were not on any person
6 and that they were -- it was -- the identifying
7 conclusions of the SLED report indicated that no time --
8 no information about how the gun residue was placed on
9 those gloves could be ascertained through their testing.
10 And in fact, we don't -- we don't know who was wearing
11 them or when that residue got on there. And I asked you
12 to exclude it based on it being more prejudicial than
13 probative under 403 and not being relevant for those
14 reasons that they -- there's no tie in to the actual
15 allegations against my client.

16 THE COURT: All right.

17 MR. COOK: Your Honor, it's a gunshot residue test
18 and the gloves are found on the defendant charged in a
19 shooting case. I think it's absolutely admissible and
20 goes to the weight of the evidence --

21 THE COURT: Were they found on his person?

22 MR. COOK: Yes, they were removed from Mr. Rivers by
23 Deputy Minors, as it says in the case report.

24 THE COURT: And assuming that's -- the trouble with
25 making these early rulings is assuming the state can lay

1 the proper foundation and proper connection, I think that
2 would be admissible. As I said, I think the arguments
3 that you make, which are valid, I think they go more to
4 the weight of the evidence rather than the admissibility
5 of it.

6 And so assuming the proper foundations are laid and
7 the state moves to move those in -- I mean, I certainly
8 will consider if you feel that they haven't laid the
9 proper foundation, but assuming that's been done, I would
10 more than likely allow that in. If and when that comes up
11 in the trial --

12 MR. GRIER: I will be alert to it.

13 THE COURT: One of two things, Mr. Grier, you can
14 either -- if the basis for your objection is going to be
15 what we just heard now, you can just, Judge, I want to
16 renew my objection.

17 MR. GRIER: Yes, sir.

18 THE COURT: If it's more than that, if it has to do
19 with not being a proper foundation or something, you can
20 object and ask to take up the matter outside the jury's
21 presence and we'll take up the new matters.

22 MR. GRIER: Thank you.

23 MR. COOK: If the Court is ready, Your Honor, we're
24 prepared for the Jackson V. Denno.

25 THE COURT: Yes, sir.

JACKSON V. DENNO - CHASE MINORS - DIRECT EXAMINATION BY
MR. COOK

1 MR. COOK: May it please the Court?

2 THE COURT: Yes, sir.

3 MR. COOK: Your Honor, in the matter of Jackson V.
4 Denno to establish the voluntariness of the statement
5 given to law enforcement by defendant, Brandon Rivers, the
6 state calls Deputy Chase Minors to the stand.

7 THE COURT: All right, Deputy, if you would please
8 come around to be sworn, sir.

9 CHASE MINORS, after having been duly sworn, testified
10 as follows:

11 DIRECT EXAMINATION

12 BY MR. COOK:

13 Q. Please state your name for the record.

14 A. Chase Minors.

15 Q. Mr. Minors, who is your employer?

16 A. Lancaster County Sheriff's Office.

17 Q. How long have you been with the sheriff's office?

18 A. Seven years next month.

19 Q. Did you arrest Brandon Rivers on September 26, 2014?

20 A. Yes, sir.

21 Q. What was the basis for that arrest?

22 A. On that evening, we had a call about shots fired on
23 Lymon Reece Road and the suspect was possibly headed
24 toward Powell Avenue off of Airport Road.

25 Q. Where did you ultimately arrest Mr. Rivers?

JACKSON V. DENNO - CHASE MINORS - DIRECT EXAMINATION BY
MR. COOK

1 A. It was on Fork Hill Road, it was in a driveway. I
2 think it was around the , of Fork
3 Hill Road.

4 Q. When you first made contact with Mr. Rivers, was he
5 arrested immediately or did law enforcement talk to him
6 first? Was he arrested -- as soon as you made first
7 contact with him, was he arrested?

8 A. Yes, sir.

9 Q. So he was under arrest in your custody?

10 A. Yes, sir.

11 Q. Were you on the roadside, were you in a driveway,
12 where were you when he was placed -- was he placed in
13 handcuffs?

14 A. Yes, sir.

15 Q. Where were you at that time?

16 A. We were in a driveway. Like I said, I don't have the
17 address. I don't see it. It was in the block of
18 Fork Hill Road. It was probably 10 feet off the --

19 Q. Do you remember about what time it was?

20 A. At that time, it was probably around 10:30 after
21 everything was done with.

22 Q. Okay. Now that you've got him handcuffed and he's in
23 your custody, at that -- at any point, did you advise him
24 of his Miranda rights?

25 A. Yes, sir.

JACKSON V. DENNO - CHASE MINORS - DIRECT EXAMINATION BY
MR. COOK

1 Q. At what point did you advise him of those rights?

2 A. After we done a pat down -- because he was supposed
3 to be armed with a firearm, we done a pat down and located
4 the gloves. And at that point, we advised him of his
5 Miranda rights.

6 Q. When you advise somebody of their Miranda rights in a
7 situation like this, do you have a card that you read them
8 or do you know it from memory?

9 A. I have a card that I have on my person.

10 COURT REPORTER: Could you speak up, sir?

11 BY MR. COOK:

12 Q. Repeat that question. When you advise somebody of
13 their Miranda rights in a situation like this on the
14 roadside, do you have a standard card or do you do it from
15 memory?

16 A. We have a card.

17 Q. Okay. Is that card, it is a department-issued card?

18 A. We got it from PVA. It's a group that represents us
19 in matters.

20 Q. You read him all those rights off of that card?

21 A. Yes, sir.

22 Q. Did he sign any form of waiver or any acknowledgment
23 that you had read his Miranda rights?

24 A. No, sir.

25 Q. Is that a standard practice to have people sign

JACKSON V. DENNO - CHASE MINORS - DIRECT EXAMINATION BY
MR. COOK

1 written waivers of their rights or acknowledgment of their
2 rights on roadside?

3 A. If we're in a situation like at town hall or
4 something like that where we have access, where we can sit
5 down and have them sign it. Usually on roadside, we don't
6 do them.

7 Q. Did you have access to any type of form that -- for
8 him to actually sign that he --

9 A. No, sir.

10 Q. Okay. After you read him his rights, did he ask for
11 an attorney?

12 A. No, sir. He just -- after I read them -- when you
13 asked him does he understand those rights, he nodded his
14 head and said yes.

15 Q. Okay. Was he -- what was his mental state at the
16 time, was he intoxicated? How was Mr. Rivers?

17 A. He seemed kind of dazed and out of it when we made
18 contact with him, possibly from him wrecking the
19 motorcycle.

20 Q. After he had been advised of his rights, did you ask
21 him any questions?

22 A. Just asked him why he ran and he said he was scared.
23 He didn't have a motorcycle license and didn't have
24 insurance on his motorcycle.

25 Q. Did you interrogate him on the roadside?

JACKSON V. DENNO - CHASE MINORS - DIRECT EXAMINATION BY
MR. COOK

1 A. No, sir. At that point, I didn't know any of the
2 details, what they had in Lancaster. I just had the BOLO
3 for a possible suspect. And I made contact with him and
4 the pursuit.

5 Q. Okay. Did he tell you anything else besides he was
6 scared and didn't have a license?

7 A. He was throwing some items out of his pocket on the
8 way down and I asked him what was he throwing and he said
9 he had a little bit of marijuana.

10 Q. But at this point, you didn't even have any knowledge
11 of the other incident to interrogate him on?

12 A. No, sir.

13 Q. All your questions were tailored to your pursuit?

14 A. Yes, sir.

15 Q. Was any of this captured on video?

16 A. Yes, sir, but our computer system where we store our
17 videos, something, I guess, mechanically or whatever
18 happened to the system and we were unable to upload it.

19 Q. Did your line of questioning end after Mr. Rivers
20 told you what he was throwing?

21 A. Yes, sir. We had EMS come and EMS came and said they
22 were required to take him to the hospital. And that's
23 where I quit asking him questions.

24 Q. Did you transport him anywhere or was he taken by EMS
25 at the scene?

JACKSON V. DENNO - CHASE MINORS - DIRECT EXAMINATION BY
MR. COOK

1 A. EMS took him. And I believe Deputy Silverman road in
2 the balance with Mr. Rivers. I later went to the hospital
3 and advised him.

4 Q. Did you ever get any other statement besides that --
5 beside that exchange --

6 A. No, that was it.

7 Q. -- after the wreck?

8 MR. COOK: Okay. That's all. Answer anything
9 Mr. Grier may have for you. Thank you.

10 CROSS-EXAMINATION.

11 BY MR. GRIER:

12 Q. You were talking about a video, you couldn't download
13 that?

14 A. Yes, sir.

15 Q. But your video was activated?

16 A. Yes, sir.

17 Q. Okay. So were all of your notations about this made
18 from your memory or did you have a chance to review the
19 video?

20 A. No, we could review it. Once we downloaded it onto
21 the software at the sheriff's office, there was some issue.
22 with the hard drive, something about it crashed and we
23 were unable to pull it off.

24 Q. Okay. All right. Mr. Rivers crashes, hits a
25 mailbox, I think?

JACKSON V. DENNO - CHASE MINORS - CROSS-EXAMINATION BY
MR. GRIER

1 A. Yeah, he runs off the shoulder of the road right at a
2 little section of mailboxes.

3 Q. How far are you behind him?

4 A. At that point, it was probably a couple hundred yards
5 because he got a jump on us coming off of Robin Hill onto
6 Fork Hill Road.

7 Q. Okay. So you -- but you were there within seconds?

8 A. A couple seconds, yes, sir.

9 Q. And you engaged in conversation with him at that
10 point?

11 A. At that point, you know, we drew our gun because he
12 was supposed to be armed. And when I got out of the dust,
13 I seen Mr. Rivers sitting in the middle of the driveway
14 with his hands up saying, I give up or I'm done.

15 Q. Okay. And when did you Mirandize him?

16 A. Right after that. Once we done a pat down to make
17 sure he was not armed, we handcuffed him and I advised him
18 of his Miranda rights.

19 Q. Okay. And he responded that he was scared, didn't
20 have a license and did not have insurance and he had some
21 weed? Those are the things you just terrified to?

22 A. Yes, sir.

23 MR. GRIER: All right. That's all. Thank you.

24 THE COURT: Anything further?

25 MR. COOK: Nothing, Your Honor.

1 THE COURT: Thank you. You may step down.

2 Anything further on this issue from the state?

3 MR. COOK: Nothing in regards to Deputy Minors. We
4 have another deputy, but he's got a motion in regard to
5 these statements.

6 THE COURT: All right.

7 MR. GRIER: Your Honor, on direct examination, Deputy
8 Minors said that Mr. Rivers was dazed and out of it when
9 he began speaking with him. I think the state's own
10 evidence renders the Miranda and the alleged statements of
11 my client inadmissible as being incompetent if someone is
12 dazed and out of it. But certainly, the observation is --

13 THE COURT: What computer is doing that?

14 THE CLERK: I think it's the one at the podium that
15 they're going to be using.

16 THE COURT: It's doing that without anybody operating
17 it?

18 MR. COOK: It's restarting. It's hooked into the
19 house speakers.

20 THE COURT: That's fine. I just didn't know if there
21 was some phantom noise.

22 MR. GRIER: Your Honor, in plain words, he was dazed
23 and he was out of it indicating an inability to give
24 competent evidence for this statement to have been
25 competent and for it to be admissible today. I'd ask you

1 exclude it on those grounds.

2 MR. COOK: Well, Your Honor, I don't think he was
3 incompetent to the degree. He was able to give some
4 excuse why he was running. I mean, he was able to say I
5 don't have insurance, I don't have -- I don't have a
6 license. He was able to comprehend that enough to give a
7 statement to law enforcement as to why he was running, to
8 answer an intelligent question. I think that anything
9 after that, he was aware of what they were asking.

10 THE COURT: This is an oral statement, correct?

11 MR. COOK: Correct, Your Honor.

12 THE COURT: To what extent -- all right. I know the
13 officer asked him about why he ran and he gave those
14 reasons. Is there anything else you intend to get into?

15 MR. COOK: The fact that he admitted to having
16 marijuana on him.

17 THE COURT: What relevance does that have to the
18 issues in this case?

19 MR. COOK: The fact that in a second -- once
20 Investigator Adams testifies that he said he -- the
21 defendant said he had smoked marijuana, going back to his
22 mindset of when this alleged incident occurred that he
23 was -- he was on some type of substance and he had been
24 partaking in substance abuse before he went over to the
25 location where the incident occurred. Just as evidence

1 against him that he would be more likely to do this type
2 of thing. He wouldn't be in the right frame of mind to
3 make a decision not to shoot somebody. I think that would
4 be within the jury's discretion to decide if this person
5 is partaking in drugs or alcohol, whatever, that that may
6 hinder their judgment as far as how he handled himself
7 that night.

8 THE COURT: Okay.

9 MR. GRIER: I would argue that it's irrelevant, Your
10 Honor, but I just think the plain words of the testimony.
11 If he's out of it, he just can't render competent
12 testimony and evidence. I hang my hat on those words
13 alone, Your Honor. That's the officer's observation, he
14 was out of it. He can't be -- whatever you'd say -- you
15 know, the reliability of -- if you're out of it is
16 incompetent.

17 THE COURT: It concerns me and calls into question
18 whether or not he had the wherewithal to understand his
19 Miranda rights and that it was an intelligent and knowing
20 waiver if he's dazed -- and again, I'm just using the
21 words, if he's dazed and out of it, I don't think that
22 makes him incompetent in the legal sense as far as he's
23 competent to stand trial and things of that nature, but I
24 think it might render him -- I think it does render him
25 maybe not competent to waive his rights if he's dazed and

JACKSON V. DENNO - MIKE ADAMS - DIRECT EXAMINATION BY

~~MR. COOK~~

1 out of it. I would agree, so I would not allow that
2 statement.

3 MR. GRIER: I should have framed it better, but that
4 was my intention, Your Honor.

5 THE COURT: You made your point. I understand.
6 Anyway, that's it with regards to that issue.

7 Do you have another one?

8 MR. COOK: Yes, sir, Your Honor. Your Honor, the
9 state calls Investigator Mike Adams.

10 MIKE ADAMS, after having first being duly sworn,
11 testified under oath as follows:

12 DIRECT EXAMINATION

13 BY MR. COOK:

14 Q. Can you please state your name for the record?

15 A. Mike Adams.

16 Q. Mr. Adams, who is your employer?

17 A. Lancaster County Sheriff's Office.

18 Q. Mr. Adams, did you conduct an interview of Mr. Rivers
19 on September 27th, 2014?

20 A. Yes, sir, I did.

21 Q. Where was this interview conducted?

22 A. It was at the Lancaster Sheriff's Office.

23 Q. Was Mr. Rivers in custody at the sheriff's office
24 when this interview took place?

25 A. Yes, sir, he was.

JACKSON V. DENNO - MIKE ADAMS - DIRECT EXAMINATION BY
MR. COOK

1 Q. Had he been arrested for anything leading up to this?

2 A. Yes, sir, he had been arrested for the blue light
3 offense.

4 Q. Do you remember what time this was?

5 A. Probably about 4:30 a.m. The last interview I had
6 documented was 3:50 with one of the witnesses and they
7 brought Mr. Rivers in after he had been cleared at the
8 emergency room.

9 Q. And this was -- the charge he was arrested for
10 occurred the night before. This is the early morning of
11 the 27th?

12 A. Yes, sir, it was in the a.m.?

13 Q. And he had already been transported from the hospital
14 to the sheriff's office?

15 A. Yeah, they brought him back to be interviewed.

16 Q. He had been cleared to go to the county?

17 A. He had been cleared to be incarcerated.

18 Q. And you were conducting this interview before they
19 actually housed him at the detention center?

20 A. Yes, sir.

21 Q. Who all was in the room when you interviewed
22 Mr. Rivers?

23 A. Mr. Rivers and Deputy Mahadeen.

24 Q. Was the interview recorded?

25 A. It was recorded. It malfunctioned and we couldn't

JACKSON V. DENNO - MIKE ADAMS - DIRECT EXAMINATION BY
MR. COOK

1 ever find it.

2 Q. How long was Mr. Rivers in the -- can you describe
3 the room that you conducted these interviews?

4 A. Maybe six-by-six, seven-by-seven. It's big enough
5 for a table about this size and three chairs.

6 Q. Is that where the majority of the in-house interviews
7 are done at the sheriff's office?

8 A. Yes, we have about 10 interview rooms.

9 Q. Did you advise Mr. Rivers of his Miranda rights?

10 A. Yes, sir, that was the first thing we did.

11 MR. COOK: Your Honor, may I approach the witness?

12 THE COURT: Yes, sir.

13 BY MR. COOK:

14 Q. Investigator Adams, do you know what this piece of
15 paper is?

16 A. Yes, sir, that's the Miranda form I did with
17 Mr. Rivers that night.

18 Q. Can you tell us the date on that?

19 A. September 27, 2014.

20 Q. Who signed that? Did you sign this paper?

21 A. Yes, sir, I did.

22 Q. Did Mr. Rivers sign it?

23 A. No, sir, he didn't.

24 Q. Did you actually present this paper to Mr. Rivers?

25 A. I did.

JACKSON V. DENNO - MIKE ADAMS - DIRECT EXAMINATION BY
MR. COOK

1 Q. Did he give you any reason why he wouldn't sign it?

2 A. He kept saying that he wanted to talk about the
3 incident with the running from the blue light or the
4 traffic incident, but he didn't want to talk about
5 anything else.

6 Q. Okay. Did he say that after you advised him of his
7 rights or beforehand?

8 A. He said it after I advised him, after we -- what we
9 do is whenever I sit down with whoever I'm interviewing, I
10 read each one of the Miranda forms -- I mean each one of
11 the Miranda statements and then present the form to them
12 and ask them to initial by each one and sign it at the
13 bottom. And when I did, he just kept asking me what I
14 wanted to talk to him about.

15 Q. Okay. Did he ever give any written statement to you?

16 A. No, sir.

17 Q. Did he give any unsolicited response to you after you
18 advised him of his rights?

19 A. Yes, sir, he talked about the wreck.

20 Q. What did he say about the wreck?

21 A. He admitted that he was a little bit drunk, smoked a
22 little pot and he had a little pot on him, or a little
23 marijuana on him.

24 Q. Did he -- did you coerce Mr. Rivers in any way to
25 give this statement?

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MR. COOK

1 A. No, sir.

2 Q. Did you see -- you said Deputy Mahadeen was in the
3 room?

4 A. Yes, sir, he was sitting to the side because he was
5 in custody.

6 Q. Did Deputy Mahadeen coerce Mr. Rivers in anyway to
7 give you this statement?

8 A. Deputy Mahadeen didn't say anything.

9 Q. Okay. Did Mr. Rivers ask you any questions?

10 A. Yes, sir, he continued to ask what I wanted to talk
11 to him about. And when I asked him -- I just brought up a
12 name, he just said I didn't know what -- he didn't know
13 what I wanted to talk about or -- let me see. After he
14 talked about the drinking and smoking marijuana and
15 throwing the marijuana out, he stated he didn't want to
16 talk about anything else. Asked him about Kacy and he
17 said he didn't know what I was talking about and then he
18 stated I think I need a lawyer. I told him -- at that
19 point the interview is through because he asked for an
20 attorney.

21 Q. Okay. Can you tell us -- I know he admitted to you
22 that he had been drinking and smoking. Did he appear
23 intoxicated to you?

24 A. No, sir, he was fine. And like I said, he had
25 already been cleared by the emergency room to be

JACKSON V. DENNO - MIKE ADAMS - CROSS-EXAMINATION BY
MR. GRIER

1 incarcerated.

2 MR. COOK: No further questions. Answer anything
3 Mr. Grier may have for you. Thank you.

4 CROSS-EXAMINATION

5 BY MR. GRIER:

6 Q. So your purpose in presenting this Miranda was to try
7 to discuss this -- these allegations of attempted murder?

8 A. I was presenting the Miranda before I talked to him
9 about anything.

10 Q. Okay.

11 A. That's usually the first thing I do with any
12 interview.

13 Q. Right.

14 A. My intent was to talk to him about why he was running
15 and the attempted murder, yes, sir.

16 Q. Okay. And he refused to sign?

17 A. He just basically -- it stayed in front of him while
18 we were talking. And he kept asking what I wanted to talk
19 to him about, but he never would sign it.

20 Q. Okay.

21 A. And I told him before we begin he had to sign this.

22 Q. All right. Well, at the point where he refused to
23 sign this -- this was done at the very beginning?

24 A. Yes, sir.

25 Q. I mean, wouldn't it have been appropriate to

JACKSON V. DENNO - MIKE ADAMS - REDIRECT EXAMINATION BY
MR. COOK

1 terminate the interview?

2 A. I would if he asked me -- he started asking me
3 questions after -- whenever I read him the Miranda, he
4 started asking me questions, continued the conversation.
5 And at the point he asked for an attorney, that's when I
6 terminated the interview?

7 Q. Okay. Okay. Okay.

8 THE COURT: Anything else from this witness?

9 MR. COOK: I've got one more question.

10 REDIRECT EXAMINATION

11 BY MR. COOK:

12 Q. Did you get any kind of report or anything from the
13 hospital? You said he had been cleared, what does that
14 mean?

15 A. Deputy Mahadeen had a -- any time they have a fit for
16 incarceration, they have to have a doctor's note to take
17 to jail before they will actually admit him for
18 processing.

19 Q. That just means they can't do any more to treat him?

20 A. That's just saying he's fit for incarceration. In
21 other words, he's not -- there's nothing to impair him or
22 anything that would endanger his life.

23 Q. It's just saying he's fit for incarceration. It's
24 not saying he's not impaired, is it?

25 A. I can't -- that's up to the doctor. He just said

JACKSON V. DENNO - MIKE ADAMS - EXAMINATION BY THE COURT

1 he's fit for incarceration.

2 MR. COOK: That's all, Your Honor.

3 THE COURT: All right. Anything further from the
4 witness?

5 MR. COOK: Nothing from the state, Your Honor.

6 EXAMINATION

7 BY THE COURT:

8 Q. Let me just ask, in your conversation with Mr. Rivers
9 during this time frame as you were going through his
10 Miranda, did he seem to understand your questions?

11 A. Yes, sir.

12 Q. Did he respond appropriately?

13 A. Yes, sir.

14 Q. Okay.

15 A. I read each -- we've got it divided up into like nine
16 or ten and we enter each one of them and I get some kind
17 of oral response from him that he understands.

18 THE COURT: Okay.

19 MR. GRIER: Your Honor, may I follow-up on that?

20 THE COURT: Yes.

21 RECROSS-EXAMINATION

22 BY MR. GRIER:

23 Q. But he didn't -- each one of those questions has a
24 place to mark it if you agree, doesn't it?

25 A. He wouldn't mark or sign anything. After we read

JACKSON V. DENNO - MIKE ADAMS - RECROSS-EXAMINATION BY
MR. GRIER

1 them, then I hand him the entire statement, tell him if
2 you will initial by each one of them where we've gone over
3 it and sign the bottom of it and he didn't sign or
4 anything.

5 Q. Didn't initial any of them?

6 A. No, sir, he wouldn't initial or sign anything.

7 THE COURT: But when you read them to him orally, did
8 he give you a response?

9 THE WITNESS: Yes, sir, he give me an affirmative,
10 yes, sir.

11 THE COURT: Thank you, sir. You may step down.
12 Anything else from state on this issue?

13 MR. COOK: Nothing from the state, Your Honor.

14 MR. GRIER: Judge, I think once he refused to execute
15 a Miranda, anything that would have transpired after that
16 would have been contrary to the whole purpose of Miranda.
17 I mean --

18 THE COURT: I don't think Miranda requires you to
19 sign a document.

20 MR. GRIER: But when it's presented and you don't and
21 you refuse to --

22 THE COURT: It means you refuse to sign a document,
23 it doesn't mean you don't understand your rights.

24 MR. GRIER: Yes, sir.

25 THE COURT: The question -- the main question -- the

1 question is after you've gone over Miranda, you ask them
2 if they understand it.

3 MR. GRIER: Yes, sir.

4 THE COURT: They tell you they do. Then you ask them
5 are you willing to speak to us and they can either speak
6 to you or not. There's no requirement that he sign a
7 document.

8 MR. GRIER: I understand there's not, otherwise,
9 there would be no admission of any statement.

10 THE COURT: Probably wouldn't be.

11 MR. GRIER: But when you presented it and you refuse
12 to sign it, it's different than an emergency situation or
13 some clear voluntary statement outside of the Miranda, you
14 know. At any rate, Your Honor, I'd ask it be excluded.

15 THE COURT: And I understand that, but what flies in
16 the face of that argument is that if -- you know, you ask
17 someone -- you go over their rights and they tell you they
18 understand them. You ask them to sign a piece of paper
19 and they refuse to do that, but then they're willing to
20 talk to you and answer your questions. So I think that --
21 there's a big difference in I'm not going to sign a piece
22 of paper, but I will talk to you. So I will allow that
23 in.

24 MR. COOK: Thank you, Your Honor.

25 THE COURT: Anything else?

1 MR. COOK: Nothing from the state, Your Honor.

2 THE COURT: Anything from the defense before we get
3 the jury out?

4 MR. GRIER: Nothing from the defense.

5 THE COURT: Anybody need to take a short break?

6 MR. GRIER: Just two minutes.

7 THE COURT: Go ahead and do that and come back in and
8 get started because it's getting late.

9 (A recess was taken from 3:33 p.m. to 3:41 p.m.)

10 THE COURT: Let's bring the jury in.

11 (The jury entered the courtroom at 3:43 p.m.)

12 THE COURT: All right, folks, I appreciate everyone
13 returning in a timely fashion and then you being held up
14 for an hour. I can assure you this, we have not been out
15 playing around and enjoying the beautiful day. We have
16 done some things that we think will make this trial move
17 along quicker and a little bit more efficient for you as
18 we go through the process.

19 I'll first begin -- you recall when we -- when this
20 case was called to trial that Mr. Rivers was charged with
21 one count of failure to stop for a blue light and three
22 counts of attempted murder. One of the things we took up
23 while you were waiting for us to start is Mr. Rivers has
24 entered a plea of guilt as to the failure to stop for a
25 blue light charge. So that's been resolved. And so that

1 issue -- the failure to stop for a blue light will not be
2 part of this trial. So you don't need to concern
3 yourselves with that.

4 The other thing we've done is we've taken up some
5 matters regarding admissibility of some of the evidence
6 and we've gone ahead and taken that up because, typically,
7 what will happen is if we don't take that up prior to
8 getting started, we'll get started with the trial, we'll
9 get to a certain point and there will be an objection and
10 the attorneys will ask Judge, can we please take up a
11 matter outside of the jury's presence. And I have to get
12 y'all to get up and go to your jury room while we do that.
13 We've taken care of several of those matters, so we won't
14 have to interrupt the trial once we get started.

15 So what we've done for the past hour is we've been
16 working and, hopefully, our efforts will speed things up
17 and make the case go a little quicker, little bit
18 smoother. But we are ready to begin the trial of the
19 case.

20 And what I wanted to share with you folks is this, I
21 think I recall one of the questions we had during the voir
22 dire was if any of you have ever served on a jury before
23 and no one raised their hand -- well, I'm sorry, we had
24 several raise their hand, whether it be civil or criminal.
25 But most folks, the vast majority of people don't really

1 have any experience like you're going to have this week
2 and sit in on an actual jury trial. Most folks'
3 experience with regard to jury trials is what they've seen
4 in the movies, what they've read in books or seen on
5 television. And we all know those trials, they're full of
6 high drama, intense action and rivetting circumstances
7 because that's Hollywood trying to hook you in to watch
8 that channel instead of watch some other channel.

9 Well, during the course of this trial, while any
10 number of those things could occur, the important thing
11 for you to keep in mind is this, and that is that this
12 trial is not for your entertainment. This trial is a
13 fundamental part of our democracy. It is a search for the
14 truth. And, oftentimes, in doing that, it can be slow, it
15 can be deliberate, it can sometimes be repetitive.

16 In other words, very different from what you've seen
17 in movies, read in books or seen on television. This
18 courtroom is a place of honor that is dedicated to the
19 protection and to the preservation of citizens' rights
20 through what many believe to be the greatest justice
21 system ever created. The attorneys that appear before you
22 are advocates for the parties that they represent, but
23 first and foremost, they are officers of the court sworn
24 to uphold the integrity and the fairness of our judicial
25 system. You should expect them to professional and

1 competent and ethical in the representation of their
2 client's interests.

3 Now, in just a moment, you're going to take an oath
4 to try this case and to reach a fair and a just verdict.
5 And so you are also expected to be professional,
6 reasonable and ethical in the performance of your duties,
7 which I have absolutely no doubt you will do. And I again
8 want to thank you for your contribution to our system of
9 justice here in this country.

10 Now, before I go any further, I'm going to ask you to
11 give your attention to Madame Clerk and she is going to
12 place you under oath for your role as jurors in this case.

13 (Whereupon, the jury was sworn.)

14 THE COURT: What I'm going to share with you, ladies
15 and gentlemen, briefly here is these are -- it's an
16 introduction to the trial of the case. This is not a
17 charge on the law. I will charge you on the law that is
18 applicable to this case at the end of this trial. But
19 what I'm going to do now is merely go through some things
20 to -- and explain certain procedures we're going to follow
21 so that it will be easier for you to follow along.

22 The defendant in this case, Mr. Rivers, is charged by
23 the indictments which we discussed earlier today. And as
24 you're aware, he is charged with three counts of attempted
25 murder. The elements of those charges -- the elements of

1 attempted murder, I will charge and explain to you when I
2 give you the law. The indictments, as I told you earlier,
3 they are simply the charge by which the case is brought
4 into court. They are not, in any sense, evidence of any
5 of the allegations that they contain. The defendant,
6 Mr. Rivers, has pled not guilty to those indictments, and
7 the state, therefore, has the burden of proving each of
8 the elements of the indictments beyond a reasonable doubt.
9 It is going be your duty, ladies and gentlemen, to decide
10 whether or not the state has met that burden.

11 Your purpose as jurors is to find and to determine
12 the facts. You are the sole judges of the facts in this
13 case. If at any time I make any comment about the
14 evidence or the facts, please disregard those comments.
15 Because only you the jury can decide what the facts are
16 based upon what you hear in court.

17 You are to determine the facts from the testimony
18 that you hear from witnesses who take the stand and
19 testify from the witness stand as well as any other
20 elements -- or items that may be introduced during the
21 course of the trial. It is up to you to determine the
22 inferences which you feel may be properly drawn from that
23 evidence. It is especially important that you perform
24 your duty of determining the facts diligently and
25 conscientiously because ordinarily there's no way that I

1 can correct an erroneous determination of facts by a jury.

2 Now, on the other hand, but with equal emphasis, the
3 same law that makes you the judges of the facts makes me
4 the judge of the law. The law given to you by the Court
5 is the only law that you may consider. Now, you must
6 accept it and you must follow it even though you may
7 disagree with it. I'm not allowed to tell you what I
8 think about the facts in this case and you're not allowed
9 to disagree with me about what the law is. Your job is to
10 take the law as I give it to you and apply it to the facts
11 as you find the facts to be from the testimony of
12 witnesses and any other evidence that may be introduced.

13 Now, until I advise you that it is appropriate to
14 begin your deliberations, you must not discuss this case
15 with anyone, and that includes amongst yourselves when
16 you're back in the jury room. There will come a time when
17 it will be appropriate for you to do that, but it's not
18 until I tell you that it's appropriate.

19 Now, during the course of this trial, the attorneys
20 are aware that you are jurors in this case, and so they
21 understand and they know that they're not to have any
22 communications with you. I tell you that for this reason,
23 I know both of these gentlemen, they're super nice guys.
24 But if you see them in the hall as you're coming and going
25 and they're not speaking to you, they're not being rude,

1 they're just trying to avoid having any communication with
2 the jury. And that's what they supposed to do.

3 It's important, folks -- this thing about not talking
4 about the case and not deciding any facts, it's very
5 important. You must keep an open mind and not decide any
6 issue in this case until all of the evidence has been
7 presented, the parties have had an opportunity to make
8 their closing remarks to you and I've given you the law.
9 Only then is it appropriate to begin your discussions. It
10 is your solemn responsibility to determine the guilt or
11 innocence of the defendant and your verdict must be based
12 solely on the evidence as it is presented to you during
13 this trial and on the law as I instruct it to you during
14 this trial.

15 Now, in just a moment, I'm going to recognize the
16 solicitor's office and the solicitor is going to make what
17 we call an opening statement. In that statement, you can
18 probably expect that he'll explain to you the issues in
19 this case or, at least, what he believes the issues are in
20 this case and about the evidence that he intends to
21 present. Once he's concluded his opening remarks, then
22 the defense counsel will have an opportunity to make
23 remarks if he chooses to. He's not required to, but he
24 has that right.

25 What's important for you to understand, regardless of

1 what you hear from the attorneys -- see, they are not
2 under oath. What they tell you is not evidence. It is
3 merely their contention as to what they believe the
4 evidence in this case will show. The evidence in this
5 case is going to be presented to you through the testimony
6 of witnesses who are placed under oath and testify on the
7 witness stand and then any other items or exhibits that
8 may come in during the course of the trial.

9 During the course of the trial, ladies and gentlemen,
10 you may have a situation where one of the attorneys says
11 something like Your Honor, we have a matter of law we need
12 to take up with the Court, or may we approach the bench.
13 If I can have the lawyers come up to the bench and I can
14 resolve an issue here at the bench, I'll do that, but
15 sometimes it's a little more involved than that. And so
16 if I have to take up a matter of law with the attorneys, I
17 may need to ask you to step back into your jury room.
18 Some of those matters, we took up pretrial, as I told you,
19 but there still may be issues that come up and I may have
20 to ask you to step back into your jury room.

21 If I do that, the only reason I'm doing that is this,
22 you recall I said to you earlier that I am not to
23 influence you on the facts of this case. That is solely
24 up to you to decide. Sometimes when I'm dealing with the
25 attorneys on a matter of law, it requires me to make some

1 comment about the testimony or about the evidence that was
2 presented. Obviously, I would want to protect you from
3 those comments because I'm not to have any influence over
4 you. So to be able to deal with that matter of law
5 properly, I may need to ask you to step back into the jury
6 room, let me resolve a legal issue and bring you back out
7 and we'll continue where we left off.

8 Now, in determining what the true facts are in this
9 case, you're going to have to decide whether or not the
10 testimony of a witness is believable. It's going to be my
11 responsibility to rule as a matter of law whether certain
12 testimony is allowed into the record or not, but once
13 testimony is allowed into this record, whether or not you
14 believe it is solely up to you to decide. In deciding
15 whether to believe a witness, you have the right to
16 consider the interest of any witness, the bias of any
17 witness, the opportunity for the witness to have seen the
18 matters and the things about which they testify, the way
19 the witness acts on the witness stand.

20 Folks, you have the right to consider anything that
21 is in this record that will help you in evaluating the
22 testimony of the witnesses. That means that it's your
23 duty to pay close attention to each witness, observe that
24 witness, listen carefully to the attorneys as well as to
25 the Court. Try not to let your thoughts wander, but pay

1 strict attention to all of the evidence and all of the
2 testimony so that at the conclusion of the presentation of
3 the case, I've given you the law, the lawyers have had the
4 opportunity to argue their closing arguments to you,
5 you'll then be able to go back into the jury room with all
6 of that and begin your deliberations in deciding this
7 case.

8 So again, I want to thank you for your willingness to
9 serve and for your duties that you're going to be
10 exercising here this week.

11 Now, before I turn it over to the attorneys, let me
12 first inquire from the state is there any objections or
13 exceptions to the Court's opening remarks?

14 MR. COOK: None from the state, Your Honor.

15 THE COURT: Anything from the defense?

16 MR. GRIER: None from the defense, Your Honor, but
17 may we approach before we argue, just very briefly?

18 THE COURT: All right.

19 MR. COOK: May it please the Court?

20 THE COURT: Yes, sir.

21 MR. COOK: Mr. Grier.

22 Ladies and gentlemen, bear with me one moment, make
23 sure this is on.

24 OPENING STATEMENTS

25 BY MR. COOK:

1 Now, the Judge stole a little bit of my thunder here.
2 Earlier, he said that what you're probably anticipating is
3 high drama and excitement. You, typically, watch -- the
4 only time you see courtroom proceedings are on TV and
5 those are the best ones. And I sat at home last night and
6 I was thinking what's a good way to come up with some
7 theme, story line to draw you in, because I'm sure this
8 morning, you saw this is three attempted murders. This is
9 going to be something -- this is going to be a juicy case
10 and there's a lot of stuff going on here. And I thought
11 about it. And they even teach us in law school and
12 seminars, you need a theme to get these people to grasp
13 onto what happened. And I thought about it and I thought
14 about it and, ladies and gentlemen, it's a senseless act.
15 That's what this was. I mean, there's -- Brandon Rivers
16 is charged with three attempted murders. You can see on
17 the screen, Chris Jones, Kacy Noe and Ronnie Blackwell.

18 On September 26, 2014, Brandon Rivers, who's seated
19 at the table across the room brought this confrontation on
20 himself and threw himself into the mix of a controversy he
21 had no business dealing with. The afternoon of
22 September 26, 2014, there was a dispute on Lymon Reece
23 Road at a house with some people who you'll hear about
24 later. There's too many names right now and it's not the
25 time to talk about it, but there was a dispute there. And

1 it came down to petty name calling. And Mr. Rivers went
2 to that house with a gun looking for confrontation. And
3 what ended up happening at that house is he fired off
4 shots with three people standing in front of their house,
5 one of them being shot and two others right beside him,
6 all in the line of fire of Mr. Rivers. He got on his
7 motorcycle, went to the house, had a confrontation and
8 opened fire on them in their own front yard.

9 You'll hear from the people who were at that house.
10 You'll hear from Mr. Jones, Ms. Noe and Mr. Blackwell.
11 They were out there. They were in the line of fire of
12 Mr. Rivers. They'll tell you what they saw. They'll tell
13 you why Mr. Rivers was there. They'll tell you what their
14 relationship, if any, to Mr. Rivers.

15 You'll also hear from law enforcement. Because after
16 this call came in that he's shooting, Mr. Rivers led
17 sheriff's deputies on a 14-mile high speed chase all the
18 way out to Kershaw. I know a lot of you are from the
19 Indian Land community and some of you here from right here
20 in the heart of Lancaster, but from where this happened
21 over by the bowling alley on 200 all the way to end up in
22 Kershaw is where Mr. Rivers ended up after deputies
23 finally got a hold of him. And you heard earlier, you
24 were instructed during selection that he was here for
25 trial for failure to stop for a blue light. He's already

1 pled guilty to that. But you'll hear about it because
2 that plays into everything else.

3 Now, Mr. Grier, as his attorney, is going to tell you
4 that Mr. Rivers is cloaked in innocence. He wears a cloak
5 of innocence and it's our job to prove he's guilty, not
6 his job to prove he's innocent. Ladies and gentlemen,
7 essentially, what that is, he is covered in innocence, but
8 every time we -- we're going to introduce evidence and
9 you'll hear testimony, we're going to tug on it. By the
10 end of the trial, it's going to come off and he's going to
11 be standing there in his guilt instead of his cloak of
12 innocence that he has right now. Everybody gets that.
13 When you come here, come to court, we'll show you why it
14 needs to be removed and why he's guilty.

15 Now, one thing I hesitate that -- I don't want you to
16 hesitate to -- when you're listening to the testimony of
17 witnesses, you know, there's going to be some
18 inconsistencies, otherwise, we wouldn't be here. If
19 everybody who was there, everybody who's involved is
20 telling the exact same story, there's no need for a trial.
21 That's what a trial is, we've got to take this piece and
22 this piece and what everybody is saying and hand it over
23 to you guys and tell us what really happened. Because I
24 wasn't there, just like none of you were there. We've got
25 evidence and witnesses and law enforcement. You have to

1 piece it all together. And if one person gets on this
2 witness stand and says this is how it happened, and then
3 another one gets up there and says well, this is how it
4 happens, if there's some variation in between, it doesn't
5 mean either one of them is lying. It just means to them
6 that is the truth. They're going to swear on the Bible
7 and say this is what happened.

8 You know, if I played a movie on these screens in
9 front of you, all 12 of you, 14, including the alternates,
10 if y'all watched it and then at the end, I asked you to
11 tell me what happened, there's a good chance that you're
12 not all going to say the exact same thing because you take
13 it in different. You have different backgrounds and
14 different experience and some things may stand out to you
15 more than something else more than it stood out to
16 somebody else beside you.

17 And the same thing happens when crimes occur. This
18 is -- talking about frantic, that's when it's frantic, not
19 in the courtroom. The courtroom is not like on TV, but on
20 the scene, there's people running everywhere. There's
21 some people over here, some people a little bit closer.
22 What they see is what they're going to tell you and it may
23 not add up exactly. But one thing that's going to be the
24 same from everybody that gets up here is that Brandon
25 Rivers was shooting at people out in front of this house.

1 Whether they said he was right here in this spot or
2 whether he shot this many times. The similarities in the
3 story, every one of them is going to come back with
4 Brandon Rivers went to Lymon Reece Road on September 26,
5 2014 and opened up fire on these three people. And it's
6 three separate cases. You're going to have to make a
7 determination on all three of these people.

8 And I said earlier this is a senseless act and
9 overreaction to pettiness. I mean, that's exactly what it
10 was. You'll probably think well, how did he intend to
11 murder all these people? Well, this is the law on
12 attempted murder. It's a person who with intent to kill
13 attempted to kill another person with malice aforethought
14 express or implied.

15 Now, malice is simply the frame of mind that you have
16 ill will toward somebody. It's almost a hatred, that this
17 person has done something to you or you have this negative
18 feeling towards them that justifies whatever you think
19 you're going to do to them. Now intent, that's where it's
20 tricky because I can't get inside Brandon Rivers's head
21 and say here's a piece of evidence that says he intended
22 to kill them. Expressed attempt, if he said I intended to
23 kill them. I'll just tell you that, that he said it, but
24 he's not going to do that.

25 So what you have to do is look at all this evidence

1 and look at the totality of the circumstances, you know,
2 he did this, he did this, he did this. Put that all
3 together and you can see he intended to shoot these
4 people. All three of them. He's not going to say I
5 intended to shoot this one, but not the other two. All of
6 them in close proximity. One of them actually got shot.
7 He got shot right between his legs. And as soon as he
8 went down, Brandon Rivers high tails it all the way out of
9 Kershaw.

10 Like I said, you're going to hear some slight
11 variations of the story, but the main plot of the story
12 from everybody is going to be that Brandon Rivers shot at
13 three people on September 26, 2014. When I come back, I
14 ask that you find him guilty of all three counts. Thank
15 you.

16 THE COURT: Mr. Grier?

17 MR. GRIER: May it please the Court?

18 THE COURT: Yes, sir.

19 OPENING STATEMENTS

20 BY MR. GRIER:

21 Ladies and gentlemen of the jury, thank you for your
22 service and your patience. I know you've been cooped up
23 here for a little while. It's getting late in the day,
24 but we're going to get started and I appreciate your
25 service. As the Judge said, probably your jury service

1 next to serving in the military may be the most compelling
2 service that you can give your country because without it,
3 we don't have a judicial system or we might have one that
4 we don't want to have.

5 I am an advocate. Just like Mr. Cook is an advocate
6 for the state, I'm an advocate for Brandon Rivers. I am
7 his guide, just like Mr. Gregory is your -- is the bailiff
8 and he's your guide through this courthouse because you
9 can go in the wrong door real easy around here, as I've
10 done many times myself or get kind of confused in the
11 labyrinth in here. Well, that's my job for my client and
12 that's what any attorney's job is for their client, to
13 guide them through the system because we're supposed to
14 know what we're doing. And hopefully, we will demonstrate
15 that in this trial.

16 The genius of our system is that for the first time
17 in history, you know, the common man was given access to
18 the judicial system that had been reserved. And it's been
19 bumpy along the way and it hasn't been for everybody all
20 the time, but it's a work in progress. But the idea and
21 the concept of our Constitution was to give the common man
22 and not just the privileged access to justice.

23 And what the framers did through our Constitution is
24 to create a system to hold wrongdoers -- a process to hold
25 wrongdoers accountable and to balance that process with

1 the freedom that had been absent to the common man prior
2 to the creation of this system. And you see that play
3 out -- you know, you haven't been a part to all the
4 proceedings, but prior to you coming today and the final
5 chapter of the state vs. Brandon Rivers, we've had a
6 couple of other proceedings. We've had a preliminary
7 hearing where the evidence is viewed in the light most
8 favorable to the state. It's not a trial. It's simply
9 determining whether the arrest was done legally with
10 probable cause. And we've have a grand jury consider the
11 evidence just to determine whether there was enough
12 evidence for the prosecution. Both of those proceedings
13 are in the light most favorable to the state and neither
14 of them are determinations of whether someone's guilty or
15 not. They're just checks on the process. And it's a --
16 you know, I don't want to lecture on the system, but
17 you're here and I hope you appreciate sharing with how we
18 got here today and a little bit about the process.

19 Well, today in this trial is a determination of the
20 guilt or innocence of Brandon Rivers for the ultimate
21 determination of that and the evidence that is viewed
22 through a different prism. It's viewed through the light
23 most favorable to the defendant, instead of in the light
24 most favorable to the state as in our previous
25 proceedings.

1 And our Constitution -- and the Judge mentioned it
2 and I'll just mention it again, two mechanisms to protect
3 freedom. And those are the presumption of innocence and,
4 as the solicitor said, Mr. Rivers is cloaked in innocence.
5 And only by meeting the burden of proof, the second
6 mechanism, the burden of proof beyond a reasonable doubt
7 can that cloak of innocence be removed.

8 Now, the state has that burden of proof. The defense
9 doesn't have to do anything, doesn't have to present
10 evidence. The state has to answer all of your questions.
11 If they don't answer all of your questions, well, they
12 probably haven't met their burden of proof. But the state
13 has that burden and they've got to answer all of the
14 questions.

15 Now, some of you, and I'm not sure who and what, had
16 served on juries in the past, maybe some of you civil,
17 some of you criminal. And I believe the Judge will likely
18 get into this in closing instructions, but I'm going to
19 tell you -- you know, because each of you really sit here
20 as your own private little jury today. Until you've heard
21 all the evidence, you know, it's not time to deliberate.
22 It's not time to discuss what your fellow jurors think.
23 You're each taking things in. And so that's why the Judge
24 asked you to wait before you -- and hear all the evidence
25 before you decide anything.

1 But the evidence that we will present, if we choose
2 to present any evidence, of course, would be things that
3 we think would assist the jury in making a determination
4 and advocating for his innocence. I think what -- in a
5 civil case, the burden of proof is merely a preponderance
6 of the evidence. And this is not a civil case, but it
7 could be. If one of the victims in the case was struck
8 and he could sue for money. And if he had sued for money,
9 this would -- you know, same courtroom, same judge, same
10 12 people could be considering whether or not someone that
11 was struck by a bullet is entitled to compensation for
12 their injuries. And that would be a civil case.

13 Now, if that -- if this were a civil case, then the
14 burden of proof would be a preponderance of the evidence,
15 merely tipping the scales, more likely than not. I
16 believe more likely than not Brandon Rivers is responsible
17 for that. If the scales are not tipped, then you -- then
18 it would be the state -- the person bringing the lawsuit
19 wouldn't have met their burden of proof.

20 This is a criminal case. We're not talking about
21 money. In a civil case, what do you get if you win, if
22 you prove by more likely than not, you get money, or, at
23 least, a piece of paper saying your entitled to money..
24 We're talking about freedom and that's why in a criminal
25 case, the burden of proof is beyond a reasonable doubt.

1 Not merely probably did it, beyond a reasonable doubt.
2 Beyond a reasonable doubt is -- our supreme court has said
3 is the kind of doubt that would cause one to hesitate to
4 act.

5 Our Supreme Court has said that if you are firmly
6 convinced of the guilt of the defendant, then you must
7 convict him; however, if you find the real possibility of
8 innocence, then you must acquit him. So the State's
9 burden of proof isn't merely more likely than not, it's
10 proving that it's not really possible, it's not even
11 possible that a person charged with a crime is innocent.

12 The solicitor told you what his version of what
13 transpired at Lymon Reece Road that day was, and no
14 question about it, Mr. Rivers was at that location that
15 day, but he didn't go with any ill intent and he didn't
16 commit any crimes. The state's evidence will be from
17 witnesses who all are either related, family, or friends
18 who have an agenda of not telling the whole story because
19 it makes them look bad. And I think that's going to be
20 evident as you listen to this evidence in this trial,
21 you're going to see a lot of things are inconsistent or
22 they don't get told because it's not the truth. The
23 allegations against Mr. Rivers are not the truth. And
24 that's the reason that the state's witnesses they're
25 biased and they will be, of course, trying to cover

1 themselves.

2 Because, you know, talk about a senseless act being
3 the thing, yeah, the whole silly situation is senseless,
4 stupid argument over -- started with a picture getting
5 knocked off a wall between apartments and precipitating
6 into just a bunch of silliness that is senseless and
7 there's no question about that.

8 But what you are -- I believe you will -- what you'll
9 learn is number one that Mr. Rivers has taken
10 responsibility for a crime that he did commit. He did run
11 from the law. He was present that day. He didn't know
12 what the outcome of this argument -- what transpired at
13 Lymon Reece Road, he didn't know the outcome. He wasn't
14 running because of anything that he had done. He was
15 running because he was -- didn't have a driver's license
16 and he had marijuana on him and he was -- he was not using
17 good judgment, but he did not shoot anyone.

18 And what you'll -- I think when the evidence is all
19 said and done, what it's going to show you is, like I
20 said, witnesses against the defendant have a bias in that
21 they're family or friends. And number two, that the
22 gunfire that transpired was either that of the witnesses
23 that are going to be testifying against Mr. Rivers or of
24 another gentleman who was on the scene, named Brian
25 Richard Steele, was a person that went to the scene

1 because he was mad because after the picture got knocked
2 off the wall, somebody cussed out his nine-year-old niece
3 and he went over there.

4 So Mr. Rivers did not stop for a blue light as he
5 should have done. He's taken responsibility for his

6 crime, so that's not something you'll have to decide. And
7 I believe after you've heard all the evidence and you've
8 had a chance to deliberate and consider what each of your
9 fellow jurors believe, you will find the state most
10 certainly has not met their burden of proof and that
11 Mr. Rivers is not guilty. Thank you for your attention.

12 THE COURT: Mr. Cook?

13 MR. COOK: Your Honor, I've got one matter of law
14 that we failed to take up prior to opening statements,
15 unless -- it's a -- when Mr. Grier consents to it and then
16 I can hand it up -- never mind, we got it worked out.

17 THE COURT: Okay. Ready to call your first witness?

18 MR. COOK: Yes, sir. The state calls Phillip Hall.

19 THE CLERK: Place your left hand on the Bible and
20 raise your right.

21 PHILLIP HALL, after having first being duly sworn,
22 testified as follows:

23 THE CLERK: Please be seated in the witness stand.

24 DIRECT EXAMINATION

25 BY MR. COOK:

PHILLIP HALL - DIRECT EXAMINATION BY MR. COOK

1 Q. Please state your name for the record.

2 A. Phillip Hall.

3 Q. Mr. Hall, who is your employer?

4 A. I work for the City of Lancaster Police Department.

5 Q. How long have you been with the city?

6 A. I know I started with them in 2000, but prior to
7 that, I started with the sheriff's office back in '95 or
8 '96. I'm not exactly sure what year it was.

9 Q. So you've been in law enforcement for the past 20
10 years?

11 A. Yes, sir.

12 Q. What's your current role with the police department?

13 A. Currently, I'm the lieutenant over special
14 operations, which consist of six detectives -- or six
15 investigators, that consisting of criminal investigators,
16 gang investigators and narcotic investigators.

17 Q. Did you respond to Lymon Reece Road on September 26,
18 2014?

19 A. I did.

20 Q. Is that within the city limits of Lancaster?

21 A. It's just on the outskirts of the city right there.
22 Matter of fact, our maintenance shop touches the backyard
23 of where this incident occurred, our city maintenance
24 shop.

25 Q. Being a city police officer, why did you go to the

PHILLIP HALL - DIRECT EXAMINATION BY MR. COOK

1 location that night?

2 A. Because it was that close to the city limits. I
3 figured that -- and I was actually in the area when the
4 call came out. I was actually in the south side area on
5 Hampton Road, which is a block away from where the actual
6 shooting incident occurred. Myself and another sergeant
7 were just pretty much patrolling the south side area. And
8 due to the call of it being a person shot, I'm also a
9 First Responder and medically trained, I figured I could
10 render aid by that way as well because I didn't know how
11 long it was going to be for EMS to arrive.

12 Q. How long did it take you once you heard the call to
13 get to the incident location?

14 A. I was there in maybe two or three minutes. I ran
15 blue lights and sirens.

16 Q. Did you see Mr. Rivers?

17 A. I did not.

18 Q. When you arrived to the location -- is it a house?
19 Can you describe what Lymon Reece is?

20 A. I came in off of Lynwood Drive and Lymon Reece splits
21 Lynwood Drive and Great Falls Highway or South 200.
22 Because I came from the south side, I came in off of
23 Lynwood Drive. As I pulled up -- as you turn off Lymon
24 Reece, again, the city maintenance shop is right there on
25 the right. You get to the top of the hill, there's a --

PHILLIP HALL - DIRECT EXAMINATION BY MR. COOK

1 used to be an elderly home, but I think it's a church now.
2 Beside it is a duplex house and right past that is a
3 duplex house and that's where this location is. It's a
4 duplex house as well, but the front door of it actually
5 face the bowling alley parking lot.

6 Q. Okay. Do you remember what time it was when you went
7 to the location?

8 A. It was a little bit after 10:00. I think it was
9 around 10:00, maybe 10 minutes after 10:00. I know it was
10 right there at 10:00 o'clock.

11 Q. When you arrive on the scene, is anybody with you or
12 are you alone?

13 A. I think me and Officer Mahadeen arrived at the same
14 time. I think he came in off of Great Falls Highway.

15 Q. Okay.

16 A. And I could see the victim from where I was because I
17 could see the backyard -- or the side where he was laying.

18 Q. Okay.

19 A. Which I believe was the backyard.

20 Q. So when you pulled up to the residence, how many
21 people were outside when you pulled up?

22 A. There was three, one being the victim, another male,
23 another female and Mahadeen.

24 Q. The victim that you're describing, do you know his
25 name?

PHILLIP HALL - DIRECT EXAMINATION BY MR. COOK

1 A. Not without looking at the report.

2 Q. Okay. Where in the yard was -- the victim that
3 you're -- when you say the victim, how was he a victim,
4 what type of injury?

5 A. He had a gunshot wound.

6 Q. Where was the gunshot wound?

7 A. Initially, when we first got there, he said it was
8 his stomach. Again, I assisted him when I first got
9 there, which means I tried to find where the bullet was.
10 I noticed when I checked his stomach, it wasn't in his
11 stomach. He said down lower. That's when I was able to
12 see blood coming out of his underwear filling up his
13 pants. That's when I noticed that he did have a bullet
14 hole in his penis and it did actually penetrate through
15 and through on the penis and strike him in the hip, the
16 hip area or inside leg.

17 Q. Did you remove his clothing?

18 A. I did not. Only thing I done -- I didn't have any --
19 all I had on was a pair of latex gloves. I didn't have
20 any medical equipment with me. But we were able to use
21 his underwear -- or he was able to use his underwear to
22 apply pressure.

23 Q. Were you there when he was taking all this stuff off?

24 A. He didn't take anything off. I think EMS took
25 everything off.

PHILLIP HALL - DIRECT EXAMINATION BY MR. COOK

1 Q. Okay. But you personally -- you saw the wound?

2 A. Oh, yes.

3 Q. Okay. Was anybody else injured on the scene?

4 A. Not to my knowledge because he was the only one that
5 was -- matter of fact, he was the only one injured because
6 the female said, He's been hit, he's been hit. And I
7 can't remember what the other guy was doing, but like I
8 said, my first thing was -- I knew Mahadeen was there, so
9 I knew I had somebody watching my back, so I went straight
10 to him to try to do some medical.

11 Q. Did he give any statement to you other than he was
12 shot?

13 A. No, sir.

14 Q. The victim?

15 A. He did say he --

16 MR. GRIER: Your Honor, if he's going to make a
17 statement that was said, that's going to be hearsay from
18 someone on the scene.

19 THE COURT: All right. Sustained as to hearsay.

20 MR. COOK: Beg the Court's indulgence one moment.

21 BY MR. COOK:

22 Q. Investigator Hall, do you recognize what this is?

23 A. This is the backside of the duplex apartments.

24 Q. Okay. Is this where you went the night of
25 September 26?

PHILLIP HALL - DIRECT EXAMINATION BY MR. COOK

1 A. Yes, sir, it was.

2 Q. Okay. Now, did you take this picture?

3 A. No, I did not.

4 Q. Okay. Don't touch it right now. You can touch it at
5 some point. So obviously -- is this a picture of the

6 night of the incident?

7 A. It is not.

8 Q. Okay. So other than it not being the actual night of
9 the incident, does it appear in the same shape or the same
10 layout as it was the night you actually went?

11 A. Correct. Yes.

12 Q. Now, you can use your finger and touch it now. Can
13 you mark where the victim was when you arrived?

14 A. It would be on the backside of this car right here.
15 He was laying on the back -- but this car wasn't there.
16 There was a vehicle on scene, but it was parked right here
17 in front of this tree.

18 Q. Okay.

19 A. But with that vehicle being gone, he was on -- he was
20 in between this building and the bowling alley just
21 backside of that vehicle.

22 Q. Okay. Did you take any statements from anybody?

23 A. I did not.

24 Q. Did you collect any physical evidence?

25 A. I helped locate, but never touched it.

PHILLIP HALL - DIRECT EXAMINATION BY MR. COOK

1 Q. What did you locate on the scene?

2 A. When EMS got there, again, they -- I showed them
3 where the gunshot wound was. You know, told them they
4 needed to get a helicopter out, so forth and so on. Once
5 we started moving the patient, once we rolled him over, I
6 starter gun, if you're familiar with people who run
7 marathons, you hit the starting line and you fire it.
8 That kind of gun was laying right there. I knew it wasn't
9 a regular weapon. And I knew that wasn't a pistol pistol,
10 but I knew it was a starter pistol, which means it don't
11 fire bullets. That was laying up under him. I don't know
12 where it came from, I never saw it. Like I said, he was
13 laying on his back when I first got there, so I'm not sure
14 if it come off his person or whatnot.

15 Q. Okay.

16 A. I never seen him remove it from himself.

17 Q. Okay.

18 A. And then --

19 Q. No. You said it's a starter pistol. Can you explain
20 what that is?

21 A. All it does is make a pop, but no lead comes out.
22 It's like -- again, if you're standing at the beginning of
23 a marathon or something like that and they said on your
24 mark, get set, go, pow. That's what a starter pistol is.

25 Q. So no projectile comes out?

PHILLIP HALL - DIRECT EXAMINATION BY MR. COOK

1 A. Right. It's just for noise only.

2 Q. Did you examine this gun or could you just tell?

3 A. No, I could just -- it looked like a revolver, but
4 the cylinder on it was a little bit smaller than a normal
5 revolver. And again, it didn't -- to me, it didn't look
6 like a functioning pistol, a starter pistol.

7 Q. Now, Mr. Jones, the victim in this case, obviously,
8 he was injured, but other than that, can you describe how
9 he was acting, what his mind-set was?

10 A. Other than him complaining about his injury because
11 it was pretty severe. Again, it went through the penis
12 and inner of his thigh. He was really fussing and cussing
13 about that. He was making comments about --

14 MR. GRIER: Your Honor, he's making hearsay
15 statements.

16 THE COURT: Sustained.

17 BY MR. COOK:

18 Q. Was there any evidence that Mr. Jones was
19 intoxicated?

20 A. I don't recall.

21 Q. Do you remember if it -- I know it's been a while, do
22 you remember the weather that night? Do you remember if
23 it was hot or cold?

24 A. I want to say it was warm.

25 Q. The two other people that you said were in front of

PHILLIP HALL - DIRECT EXAMINATION BY MR. COOK

1 the house when you arrived, any evidence that they were
2 intoxicated?

3 A. I never did -- I never had any interaction with them.
4 Like I said, my goal was to take care of him, get him
5 assessed, go ahead and give EMS an update. And my only
6 dealings the whole time was pretty much between me and
7 him, and then when EMS arrived and I walked away. And
8 that's when Investigator Adams arrived and I told him what
9 we had. And then based on what was told to us, we went to
10 the road area where the actual shots came from and that's
11 when we located two rounds.

12 Q. You said you personally located --

13 A. I think I located one and I think Officer --
14 Investigator Adams located one, a shell casing.

15 Q. Do you recognize what this is?

16 A. This is a view from the roadway towards the house?

17 Q. Okay. Can you -- you said you found -- did you find
18 a -- what did you find, you said a bullet or projectile --

19 A. I said a shell casing.

20 Q. What is a shell casing?

21 A. That's what the actual bullet -- you know, a bullet
22 is made of a primer shell, a casing, gun powder and lead.
23 The only thing I had that we found was the actual gun --
24 the primer and the shell casing, which means a bullet.

25 Q. Is a shell casing -- if you found a shell casing with

PHILLIP HALL - DIRECT EXAMINATION BY MR. COOK

1 nothing in it, what does that indicate to you?

2 A. Well, that it's a fired shell casing. And you can
3 look at the primer and tell it had been fired.

4 Q. Now, how many of those --

5 A. I think I just found one. I'm not exactly sure how
6 many was exactly located.

7 Q. Could you mark on this picture where you found it,
8 the general area?

9 A. I know it was close to this gravel parking lot,
10 somewhere right in this area right there.

11 Q. Did you touch it, did you remove it?

12 A. I did not. I think I just got like a paper towel or
13 a cup or something to mark it because CSI hadn't arrived
14 yet with the numbers, number markers.

15 Q. Did you find any projectiles or did you just find
16 casings?

17 A. Just the casings.

18 Q. Okay.

19 MR. COOK: I think that's all I've got for you,
20 Lieutenant Hall. Answer any questions Mr. Grier may have
21 for you. Thank you.

22 CROSS-EXAMINATION

23 BY MR. GRIER:

24 Q. Lieutenant Hall, you said you got there about --
25 Lieutenant -- a couple minutes after the call?

PHILLIP HALL - CROSS-EXAMINATION BY MR. GRIER

1 A. Just a few minutes, about three -- however long it
2 takes me to get from south side Hampton Road area --

3 Q. Okay.

4 A. -- to there, which is cross over Market Street, get
5 on Water Works Road and I'm right there.

6 Q. You responded to something that went out on --

7 A. Sheriff's office channel.

8 Q. On the sheriff's office channel?

9 COURT REPORTER: Stop.

10 I didn't get your answer.

11 MR. GRIER: I'm sorry.

12 COURT REPORTER: You responded something that went
13 out on.

14 THE WITNESS: Yeah, I scan with my radio. Meaning, I
15 monitor the city and county and EMS and fire.

16 BY MR. GRIER:

17 Q. Okay. So you're sitting at home or?

18 A. No, sir, I'm working. I'm on duty, south side.

19 Q. When you arrive, you're the very first?

20 A. Like I said, me and Mahadeen came at the same time.

21 Q. All right. Now, the pictures that we're looking at
22 here, that's just broad daylight?

23 A. Yes, sir.

24 Q. Okay. It wasn't like that at 10:00 at night or
25 whenever you rolled up there, was it?

PHILLIP HALL - CROSS-EXAMINATION BY MR. GRIER

1 A. No, sir.

2 Q. In fact, the lighting there is kind of sketchy, isn't
3 it?

4 A. It is.

5 Q. And you recognize this photograph?

6 A. Yes.

7 Q. Okay. What would you describe that as?

8 A. That's the same vehicle -- the same thing we had over
9 there, but it was at dark.

10 Q. Okay.

11 A. But this is the actual crime scene photo here.

12 Q. Right. Okay. So that's the actual car sitting there
13 that was there contemporaneous with your response?

14 A. Correct. Right.

15 Q. The other picture was just another car sitting there,
16 it wasn't the same car?

17 A. Yeah, that's not -- I don't know if it's the same car
18 or not. I don't think it is.

19 Q. Right.

20 A. That's the car, that's the SUV, looks like, right
21 there.

22 Q. Do you -- did the fire department respond and set up
23 lights or who set up the lights?

24 A. That wasn't there. I don't know. Like I say, after
25 we got the scene secured, I got -- once I got done, they

PHILLIP HALL - CROSS-EXAMINATION BY MR. GRIER

1 said they didn't need us any more. We cleared up and
2 headed back to the city, so anything that happened after
3 me -- after showing Investigator Adams that shell casing,
4 I asked him if he needed us any further and he said
5 negative and we cleared up and went back to the city.

6 Q. You actually found that starter pistol, though, you
7 were the one that found it?

8 A. Yeah, like I said, when EMS was there, that's when we
9 started removing the clothing and that's when we found it
10 up under him.

11 Q. Okay. Up under him --

12 COURT REPORTER: Stop. One at a time, please. I
13 didn't get your question.

14 BY MR. GRIER:

15 Q. Up under his torso or what part of his body?

16 A. It was up under his backside, up under his, I reckon,
17 his butt you would say. Like I said, it was laying up
18 under him. I never rolled him over because of the
19 injuries I could see. I could see it was a
20 through-and-through and then the injury on his inner
21 thigh, so I never did roll him over. Just pretty much
22 tried to keep him calm until EMS got there and they were
23 able to put some bandages on him.

24 Q. This starter pistol is comparable in looks to a
25 regular pistol?

PHILLIP HALL - CROSS-EXAMINATION BY MR. GRIER

1 A. It is, I mean if you're not familiar with pistols.

2 Q. And it's dark out there. Size-wise, is it comparable
3 to --

4 A. It would probably compare to a small revolver 22
5 type.

6 Q. Okay. Have you ever sat on a gun before?

7 A. Have I ever sat on one?

8 Q. Yeah.

9 A. Not intentionally.

10 Q. Well, I understand not intentionally, but
11 unintentionally, perhaps?

12 A. No.

13 Q. You think you could sit on it without feeling it?

14 A. Yeah, you'd probably feel it.

15 Q. Did you get any explanation for what a starter pistol
16 is doing?

17 A. I didn't even ask him.

18 Q. Okay.

19 A. Like I said, once we located that, I advised Mahadeen
20 here's is a starter pistol and he pretty much picked it up
21 and secured it in his vehicle.

22 Q. You didn't take any official statements from anyone?

23 A. I didn't speak to anyone.

24 MR. GRIER: Thank you. No further questions.

25 MR. COOK: Nothing further from Lieutenant Hall.

DANIEL MAHADEEN - DIRECT EXAMINATION BY MR. COOK

1 THE COURT: Thank you very much, sir. You can step
2 down.

3 MR. COOK: State calls Deputy Mahadeen.

4 THE CLERK: Place your left hand on the Bible and
5 raise your right.

6 DANIEL MAHADEEN, after having first being duly sworn,
7 testified under oath as follows:

8 THE CLERK: Please be seated in the witness stand.

9 DIRECT EXAMINATION

10 BY MR. COOK:

11 Q. Please state your name for the record.

12 A. Daniel Mahadeen.

13 Q. Is it Deputy Mahadeen?

14 A. Yes.

15 Q. Deputy Mahadeen, who is your employer?

16 A. Lancaster County Sheriff's Office.

17 Q. How long you been with the sheriff's office?

18 A. Since 2012.

19 Q. Okay. What are your general duties as a deputy with
20 the sheriff's office?

21 A. Respond to calls for service, serve civil papers,
22 warrants.

23 MR. GRIER: I'm sorry, I'm having trouble
24 understanding. Could you pull that mic a little more in
25 front of you?

DANIEL MAHADEEN - DIRECT EXAMINATION BY MR. COOK

1 THE COURT: There you go.

2 BY MR. COOK:

3 Q. Did you respond out at Lymon Reece Road September 26,
4 2014?

5 A. I did, I was the first responder on scene.

6 Q. When you got to the scene, what was -- what did you
7 see?

8 A. It was pretty chaotic. There was a black male laying
9 on the ground. There were other people standing around
10 saying that he's been shot. So myself and Investigator
11 Phillip Hall, he arrived with me on scene, we secured the
12 scene. Phillip Hall started rendering aid trying to
13 figure out where he's been shot. I started -- I asked
14 questions -- there was some female on scene, I can't
15 remember who it was. I think it was Kacy Noe who I talked
16 to. I asked her -- I started asking her what happened and
17 if the shooter was still on scene.

18 MR. GRIER: Your Honor, I'm having difficulty
19 understanding.

20 THE COURT: Yes, sir, you need to speak right into
21 that microphone, please, sir.

22 THE WITNESS: Okay.

23 BY MR. COOK:

24 Q. So did you establish who, if anybody, lived at this
25 residence?

DANIEL MAHADEEN - DIRECT EXAMINATION BY MR. COOK

1 A. Yes, there was a lot of people that lived at that
2 residence.

3 Q. Can you tell us who lived there?

4 A. It was Kacy Noe. I'm not sure if Ronnie lived there
5 or not, but he was there on scene as well, Ronnie
6 Blackmon, and also a Jerry Railey, who was also on scene
7 as well. But the subject that was shot, that was a
8 Christopher Jones.

9 Q. Okay. Just for clarification, Ronnie, his last name
10 is Blackmon or Blackwell?

11 A. In the report, it says Blackmon.

12 Q. Did you call EMS to the scene or were they -- do you
13 remember?

14 A. Our dispatchers -- whenever we get shots fired like
15 that or someone's been shot, they call EMS and EMS gets
16 staged on standby until the scene is secured by law
17 enforcement.

18 Q. Just to back up a little bit, on the way there, did
19 you ever see Brandon Rivers at that location?

20 A. No, I did not.

21 Q. So when you arrive, you see a black male on the
22 ground. Did you personally see his injury?

23 A. I did observe his injury, yes, sir.

24 Q. Was he still fully clothed when you saw him?

25 A. Yes. He -- when I started walking up to him, that's

DANIEL MAHADEEN - DIRECT EXAMINATION BY MR. COOK

1 about the same time that he started unzipping his pants so
2 that he could -- so they could check his lower parts to...

3 Q. Did you take any written statements on the scene?

4 A. I did, I took one written statement from Kacy Noe.

5 And Investigator Adams told me he was going to take video
6 statements, different statements from everyone.

7 Q. Investigator Adams, did you call him to the scene or?

8 A. Yes, he was notified to respond to the scene along
9 with CSI.

10 Q. Okay. Did you see anybody else injured besides
11 Mr. Jones?

12 A. No, no one else was shot.

13 MR. COOK: That's all I've got for you, Deputy
14 Mahadeen. Answer anything Mr. Grier may have for you.

15 CROSS-EXAMINATION

16 BY MR. GRIER:

17 Q. Deputy, sorry, I'm too stubborn to get hearing aids,
18 I think. Did you say that you didn't see anyone at the
19 scene besides Christopher Jones?

20 A. No, I said there was multiple people on scene, I did
21 not see Brandon Rivers on scene.

22 Q. Now, you spoke with multiple people, but you didn't
23 take statements?

24 A. I took --

25 Q. You took a written statement from --

DANIEL MAHADEEN - CROSS-EXAMINATION BY MR. GRIER

1 A. I took some verbal statements. I can't remember what
2 they said at the -- right now, but I did take a written
3 statement from Kacy Noe.

4 Q. How about the starter pistol, did you -- I
5 think Lieutenant Hall said he actually located it; is that
6 correct?

7 A. That's correct, because Lieutenant Hall was with EMS
8 when they moved him and Lieutenant Hall said he found the
9 pistol. I secured it due to so many people walking
10 around. I didn't want it to be compromised, so I secured
11 it in my vehicle until CSI got there.

12 Q. Now, did you secure the clothing? Was Chris Jones's
13 clothing removed on the scene?

14 A. I don't believe so. I believe CSI was the one that
15 went to the hospital and secured it.

16 Q. Well, did you look at the clothing and make any
17 observations of it?

18 A. I can't recall.

19 Q. Did you see a bullet entry?

20 A. I did observe the injuries, yes.

21 Q. On his person?

22 A. Yes.

23 Q. But he was wearing pants and underwear?

24 A. Yes.

25 Q. Did you see a bullet entry on his pants or underwear?

DANIEL MAHADEEN - CROSS-EXAMINATION BY MR. GRIER

1 A. I didn't look that hard, no.

2 Q. So you did not see them?

3 A. No.

4 Q. Have you looked since or do you know whether there
5 was one?

6 A. No, I do not.

7 Q. I guess some witnesses will be presented about some
8 text messages that were made. Did you take any evidence
9 on the scene yourself personally? Did you take any cell
10 phones or --

11 A. I did not take any cell phones.

12 Q. Okay. Did you make any determination of who that
13 starter pistol belonged to?

14 A. I asked people -- as Christopher was being loaded up
15 onto the ambulance, I asked everyone around along with
16 Christopher whose pistol it was and no one claimed it.

17 Q. So the starter pistol is laying there underneath Mr.
18 Jones, but there's explanation where it came from or who
19 it belonged to?

20 A. That's what everyone was saying.

21 MR. GRIER: Thank you.

22 THE COURT: Any redirect?

23 MR. COOK: No, Your Honor.

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

CHASE MINORS - DIRECT EXAMINATION BY MR. COOK

1 Get y'all to step up here real quick.

2 (WHEREUPON, a bench conference was held in the
3 presence of the jury but not within the hearing of the
4 jury.)

5 MR. COOK: State calls Deputy Chase Minors.

6 THE CLERK: Place your left hand on the Bible and
7 raise your right.

8 CHASE MINORS, after having first being duly sworn,
9 testified as follows:

10 THE CLERK: Please be seated in the witness stand.

11 DIRECT EXAMINATION

12 BY MR. COOK:

13 Q. Please state your name for the record.

14 A. Chase Minors.

15 Q. Mr. Minors, who is your employer?

16 A. Lancaster County Sheriff's Office.

17 Q. How long have you been with the sheriff's office?

18 A. Seven years.

19 Q. What's your current role at the sheriff's office?

20 A. Currently, I'm now assigned to the patrol division,
21 K-9 and FDO.

22 Q. So a little bit of everything?

23 A. Yes, sir.

24 Q. You were working September 26, 2014?

25 A. Yes, sir.

CHASE MINORS - DIRECT EXAMINATION BY MR. COOK

1 Q. Were you patrolling or what were you doing that
2 night?

3 A. At this time, I was currently assigned to the
4 community action team with the sheriff's office and we
5 were at the sheriff's office debriefing for an event we
6 had going on that night and when this call came out.

7 Q. Okay. And you referenced this call, what type of
8 call?

9 A. It was a shots fired call at that time on Lymon Reece
10 Road.

11 Q. Did you actually respond to Lymon Reece?

12 A. I did not.

13 Q. When you were at the sheriff's office and you hear
14 the call, where did you go when you left the sheriff's
15 office?

16 A. I was coming down Market Street going to Lymon Reece.
17 I think Deputy Mahadeen at that time determined the
18 suspect left on a motorcycle and they were possibly headed
19 towards Powell Avenue on Airport Road. And I cut down
20 Lynwood Drive to go to Powell Avenue to check that area.

21 Q. How far away from Lynwood Drive is Powell Avenue?
22 How long did it take you to get from where you were to
23 where Mr. Rivers allegedly was?

24 A. I would say probably less than two miles maybe.

25 Q. Did you ultimately see who -- the suspect that you

CHASE MINORS - DIRECT EXAMINATION BY MR. COOK

1 believed to be Brandon Rivers?

2 A. Yes, sir, when I was coming off Lynwood Drive, I was
3 going to make a right turn to go check Powell. At that
4 point, I seen a red motorcycle which was described from
5 deputies on scene to be the suspect vehicle.

6 Q. Did you ever hit your blue lights on Mr. Rivers?

7 A. Yeah. Once they told me it was a red motorcycle, I
8 then made a left turn behind it and activated my blue
9 lights on my patrol car.

10 Q. Your patrol car, is it a blacked out car, is it a
11 fully marked car? What kind of car do you have?

12 A. At the time, I was in a 2009 ford F150 crew cab,
13 fully marked, blue lights, light bar on top, grill
14 headlights.

15 Q. So if I saw you pull up in it, I'd know you were a
16 police officer?

17 A. Yes, sir.

18 Q. Does it have sirens?

19 A. Yes, sir.

20 Q. When you decided that you were going to pull over the
21 suspect that was described as Brandon Rivers, did you cut
22 your siren on?

23 A. Initially, I just turned my blue lights on. To
24 initiate a traffic stop, I don't turn my sirens on
25 until --

CHASE MINORS - DIRECT EXAMINATION BY MR. COOK

1 Q. Was there any -- was there another vehicle between
2 your truck and the motorcycle?

3 A. { No, sir.

4 Q. Okay. At what point did you actually get up behind
5 him at -- where at?

6 A. Once I made -- once I seen the motorcycle, I turned
7 up behind him because I wanted to confirm that's what we
8 were looking for. I turned left and got behind him and I
9 confirmed the description of the motorcycle. And at that
10 point, I initiated my blue lights.

11 Q. What did the person on the motorcycle do when you hit
12 your blue lights?

13 A. The subject turned around, looked at my patrol
14 vehicle and then accelerated pretty fast.

15 Q. Was this at a stoplight or was this going down the
16 road?

17 A. We were approaching a stoplight at Rivers Warehouse,
18 where it turns into McIlwain Road -- Airport Road turns
19 into McIlwain and Lynwood is on the right. Right before
20 we got to that stoplight is when he looked back and
21 accelerated.

22 Q. Did he ever pull over for you?

23 A. Not until he ended up wrecking.

24 Q. So he wrecked the motorcycle?

25 A. Yes, sir.

CHASE MINORS - DIRECT EXAMINATION BY MR. COOK

1 Q. Before he wrecked, how fast was Mr. Rivers going
2 while you were tailing him?

3 A. At some points, we were 80, 85 plus. At that point,
4 I wasn't looking at my speedometer. Once I had another
5 deputy behind me calling the pursuit out, I was focused on
6 what he was doing in the road. The other deputy was
7 calling off our speed as fast as we were going.

8 Q. Did he ever commit any -- other than speeding, did he
9 commit any other traffic violations?

10 A. While I was behind him, he threw several items from
11 his pockets and ran several stop signs on different roads
12 we went down. So he disregarded numerous stop signs.

13 Q. You said that he was throwing items. Do you have any
14 idea what he was throwing?

15 A. At the time when we passed Century Road, he threw an
16 object; I don't know what it was. We went back and
17 couldn't find it. And then the further we got, there was
18 small plastic bags -- appeared to me to be small plastic
19 bags. And I believe it was Flint Ridge, at that point,
20 there was a couple glass bottles that was coming out of
21 his pockets that he was pulling out and throwing in the
22 roadway, which was later to be some type of liquor bottle?

23 Q. And you saw him pull this out of -- was it his pants,
24 his jacket or do you know where he pulled them from?

25 A. I think he was pulling them out of his jacket -- his

CHASE MINORS - DIRECT EXAMINATION BY MR. COOK

1 pockets on his jacket on the front.

2 Q. Okay. So you said he wrecked his motorcycle?

3 A. Yes, sir.

4 Q. Where did he ultimately wreck?

5 A. It was around the block of Fork Hill Road.

6 Q. So when you first blue lighted him at McIlwain and
7 Lynwood until where he ultimately wrecks, how much time
8 has passed?

9 A. I would say no more than 15 minute because we was
10 moving down the road pretty good.

11 Q. Do you know how far in distance it is from where you
12 hit the blue lights to where he finally wrecked?

13 A. I don't know an exact mileage, but I think it was
14 around 14, 15, somewhere in there.

15 Q. Fourteen or 15?

16 A. Miles.

17 Q. Okay. So when you get up to the point where he's
18 wrecked, are you by yourself, do you have somebody with
19 you?

20 A. At that point, I believe Lieutenant Donnie Rogers and
21 I want to say Sergeant Cauthen were behind me at that
22 point.

23 Q. What did you do when you approached the scene of the
24 accident, the wreck?

25 A. When I pulled up to where the traffic accident

CHASE MINORS - DIRECT EXAMINATION BY MR. COOK

1 happened, it was dust and all kinds of stuff going on. I
2 couldn't see Brandon. And I drew my service weapon
3 because he was supposed to be armed with a gun, so I drew
4 my gun because I couldn't see him. And once I approached
5 where he ended up being after the wreck, he was in a
6 driveway, and he was sitting in the middle of the driveway
7 with his hands up saying, I give up.

8 Q. He have any noticeable injuries?

9 A. He had a couple. I think he got a burn on his -- one
10 of his calves from the motorcycle -- possibly from the
11 motorcycle and a couple scratches.

12 Q. Nothing major?

13 A. Not to my knowledge. We had EMS come check him out
14 to be sure.

15 Q. What was he wearing when -- you say you approached
16 him and he's sitting in the driveway, what's he wearing?

17 A. He had on a brown pair of shorts, a black jacket and
18 a red and white helmet, which the helmet came off at the
19 accident. It flew off his head at that point.

20 Q. Okay. Was he immediately placed under arrest once
21 you came up to him?

22 A. Yes, sir. Once we got up there to him, we put him in
23 handcuffs and started searching him.

24 Q. And you -- when you searched him, what did you find
25 on him?

CHASE MINORS - DIRECT EXAMINATION BY MR. COOK

1 A. We found a pair of gloves. I believe it was -- he
2 had on cargo shorts, I believe they were in one of the
3 pockets on the shorts.

4 Q. Okay. What did those gloves look like?

5 A. They were black cotton gloves, like work gloves you
6 get from Home Depot doing your yard work.

7 Q. Do you remember what you did with those gloves?

8 A. Secured them in a brown paper bag and placed them in
9 evidence.

10 Q. Is that standard procedure for collecting evidence?

11 A. Yes, sir.

12 Q. So did you take him to the jail at that point or how
13 did he -- how did -- where did Mr. Rivers go after he's
14 sitting in this driveway after you arrested him, where
15 does he go?

16 A. We called EMS to have him checked out due to him
17 being on the motorcycle and having an accident and EMS
18 came out. And at that time, EMS determined -- I don't
19 know what their protocol was, but they said they had to
20 take him to Springs to get further evaluation.

21 Q. Okay. Did he -- was there any suspicion of drunk
22 driving? Was that addressed by you?

23 A. Not at the time. Just due to the alcohol being
24 undetermined if they were open or not, if he was drinking,
25 we made a determination through my lieutenant to go ahead

CHASE MINORS - DIRECT EXAMINATION BY MR. COOK

1 and charge him with driving under the influence.

2 Q. Did you ever take a blood sample?

3 A. He refused. After I cleared the scene on Fork Hill
4 Road, then relocated to Springs Memorial where Mr. Rivers
5 was and I went over his implied consent and asked if he
6 would -- I was requesting a blood or urine sample and he
7 refused.

8 Q. So he didn't give blood or urine?

9 A. No, sir.

10 Q. Did he take a Breathalyzer test?

11 A. No, sir.

12 Q. Was he offered a Breathalyzer test?

13 A. He wasn't offered one due to the time restrictions
14 for the Breathalyzer, so we -- that's why we requested a
15 blood or urine sample at the hospital.

16 Q. The last time you saw him was at the hospital?

17 A. Yes, sir.

18 Q. Was that the last thing you did that night was go to
19 hospital in regards to this case?

20 A. Yes, sir.

21 MR. COOK: Beg the Court's indulgence one moment,
22 Your Honor?

23 THE COURT: Yes, sir.

24 MR. COOK: I believe that's all, Deputy Minors.

25 Answer any questions Mr. Grier may have for you.

CHASE MINORS - CROSS-EXAMINATION BY MR. GRIER

1 THE COURT: Cross?

2 MR. GRIER: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. GRIER:

5 Q. All right. Deputy Minors, Brandon Rivers was wearing
6 a helmet that night?

7 A. Yes, sir.

8 Q. He had it on his head and it came off in the
9 collision?

10 A. Yes, sir.

11 Q. After it hit or did it bounce off from the impact or
12 did you -- were you able to really see?

13 A. I'm not sure. When he turned off on Fork Hill Road,
14 he got a pretty good lead on me. I'm sure it wasn't his
15 fastest, but he had a pretty good distance on me. I was
16 starting to come back up on him. I was probably still 200
17 yards behind him and that's when I seen his helmet up in
18 the air in a little cloud of dust.

19 Q. Now, you said he threw some things out?

20 A. Yes, sir.

21 Q. Your blue lights activates a video, correct?

22 A. Correct.

23 Q. Which it did that night, correct?

24 A. Yes, sir.

25 Q. And where is that video today?

CHASE MINORS - CROSS-EXAMINATION BY MR. GRIER

1 A. We have to download it onto a computer at the
2 sheriff's office and something with the hard drive where
3 we -- on this camera system, it's a media drive that's in
4 the -- once you activate it, there's a little system on
5 the bottom of some cars, it's in the trunk. There's a
6 media drive and you have to remove it, take it into the
7 office, find your car number and then download it and it
8 takes it off of the media drive and puts it onto the hard
9 drive on the computer. And something happened with the
10 hard drive at the sheriff's office.

11 Q. So we're not going to be able to see that?

12 A. No, sir.

13 Q. You got to see it, didn't you?

14 A. I did.

15 Q. And you went back looking for the objects he threw
16 out?

17 A. I did.

18 Q. So you knew exactly where he threw stuff down, right?

19 A. Yes, sir. You can still review the tape in the car.

20 It's just when I took it off the media drive and put it
21 onto the computer. I don't know when it happened. Back
22 in November when we were supposed to have the trial, I
23 went to go get it and that's when we determined that
24 something happened with the computer and it --

25 Q. Okay.

CHASE MINORS - CROSS-EXAMINATION BY MR. GRIER

1 A. It was no longer there.

2 Q. Y'all went back and used the video to determine where
3 stuff was thrown down and went back and looked, didn't
4 you?

5 A. Right.

6 Q. And so -- okay.

7 A. The only thing we located that night was the busted
8 liquor bottles in the middle of Flint Ridge Road. And
9 it's not too much of a highly traveled road during the
10 nighttime hours.

11 Q. You didn't collect that as evidence?

12 A. No, sir.

13 Q. It was shattered?

14 A. It was shattered. With it being liquid --

15 Q. I'm not being a jerk about it. Obviously, that's
16 something you couldn't -- doesn't make sense to try to get
17 that, but, okay. Well, I noticed in your report you said
18 you took -- did you take a cell phone off of him?

19 A. I don't recall taking a cell phone.

20 Q. Maybe that's in another report. Do you recall
21 whether you took a cell phone off of him?

22 A. I do not recall. I don't remember reviewing that in
23 my report.

24 Q. Did you find any weapons?

25 A. I did not.

CHASE MINORS - CROSS-EXAMINATION BY MR. GRIER

1 Q. Okay. Now, you Mirandized him?

2 A. I did.

3 Q. And he told you he was running because he didn't have
4 a motorcycle license or insurance on the motorcycle and he
5 had some weed, didn't he?

6 A. Yes, sir, he did.

7 Q. You didn't question him about any other issues at
8 that time?

9 A. No, sir. At that point, I wasn't familiar with what
10 was going on with up here -- what was going on.

11 Q. I understand. You had secured the person you were
12 pursuing?

13 A. Right.

14 Q. Did he give you in any trouble?

15 A. No, sir.

16 Q. Was he cooperative?

17 A. Yes, sir.

18 Q. Was he belligerent?

19 A. No, sir.

20 MR. GRIER: Beg the Court's indulgence.

21 That's all. Thank you, Deputy.

22 THE COURT: Any redirect?

23 MR. COOK: Nothing, Your Honor.

24 THE COURT: Thank you very much, sir. You can step
25 down.

1 All right, folks. It's almost 5:00. I think this is
2 a good time to break for the evening. We're going
3 to start back at 9:30 in the morning, so if you could be
4 in your jury room ready to go at 9:30.

5 Folks, things are about to change up a little bit
6 because during the lunch break, I don't know if you went
7 home or not, if you just went and grabbed some lunch, but
8 now you're about to go home. And, of course, there will
9 be family, friends and loved ones who will be curious as
10 to whether or not you were selected to be on a jury. And
11 you can certainly let them know you were selected and you
12 are on a jury and that you have to back tomorrow. Of
13 course, if it's my wife, she wants to know everything
14 about it. She's very curious about my work and what I do
15 and you may have the same situation. But what I would
16 have to say to her is, "Honey, I appreciate your interest,
17 but the Judge has told me that I'm not allowed to have any
18 conversation about it. I can't even tell you what the
19 guy's charged with. I can't even tell you that it's a
20 guy."

21 And the reason behind that is this, saying something
22 innocent like well, it's a fellow charged with attempted
23 murder or it's a fellow by the name of Rivers, anything as
24 innocent as that could possibly elicit a response that may
25 compromise your ability to be fair and impartial. And so

1 we just encourage you to tell family members and loved
2 ones, "Listen, I have been selected to be on a jury. I'm
3 on the case. We've got to be back in the morning. The
4 Judge is not allowing us to have any conversation;
5 however, when this trial is over, I will share everything
6 with you. I'll tell you anything you want to know." But
7 up until that point you're not allowed to have
8 conversations.

9 The other thing that I need to mention to you is
10 this. We used to not have to do this because it wasn't as
11 prevalent as it is nowadays. But these things that we
12 call telephones are actually pocket computers. And you've
13 got that worldwide web out there and, of course,
14 everything that's on the worldwide web is factual.
15 There's no lies or anything else out there. I joke with
16 you because very rarely do you find stuff out there that's
17 factual. But whether it's factual or not, this is the
18 key. You've taken an oath to try this case and to decide
19 this case based on the evidence that's presented during
20 the course of this trial. It would be highly improper for
21 any of you to try to do any independent investigation or
22 to try to look up anything on the internet to see if
23 there's anything about this case. I doubt there would be,
24 but that's neither here nor there. It would be improper
25 to do that. You are to base your judgment on this case

1 solely upon the evidence and the facts and exhibits that
2 come in during the course of this trial in this courtroom.

3 So I share all of this with you to tell you the main
4 goal is what I said to you at the lunch break, anything
5 that you can do to preserve your ability to remain fair
6 and impartial and not have that compromise, that's what
7 you need to do.

8 Also, you may have found from this afternoon, even
9 though you weren't here terribly long hearing testimony
10 this afternoon, sometimes jury service can be physically
11 taxing, not from a muscular standpoint, but from a mental
12 standpoint. So if you can, try to get a good night's rest
13 tonight, try to get well rested. Countless studies show
14 that if you're well rested, you'll be better able to be
15 alert and take in the testimony and the evidence. And so
16 if you can get a good night's rest, try to do that.

17 I would ask that you also -- I've been blessed to be
18 married to one of the most wonderful women I've ever known
19 in my life. But no one is perfect. And if we have to be
20 somewhere across town at 7:00. My wife thinks we're on
21 time if we leave the house at 7:00. I've tried to explain
22 to her, babe, we're late. If you think in those terms
23 about getting out of the house at a particular time,
24 change your thoughts to when do I need to be at the
25 courthouse and make sure you leave in time to get here

1 from wherever you live and be in the jury room at 9:30.
2 Okay. And once everyone has reconvened, we'll be ready to
3 go and we'll get started first thing in the morning.

4 So if everyone else will please remain seated, folks,
5 I'll see you back tomorrow morning at 9:30.

6
7 (The jury left open court at 5:08 p.m.)

8 THE COURT: All right. Anything we need to take up
9 before we adjourn for the afternoon?

10 MR. COOK: Nothing from the state, Your Honor.

11 THE COURT: Anything from the defense?

12 MR. GRIER: Nothing, Your Honor.

13 THE COURT: Okay. We will then start back at 9:30.
14 I'll be here a little bit before then, so -- I mean, I'll
15 be here between 8:30 and 9:00. If you need to see me for
16 anything, come by, but other than that, we'll start back
17 at 9:30.

18 (Court adjourned at 5:08 p.m. on February 16th, 2016 and
19 resumed at 9:44 a.m. on February 17th, 2016.)

20 THE COURT: Is there anything we need to take up
21 before we get started?

22 MR. COOK: One thing, one of the witnesses, Deputy
23 Minors, that I called yesterday, I would ask to be allowed
24 to call him back to the stand when he gets this morning to
25 introduce a piece of physical evidence that we weren't

1 able to get from CSI yesterday. He referenced a pair of
2 gloves. He wasn't able to check it out from CSI yesterday
3 and have somebody transport it over. I ask to get him
4 back on the stand for the sole purpose of identifying the
5 gloves and entering them into evidence.

6 THE COURT: I don't see any problem with that.

7 MR. GRIER: Your Honor, I think the state has already
8 presented that evidence and it's been cross-examined and
9 that should be the conclusion.

10 THE COURT: Can you cite some rule that says you
11 can't recall a witness?

12 MR. GRIER: I cannot, Your Honor, but I can object to
13 it.

14 THE COURT: Amen. I will note that objection and
15 overrule it, but will certainly note that objection.

16 MR. GRIER: Yes, sir.

17 THE COURT: I don't see any prejudice. And I'm
18 certain, Mr. Grier, you will give you every opportunity to
19 cross-examine him on that new issue as well.

20 MR. COOK: Nothing else from the state at this time.

21 THE COURT: Anything else from the defense before we
22 get started, anything we need to deal with from the
23 defense side?

24 MR. GRIER: Not at this time.

25 THE COURT: All right. Well, let's bring the jury

1 out.

2 MR. GRIER: Judge, as the jury is coming in or we'll
3 stop, but I would like to raise one issue, Your Honor. I
4 would like to ask for a partial sequestration during the
5 testimony of the civilian witnesses.

6 THE COURT: Okay.

7 MR. GRIER: I don't have any issue with anyone being
8 present during the testimony of the officers, but I think
9 the critical issue is the evidence that the --

10 THE COURT: Okay.

11 MR. GRIER: I'm asking they be sequestered, anybody
12 that's going to give evidence about -- who's going to
13 testify as a witness.

14 THE COURT: Of course, it's going to be reciprocal,
15 so any defense witnesses, they need to be out as well.

16 MR. GRIER: Yes, sir, during the civilian testimony.

17 THE COURT: Correct.

18 MR. COOK: I don't have any objection to that.

19 MR. GRIER: Thank you.

20 (The jury entered the courtroom at 9:46 a.m.)

21 THE COURT: Mr. Keithas, let me get you if you would
22 to stop over here for a second. You haven't done anything
23 wrong. I'm just going to impose upon you in just a
24 moment. I'm going to ask you if you don't mind serving as
25 the foreman of the jury and I'll explain that in just a

1 minute. Just have a seat in this chair right here and
2 I'll explain it to everybody in a minute.

3 Good morning, everybody. I hope everyone had a good
4 evening, had a good night's rest and ready to go to work.
5 I want to thank everybody for your promptness, being here
6 in a timely fashion and being ready to go to work.

7 I have asked Mr. Keithas to serve as the foreman of
8 the jury. And let me just explain to you. Any time you
9 have a group of folks together -- you know, some things
10 are just tested over time. And it used to be years ago,
11 long time ago, we used to have jury trials and there was
12 no foreperson. There was just the 12 folks. And I don't
13 know, sometimes I try cases and I get no questions from
14 the jury at all, and sometimes we try cases and there's
15 several questions. But it used to be before they got into
16 the habit of appointing a foreperson, the Judge would deal
17 with questions from every individual who had a question
18 and it became somewhat a little more confusing, so they
19 went to the system of appointing a foreperson.

20 The foreperson is basically the spokesman for the
21 jury. So that if at any time during the case any of you
22 have any questions about anything, the foreperson can
23 write that question out and pass it to the Judge. And
24 depending on what the question is, I may write back my
25 response or I may just bring the foreperson out and

1 respond to it, or I may bring you back as a panel. But
2 the bottom line is that's really the main focus and the
3 main role that the foreperson has is to be the liaison
4 between the jury panel and the Court.

5 When you do get the case for your consideration and
6 you do have the opportunity to deliberate, I will tell you
7 this, everyone must be present during those deliberations.
8 And what I mean by that is if anyone needs to use the
9 restroom and excuse themselves to do that, then the
10 foreperson would ask that all the conversation cease about
11 the case, the deliberations stop until that person returns
12 and then start back. And of course, the reason for that
13 is that everyone has the benefit of the deliberations and
14 no one misses anything. That's really the role.

15 Your verdict in this case and in all cases that we
16 try in this court must be unanimous. So you must all
17 agree on the verdict, whatever it is. So what tells you
18 is the foreperson's vote carries no more weight than
19 anyone else. You're all equal members of the jury. It's
20 just that we found it's better to have one person be the
21 spokesperson on behalf of the jury panel. So that's where
22 we're at and Mr. Keithas has been kind enough to accept
23 that role.

24 Now, if you recall yesterday, we were on the state's
25 case. So what we'll do is pick up right where we left off

1 and recognize Mr. Cook with the state's next witness.

2 MR. COOK: Your Honor, may it please the Court. The
3 state would like to recall Deputy Chase Minors to the
4 stand.

5 THE COURT: Deputy Minors, if you would please come

6 back up. And sir, you are still under oath. We won't
7 place you under oath again. You're still under oath from
8 your testimony yesterday.

9 REDIRECT EXAMINATION

10 BY MR. COOK:

11 Q. Please state your name once against for the record.

12 A. Chase Minors.

13 Q. And Deputy Minors, yesterday you testified that you
14 collected a pair of gloves from Mr. Rivers?

15 A. Yes, sir. I don't know where the button is for this
16 thing.

17 (A discussion was held off the record.)

18 Q. Deputy Minors, you testified you collected a pair of
19 gloves from Mr. Rivers?

20 A. Yes, sir.

21 Q. Do you recognize what this is?

22 A. Brown paper bag that we use to submit evidence in.

23 Q. Is this the bag that you testified that you placed
24 that evidence in?

25 A. Yes, sir.

CHASE MINORS - REDIRECT EXAMINATION BY MR. COOK

1 Q. Okay. Can you tell us when you collected that
2 evidence?

3 A. This was collected September 26, 2014 at 10:40.

4 Q. Okay. Is your name on this envelope?

5 A. Yes, sir.

6 Q. Okay. This is the bag that you submitted?

7 A. Yes, sir.

8 MR. COOK: Beg the Court's indulgence one moment,
9 Your Honor.

10 BY MR. COOK:

11 Q. Do you recognize these, Deputy Minors?

12 A. Yes, sir.

13 Q. Are these the gloves that you found on Mr. Rivers?

14 A. Yes, sir.

15 Q. Okay. Are they in the same condition as you remember
16 on September 26, 2014?

17 A. Yes, sir.

18 Q. Do you notice any changes from when you placed them
19 in evidence?

20 A. No, sir.

21 Q. Can you tell us what the markings are on these
22 gloves?

23 A. I don't have a clue.

24 Q. Did you do these markings?

25 A. No, sir.

CHASE MINORS - REDIRECT EXAMINATION BY MR. COOK

1 Q. Were these marking on there when you collected them?

2 A. As far as I know, they were.

3 Q. Okay.

4 MR. COOK: Your Honor, I would move that these gloves
5 be admitted into evidence as state's Exhibit 1, the pair
6 of gloves together.

7 THE COURT: All right.

8 MR. GRIER: Your Honor, I don't think we've been
9 through a chain of custody on them yet.

10 THE COURT: That is the -- wasn't the testimony that
11 Deputy Minors --

12 MR. COOK: He collected them and he put them into
13 this bag.

14 MR. GRIER: They were -- okay, but I think they --
15 you know, they're going to be trying to submit those as
16 having been tested or something, so...

17 THE COURT: I mean at this point --

18 MR. GRIER: For that purpose.

19 THE COURT: I think right now, we're not there yet.
20 At this point, we're there that the deputy collected those
21 gloves off of the Defendant and put them in that bag and
22 they're introducing them at this point.

23 MR. GRIER: Thank you, Your Honor.

24 THE COURT: For that limited purpose.

25 BY MR. COOK:

CHASE MINORS - REDIRECT EXAMINATION BY MR. COOK

1 Q. And Deputy Minors, did you perform any tests on these
2 gloves?

3 A. No, sir, I just placed them in the bag and submitted
4 them into evidence.

5 Q. Did you seal this bag?

6 A. All we do is roll the bag up and secure it that way
7 and then we store it in a locker at the sheriff's office.

8 Q. Okay.

9 MR. COOK: Just for clarification, these are in
10 state's evidence as Exhibit 1 at this point for the
11 purpose of identification as the gloves that came from Mr.
12 Rivers, Your Honor.

13 THE COURT: All right.

14 MR. COOK: No further questions. Please answer any
15 questions that Mr. Grier may have.

16 THE COURT: Cross.

17 RECROSS-EXAMINATION

18 BY MR. GRIER:

19 Q. Deputy Minors, Mr. Rivers didn't have the gloves on
20 at the time you came into contact with Mr. Rivers,
21 correct?

22 A. Correct, they were not on his person -- on his hands.

23 Q. Okay. All right. And where did you take them from
24 on his person?

25 A. He had -- like I said, he had on a pair of cargo

CHASE MINORS - RECROSS-EXAMINATION BY MR. GRIER

1 shorts and they were located in -- I can't recall which
2 pocket, but it was in one of the cargo pockets in his
3 shorts.

4 Q. So he clearly was not wearing them at the time?

5 A. Right.

6 MR. GRIER: Thank you.

7 THE COURT: Thank you very much. You may step down.

8 (WHEREUPON, State's Exhibit Number 1 was marked an
9 admitted into evidence.)

10 MR. COOK: Your Honor, state calls Investigator Mike
11 Adams.

12 THE CLERK: Place your left hand on the Bible and
13 raise your right.

14 MIKE ADAMS, after having been duly sworn, testified
15 as follows:

16 THE CLERK: Please be seated on the witness stand.

17 DIRECT EXAMINATION

18 BY MR. COOK:

19 Q. Would you please state your name for the record?

20 A. It's Mike Adams.

21 Q. Mr. Adams, who is your employer?

22 A. Lancaster County Sheriff's Office.

23 Q. How long have you been with the sheriff's office?

24 A. Little bit over 15 years.

25 Q. What is your current role with the sheriff's office?

MIKE ADAMS - DIRECT EXAMINATION BY MR.

1 A. I'm an investigator with the sheriff's office.

2 Q. Do you do any specific type of crimes?

3 A. Right now, I do specialize in finance crimes, banking
4 fraud, forgeries, things like that.

5 Q. Just can you give us an overview of how you become
6 involved in a case typically?

7 A. Depends if it's assigned to me, it's our primary
8 investigations and we also have -- we're on call. We're a
9 small county, so we have just a few investigators and when
10 you're on call, you get everything, anything from
11 incidents like this to arsons to murders, whatever.

12 Q. Were you called out to Lymon Reece Road on
13 September 26, 2014?

14 A. I was.

15 Q. Why were you called out that night?

16 A. There was a shooting incident at the location.

17 Q. Did you go to the location?

18 A. Yes, sir.

19 Q. Can you describe the location to us?

20 A. It's just a connecting road between Highway 200 and
21 Lynwood Drive. The home is right beside the bowling
22 alley, used to be the skating rink, but it's just off
23 Highway 200, maybe 200, 300 feet.

24 Q. And can you describe the residence?

25 A. Yes, sir. It's a duplex that's right beside the

MIKE ADAMS - DIRECT EXAMINATION BY MR.

1 bowling alley. The front part places Highway 200 and the
2 old Dodge place and the rear of it is just like an open
3 area where they can pull cars in. And there's two back
4 doors at the residence primarily they use as entrances to
5 the homes.

6 Q. When you got there -- do you remember what time you
7 got to the scene?

8 A. I've got 10:10 p.m. that night, Friday night.

9 Q. Okay. What did you see when you first pulled up?

10 A. When I arrived, the witness was there and Deputy
11 Mahadeen, Phillip Hoffman from the city and that was
12 pretty much it. There was a few city officers there also
13 helping secure the scene. They had already left with the
14 victim, effectively, taken him to Springs to transport him
15 out for further medical.

16 Q. Mr. Jones was gone by the time you got there?

17 A. Yes, sir.

18 Q. Outside of law enforcement and medical people, how
19 many civilians were on scene; do you remember?

20 A. There were three right in the yard. There were a few
21 people inside the homes. But they were staying in the
22 home. We'd ask them to stay out of the area. And when I
23 first got there, I started roping it off where everything
24 took place so we could process it.

25 Q. Okay. Show you a picture real quick. Do you

MIKE ADAMS - DIRECT EXAMINATION BY MR.

1 recognize what this is? Can you see that on your screen?

2 A. No, it's not up on mine.

3 Q. Tap the screen, it will probably come on.

4 A. There it comes. Yes, sir.

5 Q. Is this picture from the night you were there?

6 A. Yes, sir, it's a white house to the left.

7 Q. But this picture right here, this is not a picture
8 from when you were there?

9 A. No, sir, that's a daytime picture.

10 Q. Which one of these houses is the incident location,
11 the blue or the white?

12 A. It's going to be the white house that's facing, has a
13 little small vehicle right beside it.

14 Q. Okay. You said you roped the scene off, is this --
15 this crime scene, did you do that?

16 A. Yes, sir.

17 Q. Do you recognize where this is?

18 A. Yes, sir, it's that's residence you just showed me in
19 the daytime.

20 Q. Okay. Now, as an investigator, what would you be
21 looking for when you get to the scene?

22 A. Witnesses, any type of physical evidence of what
23 occurred to actually tell us how things took place.

24 Q. Were you able to identify who the witnesses in this
25 case (sic)?

MIKE ADAMS - DIRECT EXAMINATION BY MR.

1 A. Yes, sir. They were still on scene.

2 Q. Who did you establish as a witness when you arrived
3 on scene?

4 A. Deputy Mahadeen already had them, but the ones that
5 were there were Kacy Ann Noe, Ronnie Lee Blackwell and
6 Jerry Lee Railey.

7 Q. You've established who the witnesses are. Did you
8 canvass the area looking for any physical evidence?

9 A. Yes, sir. After they give us a description of what
10 happened, we started looking for things that would
11 actually say yea or nay, whether it did happen. And we
12 did find bullet projectiles in the roadway or bullet
13 casings in the roadway. We located two out where the
14 supposedly actual shooting took place.

15 Q. Going back to this picture, I know this isn't a
16 picture of the night it actually happened, but can you
17 mark on the screen -- you said you found two casings?

18 A. Yes, sir.

19 Q. Is -- would it be possible for you to mark on this
20 picture where you found those casings?

21 A. Yes, sir.

22 Q. Can you do that for us on the screen? Just use your
23 finger.

24 A. About along in this area, there were two brass
25 casings laying on the ground.

MIKE ADAMS - DIRECT EXAMINATION BY MR.

1 MR. COOK: Your Honor, I would ask that the record
2 show that Investigator Adams drew a red circle near the
3 end of the driveway in front of the neighbor's mailbox.

4 THE COURT: All right.

5 BY MR. COOK:

6 Q. Okay. Investigator Adams, did you do any type of --
7 did you mark where that evidence was? Did do you any --

8 A. Yes, sir, I believe Lieutenant Hall had found some
9 cups and we set them out. And when CSI come, she
10 photographed it. And they actually have labels they can
11 lay down and put where evidence is found on scene.

12 Q. Okay. So you just had a makeshift label that you put
13 down for the time being?

14 A. Yes, sir.

15 Q. Okay. Did you pick up any of these casings?

16 A. No, sir. We just located them and we put something
17 down just to show CSI where they're at and they come in
18 and process everything.

19 Q. Okay. Now, when you say a casing, what is a casing?

20 A. It's part of the bullet that goes in the gun, but
21 it's what's left over. It's got the primer. It's where
22 the gunpowder is at. When the bullet's fired, if it's a
23 semiautomatic-type weapon or anything like that, a lot of
24 times it ejects it out of the gun and you'll have a little
25 hollow brass casing or a metal casing laying there.

MIKE ADAMS - DIRECT EXAMINATION BY MR.

1 Q. Okay. Just -- I know you said you didn't pick it up
2 and touch it, but looking at it, are you able to tell what
3 caliber it is just by looking at it?

4 A. Not at that time because I didn't pick it up to study
5 it. It was dark. So the main thing we were trying to do
6 is locate them so they wouldn't lost.

7 Q. Did you perform any type of testing on these casings
8 you found?

9 A. No, sir.

10 Q. Can -- obviously, you looked at them. I know you
11 didn't test them and pick them up. Can you describe the
12 condition of these casings?

13 A. Clean.

14 Q. Did they appear --

15 A. Didn't look like they had been laying there long.
16 They weren't rusted out or anything like that.

17 Q. And they were actually in the roadway?

18 A. Yes, sir.

19 Q. Did you find any other physical evidence on the
20 scene?

21 A. Nothing I can remember specifically.

22 Q. Okay. Did you find any firearms?

23 A. No, sir, not when I was there. They did advise me
24 that they had found a small pistol that was a starter-type
25 pistol and Deputy Mahadeen had already secured that.

MIKE ADAMS - DIRECT EXAMINATION BY MR.

1 Q. Okay. I know you said you canvased the yard area.
2 Did you ever look inside any of the residences? Did you
3 search any of those?

4 A. I did not. I went in and talked to people, the
5 witnesses, and there were also children inside the
6 residences. And so all -- everything that took place was
7 located out in the yard and that was our focal point, so
8 we didn't actually go search inside the houses.

9 Q. Okay.

10 MR. COOK: Beg Court's indulgence one moment, Your
11 Honor.

12 THE COURT: Yes, sir.

13 BY MR. COOK:

14 Q. Investigator Adams, you said that you determined who
15 the potential witnesses would be. Did you take any
16 statements from anyone?

17 A. Yes, sir.

18 Q. Did you take statements on the scene or did you take
19 statements at some other time?

20 A. We took them at the sheriff's office. When I
21 arrived, Deputy Mahadeen was already interviewing them.
22 And he completed what he needed to do and I then requested
23 they come out to the sheriff's office where we have
24 specific interview rooms that are audio/video recorded.

25 Q. Who all did you interview at the sheriff's office?

MIKE ADAMS - DIRECT EXAMINATION BY MR.

1 A. I interviewed Kacy -- excuse me, Kacy Curtis Ann Noe,
2 Ronnie Lee Blackwell, Jerry Lee Railey, Angela Dawn
3 Yarborough, Brandon Rivers.

4 Q. When you interviewed Kacy Noe, was that -- when did
5 you interview her?

6 A. She was the first one I interviewed. It would have
7 probably been about 10:45 to 11:00.

8 Q. The same night?

9 A. Yes, sir.

10 Q. What about Ronnie Blackwell?

11 A. Immediately after that. All three of them came at
12 the same time, so you estimate 30 minutes per interview.

13 Q. All three being Ms. Noe, Mr. Blackwell and who else?

14 A. Yes, sir, I interviewed Kacy Ann Noe, Ronnie Lee
15 Blackwell and Jerry Lee Railey, they called him Bear, at
16 the same time. And then Angela Dawn Yarborough come at
17 3:50 a.m. Brandon Rivers was about 4:45 a.m., and then
18 the following Monday, I believe it was, I interviewed
19 Brian Steele.

20 Q. So you actually interviewed Mr. Rivers?

21 A. Yes, sir.

22 Q. At you said four -- four something a.m.d, this is
23 early morning after?

24 A. Yes, sir, it probably would have been 4:30 to 4:45
25 when they brought him in. It could have even been 5:30.

MIKE ADAMS - DIRECT EXAMINATION BY MR.

1 It was within an hour.

2 Q. Was that the first time you had seen Brandon Rivers?

3 A. Yes, sir. Whenever we located him and secured him,
4 they took him to the ER to have him evaluated due to what
5 had happened with the wreck. And when they give him a fit
6 for incarceration, they brought him by for me to
7 interview.

8 Q. Okay. So you interviewed him before he was booked
9 after being arrested?

10 A. Yes, sir.

11 Q. Where did you interview Mr. Rivers?

12 A. In interview room five at the sheriff's office.

13 Q. When you interviewed him, did you read him his
14 Miranda rights?

15 A. I did.

16 Q. Did you advise him that he had the right to an
17 attorney?

18 A. Yes, sir.

19 Q. Did you advise him that anything he said could and
20 would be used against him in court?

21 A. Yes, sir. We have a form that lists everything out
22 in detail, just simple sentences and I went through that
23 line by line with him.

24 Q. Okay. Did you -- did he acknowledge that he had
25 received these rights?

MIKE ADAMS - DIRECT EXAMINATION BY MR.

1 A. Yes, sir.

2 Q. Did you -- is there a standard form that you have
3 that you'll have people you're interviewing have them to
4 sign?

5 A. Yes, sir, there is.

6 Q. Did he sign that?

7 A. No, sir, he did not.

8 Q. But it was presented to him?

9 A. Yes, sir.

10 Q. After you read him his rights, was he willing to
11 speak to you?

12 A. Yes, sir. He mainly began the interview wanting to
13 know why I wanted to talk to him. And then he stated he
14 would talk to me about driving the motorcycle, running
15 from the police and things like that, but nothing else.

16 Q. Okay. What did he say about the chase and the wreck?
17 Did he say anything?

18 A. He just said he knew he was in the wrong. He had
19 been drinking, smoked some marijuana, had some marijuana
20 on him and that was it. He wouldn't say much about it.
21 And then when I asked him about -- I just threw out the
22 name Kacy Noe and he said, I don't want to talk about
23 that.

24 Q. At that point, did your interview stop?

25 A. No, he continued to ask questions and basically

MIKE ADAMS - DIRECT EXAMINATION BY MR.

1 wanting to know why I wanted to talk to him and said he
2 wouldn't talk about anything except for the motorcycle.
3 And when I told him that we wanted to talk to him about
4 other things, that's when he said -- when I brought the
5 name up again, he said, I need to get me a lawyer.

6 Q. And at that point, did you ask him any more
7 questions?

8 A. He asked more and I told him we had to stop because
9 he had asked for an attorney. Once he talked to an
10 attorney, if he wanted to make a statement, he could.

11 Q. Okay. Investigator Adams, did you ever come in
12 contact with a set of black knit gloves?

13 A. No, sir, I did not.

14 Q. Were you aware that a pair of gloves were recovered
15 from Mr. Rivers?

16 A. Yes, sir.

17 Q. As an investigator in the case, did you take any
18 actions in regards to these gloves?

19 A. Yes, sir. Due to the fact that this was a shooting
20 incident and he was the alleged shooter, when they
21 recovered off him in such close proximity of when the
22 shooting occurred, I requested a GSR kit be completed on
23 the gloves.

24 Q. What is a GSR kit?

25 A. Basically, gunshot residue. It's looking for any

MIKE ADAMS - DIRECT EXAMINATION BY MR.

1 type of atomic particles. When you fire a gun, there's
2 usually some type of atomic particles related to the gun
3 powder that attaches to whatever, skin, clothing. And
4 SLED has a way when we --

5 Q. I'm going to stop you real quick. When you say SLED,
6 who is SLED?

7 A. South Carolina Law Enforcement Division. Whenever we
8 do any type of lab-type of request, it goes to South
9 Carolina Law Enforcement Department and their lab people
10 actually break it down and -- any type of test we send
11 through, they would tell us if they find anything there.

12 Q. So that's not a procedure that's done in-house here
13 at the sheriff's office?

14 A. No, sir. The only thing we do here is we have,
15 basically, the little kits, which either consist of some
16 type of nitrate drops, which is basically water, that you
17 put on Q-tips and rub on the particles or rub on the glove
18 itself or the skin, take it, secure it in a special vial
19 and send it to SLED and they'll analyze it to see if
20 there's any type of atomic particles related to it.

21 Q. Did you do any of those tests or did you send them
22 straight --

23 A. No, sir, I just request -- it was already in
24 evidence, so I sent a request through the evidence clerk
25 to have one of our people actually do the GSR kit and send

MIKE ADAMS - DIRECT EXAMINATION BY MR.

1 it off.

2 Q. Okay. But you never come in contact with those
3 gloves personally?

4 A. No, sir.

5 Q. Just to back up briefly, Investigator Adams, the only
6 physical evidence that you located at the scene were the
7 two shell casings in the roadway?

8 A. Yes, sir, we located the casings where the witnesses
9 all pointed to where the gunfire occurred from.

10 Q. Investigator Adams, do you recognize what's in this
11 picture?

12 A. Yes, sir.

13 Q. Now, you said you didn't put down official CSI
14 markers, but are those markers in relatively the same
15 areas where you placed the cups?

16 A. Yes, sir, that's the exact areas she placed them at.

17 Q. Do you recognize what this is beside the place
18 holder?

19 A. Yes, sir. That's one of the casings laying on the
20 ground and I believe I layed the rock right beside it.

21 Q. Why would you lay a rock beside it?

22 A. Just looking for anything to make it stand out so it
23 wouldn't get lost during the process.

24 Q. So that rock wasn't there when you found it, you
25 placed that there?

MIKE ADAMS - DIRECT EXAMINATION BY MR.

1 A. Yeah, I placed that there.

2 Q. And the casing is the small gold --

3 A. Yes, sir.

4 Q. Do you recognize what this is?

5 A. Yes, sir.

6 Q. What is this a picture of?

7 A. It's the second casing we found.

8 Q. Okay. Same question again, there appears to be a
9 rock beside the casing?

10 A. I don't think I put that one. I think maybe
11 Lieutenant Hall put that one there.

12 Q. When you saw the casing initially, was that rock
13 beside it?

14 A. No, sir.

15 Q. I mean, you can see it, but just for scale, do you
16 know about how far apart those two shell casings were
17 found?

18 A. Seven feet, maybe six. You know, within a few steps.

19 MR. COOK: Okay. I think that's all I've got for
20 you, Investigator Adams. Answer anything Mr. Grier may
21 have for you. Thank you.

22 CROSS-EXAMINATION

23 BY MR. GRIER:

24 Q. Investigator Adams, there was a picture that was
25 shown of that evening, do you recall that the solicitor

MIKE ADAMS - CROSS-EXAMINATION BY MR. GRIER

1 just showed of the premises and it was lit up --

2 A. Uh-huh.

3 Q. -- with the tape around everything. Now, who
4 provided the lighting out there?

5 A. I believe it was a crime scene van.

6 Q. Van?

7 A. The crime scene van actually has lights that will
8 light up an area so they can process it.

9 Q. Okay. The lighting is not that good out there, is
10 it?

11 A. Not at this time.

12 Q. Without being lit up by somebody else?

13 A. Yes, sir.

14 Q. Okay. Now, all guns don't eject casings, do they?

15 A. No, sir.

16 Q. Explain that?

17 A. A revolver doesn't eject a casing. It just has a
18 cylinder that rolls around it. The only way to get the
19 casing out after you fire a bullet is open it up and dump.

20 Q. So the fact that you found two casings that appear to
21 be contemporaneous with this crime doesn't mean there
22 weren't other shot fires on the scene, correct? You just
23 don't have any evidence of it?

24 A. I don't have any evidence and don't have any reports
25 of it.

MIKE ADAMS - CROSS-EXAMINATION BY MR. GRIER

1 Q. All right. Now, did you get an explanation for where
2 this other pistol that was found there in proximity to
3 Mr. Chris Jones came from?

4 A. No, sir. I didn't interview the actual shooting
5 victim.

6 Q. Right.

7 A. He was being treated. The other three didn't know
8 anything about the other gun.

9 Q. But -- are you the lead investigator for this case?

10 A. No, sir.

11 Q. Who is?

12 A. Spencer McElvail.

13 Q. Okay. Is he going to -- is he --

14 A. I'm not sure.

15 Q. Have you prepared by reviewing everything in the file
16 that y'all have or just -- are you just going to testify
17 limited to what you know of your own personal knowledge?

18 A. I testified to whatever I need to testify to. Most
19 of it is my personal knowledge.

20 Q. Right. Okay. Well, are you familiar with any
21 evidence in the file about any determination of where that
22 starter pistol originated from or who had it or anything
23 about it other than it was found?

24 A. It was found at the location.

25 Q. Okay. Good enough. Okay. All right. Now, you

MIKE ADAMS - CROSS-EXAMINATION BY MR. GRIER

1 actually interviewed, ultimately, Kacy Noe, Ronnie
2 Blackwell and Jerry Railey. That -- those were not on the
3 scene, though?

4 A. Those three were there.

5 Q. No, you didn't interview them on the scene or did
6 you?

7 A. No, I met them on the scene and I requested they come
8 to the sheriff's office just to get them away from there
9 while crime scene was processing. There were children in
10 there that were distractions. Crime scene was trying to
11 actually go through to clean everything to figure out what
12 was going on and take pictures, just study it and make
13 sure we had everything documented, so I requested they
14 come to the sheriff's office so we could get a good
15 statement from them.

16 Q. Now, Deputy Mahadeen -- is that how you pronounce his
17 name?

18 A. I believe so.

19 Q. He actually had started taking some statements?

20 A. Yes, sir, he took some written statements while he
21 was there.

22 Q. Okay. All right. Took Kacy Noe's statement or do
23 you know?

24 A. I don't have -- I'm not sure whose statement he has.

25 Q. All right. Well, that night, you interviewed -- I

MIKE ADAMS - CROSS-EXAMINATION BY MR. GRIER

1 think you've already told the solicitor you interviewed
2 Kacy Noe, Ronnie Blackwell, Jerry Railey at the sheriff's
3 department and Brandon Rivers --

4 A. Yes, sir.

5 Q. -- correct? Now, ultimately, you also interviewed
6 Angela Steele?

7 A. Yes, sir, I interviewed Angela Yarborough. I think
8 it's the same person.

9 Q. Well, is Angela Yarborough --

10 A. I interviewed her right before I interviewed Brandon
11 Rivers.

12 Q. Okay. Okay. So you interviewed her that night as
13 well --

14 A. Yes.

15 Q. -- Angela Yarborough Steele? We're talking about the
16 same person if we're talking about Angela Steele, Angela
17 Yarborough, right?

18 A. Yes, sir.

19 Q. And she is Brian Steele's sister?

20 A. Yes, sir.

21 Q. Okay. Brian Steele is a codefendant and he's charged
22 as well with attempted murder, correct?

23 A. Yes, sir.

24 Q. Now, you -- did you interview Chris Jones that night?

25 A. No.

MIKE ADAMS - CROSS-EXAMINATION BY MR. GRIER

1 Q. Attempt to interview him at the hospital or wherever?

2 A. No, sir, he was still being treated.

3 Q. Okay. All right. All right. Now, I think -- when
4 did you interview Brian Steele?

5 A. It was not that night. It was 10:00 a.m., Monday,
6 September 29th.

7 Q. Okay. And what date --

8 A. That's when he come in.

9 Q. I'm sorry, what did you say?

10 A. I said that's when Brian Steele actually come to the
11 sheriff's office to meet with us.

12 Q. Okay. So prior to this -- this occurred on the night
13 of the 26th?

14 A. It was Friday night, he came in that Monday.

15 Q. Did anybody speak with him in law enforcement as far
16 as you know between Friday night, the 26th, and Monday
17 morning, the 29th?

18 A. I believe Investigator -- one of the investigators
19 interviewed him Monday -- I mean, I'm sorry, Saturday. He
20 came in for a brief statement and he come back again that
21 Monday.

22 Q. Okay. You got any record of any interview with Brian
23 Steele on Saturday?

24 A. I don't have it with me, no, sir.

25 Q. All right. And when was he arrested and charged?

MIKE ADAMS - CROSS-EXAMINATION BY MR. GRIER

1 A. I'm not sure if he was served Saturday or Monday.

2 I'm not -- I don't have that information with me.

3 Q. Okay. So if he was arrested and charged on Saturday
4 and you interviewed him on Monday, he would have been out
5 on bond already?

6 A. Yes, sir.

7 Q. Okay. Now, all these interviews were done at the
8 sheriff's department then, everybody?

9 A. Yes.

10 Q. And they were all videotaped?

11 A. Video and audio taped.

12 Q. Do we have those videos?

13 A. No, sir.

14 Q. Why don't we have those videos?

15 A. There was some type of error in the system and they
16 were there, but they would not burn?

17 Q. Do you -- has that been remedied? Do you understand
18 what happened?

19 A. It was a glitch in the system.

20 Q. Okay.

21 A. That was the year we had just moved into the office
22 and for some reason during this time, about a week or two,
23 it would not take anything.

24 Q. Okay.

25 A. And they've got it remedied now, but I can't explain

MIKE ADAMS - CROSS-EXAMINATION BY MR. GRIER

1 it other than it's not available.

2 Q. Now, you got information about the whereabouts of the
3 gun used in the incident from that night or sometime?

4 A. We got different reports.

5 Q. Okay.

6 A. Because in between interviews, we were out trying to
7 locate and see if we could find it. I'm not sure how
8 credible the information was because we never found a gun.

9 Q. Right. Well, but didn't you get information it was
10 in a toilet in some outbuilding at Brandon Rivers's house
11 from Angela Steele?

12 A. We looked in those areas. We couldn't even find a
13 toilet.

14 Q. Well, did that information originate from Angela
15 Steele or Angela Yarborough?

16 A. I believe -- I'm not sure. She told me some
17 information, but also patrol was getting reports from
18 different people they were talking to on the -- in the
19 street that night. And so we were trying to follow up
20 every lead we could. I can't tell you where every
21 different allegation of where these guns were.

22 Q. Well, you made a report about it; didn't you? I
23 mean, you put something in your report?

24 A. Yeah, I --

25 Q. I mean, what -- is that a copy of your --

MIKE ADAMS - CROSS-EXAMINATION BY MR. GRIER

1 A. I can tell you where I got my statements.

2 Q. Okay.

3 A. But I can't tell you where the guys on the road got
4 their information.

5 Q. I don't care about them. I don't mean to be smart,
6 but yeah, I understand. You got your information from
7 Angela Steele, that the gun that was used was in Brandon
8 Rivers's home in a toilet outside his residence; didn't
9 you?

10 A. Yes, she said she got a call from her brother, Brian
11 Steele, telling her where the gun was at.

12 Q. So she had been in communication with her brother
13 after this incident?

14 A. That's what she said.

15 Q. And that information didn't pan out; did it? I mean,
16 there was no gun there?

17 A. No, sir.

18 Q. But her brother apparently knew something about the
19 gun after the incident; didn't he? Based on that,
20 couldn't you conclude that?

21 A. I could conclude that, yes, sir.

22 Q. All right. There hasn't been anything introduced
23 about it yet, but there's some allegation there was some
24 texting that kind of precipitated this confrontation or
25 this argument; is there not?

MIKE ADAMS - CROSS-EXAMINATION BY MR. GRIER

1 A. It was something that went along with the argument.

2 Q. Okay.

3 A. Where Ms. Yarborough said she had got some texts on
4 this and Brandon had actually texted her some threats and
5 things like that?

6 Q. And, you know, were any text messages recovered from
7 any phones?

8 A. No, sir. That night she couldn't get them for me.
9 She said she would get them for me, but I don't have any.

10 Q. So she never provided those, never got them?

11 A. I'm not sure.

12 Q. Okay. Well, now, Brandon Rivers's phone was
13 recovered; wasn't it?

14 A. I'm not sure. My involvement was dealing with the
15 incident that occurred that night. I can't tell you
16 exactly what was recovered on him that night other than
17 the fact I did see some gloves and asked for a GSR on
18 them. I didn't go through his property.

19 Q. Okay. Well, I mean, his cell phone, you know, might
20 have contained very important information based on, you
21 know, what was being alleged. Would it not be important
22 to this investigation?

23 A. I'm not sure.

24 Q. Okay. All right. What do you know about the
25 relationships between -- between Kacy Noe and Angela

MIKE ADAMS - CROSS-EXAMINATION BY MR. GRIER

1 Steele Yarborough? I mean, through your investigation,
2 what did you learn about that relationship? Was -- well,
3 let's put it this way, were they friends, apparently?
4 Were they socializing on the day this happened?

5 A. They knew each other.

6 Q. Okay. Were they all together, partying or doing
7 something at the time -- based on all the information
8 you've got at the time that the incident started?

9 A. I'm sorry, I have to look back over my notes. It's
10 been a couple years.

11 Q. I understand.

12 A. She said she was actually visiting with Kacy Ann Noe
13 earlier that day.

14 Q. Right.

15 A. And she's attributing what happened at that time as
16 creating the situation where Brandon came back and shot at
17 them.

18 Q. Right. Okay. But in everybody's account, her
19 brother, Brian Steele, was present as well, correct?

20 A. No, originally, Brian Steele was not there.

21 Q. Not originally. No, no, I'm sorry. You said Brandon
22 Rivers came back over, but ultimate -- but at the time
23 whatever shooting occurred, if it occurred at that time,
24 everybody's account has Brian Steele --

25 A. Everybody's account said that Brandon Rivers and

MIKE ADAMS. - CROSS-EXAMINATION BY MR. GRIER

1 Mr. Steele came back to create another confrontation. At
2 that time, they went up to actually confront people.
3 People asked them to leave. They went back to the
4 motorcycle that was parked in the area that was circled
5 where we found the projectiles. And at that point,
6 Brandon started cussing them and pulled a gun out and shot
7 at them four times.

8 Q. All right. Now, the GSR tested the gloves, had those
9 tested?

10 A. I requested it. I didn't --

11 Q. I understand. Okay. True, you requested that. How
12 about the people on the scene? Did you request or did you
13 conduct any -- you had -- you still had Ronnie Blackwell
14 on the scene who was reported to have been present when
15 the shooting took place, correct?

16 A. Yes, sir.

17 Q. Did you GSR test him?

18 A. No, sir.

19 Q. You had Jerry Railey on the scene at the time who --

20 A. I didn't -- I did not test.

21 Q. Did anybody GSR anybody or anything besides these
22 gloves?

23 A. I'm not sure.

24 Q. Okay. Are you sure what's come back from SLED at
25 all?

MIKE ADAMS - CROSS-EXAMINATION BY MR. GRIER

1 A. No, sir.

2 Q. Might be other things?

3 A. I hadn't seen the results back from SLED.

4 Q. Okay. All right. So Brandon Rivers was in custody
5 from the time that the motorcycle wrecked, basically,
6 until you interviewed him, correct?

7 A. I'm sorry?

8 Q. Brandon Rivers was in custody, the custody of the
9 sheriff's department from the time the motorcycle -- he
10 wrecked the motorcycle until you interviewed him 4:00,
11 5:00 in the morning?

12 A. Uh-huh.

13 Q. Okay. Now, did you GSR test him? He had no
14 opportunity to --

15 A. No, sir.

16 Q. Okay.

17 A. Usually, you only GSR somebody if it's within an hour
18 or so of the actual incident. I didn't see him until, at
19 least, 4:30 that morning, so it was about eight hours.

20 Q. Okay.

21 A. SLED won't even take them if they're not done within
22 a limited amount of time.

23 Q. So you got a gun, whatever kind of gun it is, on the
24 premises of this crime scene?

25 A. Uh-huh.

MIKE ADAMS - CROSS-EXAMINATION BY MR. GRIER

1 Q. Nobody can explain why it's there in the proximity of
2 the guy who shot, right?

3 A. Yes, sir.

4 Q. And you don't GSR the guy who got shot or any of the
5 people that are present right there at the time of the
6 shooting?

7 A. Well, that particular gun didn't have anything to do
8 with GSR because it will not fire.

9 Q. Okay.

10 A. And it had not been fired that night.

11 Q. I understand, but --

12 A. But I can't explain GSR other than the fact that when
13 I got there and got the witnesses, and got them secured --

14 Q. Right.

15 A. -- I interviewed them..

16 Q. Okay.

17 A. As for Brandon, I didn't GSR him because he was
18 somewhat cooperative with the interview, but during the
19 time he asked for an attorney after about 10 minutes?

20 Q. Okay.

21 A. We stopped the interview. It was also outside the
22 time frame when you would do a GSR on him.

23 Q. All right. Now, were you aware of the injuries to
24 Mr. Jones?

25 A. Yes, sir.

MIKE ADAMS - CROSS-EXAMINATION BY MR. GRIER

1 Q. Okay. But you didn't see him, so you obviously
2 didn't inspect -- have you inspected his clothing as part
3 of the investigation to prepare for this --

4 A. That was done through crime scene.

5 MR. GRIER: Beg the Court's indulgence. Excuse me
6 just a minute.

7 Thank you, Investigator. That's all.

8 THE COURT: Anything else from the state?

9 MR. COOK: Nothing else from the state.

10 Your Honor, may we approach?

11 (WHEREUPON, a bench conference was held in the
12 presence of the jury but not within the hearing of the
13 jury.)

14 MR. COOK: Your Honor, my witness is in the hallway.

15 THE COURT: Okay. Go ahead.

16 MR. GRIER: Before we start, let me make sure I
17 sequester this young fellow.

18 MR. COOK: State calls Angela Laney to the stand.

19 THE CLERK: All right. Ms. Laney, would you please
20 come around and be sworn. Place your left hand on the
21 Bible and raise your right.

22 ANGELA LANEY, after having been duly sworn, testified
23 as follows:

24 THE CLERK: Please be seated in the witness stand.

25 DIRECT EXAMINATION

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 BY MR. COOK:

2 Q. Would you please state your name for the record.

3 A. Angela Dawn Laney.

4 Q. Just to clarify, I think you've been called some
5 different names here. At any point, have you gone by
6 Angela Steele?

7 A. That's my maiden name.

8 Q. What about Angela Yarborough?

9 A. That's my ex-husband's last name.

10 Q. So right now, for the rest of the time, Angela or
11 Angie Laney, is that --

12 A. It's Angela Dawn Laney.

13 Q. All right. So Ms. Laney, we just had to clear that
14 up so everybody knows we're talking to the same person.

15 Ms. Laney, September 26, 2014, did you go to Lymon
16 Reece Road?

17 A. I went behind the bowling alley. I don't know the
18 exact address. I went to Kacy and Ronnie Noe's apartment.

19 Q. How do you know Kacy?

20 A. They're friends of my ex-husband, Terry Laney. We
21 will be divorced the 26th of this month.

22 Q. Did you go there more than once that day?

23 A. We did.

24 Q. About what time did you go over there the first time?

25 A. It was mid to late evening, I'm not sure. I'm not --

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 I have seizures, I don't remember a whole lot. I have
2 three different type of seizures. But I do know that we
3 went over there earlier and I could tell you what
4 happened.

5 Q. Let's -- we'll get to everything. So when you went
6 over there the first time that day, who all went over
7 there with you?

8 A. It was me, Terry Laney and my daughter, Emily

9 Q. Okay. How old is your daughter, Emily -- how old was
10 she at the time?

11 A. At the time, she was nine years old.

12 Q. Okay. Terry, who is Terry?

13 A. That's my husband right now.

14 Q. When the three of you went over to that house early
15 evening, who all was at the house?

16 A. It was Kacy Noe, it was Ronnie Blackwell, Charlotte
17 Parker. Chris is her boyfriend. I'm not sure of his last
18 name.

19 Q. Okay.

20 A. I just know that's who was at their home, but they
21 live in a duplex and that's who was in their apartment at
22 that time.

23 Q. Okay.

24 A. While we were there at that time. Then later, some
25 other stuff happened.

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 Q. Were there any other children besides your daughter?

2 A. Yes, her two children. She has a little girl and a
3 little boy.

4 Q. When you say "she," who are you referring to?

5 A. Kacy.

6 Q. Okay.

7 A. Her two children were there.

8 Q. Is your daughter friends with Kacy's children?

9 A. Yeah, Gabrielle and Alex are her two children.

10 Q. What was the reason for you going over there that
11 day? Was there any particular reason?

12 A. Actually, Terry was getting -- or he was either
13 getting some pills from Ronnie or either he was buying
14 some pills for Ronnie. I don't know. That was the actual
15 reason. I'm not going to lie. Either he was taking him
16 some pills or either he was getting some pills for him or
17 from him, I don't know.

18 Q. Okay.

19 A. Because Terry would get his pills and take some to
20 Ronnie or either he would try to find Ronnie some pills
21 for Kacy. And that's the truth.

22 Q. Okay.

23 A. Or vice-versa.

24 Q. I'll show you a picture real quick.

25 A. And that's why we went over there initially.

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 Q. I gotcha. In just a second, something should pop up
2 on your screen, okay?

3 A. Uh-huh.

4 Q. Can you see it now?

5 A. Yeah.

6 Q. Is that the house that you went to?

7 A. Where the Jeep is, that's Kacy Noe's apartment and
8 the white back door is Kacy Noe's-- he's deceased now, but
9 that was her brother, Shane Bolen's apartment and Ann
10 Marie Poston's apartment.

11 Q. Can everybody see on the screen? Okay. So you were
12 at the --

13 A. I was at the one at the Jeep where you can barely see
14 the porch, the little green porch on there.

15 Q. I'm going to show you a different picture and see if
16 you can see it a little better.

17 A. Okay. It's still where the Jeep is parked. You
18 can't really see their door from that angle you just
19 showed.

20 Q. Now -- so you're in the -- are there two units or is
21 there --

22 A. That actually -- the front side has a unit. There's
23 a unit in the middle and then there's a unit where that
24 screen door is at, and then there's a unit on the end
25 where that Jeep is parked. It's like some stuff all

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 threw together really.

2 Q. Okay. Is that -- that door that you see in the
3 middle, is that Shane's?

4 A. That's Shane and Ann Marie's apartment, but he's
5 deceased now.

6 Q. Does Shane's apartment and Kacy's share a common
7 wall? Are they --

8 A. It's all like -- with it being duplex apartments, it
9 has a wall, but not a sound barrier wall or anything. I
10 guess it's kind of like a drywall just slammed together,
11 maybe two drywalls. And there's basically nothing pretty
12 much in the middle, but I guess wiring.

13 Q. Did Shane, who lived in the apartment next door, did
14 Shane ever come over to Kacy's that day?

15 A. And Bear lived there, too. I don't know Bear's real
16 name, but he stayed over there, too.

17 Q. He stayed in Kacy's apartment?

18 A. No, with Ann Marie and Shane.

19 Q. Okay. Did Shane ever come to Kacy's that afternoon?

20 A. Yeah.

21 Q. What happened when Shane came over to Kacy's?

22 A. My daughter and Kacy's -- Gabrielle and Alex were
23 jumping up and down on the couch playing, that's what they
24 always did. And he was apparently high that day. He --
25 well, he shot up. He would mix uppers and downers. And

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 he came in the front door, just slung the front door open,
2 and Terry was outside on the phone and I was inside
3 talking to Kacy. And the kids were just doing their
4 normal thing and they'd either be jumping on Gabby's bed
5 or -- that's Gabrielle.

6 Q. Right.

7 A. They'd either be jumping up and down on her bed or
8 either they'd be on the couch playing. And that day, they
9 just happened to be jumping up and down on the couch, all
10 three of them, not just my daughter. Well, he zoomed in
11 on my daughter and said -- do I say the exact words?

12 Q. Please.

13 A. He said, "Every time your little fat ass comes over
14 here, you end up knocking my shit off my fucking wall," he
15 said, "and you just broke my goddamn mirror." And I flew
16 in on Shane and I said, "You're not going to talk to my
17 kid that way." I said, "She's fucking nine years old.
18 I'll beat your ass." Then when Terry heard me and Shane
19 fussing, then he pinned Shane between the screen door and
20 the side of Kacy's apartment. And Kacy said, "That's it."
21 She said, "Y'all get the fuck out of my yard."

22 Well, we left there and Terry was still pissed. And
23 we went over to his cousin, Jamie Rivers's house and he
24 had asked Jamie would she watch Emily, my daughter, while
25 we went back over there because he was going to beat the

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 hell out of Shane, that was his intentions.

2 Q. Okay. I'm going to stop you right there. So you and
3 Terry and your daughter leave this house?

4 A. We did.

5 Q. And you go to Jamie Rivers's house?

6 A. Uh-huh.

7 Q. Who is Jamie Rivers?

8 A. That's Brandon's mom.

9 Q. Okay.

10 A. And that's also Terry's cousin.

11 Q. Do you know how it's Terry's cousin?

12 A. Yeah, their moms are sisters.

13 Q. So they're first cousins?

14 A. Yes.

15 Q. And Terry is your husband?

16 A. Terry is my husband.

17 Q. So Brandon would be Terry's second cousin, I think?

18 A. Yeah, because Terry and Jamie are first cousins, so
19 Terry and Brandon would be second cousins. But Brandon's
20 dad is actually my cousin on my mom's side of the family.

21 Q. Okay.

22 A. So it's kind of like intertwined.

23 Q. So everybody's got some connection to everybody?

24 A. Yeah.

25 Q. So Shane yells at your daughter?

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 A. Uh-huh. And they didn't yell at her, he cussed at
2 her like she was a grown adult.

3 Q. So there was a dispute between he and Terry?

4 A. Yeah. Well, there was a dispute between me and Shane
5 and then Terry intervened. Being the man in the
6 situation, he stepped up.

7 Q. And you had said earlier Shane is deceased?

8 A. Yes, he overdosed.

9 Q. Do you know when that was?

10 A. It was, I think, either March or May of last year.

11 Q. So he passed away roughly a year ago?

12 A. Yes.

13 Q. Now --

14 A. He overdosed on cocaine and heroin, I believe.

15 Q. Okay. So after this confrontation between you, Terry
16 and Shane,--you take your daughter, Emily, and y'all go to
17 Jamie Rivers's house?

18 A. Yes, sir. We asked her to babysit Emily and then
19 Terry was going to go back over there and give Shane a
20 proper ass whooping, I guess you would say.

21 Q. Okay.

22 A. I mean, just being blunt.

23 Q. I understand.

24 A. Anyway, we left --

25 Q. I'm going to slow you down just a little bit. When

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 you left -- first off, who all was at Jamie Rivers's house
2 when you went there?

3 A. It was Jamie, Brie was there.

4 Q. Who is Brie?

5 A. His sister.

6 Q. Brandon's sister?

7 A. Brittany Rivers.

8 Q. Okay.

9 A. Brittany Rivers Stacks. And Brandon was there.
10 There was a couple more people, I'm not real sure. That
11 could have been all, but I think his -- I think the little
12 girl, I can't remember her name, that he had a baby with
13 might have been there, but I'm not real sure. I could be
14 wrong.

15 Q. What was Brandon doing at the house?

16 A. He was just sitting there chilling. I mean, he
17 wasn't doing anything. He was just sitting there.

18 Q. So did anybody leave Jamie's house and go back to
19 this house?

20 A. Yeah.

21 Q. Who went?

22 A. Me and Terry got in the van and left and then Brandon
23 got on his motorcycle and left, but he never pulled up at
24 that apartment. He pulled up at the bowling alley and he
25 walked in between the apartments. In the bowling alley,

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 there's like a driveway, but a walkway, a pathway you can
2 walk through. But Brandon never said anything at that
3 time. He stood back and just watched, I guess, to see if
4 anybody tried to intervene in Shane and Terry's
5 altercation or whatever that was supposed to happen. But
6 the neighbor intervened and said if y'all don't leave, I'm
7 going to call the cops.

8 So we -- Terry don't like cops, so, of course, he was
9 ready to leave. And Brandon got on his motorcycle and
10 left. Brandon never said anything at that point in time.
11 He got back on his motorcycle, he left and he went home.

12 Q. Okay. So when you said a neighbor intervened, what
13 neighbor was that, do you know?

14 A. It was a lady that lived across the street. She --
15 there's a brick house across the street from where the
16 apartments are. It was an older lady with a carport out
17 there. But she said she'd call the cops if we came back
18 again, so we left.

19 Q. Did all this -- did Terry actually confront Shane
20 when you went back?

21 A. Yeah, and there was an argument and that's why the
22 lady came out and said, "If you don't stop, you've got to
23 go" --

24 Q. That happened in the yard area?

25 A. Yeah, that was in the yard area. We actually pulled

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 all the way up to about where the Jeep's at, but Brandon
2 never came up. You know, he came to about, you know,
3 maybe the backside of the corner of that, but he never
4 went into their yard. He was like at the bowling alley
5 side where Kacy and them could see him, but he never said
6 anything to them. At that time, he never did.

7 Q. I'm going to show you another picture and see if you
8 can tell us where --

9 MR. COOK: Beg the Court's indulgence one moment,
10 Your Honor.

11 BY MR. COOK:

12 Q. Can you see that on your screen yet?

13 A. Uh-huh.

14 Q. Are you able to point it -- can you tell us what that
15 is?

16 A. Yeah, that's the bowling alley with the red top.
17 That's the duplex-type thing.

18 Q. You can actually mark -- that screen, if you put your
19 finger on it, you can mark it.

20 A. Okay. The little red dot is about where Brandon was
21 standing.

22 Q. Okay.

23 A. And we were -- we pulled up to about that red dot and
24 the lady's house is there. That's the one that said if we
25 didn't leave that she would call the cops and have the

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 cops come. But Brandon never walked around to the front
2 of their apartment door. Their apartment door is like
3 right here, that's their front entrance. This is Shane's
4 front entrance.

5 Q. Okay.

6 A. Brandon parked over here. He never parked in their
7 yard, in their area at that time.

8 Q. All right. Did you ask Brandon to go with you when
9 you went back over there?

10 A. I don't know what his and Terry's conversation was.
11 I know Terry told him what he was going to do. And I
12 can't -- everything happened so fast and I don't want to
13 lie and I don't want to call anybody else a liar, so I
14 don't want to say anything.

15 Q. Well, just a simple question, did you ask Brandon to
16 go with you over there, did you ask him?

17 A. No, I didn't ask Brandon to go with me, no.

18 Q. And what somebody else asked him, we'll find that out
19 later, okay?

20 A. I don't believe anybody asked him to.

21 Q. Okay.

22 A. I think he just kind of went for if somebody else was
23 to jump in, but he never said anything. He never tried to
24 cause conflict. He stood at the back.

25 Q. Okay. So after this neighbor in the brick house

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 across the street tells y'all to leave, where did you go
2 then?

3 A. We left and we went home and Brandon went home. And
4 my brother may have been at Brandon's because he had been
5 over there doing tattoos and stuff, so --

6 Q. I'm going to --

7 A. -- I'm not sure about that.

8 Q. I'm going to stop you. I don't mean to be cutting
9 you off, but make sure we've got everything in order. Who
10 is your brother?

11 A. Richard Brian Steele.

12 Q. Did -- you call him Brian or Richard?

13 A. I call him Brian.

14 Q. Was Brian at the house that afternoon when all this
15 happened?

16 A. I don't remember him being there at Jamie's when we
17 dropped Emily off?

18 Q. I'm talking about this house over by the bowling --
19 at Kacy's?

20 A. No.

21 Q. Brian wasn't over there?

22 A. Not at that time.

23 Q. So you and Terry and Brandon leave. You go to your
24 house?

25 A. Yeah.

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 Q. Did Brandon come straight to your house?

2 A. No.

3 Q. Just one more thing, when Brandon came to Kacy's
4 house earlier, you said he was on the motorcycle?

5 A. Yes.

6 Q. Do you see him ride that motorcycle often?

7 A. Did I see him ride it often?

8 Q. Do you know that to be his motorcycle?

9 A. I don't know.

10 Q. Okay. That's fine. So you and Terry and Brandon go
11 different ways leaving Kacy's?

12 A. Yes -- well no, I had to go back and get my daughter
13 from Jamie's, so we all did go back to the same place.

14 Q. Okay. You go pick up your daughter, Emily, from
15 Jamie Rivers's house?

16 A. Uh-huh.

17 Q. Do you remember if Brian was there?

18 A. I don't think he was there at that time. I can't --
19 I know I seen him later on, but at that time, I don't
20 remember.

21 Q. After you pick up your daughter, where do you go
22 after that?

23 A. I went home to my house on Gleny Pine Circle.

24 Q. And who all at -- September of 2014, who all was
25 living at your house?

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 A. It was me and Terry and my daughter and my brother,
2 Ryan, was actually staying in between my house and a
3 girlfriend of his and he sometimes stayed with Brandon. I
4 mean, that was just whenever they were doing like tattoos
5 and stuff. I mean, he wasn't like living there. They
6 would just have tattoo parties.

7 Q. Okay.

8 A. But they weren't like living arrangement. He was
9 mainly living at my house.

10 Q. But Brian and Brandon were friends to that extent?

11 A. Yeah.

12 Q. So you're back at your house after this altercation.
13 Is it just the three of you, you, Terry and Emily?

14 A. Yes.

15 Q. At any point, did Brandon come to your house?

16 A. Yes.

17 Q. Did your brother, Brian, come to your house?

18 A. Yes.

19 Q. Did they come together?

20 A. Yes.

21 Q. Do you know how they got there?

22 A. On a motorcycle.

23 Q. When they got to your house -- so at this point, it's
24 Brandon, Brian, you, Terry and Emily?

25 A. Yes.

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 Q. The five of you?

2 A. Uh-huh.

3 Q. What were Brian and Brandon doing at your house?

4 MR. GRIER: Sorry, I couldn't understand the
5 question.

6 BY MR. COOK:

7 Q. What were Brian Steele and Brandon Rivers doing at
8 your house that night?

9 A. They came over there and they had like a black bag
10 and it had a bunch of different like, Jaeger, little
11 bottles of bootlegger and they were drinking them. And I
12 remember I was laughing at Brandon because he had his
13 leather jacket on and he had the chip clips all the way
14 down. And I was like, If you hang on a minute, I'll give
15 you another jacket. Terry's got a couple extra in the
16 closet, so I gave him another jacket. And he put it on
17 and took the other one off because he had chip clips all
18 up and down it. And I was laughing at him about it just
19 picking with him. And they downed the bootlegger bottles
20 and stuff. And Brian went and peed while Brandon was
21 changing his coat and stuff out. And then they were
22 leaving after he changed his coat and stuff.

23 Q. You said they were drinking bootleggers?

24 A. Bootleggers, those little tiny, I guess, like
25 fruity-type drink.

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 Q. Is it --

2 A. An alcoholic beverage, but it's like a little tiny
3 bottle.

4 Q. Did you see any type of drugs or anything?

5 A. No.

6 Q. Okay. Did you see either Brian or Brandon with a gun
7 at your house?

8 A. Brandon had to change some things out of his coat to
9 the other coat. He pulled out some things from the
10 pockets maybe about this big. Like I said before, I don't
11 know exactly what they were. I mean, you can't put a
12 shotgun out that big. I don't know anything handgun-wise.
13 I mean, it looked like a gun. I couldn't tell you what
14 kind, but he pulled two out, yes, he did.

15 Q. Okay.

16 A. And he put them onto the inside of the other coat
17 pockets, of the coat I gave him. And they were small.
18 They weren't big.

19 Q. Okay.

20 A. I don't know what kind they were.

21 Q. Now, when you're back at your house -- earlier in the
22 day, you had this confrontation with Shane at Kacy. Did
23 you ever speak to Kacy again that night after you got back
24 to your house?

25 A. I did. And Brandon, while he was at my house,

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 actually Kacy had called and I had put it on
2 speakerphone --

3 MR. GRIER: Your Honor, may we approach?

4 THE COURT: Hold on.

5 THE WITNESS: -- and I --

6 THE COURT: Ma'am, stop talking when I say hold on.

7 THE WITNESS: I thought that was him, I'm sorry. I
8 can't hear both of y'all at the same time.

9 (WHEREUPON, a bench conference was held in the
10 presence of the jury but not within the hearing of the
11 jury.)

12 THE COURT: Let me get y'all to step back into the
13 jury room and let me take up this matter of law. Please
14 have no conversation about the case. If you need anything
15 while you're back there, just let the bailiffs know.

16 (The jury left open court at 11:01 a.m.) --

17 MR. COOK: Your Honor, I've got one issue. One of
18 the deputies who is working downstairs brought to the
19 attention, Mr. Rivers's mother is sequestered as a
20 potential witness and someone who has been in the
21 courtroom listening to testimony went out and talked to
22 her during a break and it was brought to the attention.
23 Your Honor, I'd ask that you bring her and ask her what
24 she told her because it's a violation of -- you know, the
25 purpose of sequestering is so people don't know what's

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 going on in here.

2 THE COURT: Right.

3 MR. COOK: And I would ask that she brought in front
4 of you to ask her what she told Brandon's mother.

5 THE COURT: You know, when witnesses are sequestered,
6 they're sequestered from everybody, not just outside the
7 courtroom. I'm going to ask you --

8 MR. GRIER: I'm aware of that, Your Honor, and I'm
9 fine with that. Whatever comes of this needs to come of
10 it.

11 THE COURT: Well, let's get them in here.

12 MR. GRIER: They've been told not to discuss the case
13 --

14 THE COURT: Let's get them in here.

15 MR. GRIER: -- if they're going to be a witness.

16 THE COURT: Let me ask y'all something. Where are
17 the witnesses that are sequestered?

18 MR. COOK: The two state witnesses are in the
19 conference room are outside to the left.

20 THE COURT: And where are --

21 MR. GRIER: In the hallway last I --

22 THE COURT: Well, isn't there another conference room
23 over here?

24 MR. GRIER: There is.

25 THE COURT: Put them in the conference room. Get

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 them away from the public. Get them away from other
2 people.

3 MR. COOK: Your Honor, I don't know where they went
4 off to. The two --

5 THE COURT: All right. Well, let's proceed with the
6 other matters we've got.

7 MR. GRIER: We'll deal with it.

8 MR. COOK: Yes, sir.

9 THE COURT: But here's a concern I've got, anybody
10 that's going to be a potential witness, we need them
11 rounded up, put in a room and then these other folks have
12 no access to them.

13 MR. GRIER: Yes, sir.

14 THE COURT: So where's the other person that
15 supposedly was in here listening to testimony and then
16 went out and talked to her?

17 MR. GRIER: I don't know, Your Honor. We just went
18 and looked in the hallway and I didn't see them. I don't
19 know --

20 Did you check with the front desk maybe? I guess --
21 maybe they went outside to smoke a cigarette. I don't
22 know.

23 THE COURT: Okay.

24 MR. GRIER: But I will say her, you know, testimony,
25 it's her knowledge of this, very limited. It was going to

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 be extraneous really to the facts alleged. But I know
2 that's neither here nor there, she was under sequester and
3 may be prohibited from testifying.

4 THE COURT: I'm more upset and will possibly hold in
5 contempt the person who was in this courtroom and then
6 went out and started talking.

7 MR. GRIER: Yes, sir.

8 THE COURT: So all you folks in the audience, don't
9 mess with me. If a witness is sequestered, you stay away
10 from them.

11 All right. What else we got?

12 MR. GRIER: You've ruled on the issue of the text
13 messages.

14 THE COURT: Well, I was going to hear from you.

15 MR. COOK: Your Honor, the state's argument is
16 that --

17 MR. GRIER: Can I put it on the record first, I don't
18 think it's really on the record, if we're going to argue
19 it? Your Honor, I object to any --

20 THE COURT: Testimony.

21 MR. GRIER: -- testimony from this witness about text
22 messages received from some other person as hearsay.

23 MR. COOK: Your Honor, my argument is if Ms. Laney
24 gets a text message on her phone and she sees it, from
25 whoever it's from, whether it's from Ms. Noe generating it

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 on the other side of that line or whoever, I mean, there's
2 actually no way of knowing, but if she sees a message on
3 the screen, she can say what it said. It wouldn't be any
4 different from reading a book and having to bring the
5 author in here to say, yeah, I wrote those words and
6 disseminated that and she read it, or if you see a
7 billboard, I read this on there. I saw this on my phone,
8 what it said, this is what it said. I physically saw this
9 on the screen.

10 THE COURT: Is this the lady that allegedly spoke to
11 her?

12 MR. COOK: I think so.

13 MR. GRIER: Yes, Your Honor.

14 THE COURT: Ma'am, come up here, please.

15 Who was it that she spoke with?

16 MR. GRIER: Your Honor, I don't know, but allegedly,
17 with my client's mother, who was a sequestered witness.

18 THE COURT: Did you leave this courtroom --

19 MS. BAKER: I just went outside to check on her and
20 the girl used my phone, that was all.

21 THE COURT: What conversation did you have with her?

22 MS. BAKER: I didn't really have no conversation with
23 her really, except -- I mean, I didn't tell her anything
24 that was going on.

25 THE COURT: All right. You're to have no

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 communication with her.

2 MS. BAKER: I mean, we didn't talk about nothing
3 going on in here. I just --

4 THE COURT: Listen to what I'm going to say. No
5 communication at all.

6 MS. BAKER: I talked to her yes, sir, but I didn't
7 talk to her what was going on in here.

8 THE COURT: Listen to what I'm saying. From this
9 point forward, you're to have no communication at all.

10 MS. BAKER: Yes, sir.

11 THE COURT: I don't care if it's to talk about what
12 you're going to have for supper tonight.

13 MS. BAKER: Yes, sir.

14 THE COURT: No communication at all. She's a
15 sequestered witness. You're in this courtroom listening
16 to everything. You cannot have any communication with
17 her.

18 MS. BAKER: Yes, sir.

19 THE COURT: Okay. Ma'am, I'm sorry, I just need your
20 name for the record.

21 MS. BAKER: Kimberly Michelle Baker.

22 THE COURT: Thank you very much, Ms. Baker.

23 MR. GRIER: I'm not sure where we were on our -- if
24 you had ruled.

25 THE COURT: No.

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 Mr. Cook, I'm looking at the definition of hearsay.

2 MR. COOK: Yes, sir.

3 THE COURT: A statement is an oral or written
4 assertion or a nonverbal conduct of a person if it is
5 intended by that person as an assertion. And a declarant
6 is the person who makes that statement. Hearsay is a
7 statement other than the one made by the declarant while
8 testifying in the trial or hearing that is offered in
9 evidence to prove the truth of the matter asserted.

10 Now, reading a billboard isn't that. Reading a book
11 or a manual isn't that. But a person who allegedly has
12 information and sends it to someone -- a -- in this case,
13 a witness on the stand in a text message, how does that
14 not fit this definition if what the text message -- if
15 what the message is is being offered for the truth of the
16 matter asserted? That's clearly hearsay. Just because ----
17 somebody texted it doesn't -- that's not an end run around
18 the hearsay rule because it states clearly that a
19 statement is either oral or written.

20 I don't know what the text message is. I don't know
21 what your purpose in wanting to get into it. If it's not
22 being offered for the truth of the matter asserted, then
23 it's not hearsay. But I don't know what it is. So I
24 really -- it's really hard for me to rule on it until I
25 know exactly what --

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 MR. GRIER: I'd ask the witness be proffered then.

2 MR. COOK: I think it's --

3 MR. GRIER: It certainly is it. It's been offered to
4 suggest that my client reacted to a message that was sent
5 on the text.

6 THE COURT: This person --

7 MR. COOK: The communication is offered for the
8 affect it had on the listener or the viewer more so than
9 the truth of the matter asserted than what the text said.
10 I can tell you what it said.

11 THE COURT: Tell me what it said.

12 MR. COOK: It's referring to defendant as a
13 crackhead. And that -- seeing that communication is
14 what -- I'm not trying to prove he's a crackhead. I don't
15 care at all. It's that he saw that and that's what made
16 him mad. That's -- it's not to prove he's a crack --

17 THE COURT: That's not being offered for the truth of
18 the matter asserted? What is -- does anyone have a
19 written copy of this text message?

20 Ma'am, tell me what you would testify to if you were
21 asked -- I guess the question is what was the text message
22 you received?

23 MR. COOK: Yes, sir.

24 THE COURT: What was the text message you received?

25 THE WITNESS: It was, "Why did you bring that skinny

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 ass crackhead, Brandon Rivers, over to my house for?"

2 That was the text message.

3 THE COURT: Okay.

4 THE WITNESS: And I read it out loud with Brandon
5 standing there and I probably shouldn't have because
6 this -- none of this would have happened if I hadn't read
7 that out loud.

8 THE COURT: Well, that's not being offered for the
9 truth of the matter asserted.

10 THE WITNESS: I feel bad for having read that out
11 loud.

12 THE COURT: Ma'am.

13 If that's the testimony, I'm going to allow it. I
14 don't think that's -- I think that's not being offered for
15 the truth of the matter asserted. So I think it's
16 admissible.

17 Anything else in that regard?

18 MR. COOK: No, sir, Your Honor.

19 MR. GRIER: Just, Your Honor, I would say I could see
20 if the witness who sent it was being asked about it and
21 admitted they sent it and then being impeached about it,
22 but I'd still --

23 THE COURT: What's to be impeached?

24 MR. GRIER: If she denied sending the text message,
25 then Ms. Noe could say I did receive it in response to

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 Ms. -- rather Ms. Steele could say she did receive it in
2 response to Ms. Noe denying that she sent it. We don't
3 even know for certain -- the other objection to it is we
4 don't know with certainty who sent the message, I mean,
5 without hearing from the person who allegedly sent it
6 first.

7 THE COURT: But if it's not being offered for the
8 truth of the matter asserted, what's the difference?

9 MR. GRIER: We don't know where it came from or, you
10 know.

11 THE COURT: What difference -- so what? My point is
12 so what?

13 MR. GRIER: I just think it's irrelevant if we
14 don't -- if it's not verified, any foundation is laid for
15 who sent it before, you know, it's being testified to in
16 the courtroom.

17 THE COURT: Again, it's not being offered for the
18 truth of the matter asserted. It's -- so it's not -- I
19 don't know that it matters. Anyway, I'll certainly note
20 your objection.

21 MR. GRIER: Thank you, Your Honor.

22 MR. COOK: Nothing else from the state, Your Honor.

23 THE COURT: All right. Now, do you need -- did you
24 need something else because we took a break?

25 MR. GRIER: I got it. I left a file that I needed.

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 We kind of went out of order I was anticipating earlier
2 based on our conversation and I left something upstairs.

3 THE COURT: Okay. So there's nothing else? While
4 we've got the jury out, we're good? Anybody want to take
5 a quick break or are we good?

6 MR. COOK: If you don't mind a restroom break.

7 THE COURT: Let's take a few minutes.

8 Ma'am, no conversation with anybody about your
9 testimony.

10 (A recess was taken from 11:22 a.m. to 11:32 a.m.)

11 THE COURT: Is the state ready?

12 MR. COOK: Yes, sir, Your Honor.

13 THE COURT: The defense ready?

14 MR. GRIER: I'd like to just investigate what we just
15 discussed. It will take me one moment.

16 Judge, just a little feedback on that, based on my
17 investigation, that information may not be reliable.

18 THE COURT: All right, you ready to start?

19 MR. GRIER: Yes, Your Honor.

20 THE COURT: Bring the jury in.

21 (The jury entered the courtroom at 11:32 a.m.)

22 THE COURT: All right. Thank you, ladies and
23 gentlemen. We'll pick up with Mr. Cook's
24 direct-examination.

25 MR. COOK: Thank you, Judge. May it please the

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 Court?

2 BY MR. COOK:

3 Q. Ms. Laney, back before we took the break, the last
4 question I asked you, did you have any communication with
5 Kacy Noe after you got back to your residence?

6 A. Yes.

7 Q. What type of communication was it? Was it -- did you
8 call or how did you communicate with her?

9 A. She sent some texts, which were irrelevant. And
10 later she called me after they had left.

11 Q. What did she text you?

12 A. Am I allowed to?

13 THE COURT: The text message.

14 THE WITNESS: The text message?

15 THE COURT: The text message.

16 THE WITNESS: She said, "Why did you bring that
17 skinny ass crackhead, Brandon Rivers, to my house?"

18 BY MR. COOK:

19 Q. Was Brandon at your house at this time still?

20 A. Yes.

21 Q. Did you tell him about this text message?

22 A. I read the text message out loud.

23 Q. After you read that text message out loud, what did
24 Brandon do?

25 A. He said, "Fuck that shit, I'm going back over there."

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 Q. Okay. So did he leave your house?

2 A. He did and my brother did with him. My brother's
3 Brian Steele.

4 Q. How did they leave your house?

5 A. On a motorcycle.

6 Q. Was that the last time you saw Brandon Rivers that
7 night?

8 A. Yes -- no. No.

9 Q. You saw Brandon again that night?

10 A. I did at the hospital.

11 Q. Okay.

12 A. Well, we went to see him at the hospital, but we
13 didn't, so I seen him at the police station because they
14 made me go to police station to give a statement.

15 Q. Did you speak to him any more that night?

16 A. No.

17 Q. Did you just see him in passing at the police
18 station?

19 A. At the police station, they had him in handcuffs, so
20 I wasn't allowed to speak to him.

21 Q. Did you see your brother again that night?

22 A. I did.

23 Q. When did you see your brother?

24 A. When I seen him, he called me, he was hysterical. He
25 was crying, upset.

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 Q. Okay. You can't tell me what he said, but where did
2 you see him?

3 A. He asked if I would come pick him up and I did.

4 Q. Where did you pick him up?

5 A. He was -- to be honest, I can't even remember.

6 Q. When he called you, where were you?

7 A. I was at home.

8 Q. Do you remember how long it took you to get wherever
9 he was?

10 A. Not long. I think he was on 200, walking, and I
11 picked him up to go meet his little boy, Noah, mom,
12 Melissa Robins. And she was supposed to meet us at the
13 Forks, the store going down towards Grace Avenue. She
14 never showed up, so I took him out to Beaufort to Joanne
15 Helms's house and I dropped him off. Her daughter,
16 Tiffany, was there. Joanne wasn't there at the time. And
17 then she -- I had my chihuahua with me and we went to the
18 hospital. Me, Terry, and Hemley were together. We went
19 to the hospital and they said that Brandon had been run
20 off the road somewhere by Baskins Hill Road. So we went
21 to Springs Memorial Hospital to check to see how Brandon
22 was doing. And Joanne met me at the hospital and got my
23 chihuahua. I had a small chihuahua and she got my dog and
24 took it back to her house where Brian was at and we went
25 to the hospital and met Jamie, Brandon's mom, at the

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 hospital to see how he was doing, but we weren't allowed
2 to go see him.

3 Q. Okay. Your house -- you on Gleny Pine at that time?

4 A. Gleny Pine Circle.

5 Q. How far is Gleny Pine from Lymon Reece? If you were
6 driving from your house to Kacy's house, how long would it
7 take you?

8 A. Five minutes or less.

9 Q. Okay.

10 A. I mean, just depending on traffic, five minute or
11 less.

12 Q. But it's not -- it's on the same side of town?

13 A. Hop, skip, jump.

14 Q. Do you know -- did you know Christopher Jones?

15 A. That's Chris -- I mean, that's Charlotte Parker's
16 boyfriend. I never knew his last name.

17 Q. The man that got shot?

18 A. The man that got shot?

19 Q. Did you know him?

20 A. I mean, I've been around him, yes. I didn't
21 personally know him, I just know he's from North Carolina.
22 I'd been around him a good bit, yes, before this happened.

23 Q. Was he friends -- were you friends with him?

24 A. Yes.

25 Q. Was your brother friends with him?

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 A. Yes.

2 Q. Had he ever been to your house before?

3 A. Yes.

4 Q. Why had he been at your house before?

5 A. We were all good friends. We cooked out. We hung
6 out. Like I said, we did the pill thing with them. We
7 cooked out together, we ate out together, our kids played
8 together. I mean, once a month, Terry got pills, they
9 swapped out --

10 Q. Let me stop you for a second. Did you ever have a
11 problem with Chris Jones?

12 A. No, never.

13 Q. Did you ever know your brother and Chris to have a
14 problem with each other?

15 A. No, my brother did a tattoo on Chris the week before.

16 Q. A week before this incident?

17 A. Yes.

18 Q. Okay. All right. Backing up a little bit, when your
19 brother and Mr. Rivers left your house on the motorcycle,
20 do you remember who was driving?

21 A. Brandon.

22 Q. Where was your brother?

23 A. On the back.

24 Q. Is it a --

25 A. I'm sorry, I don't mean to laugh. It's just funny

ANGELA LANEY - DIRECT EXAMINATION BY MR. COOK

1 two guys on a motorcycle.

2 Q. Was it a like a Harley-Davidson or was it a --

3 A. It was a crotch rocket.

4 Q. Did you ever see your brother with a gun?

5 A. No. My mama committed suicide, my brother don't
6 touch guns.

7 MR. COOK: All right. Nothing else from the state at
8 this time, Your Honor.

9 Answer anything Mr. Grier may have for you. Thank
10 you.

11 CROSS-EXAMINATION

12 BY MR. GRIER:

13 Q. Ms. Laney?

14 A. Yes.

15 Q. Do you recall being interviewed by Mike Adams, the
16 investigator in the courtroom here?

17 A. At the police department, sheriff's department, yes.

18 Q. Okay. All right. Well, did you also speak with him
19 on the phone the night after you heard from your brother?

20 A. Yes.

21 Q. And did you tell him where the police could find the
22 gun at?

23 A. Did I tell him where the police could find the gun?

24 Q. Yeah.

25 A. In the jacket -- pocket of the leather jacket that

ANGELA LANEY - CROSS-EXAMINATION BY MR. GRIER

- 1 Brandon had on was the last place I seen them put and
2 maybe where the police wrecked him on the motorcycle on
3 Baskins Hill Road maybe, maybe that got tossed out.
- 4 Q. So you don't --
- 5 A. The last place I seen them was in Brandon's pocket.
- 6 Q. Well, not that you saw them or you anything had to do
7 with it. I'm not trying to implicate you.
- 8 A. Of course not.
- 9 Q. No, but your brother -- didn't you learn from your
10 brother where the gun was supposed to be placed and didn't
11 you tell?
- 12 A. No, I didn't.
- 13 Q. So you didn't tell the investigator that the gun
14 would be in the toilet outside of Brandon Rivers's house?
- 15 A. No.
- 16 Q. Okay. And you didn't tell him that your brother was
17 going to turn himself in that night?
- 18 A. Yeah, I did tell him that. I suspected that Brian --
19 suspected he would because I tried to get him to.
- 20 Q. Do you recall -- did you get a call from or speak
21 with Adams by phone that night?
- 22 A. I did talk to him several times that night.
- 23 Q. Okay.
- 24 A. And if Brian did tell me that, if I did tell him
25 that, then I probably did say that. But if that's what

ANGELA LANEY - CROSS-EXAMINATION BY MR. GRIER

1 Brian told him -- told me, then I probably did tell him
2 that.

3 Q. Okay.

4 A. And we did go around the trailer looking, I do
5 recall, and I do recall we seen the toilet out there and
6 we looked through the toilet.

7 Q. Who did?

8 A. The sheriff's department because we followed them
9 over there to a trailer. And I do remember that.

10 Q. Okay. So that was Brandon's trailer?

11 A. His girlfriend's or somebody's trailer. It was a
12 single-wide off Lynwood Drive. And we did look through a
13 toilet, so my brother must have told me that.

14 Q. Well, so how would he know where the gun that was
15 used in the shooting was? Did he tell you anything
16 else --

17 A. No.

18 Q. -- about it?

19 A. No, he just -- like I've heard a couple different
20 things from Brian actually.

21 Q. Okay. All right. So you socialized a good bit with
22 Kacy and Ronnie and --

23 A. Yes.

24 Q. -- that crowd? And, you know, you were really didn't
25 have any issues with them until this all came down?

ANGELA LANEY - CROSS-EXAMINATION BY MR. GRIER

1 A. Until all this happened. We were good friends until
2 all this happened.

3 Q. And you continued to communicate even after it
4 happened, in fact -- okay. The initial incident occurred?

5 A. Uh-huh.

6 Q. You left. Was there communication immediately after
7 that by phone between you and Kacy?

8 A. She was pissed off because Brandon came over there.

9 Q. Okay. But before Brandon came over there?

10 A. No, I mean, there was still some communication. It
11 wasn't good communication because her brother got -- Terry
12 and her brother got in an altercation and we were asked to
13 leave. So there was no good communication after that, no.
14 Since that day, there has been no good communication at
15 all with Kacy and Ronnie and them. Now, Ronnie, I could
16 talk to; Kacy, no. Ever since that happened and then with
17 her brother's passing, she's been mad at everybody for
18 everything. Because I guess with that involvement with
19 Shane being the center of that argument and then him
20 passing, she blames everybody for everything. Nobody had
21 anything to do with Shane's death. He done that to
22 himself.

23 Q. All right. Well, after the second incident, Brian,
24 your brother, and Brandon show up on Brandon's motorcycle
25 at your house, at your place?

ANGELA LANEY - CROSS-EXAMINATION BY MR. GRIER

1 A. Uh-huh.

2 Q. And Brian knows that somebody's cussed out your
3 daughter?

4 A. Yes.

5 Q. He's mad?

6 A. Yes.

7 Q. And so what does he want to do about it?

8 A. He wanted to go back and whoop Shane's ass.

9 Q. Was that one of the reasons they went over there?

10 A. Yeah, it was, to whoop Shane's ass, I mean, that was
11 their intention. But Brian wouldn't have went for no gun.
12 Brian's not like that.

13 Q. All right. Well --

14 A. Brian was brought up old school, fight with your
15 fists. Only the new style gangsters, to me, is not a man
16 using a gun. Real men fight with their fists. Low down
17 lame people fight with guns. Even my momma shot herself
18 and I called her a coward.

19 Q. Sorry.

20 A. I don't like guns. My brother don't like guns.

21 Q. Well, I mean, did you tell Officer -- or Investigator
22 Adams you were in communication with your brother that
23 morning?

24 A. Yeah, I did.

25 Q. Okay. And did you tell them he might be with one of

ANGELA LANEY - CROSS-EXAMINATION BY MR. GRIER

1 his girlfriends?

2 A. I did, Joanne Helms.

3 Q. And did you tell him --

4 A. And I also thought he stole my 60-inch TV and traded
5 for drugs so he could get high before he turned himself
6 in. I'm sure that's in there, too.

7 Q. You say he's a crackhead?

8 A. Yeah, and so is Brandon.

9 Q. How about this note? Do you recognize this note?

10 A. I can't see it from here.

11 Q. I couldn't either. I'm sorry to ask you to.

12 A. Brian, you are not charged --

13 THE COURT: Hold on, ma'am. He didn't ask you to
14 read it.

15 THE WITNESS: Okay. Sorry.

16 BY MR. GRIER:

17 Q. Do you recognize it, first of all?

18 A. Yes, I do. This is what that cop told me and that's
19 the note I left Brian.

20 Q. Where did you leave this at?

21 A. I left it on Joanne's door, Joanne Helms's door.

22 Q. And who is Joanne Helms?

23 A. That was the girl he was staying with in Beaufort.

24 Q. That who was staying with?

25 A. Brian.

ANGELA LANEY - CROSS-EXAMINATION BY MR. GRIER

1 Q. So you didn't leave it at the house where y'all said
2 the gun was in the toilet?

3 A. I don't know. I have seizures, three different
4 kinds, I've already told you that.

5 Q. I'm sorry, I've got to ask the questions, okay. So
6 you're not sure where you left in then?

7 A. No, I'm not. This has been a couple years ago.

8 Q. I understand. I don't want to beat you up over that,
9 but just trying to figure out where this was at. May
10 have -- to the best of your knowledge, you know --

11 A. It was either left at my house or Joanne's house, one
12 or the other. I don't know why I would have left it at my
13 house because my TV got gone, he wouldn't have come back
14 there. He had already come back, got his clothing that
15 was at my house, his tattoo equipment, my 60-inch TV was
16 gone. It got gone with his clothing and his tattoo
17 equipment.

18 Q. Okay.

19 A. I tried to press charges on Brian with my TV getting
20 gone, my own brother.

21 Q. Yeah. The text messages that you received, was it
22 from -- did you not tell the officer it came from -- and
23 if you don't remember, from an unknown number, were you
24 certain where that text message was even coming from?

25 A. Which text message?

ANGELA LANEY - CROSS-EXAMINATION BY MR. GRIER

1 Q. The text message you received about the skinny
2 crackhead?

3 A. Yes, that came from Kacy Noe's phone. It was either
4 her's or Ronnie Blackwell's. It came from -- but I'm
5 pretty sure it was Kacy's.

6 Q. Okay.

7 A. Pretty positive because when I have their phone
8 numbers in my phone, it comes up by name.

9 Q. Right. Okay. All right. No question that's your
10 handwriting?

11 A. That is my handwriting.

12 Q. And you left this note somewhere?

13 A. I did.

14 Q. Hold on just a minute.

15 MR. GRIER: Thank you.

16 THE WITNESS: You're welcome.

17 THE COURT: Any redirect?

18 MR. COOK: Nothing further from the state.

19 THE COURT: Thank you very much, ma'am. You may step
20 down.

21 MR. COOK: Your Honor, the state calls Ronnie
22 Blackwell.

23 THE CLERK: All right, sir, come around to be sworn.

24 RONNIE BLACKWELL, after having first being duly
25 sworn, testified under oath as follows:

RONNIE BLACKWELL - DIRECT EXAMINATION BY MR. COOK

1 THE CLERK: Please be seated in the witness stand.

2 DIRECT EXAMINATION

3 BY MR. COOK:

4 Q. Would you please state your name for the record?

5 A. Ronnie Lee Blackwell.

6 Q. Blackwell?

7 A. Yes, sir.

8 Q. Okay. I think somebody referred to you yesterday or
9 earlier today as Mr. Blackmon?

10 A. Blackwell.

11 Q. Where do you live, Mr. Blackwell?

12 A. I live on Lymon Reece Road.

13 Q. Show you a picture. It should pop up here in a
14 second on that screen. You see it yet?

15 A. Yes, sir.

16 Q. Is that your house?

17 A. Yes, sir.

18 Q. The blue house or the one in the back?

19 A. It's the white one with the car in the yard.

20 Q. Is that your car?

21 A. It's a Jeep, yes, sir.

22 Q. How long have you lived there?

23 A. Three years.

24 Q. Were you living there September 26, 2014?

25 A. Yes, sir.

RONNIE BLACKWELL - DIRECT EXAMINATION BY MR. COOK

1 Q. Is one of those -- is that your door in the middle
2 or?

3 A. My door is where the car is parked at.

4 Q. Okay. Around that corner?

5 A. Yes, sir.

6 Q. And you were -- you had been living in that unit
7 since September 2014?

8 A. Yes, sir, I moved out that apartment and got the
9 middle apartment about four months ago.

10 Q. Okay. But you're still in that --

11 A. I'm still in the apartment unit, yes, sir.

12 Q. Okay. When you were living there September 2014, who
13 all lived there with you?

14 A. Me, Kacy Noe and her two kids and Mr. Jones and his
15 girlfriend for a while. They didn't stay long. They
16 stayed about four months. They was just moving from
17 Charlotte to Fort Lawn until they get their house redid
18 and I let them stay there for a while.

19 Q. Okay. So on September 26th, did you have anybody
20 over that afternoon?

21 A. I had Ms. Angela Steele and her boyfriend, fiance at
22 the time, Terry Laney, was over visiting me.

23 Q. Was anybody else with them?

24 A. Their little girl.

25 Q. Okay.

RONNIE BLACKWELL - DIRECT EXAMINATION BY MR. COOK

1 A. Their little girl.

2 Q. Was there any -- did they come over there often?

3 A. I was supposed to be the best man at the wedding.

4 Q. Did they ever get married?

5 A. I think they got married after this incident
6 happened.

7 Q. Were you the best man?

8 A. No, I -- after that, they didn't come around no more.

9 Q. Okay. So that afternoon when Mr. Laney and Angie and
10 their daughter come over, what are you all -- was there
11 any type of confrontation?

12 A. Well, I had went to the store at the time the first
13 confrontation started, I wasn't there. When I got back,
14 Mr. Laney and Angie was gone. And it was told to me the
15 confrontation --

16 Q. I'm going to back you up just because -- you weren't
17 there, so...

18 A. At first I wasn't there. I went to the store.

19 Q. Okay.

20 A. When I got back to the residence, it was told to me
21 that the little girl of Angie Steele's had knocked on the
22 wall and knocked the mirror down of my neighbor next side,
23 Shane Bolen's house.

24 Q. Okay. I'll stop you right there. Who is Shane
25 Bolen?

RONNIE BLACKWELL - DIRECT EXAMINATION BY MR. COOK

- 1 A. He's Kacy Noe's brother. He deceased now.
- 2 Q. Do you know when he passed away?
- 3 A. Passed away about -- it's been a year last month.
- 4 Q. And he lived in --
- 5 A. He lived where the trash cans at.
- 6 Q. Right there in the middle?
- 7 A. Yes, sir, right where the two trash cans at.
- 8 Q. Did -- the first altercation, you weren't there. You
- 9 heard about it?
- 10 A. Yeah, I heard about it.
- 11 Q. When you got back from the store, were Angie and
- 12 Terry still at your house or?
- 13 A. They had gone.
- 14 Q. Did you see Angie and Terry again that day?
- 15 A. Yes, sir.
- 16 Q. When did they come back at your house?
- 17 A. They come back to the house around -- they come back
- 18 around give or take -- don't take this dead on time, I
- 19 reckon about 8:30, 9:00. That's when --
- 20 Q. I'm going to stop you. I hate to cut you off, just
- 21 got to make sure we don't get out of line here. Did they
- 22 bring their daughter back with them?
- 23 A. They daughter wasn't back. No, their daughter didn't
- 24 come back. I didn't see her. It's been three years. I
- 25 don't think. I'm pretty sure she didn't come back.

RONNIE BLACKWELL - DIRECT EXAMINATION BY MR. COOK

1 Q. So Angie and Terry come back. What happened when
2 they got there?

3 A. Started confrontation -- confrontation started.
4 Started arguing and they going to whup and him and Shane
5 fixing to fight and all this here, all this here, bunch of
6 cussing, arguing, and fussing. And after a while, Brandon
7 come from the bowling alley from -- where this Jeep at,
8 the side where the Jeep on this picture, he come around.
9 And Brandon didn't have too much to say. He didn't have
10 too much to say that first time he come. He was nice. I
11 told him, I said, "Brandon, don't get into this. Just go.
12 I'm going to call the police if you don't." Brandon
13 listened to me. He left.

14 Q. I'm going to -- what -- did you know Brandon?

15 A. I never seen him before in my life till that night.
16 He might have known me. Personally, I don't him now
17 really.

18 Q. So when you tell him to get out of here?

19 A. The first time, he left.

20 Q. But you didn't know who he was, you just tell him to
21 get out of there?

22 A. They was arguing and fussing and fighting. I said,
23 "Brandon, I'm fixing to call the police. Go back and just
24 leave." And really, he really did get up and leave. He
25 turned around and went back to his motorcycle, whatever he

RONNIE BLACKWELL - DIRECT EXAMINATION BY MR. COOK

1 driving at the bowling alley and he left.

2 Q. I'm going to show you another picture real quick. It
3 should pop up here in just a second. Do you recognize
4 what this is?

5 A. That's the top vision of my apartment. I stay near
6 the bowling alley --

7 COURT REPORTER: I'm sorry, sir, could you repeat
8 that?

9 THE WITNESS: That's the top photo of where I live
10 at, the apartment complex, and the bowling alley.

11 BY MR. COOK:

12 Q. You can use your finger and draw on that screen. Can
13 you mark where you -- where Brandon came from when you saw
14 him that afternoon or that evening?

15 A. That evening, he come from -- I don't know where the
16 parking lot is, I'll say right here. He come right over
17 through here, come to the part right here. Draw a little
18 pass, like a pass. Might be on this side here.

19 Q. What's that at the top? Is that the bowling alley at
20 the top with the red roof?

21 A. That's the bowling alley right here. On this
22 picture, I think the parking lot and the bowling alley is
23 right here. I think that's the air-conditioning unit.

24 I'm sorry, he come on this side right here.

25 Q. Okay.

RONNIE BLACKWELL - DIRECT EXAMINATION BY MR. COOK

1 A. And went around to my apartment.

2 Q. Was anybody with him when he came?

3 A. The first time, I ain't see nobody with him. If they
4 did, I didn't see them.

5 Q. I know you said he didn't get involved at this --

6 A. No, he was getting involved with his attitude. He
7 had a nasty attitude about hisself, but it was fixing to
8 get nasty. It was fixing to get nasty the first time, but
9 I told Brandon, I said, "Brandon, just go ahead and leave,
10 man. If you don't, I'm going to call the cops." Brandon
11 backed off and went back to the car and left.

12 Q. Did you see any guns?

13 A. At that first time, no, I ain't see no gun. He had
14 his hand in his pocket. He was playing in his pocket, but
15 as far as gun eyesight, no, I did not see that.

16 Q. Now, you tell Brandon to leave, he leaves. What
17 about -- where are Angie and Terry at this point?

18 A. They -- at the time when Brandon left, they started
19 arguing and after a while, everybody just cleared out.

20 Q. Was there ever any type of physical altercation?

21 Anybody actually get in a fight?

22 A. No, Shane and the guy named Terry Laney fixing to get
23 in a fight, but really and truly, they kissed and made up.
24 It was supposed to be all over right then.

25 Q. So things had calmed down?

RONNIE BLACKWELL - DIRECT EXAMINATION BY MR. COOK

- 1 A. Yeah, calmed down. Completely calmed down.
- 2 Q. Okay. So did Terry and Angie leave at that point?
- 3 A. Yeah, they left.
- 4 Q. Now, did you ever see Brandon again that night?
- 5 A. Yes, I did.
- 6 Q. Was anybody with Brandon with him when you saw him?
- 7 A. Yes, another gentleman with him.
- 8 Q. Who was with Brandon?
- 9 A. It was Angie Steele's brother.
- 10 Q. What's his name?
- 11 A. I really don't know him. I heard his name called,
- 12 but I really don't even know him personally. I know it's
- 13 her brother. I hear his name called earlier, but I still
- 14 can't remember.
- 15 Q. Okay. About how much longer after Terry and Shane
- 16 kissed and made up did you see Brandon and Angie's
- 17 brother?
- 18 A. Probably about maybe an hour, 45 minutes to an hour,
- 19 maybe a little longer. I'm not sure exactly on the time
- 20 limit.
- 21 Q. Where were you when you saw them? Where you in the
- 22 house?
- 23 A. I was in the house to begin with until I heard all
- 24 the commotion started back up again when Angie's brother
- 25 come out. Brandon didn't never get off the motorcycle.

RONNIE BLACKWELL - DIRECT EXAMINATION BY MR. COOK

1 Q. Now, did you see -- you said he was on a motorcycle,
2 did you see them when they pulled up?

3 A. Yes, they was out -- when they pulled up, they
4 stopped and that's when I come outside.

5 Q. I'm going to stop you real quick, okay?

6 A. Okay.

7 Q. Now, I know this isn't the picture from that night,
8 obviously, because it's light outside. You said you saw
9 Brandon on the motorcycle. Can you mark on there where
10 Brandon was on his motorcycle?

11 A. It was -- I'll give or take right on in there. Right
12 in there on the highway, right there. Maybe a little bit
13 further this way.

14 COURT REPORTER: I'm sorry, sir, could you speak up?

15 THE WITNESS: I said side of the road right in here
16 from the road to the house, give or take.

17 BY MR. COOK:

18 Q. Did you ever see Brandon come into your yard?

19 A. Brandon didn't never get off the motorcycle. Brandon
20 stayed right there.

21 Q. All right.

22 A. Racing the motorcycle motor. He was racing the
23 motor. He was talking a little trash, but that's about
24 it. He never got off the motorcycle. He never got off
25 that night.

RONNIE BLACKWELL - DIRECT EXAMINATION BY MR. COOK

1 Q. Now, you're out there, you see Brandon on his
2 motorcycle in the roadway. Who else is outside besides
3 you and Brandon?

4 A. Me, Brandon -- well, let me back this up a little
5 bit. When I walked out the door, me and Chris Jones
6 walked out together. Then Kacy come out, Chris's
7 girlfriend come out, Shane's girlfriend come out. Shane
8 didn't never come outside the second time. Shane was
9 standing in the doorway, if I'm not mistaken. But me and
10 Chris went -- went out off the porch. We went and stood
11 beside Chris's car.

12 Q. I'm going to stop you right there. I've got
13 something else I can let you make some marks on, okay?

14 A. Okay.

15 Q. Do you recognize what this is?

16 A. That's the front of my house.

17 Q. That's not the same car that's in that last picture.
18 Whose car is that?

19 A. I think that's -- is that a mine -- if that's a Kia,
20 that's mine. Oh, that's a Maxima, that's Chris. If
21 that's a Maxima, that's Chris's car.

22 Q. That's a Nissan Maxima?

23 A. Altima, sorry. That's Chris's car.

24 Q. All right. Do you -- do you know when this picture
25 was taken?

RONNIE BLACKWELL - DIRECT EXAMINATION BY MR. COOK

1 A. I have no idea.

2 Q. Okay. Is that crime scene tape usually around your
3 house?

4 A. No.

5 Q. Do you remember seeing crime scene tape put around
6 your house that night?

7 A. Yes, sir.

8 Q. Even if it's not the same night this happened, is
9 that roughly where Chris's car was?

10 A. Nope, it wasn't parked that way. It wasn't parked
11 that way. Let me think. I don't remember how it was
12 parked, to be honest with you. I really don't remember.
13 But I know for a fact that me and Chris was --

14 Q. I'll tell you, this picture was taken the night this
15 happened. Did you move Chris's car?

16 A. Yeah. Me and Chris -- you know what, me and Chris
17 was standing -- I'm going to mark it, okay?

18 Q. Okay.

19 A. I think me and Chris is somewhere along in here. Me
20 and him was standing right beside each other.

21 Q. So the two of you -- so you're telling me that one of
22 these lines is Chris and the other one is you?

23 A. I was standing approximately a foot, almost touching
24 arms.

25 Q. Are you the one closest to the house or the one on,

RONNIE BLACKWELL -- DIRECT EXAMINATION BY MR. COOK

1 the outside?

2 A. I'm the one closest to the house.

3 Q. Where was Kacy?

4 A. Kacy was on this porch right here.

5 Q. Did -- so y'all are out there. Brandon still in the
6 road?

7 A. Brandon still in the road.

8 Q. Okay. What about Brian Steele, Angie's brother?

9 A. Brian Steele got off the motorcycle. Wanted to get
10 off and fight everybody in the world that night. He
11 wanted to fight everybody in the world.

12 Q. Did anybody fight him?

13 A. Nobody fought him. I said it again, I said, "I'm
14 fixing to call the police." I said, "Man" -- whatever the
15 name, I said, "You better go on and get back on the
16 motorcycle and leave. I'm fixing to call the police."

17 Q. After you told him you were going to call the police,
18 what did he do?

19 A. He got a little worser really. Then he -- and Brian
20 was talking -- Brian was talking a little trash, but
21 Brandon was talking trash, but he never got off the
22 motorcycle. Then -- I might be moving too fast. The
23 other guy was still wanting to fight everybody, calling
24 people names and all kind of stuff. If I move too fast,
25 just stop me.

RONNIE BLACKWELL - DIRECT EXAMINATION BY MR. COOK

1 Q. This part -- you're talking right now about Brian,
2 Angie's brother? He's in the yard talking trash?

3 A. Yeah.

4 Q. Talking trash to who?

5 A. Everybody out there. Chris don't even know -- this
6 gentleman right here, the Defendant, if he walked through
7 the door, I wouldn't have know him until today. And Chris
8 and him didn't have no words amongst each other. And the
9 guy got off the motorcycle was the one doing all this
10 mouthing, wanting to beat everybody in the house over some
11 kind of text.

12 Q. Okay. When did he ultimately decide -- how did he
13 get back to the motorcycle, did he leave --

14 A. I told him I'm fixing to call the police. Then when
15 he went towards the motorcycle -- he went on the
16 motorcycle. As he was climbing on the motorcycle, he told
17 Mr. Lucas, 'Kill the niggers, shoot the niggers.'

18 Q. He told who?

19 A. "Shoot the niggers." That's when the defendant
20 started shooting. I ducked. I think had been a gun, I'd
21 got shot, too. Chris caught himself trying to duck,
22 that's when the bullet hit him down below. But beyond a
23 shadow of a doubt, the defendant did the shooting.

24 Q. You saw Mr. Rivers with the gun?

25 A. I saw the bullet come from Mr. Rivers's gun. The

RONNIE BLACKWELL - DIRECT EXAMINATION BY MR. COOK

1 other guy did not shoot. He told the defendant, "Shoot
2 the niggers."

3 Q. And we haven't met Mr. Jones. Is Chris Jones black
4 or white?

5 A. He's black.

6 Q. Okay.

7 A. But I don't understand why -- I don't think
8 Brandon -- really and truly, I think Brandon got caught up
9 in the moment. I really do. Because -- I say that
10 because for the simple reason the first time I told him to
11 leave, he left. I think he got promoted to do this. I'm
12 not trying to sugar coat it. He did the shooting. He did
13 the shooting.

14 Q. So you're standing beside Mr. Jones. Did you see
15 Mr. Jones get hit?

16 A. Yeah, I was standing right beside him. He said, "I'm
17 shot. He shot me. He shot me." He went down.

18 Q. Did you ever see Mr. Jones with a gun?

19 A. No, sir, I did not. Never saw him with a gun.

20 Mr. Jones wouldn't have no reason to get no gun because of
21 the simple reason he wasn't beefing with nobody.

22 Mr. Jones wasn't beefing with nobody.

23 Q. He was just there hanging out?

24 A. He was hanging out with me.

25 Q. Did you have a gun on you?

RONNIE BLACKWELL - DIRECT EXAMINATION BY MR. COOK

1 A. I don't carry a gun. I had enough experience with
2 guns, my son and everything. I don't like guns. I don't
3 do guns.

4 Q. What about Kacy? Did she have a gun?

5 A. No.

6 Q. Did you see anybody out there besides Brandon Rivers
7 with a gun?

8 A. At the time, I ain't saw no guns, but -- only gun I
9 saw fired come from the motorcycle.

10 Q. Was Brandon sitting on the motorcycle?

11 A. Yes, sir. He crunk the motorcycle up, one foot and
12 he shot pop, pop, pop, and he went on about his business.
13 Then the police come and they find him somewhere else. I
14 don't know where they found him at.

15 Q. Where did he leave -- what direction did he go in?

16 A. He went toward Lynwood Drive. He left. If you got a
17 picture, I can show you.

18 Q. I got you.

19 A. He went down this road right here. This road right
20 here go all the way out to Lynwood Drive. When he got to
21 the end of the road, I don't know which way he went, but
22 that where he left from. The motorcycle -- matter of
23 fact, the motorcycle was pointed that way. He didn't have
24 to turn the motorcycle around or nothing, it was pointed
25 that way. Because when he come in, he come in this way.

RONNIE BLACKWELL - DIRECT EXAMINATION BY MR. COOK

1 And that's where he went back that way.

2 Q. Okay. And that goes out to Lynwood?

3 A. It goes out to Lynwood.

4 Q. All right. So now where did Brian go?

5 A. Brian jumped on the motorcycle and went with him.

6 Q. So he was with him when he left?

7 A. When he left, he was on the back of the motorcycle.

8 Q. Did you call law enforcement?

9 A. I called them -- I think somebody else called them.
10 I told -- I didn't have my cell phone at the time because
11 Chris went down with the shooting, I went with down with
12 Chris trying to help Chris. I think someone else called
13 911.

14 Q. Were you there when law enforcement arrived?

15 A. Yes, sir.

16 Q. Did you give statements to law enforcement?

17 A. Yes, sir.

18 Q. Did you give a statement on the scene?

19 A. I went to the sheriff's department and did it..

20 Q. Okay. I'm going to ask you because I know they're
21 going to ask. They found a starter pistol. Do you know
22 what a starter pistol is?

23 A. I don't do guns. I don't know nothing about a
24 starter pistol. You bring it in front of me, I wouldn't
25 know what it was. I really wouldn't.

RONNIE BLACKWELL - DIRECT EXAMINATION BY MR. COOK

1 Q. But your testimony is that you didn't see any other
2 guns?

3 A. I didn't see no other gun but one other gun that I
4 seen. I know after the shooting when the police come, all
5 the sheriff's department come, they found another gun, but
6 I don't know nothing about it. Matter of fact, when they
7 found it, I still ain't seen it to today.

8 Q. So it wasn't yours?

9 A. Huh?

10 Q. Whatever they found is not yours?

11 A. Not mine, absolutely not.

12 Q. Okay.

13 MR. COOK: Beg the Court's indulgence one moment,
14 Your Honor.

15 THE COURT: Yes, sir.

16 BY MR. COOK: -----

17 Q. Mr. Blackwell, do you remember what Mr. Rivers was
18 wearing when he came back that second time?

19 A. Really, I wasn't even looking at no clothing. Be
20 honest with you, I wasn't looking at no clothing. I
21 really wasn't.

22 MR. COOK: Nothing else at this time, Your Honor.

23 Answer anything Mr. Grier may have for you. Thank
24 you, Mr. Blackwell.

25 CROSS-EXAMINATION

RONNIE BLACKWELL - CROSS-EXAMINATION BY MR. GRIER

1 BY MR. GRIER:

2 Q. Mr. Blackwell, so Brian Steele is angry and trying to
3 fight everybody?

4 A. Yeah.

5 Q. Who is he trying to fight?

6 A. Everybody who want to go to his level, I reckon.

7 Q. Well, I mean, but who was out there?

8 A. Kacy Noe.

9 Q. He's trying to fight Kacy?

10 A. I tell you who he was really after, he was after --
11 in my opinion, when all said and done, I believe he was
12 after the deceased, Kacy's brother. But Kacy's brother
13 did not follow it up because he never come outside, he
14 stayed in the doorway. He never come out in the yard the
15 last time or nothing. But I think that's what the other
16 guy come for. And Kacy, he might have been mad with Kacy
17 because of the text Kacy and Angie Steele was texting
18 amongst each other. That's what I think. I think Kacy
19 wrote a text to Angie, something about don't bring that
20 poor crackhead to the house and all that. And I think
21 that's what really made the defendant mad. But after
22 all -- I'll say it again, after all them texts and stuff
23 was on the text, he never got off the motorcycle.

24 Q. How did you know about the texts?

25 A. It was on -- Kacy the one showed it to me.

RONNIE BLACKWELL - CROSS-EXAMINATION BY MR. GRIER

- 1 Q. Okay.
- 2 A. After all said and done.
- 3 Q. Right. Okay. Now, you and Kacy are were socializing
- 4 and friends --
- 5 A. Yeah.
- 6 Q. -- with Jerry and Angie prior that?
- 7 A. Not Jerry. I don't know.
- 8 Q. Mr. Laney?
- 9 A. Yes, Terry.
- 10 Q. Terry, excuse me, right. Terry and Angie. Y'all
- 11 had -- y'all saw them regularly?
- 12 A. Yeah, he was a good friend of mine. Like I said, I
- 13 was going to be his best man at his wedding.
- 14 Q. Do what?
- 15 A. I was going to be the best man at his wedding.
- 16 Q. Didn't they get married?
- 17 A. I wasn't there.
- 18 Q. So how about Jerry Railey?
- 19 A. I don't know too much about Jerry Railey really.
- 20 Q. Okay.
- 21 A. All I know, he was there. He was outside. He was
- 22 over to Shane's house. He wasn't at my house at the time.
- 23 Q. Okay. Was he outside when it happened?
- 24 A. Trying to think about it, he was outside.
- 25 Q. Where was he at?

RONNIE BLACKWELL - CROSS-EXAMINATION BY MR. GRIER

1 A. I don't know exactly where he was standing at or
2 nothing like that. I couldn't tell you that. I wouldn't
3 know.

4 Q. And you were in front of the car?

5 A. I was standing right beside the car.

6 Q. You were standing in front of the car?

7 A. Yes, sir.

8 Q. And Chris was standing in front of the car?

9 A. Right beside me, yes, sir.

10 Q. And so Brian Steele wasn't trying to fight y'all?

11 A. Like I said earlier, I don't think he cared who
12 wanted to fight. Anybody would have followed him up, he
13 probably would have fought them. But I think what it was,
14 he just wanted to start a confrontation and put the
15 defendant in it. And seemed like to me, it worked.

16 Q. Where was Mr. Steele at the time the gunshots were
17 fire?

18 A. He was getting back on the motorcycle. As he was
19 getting back on the motorcycle, after he was -- put the
20 other leg -- I remember like it was yesterday, this part.
21 All I can hear him say is "Shoot the niggers. Shoot the
22 niggers."

23 Q. Okay. And there are no street lights out there.
24 It's dark, isn't it?

25 A. Not necessarily where this bike was, no, it's not

RONNIE BLACKWELL - CROSS-EXAMINATION BY MR. GRIER

1 dark out there. If you go in on this apartment complex up
2 in here at night, it's dark. But all this road, you can
3 see fine. It's street lights across the street. You can
4 see at the mailboxes. You can see all that.

5 Q. All right. Okay.

6 A. You got a good view. You ain't got a hundred percent
7 view, but you got a view.

8 Q. Now -- so nobody was taken on Brian Steele?

9 A. Nobody really followed him up. Because I made the
10 statement myself I'm fixing to call the police. And Shane
11 didn't want to fight because -- really and truly, Shane
12 and Terry and Angie had kissed and made up about the whole
13 comment, all that earlier.

14 Q. Right.

15 A. So like I said, it started from the text.

16 Q. Did you see where Chris Jones -- and you said you
17 didn't really know his name, but Chris?

18 A. I know Chris Jones, yeah, I know Chris.

19 Q. Did you see where he was shot at?

20 A. He was shot in the groin.

21 Q. Did you see it, actually see it?

22 A. Yeah, like I said, once the shooting was over, I
23 helped Chris. I was down there helping Chris.

24 Q. Okay. Now, he had his pants on at the time he got
25 shot, right?

RONNIE BLACKWELL - CROSS-EXAMINATION BY MR. GRIER

1 A. Yeah.

2 Q. Did the bullet penetrate the pants?

3 A. Went through his pants. I don't know exactly what
4 penetrated or nothing, all I know, what I seen, the bullet
5 went through his penis and through his other private part
6 and went out.

7 Q. Okay. Did you see a bullet hole in his clothing?

8 A. I didn't. Like I said, I ain't no EMS. I didn't go
9 that far with it. I'm -- I'm a man, I let EMS deal with,
10 all that. I didn't go that far down.

11 Q. But you did see the injury?

12 A. I know the injury, yes, sir.

13 Q. Okay. Now -- and you've already testified you know
14 nothing about that gun, how he ended up -- how a gun -- a
15 starter pistol ended up on the premises?

16 A. I don't know. I don't know.

17 Q. So nobody was shooting from --

18 A. Nobody was shooting from that apartment to the road,
19 no, sir, whatsoever.

20 Q. Okay.

21 A. Point blank.

22 Q. Anybody trying to shoot?

23 A. No, whatsoever, point blank. We had kids in this
24 house.

25 Q. Okay.

RONNIE BLACKWELL - CROSS-EXAMINATION BY MR. GRIER

1 A. Like I was telling earlier, I don't like guns. I
2 don't like guns to be around me.

3 Q. Right.

4 A. I done had my past, but I never loved guns. You know
5 personally why I don't like guns. I don't need to go into
6 that. But I don't like guns. Ain't nobody had no gun I
7 seen in my house.

8 Q. Yes, sir.

9 A. And I should know.

10 Q. Okay. How long after this shooting happened before
11 law enforcement arrived?

12 A. It was probably -- they respond quick. Eight, ten
13 minutes, give or take.

14 Q. Did anybody actually call law enforcement before the
15 shooting?

16 A. No, because -- I was going to call law enforcement,
17 but he left, wasn't no reason to.

18 Q. But I'm talking about on the evening -- you're
19 talking about the second incident?

20 A. Yes.

21 Q. During the day?

22 A. Yeah, the second incident. I didn't have to call
23 them because the defendant left just as nice as he could
24 be?

25 Q. How long between the two incidents? Approximately, I

RONNIE BLACKWELL - CROSS-EXAMINATION BY MR. GRIER

1 know you weren't watching your --

2 A. Maybe an hour, hour and a half, two hours, give or
3 take.

4 Q. Did you go to -- you went to the sheriff's department
5 and gave a statement there?

6 A. Yes, sir, I did.

7 Q. Now, at that time, did you -- what did you tell them
8 at that time?

9 A. It's been almost three -- I have no idea at the time
10 what I told them. All I know, I saw a shooting and I saw
11 who shot him, all that blah, blah, blah, blah, that's as
12 far as I can remember. Like I said, I been sick every
13 since then. I've got a little health problem now and I
14 lot of stuff I don't remember. I don't remember right
15 now.

16 Q. Okay.

17 A. Little small, like a statement from the sheriff's
18 department. I don't remember all that word for word, sir.

19 Q. All right.

20 MR. GRIER: Beg the Court's indulgence.

21 THE COURT: Yes, sir.

22 MR. GRIER: All right, Mr. Blackwell. Appreciate it,
23 thank you.

24 THE COURT: Anything further from this witness?

25 MR. COOK: Nothing from the state, Your Honor.

KACY NOE - DIRECT EXAMINATION BY MR. COOK

1 THE COURT: Thank you very much, sir. You may step
2 down.

3 MR. COOK: May I approach, Your Honor?

4 THE COURT: Yes.

5 (WHEREUPON, a bench conference was held in the
6 presence of the jury but not within the hearing of the
7 jury.)

8 THE COURT: Call your next witness.

9 MR. COOK: State calls Kacy Noe to the stand.

10 THE CLERK: Please come around. Place your left hand
11 on the Bible and raise your right.

12 KACY NOE, after having first being duly sworn,
13 testified under oath as follows:

14 THE CLERK: Please be seated in the witness stand.

15 DIRECT EXAMINATION

16 BY MR. COOK:

17 Q. Would you please state your name for the record?

18 A. It's Kacy Noe.

19 Q. Ms. Noe, where do you live?

20 A. At Lymon Reece Road.

21 Q. How long have you lived there?

22 A. Approximately about eight years, off and on.

23 Q. Were you living there in September of 2014?

24 A. I was.

25 Q. I'm just going to show you a picture. Tell us what

KACY NOE - DIRECT EXAMINATION BY MR. COOK

1 this is, okay?

2 A. At that time, that is my apartment, the one at the
3 very back.

4 Q. You can mark on it on the screen. Just circle where.

5 A. Right here.

6 Q. Around that corner, that's your door?

7 A. Yes.

8 Q. In September of 2014, who all was living there with
9 you?

10 A. It was me, my two children, Chris Jones, Charlotte
11 Bolen and Ronnie Blackwell.

12 Q. How old are your children -- well, how old were your
13 children then?

14 A. At that time, my daughter was four and my son was
15 six.

16 Q. Who lived next door?

17 A. This one right here?

18 Q. Yes, who lived right there?

19 A. That was my brother. My brother lived there, Shane
20 Bolen, and Ann Marie Boyleston and Bear. We called him
21 Bear, Jerry Railey.

22 Q. And Shane Bolen is who?

23 A. That's my brother.

24 Q. Now, did something happen to Shane since this
25 happened?

KACY NOE - DIRECT EXAMINATION BY MR. COOK

1 A. He passed away in March of this year.

2 MR. GRIER: I couldn't hear that response. Could you
3 pull the mic up a little closer?

4 THE WITNESS: He passed away in March of last year.

5 BY MR. COOK:

6 Q. Now, on September 26, 2014, did you have any friends
7 over that afternoon?

8 A. I did.

9 Q. Who came over to your house?

10 A. It was Angie Steele and her fiance at the time, Terry
11 Lane, and Angie's daughter. She's nine years old.

12 Q. Was Angie's daughter friends with your children?

13 A. Yes. Well, yeah. At the time, we watched her -- I
14 think Terry had court that week, so I was babysitting her
15 just periodically when they needed me to.

16 Q. But Terry was at your house this day?

17 A. Yes, all three of them was.

18 Q. Was there some incident with your brother and Angie
19 and Terry that afternoon?

20 A. Yes.

21 Q. What happened?

22 A. The children were in the living room playing. And it
23 was unclear actually which one did it, but one of the
24 children kicked the wall to my brother's apartment and
25 knocked his mirror off the wall.

KACY NOE - DIRECT EXAMINATION BY MR. COOK

1 Q. Is it a common wall between the two units?

2 A. Yes, uh-huh.

3 Q. What did your brother do?

4 A. He got upset, came over to my apartment, opened the
5 door and started yelling at the children.

6 Q. Was he using profanity?

7 A. He said something along the lines -- like I said, we
8 was there earlier that week. So when he opened the door,
9 he said something along the lines of I told y'all about
10 kicking, you know, playing in the living room and kicking
11 the wall. Y'all just knocked my GD mirror off the wall.

12 Q. So after he -- he's obviously mad and yells at the
13 children. What happened after that?

14 A. I was actually in my living room. When you open the
15 living room door to my apartment at that time, you could
16 see straight ahead. So it was the living room, the
17 hallway and then my bedroom at that time. Me and Angie
18 was in my room where I was getting dressed. So when my
19 brother opened the door, Angie could see a clear path to
20 my brother. When my brother started getting upset and
21 using profanity at the kids, Angie got upset and started
22 storming towards my brother and they got into a
23 confrontation.

24 Q. What about Terry? Where was Terry?

25 A. Terry was outside on the telephone at the time.

KACY NOE - DIRECT EXAMINATION BY MR. COOK

1 Q. So after this little fit between Shane and Angie,
2 what happened after that?

3 A. Like I said, they got into a confrontation. I was
4 still in my room getting dressed at the time, but I could
5 see a clear path to them arguing because they were
6 standing in the doorway. I didn't say anything to neither
7 one of them, I just let them have their dispute. At that
8 time, Terry came from the yard up to my brother and
9 confronted my brother. When that happened, I immediately
10 stepped in because I wasn't going to let them, you know,
11 bombard my brother. So I just told them, you know, break
12 it up, leave it alone.

13 They -- at that point, my brother just stopped, you
14 know, because Angie is really short and my brother was
15 really taller. So my brother just stopped, he didn't say
16 anything else and he just let it go. Angie and Terry, on
17 the other hand, was not letting it go. So I asked them to
18 leave and leave my premises at that time.

19 Q. Did they leave?

20 A. Which they did, yes.

21 Q. Did they take their daughter with them?

22 A. Yes.

23 Q. Now, after they left, did Angie and Terry come back
24 to your house?

25 A. Yes.

KACY NOE - DIRECT EXAMINATION BY MR. COOK

1 Q. About how much longer -- back up a little bit. When
2 they came over the first time with their daughter, about
3 what time was that?

4 A. I would say in the afternoon, probably about -- in
5 the evening, maybe around 4:30, 5:00.

6 Q. Okay.

7 A. Maybe a little bit later.

8 Q. After they left and came back, was the daughter with
9 them?

10 A. No, she was not.

11 Q. What time was it when they came back roughly?

12 A. I would say within a good 30 minutes to an hour.

13 Q. So Angie and Terry -- was anybody else with them?

14 A. In their vehicle, no. When they pulled up into my
15 driveway, there was no one else with them. Once they got
16 out and the confrontation started again, the defendant
17 walked from behind the bowling alley.

18 Q. When you say "the defendant," who are you talking
19 about?

20 A. Mr. Rivers.

21 Q. Did you know Brandon Rivers prior to this?

22 A. I knew of him. I didn't know him personally.

23 Q. So y'all weren't friends?

24 A. No.

25 Q. Had you ever hung out with Brandon Rivers?

KACY NOE - DIRECT EXAMINATION BY MR. COOK

1 A. No.

2 Q. Where did -- I want to show you another picture. You
3 see that on your screen?

4 A. Uh-huh.

5 Q. Can you tell us what we're looking at?

6 A. Yes, that's just an overview of our apartment, the
7 bowling alley is right behind it and the parking lot is
8 right there in front.

9 Q. Where did you see Brandon Rivers?

10 A. Again, he walked between -- from behind our apartment
11 and the bowling alley, he walked from that --

12 Q. You can draw it on there.

13 A. He walked from this direction right here and walked
14 around.

15 Q. Was anybody with him?

16 A. No.

17 Q. All right. Did -- when Brandon's walking up, what's
18 going on at your house?

19 A. The confrontation -- once -- I knew Terry and Angie
20 was on the way back over there; however, I didn't know
21 they were coming back to continue the confrontation. I
22 thought they were coming back and we were going to put all
23 this behind us. Once they pulled up in the driveway,
24 Terry immediately got out and he was upset. At that
25 point, I knew the conversation wasn't going as planned.

KACY NOE - DIRECT EXAMINATION BY MR. COOK

1 So I asked Terry and them to just get back in their
2 vehicle and leave again. Terry told me no, he didn't have
3 to leave my GD driveway, this, that and everything else.

4 My brother, who stayed in the apartment beside me,
5 heard the commotion outside, opened his door. Once he
6 opened his door, everybody was out in the driveway. When
7 I say everybody, I'm referring to Angie, Terry, me, Bear,
8 Shane and Ann Marie were standing in their doorway.
9 Mr. Rivers came from behind and Chris and Charlotte and
10 Ronnie -- everyone was outside at that point. And when my
11 brother seen Mr. Rivers walk off, he said, you know, can
12 we just please let this go? Me and Terry's done hashed
13 this out and let everything go. And at that point,
14 everyone did.

15 Q. Did Brandon Rivers ever say anything?

16 A. No, did not hear him speak.

17 Q. Did you see a gun on Brandon Rivers?

18 A. No.

19 Q. What -- Brandon didn't say anything, what -- did he
20 do anything?

21 A. No, he just stood there. When he walked off --
22 again, Terry and Angie was in the driveway. When he
23 walked off, he kind of walked up behind Terry and Angie
24 and was just standing there.

25 Q. So everything calmed down?

KACY NOE - DIRECT EXAMINATION BY MR. COOK

1 A. Everything just -- I'm not going to say it calmed
2 down because, again, everyone was upset at that moment,
3 but everyone did go their separate ways, yes.

4 Q. So Angie and Terry leave and Brandon leaves?

5 A. Uh-huh.

6 Q. And there's no physical confrontation?

7 A. No.

8 Q. After everybody leaves, did you -- did you call or
9 text anybody?

10 A. Yes, there was texting between me and Angie going
11 back and forth, yes.

12 Q. What did you text Angie?

13 A. You want me to specifically say the words?

14 Q. Exactly what you texted her.

15 A. I texted her and I said something along the lines of
16 bringing back up to an argument that was between me, her
17 and Terry and my brother. And I was like something about
18 bringing a skinny crackhead-looking motherfucker to the
19 argument was my exact words.

20 Q. And who were you referring to when you said that?

21 A. Mr. Rivers.

22 Q. You send this text to Angie?

23 A. Right.

24 Q. And after you send that text, did you see Brandon
25 Rivers again that night after that?

KACY NOE - DIRECT EXAMINATION BY MR. COOK

1 A. Yes.

2 Q. About how much longer from the time you sent this
3 text calling him a skinny crackhead until you saw him
4 again?

5 A. Probably 20 minute at the most.

6 Q. Where did you see him?

7 A. He came back to the house.

8 Q. When he came back to the house -- this house, right?

9 A. Right, to the apartment.

10 Q. Had you left at all that day or you been at the house
11 all day?

12 A. I been at the house all day.

13 Q. So he comes back and is he by himself again?

14 A. No, he's with Mr. Brian Steele.

15 Q. Who is Brian Steele?

16 A. Angie's brother.

17 Q. Do you know Brian?

18 A. Yes.

19 Q. Have you known Brian a long time?

20 A. I've known Brian through Angie. That's how I know
21 him.

22 Q. So the two of them come to your house. How did they
23 get there?

24 A. On Mr. Rivers's motorcycle.

25 Q. Did you see them pull up?

KACY NOE - DIRECT EXAMINATION BY MR. COOK

1 A. Yes.

2 Q. So where did -- did Brandon ever come in your yard?

3 A. No, he stayed on his motorcycle.

4 Q. I'll show you another picture. Okay. Do you know
5 what this is?

6 A. Yes.

7 Q. Obviously, this isn't the night it happened, but this
8 is just a picture I found of your house.

9 A. Okay.

10 Q. Can you mark where Brandon parked his motorcycle?

11 A. Uh-huh. He parked it right out here, right out there
12 in the road.

13 Q. Okay. So he pulls up, parks his motorcycle.

14 Where -- what's Brian doing?

15 A. After he parks, he -- Brian gets off the motorcycle
16 and is walking up the driveway. At that moment,
17 Mr. Blackwell and Mr. Jones are outside in the yard in
18 front of Mr. Jones's car. I'm positioned on the porch at
19 the chair. And when Mr. Steele walks up, Ronnie is trying
20 to talk to Brian and tell Brian, you know, there ain't no
21 point in coming and starting an argument, just let it go.
22 And I told Mr. Steele, Brian, you know, "I just called the
23 law, the law is on the way. Just go ahead and leave."

24 Q. Had you actually called law enforcement?

25 A. No. I said that.

KACY NOE - DIRECT EXAMINATION BY MR. COOK

1 Q. Just to get them out of there?

2 A. Well, I said that because of a text message that I
3 received back from supposedly Mr. Rivers after I had
4 texted Angie's phone.

5 Q. What was --

6 A. The text message said that, "This is that skinny
7 crackhead MF. If you would have said that then when I was
8 there earlier, I would have shot and killed all y'all
9 fuckers at that time." So at that time when that message
10 was sent to me, it was a good two or three minutes, Terry
11 calls Ronnie and tells Ronnie that they're on the way to
12 the house. So we have knowledge of them coming. So
13 that's why I said what I said to Mr. Steele.

14 Q. So when Brian gets off and starts coming in the yard,
15 is he -- what's he saying?

16 A. He doesn't say a word. He just walks -- he walks
17 almost all the way up to the driveway towards Ronnie and
18 Chris, and then it's just like something triggered him.
19 And when I told him the law was coming, he just did a
20 U-turn and walked back down the driveway.

21 Q. I'm going to show you one more picture. Is this your
22 house?

23 A. Yes.

24 Q. When Brandon and Brian get to your house on a
25 motorcycle, where is Chris Jones?

KACY NOE - DIRECT EXAMINATION BY MR. COOK

- 1 A. Chris is standing right here in front of his car,
2 right there.
- 3 Q. Okay. Where is Ronnie Blackwell?
- 4 A. He's on the other side of Mr. Jones, right there.
- 5 Q. And where are you?
- 6 A. I'm standing -- I was sitting down, but when they
7 pull up, I'm standing right there on the porch.
- 8 Q. About how far away are you from Chris and Ronnie?
- 9 A. From that point to that point right there. Probably
10 a good 10 feet, if that.
- 11 Q. Ten feet?
- 12 A. Yeah.
- 13 Q. So Brian -- for some reason, Brian, after you tell
14 him the cops are coming, he walks back to the motorcycle?
- 15 A. Right.
- 16 Q. Before that happened, do you see anybody with a gun?
- 17 A. No.
- 18 Q. Do you see Chris with a gun?
- 19 A. No.
- 20 Q. Ronnie have a gun?
- 21 A. No.
- 22 Q. Ronnie lives there, correct?
- 23 A. Correct.
- 24 Q. You ever seen Ronnie with a gun at your house?
- 25 A. No.

KACY NOE - DIRECT EXAMINATION BY MR. COOK

1 Q. Do you own a gun?

2 A. No.

3 Q. Does anybody that lives in your house own a gun?

4 A. No, sir.

5 Q. Brian gets back to the motorcycle, what happens then?

6 A. Once Brian gets back on the motorcycle -- once Brian
7 is walking back to the motorcycle, Mr. Rivers takes the
8 motorcycle and turns it back around to go back out towards
9 Lynwood Drive. Once Brian gets back on the motorcycle --
10 on the back of the bike, that's when the shots rang out.
11 It was three or four shots. And we all tried to take
12 cover. Ronnie runs towards the door. Chris runs on the
13 other side of the car towards the back of the car. And
14 then that's what happened.

15 Q. Did you see anybody get shot?

16 A. Chris got shot, yes.

17 Q. Did you see him slump over or what?

18 A. Once Chris ran to the back of the car, he immediately
19 hollered that he'd been shot.

20 Q. I know you said you heard gunshots. Did you see
21 somebody shoot?

22 A. I never seen nobody with a gun, no.

23 Q. Did anybody -- do you hear Brian or Brandon say
24 anything once on the motorcycle?

25 A. Brian made a comment to Brandon to go ahead and

KACY NOE - DIRECT EXAMINATION BY MR. COOK

1 shoot -- once he got back on the bike, he made the comment
2 to Mr. Rivers to go ahead and shoot the --

3 MR. GRIER: Your Honor, the witness can testify to
4 what he said, but she's repeating hearsay.

5 THE WITNESS: No, sir, I heard it.

6 THE COURT: Hold on.

7 She can't tell what anyone else said to her.

8 MR. COOK: That's fine.

9 BY MR. COOK:

10 Q. You heard him say something?

11 A. Right, I heard Brian tell Brandon --

12 Q. Don't tell me what he said. You heard them talking?

13 A. Right.

14 Q. But you never saw anybody with the gun?

15 A. No.

16 Q. Once they're gone, what did you do?

17 A. Once they were gone, we just called 911 to get --

18 Q. Did you go check Chris out?

19 A. Once we gave our statements, yes, we went to the
20 hospital.

21 Q. I'm talking about on the scene, did anybody go help
22 Chris?

23 A. Yes, we were all there while the ambulance was on the
24 way and the cops were there, yes.

25 Q. Did you see his injuries?

KACY NOE - DIRECT EXAMINATION BY MR. COOK

1 A. Actually, no, because his injuries were kind of --
2 where he got shot at was kind of in his private area, so
3 his girlfriend was there at that time.

4 Q. So you let her take care of that?

5 A. Yes. Once we found out exactly where his injuries
6 were, yes.

7 Q. Okay. When they came back over there -- you said
8 that you had texted stuff to Angie about Brandon Rivers,
9 you called him a name?

10 A. Right, after he came to the house, right.

11 Q. When he came back, when he's out in your yard, did
12 you say anything to him?

13 A. No.

14 Q. Did anybody say anything to him?

15 A. No.

16 Q. Okay. How long did it take for law enforcement to
17 get there after you called 911?

18 A. Within minutes.

19 Q. Did you move anything in the yard prior to them
20 coming?

21 A. No, we did not.

22 Q. Did you pick anything up off the ground?

23 A. No, sir.

24 Q. Did you ever see this gun they found by Chris?

25 A. No, sir.

KACY NOE - DIRECT EXAMINATION BY MR. COOK

1 Q. Was anybody named Kendra Porter at your house that
2 night?

3 A. No, sir.

4 Q. Was Jamie Rivers at your house any time that day?

5 A. No, sir.

6 Q. Was a Tonya Snipes ever at your house?

7 A. Now, she used to come to the house often, but she
8 wasn't there that day.

9 MR. COOK: Thank you, Ms. Noe. Answer anything
10 Mr. Grier may have for you.

11 CROSS-EXAMINATION

12 BY MR. GRIER:

13 Q. All right. Ms. Noe, did you speak to law enforcement
14 immediately on the scene the night that this happened?

15 A. Yes.

16 Q. Do you recall which officer you spoke with?

17 A. I don't, no, sir.

18 Q. But on the scene, you did give a statement that
19 night?

20 A. A general statement.

21 Q. In fact, you did a written statement that night?

22 A. Yes, when we got to the county.

23 Q. Then later on that night, you met with Investigator
24 Adams, the gentleman sitting back here?

25 A. Correct.

KACY NOE - CROSS-EXAMINATION BY MR. GRIER

1 Q. But, initially, you met with another officer on the
2 scene?

3 A. Right.

4 Q. Okay.

5 A. The responding officers.

6 Q. Okay. And do you recall telling -- assuming that was
7 Officer Mahadeen -- does that sound familiar, do you know
8 Officer Mahadeen?

9 A. I don't, no, sir.

10 Q. But do you recall giving a statement to a detective
11 on the scene that Brandon Rivers, Angela's brother, came
12 over and started yelling and wanting to fight people
13 there, referring to the time that Mr. Rivers came over
14 earlier before the shooting?

15 A. No, sir.

16 Q. You don't recall telling him that?

17 A. No, sir. I'd have to look at that. I don't.

18 Q. Well, it's in the police report --

19 A. Is that --

20 Q. This is not your --

21 A. -- what I said on the scene or once I got to the
22 county? Is that my statement on the scene or at the
23 county?

24 Q. I'm reading from the police report, okay?

25 A. Okay.

KACY NOE - CROSS-EXAMINATION BY MR. GRIER

1 Q. And it says that Kacy stated Brandon Rivers, Angela's
2 brother, came over, started yelling and wanted to fight
3 people there, referring to earlier -- the incident before
4 the shooting?

5 A. Right. Angela's brother, Ms. Steele and Mr. Rivers
6 both came.

7 Q. Okay. Following that statement, she advised Brandon
8 and Angela left and shortly after, she received -- that
9 they left and shortly after, they received a text message.
10 So did you -- my question is, did you tell the officer
11 that Brandon Rivers came over earlier, the first time he
12 came over wanting to fight, fussing and trying to fight
13 people there?

14 A. No. When he came over earlier that day, he didn't
15 say anything.

16 Q. Okay. So do you not -- you deny telling Mahadeen
17 that?

18 A. Right.

19 Q. Okay. Do you know Kendra Porter?

20 A. I do.

21 Q. Okay. Do you see her, talk to her?

22 A. I haven't seen her in a while.

23 Q. But you discussed this case with her?

24 A. Yes.

25 Q. Okay.

KACY NOE - CROSS-EXAMINATION BY MR. GRIER

1 A. Right after it happened.

2 Q. Do you recall telling her that you weren't even
3 outside during the shooting?

4 A. No, I did not.

5 Q. That no one was outside, but Chris Jones?

6 A. No, I did not.

7 Q. You do not recall telling her that?

8 A. I did not tell her that.

9 Q. Okay. I want to ask you if you recognize this
10 document, Ms. Noe?

11 A. Yes.

12 Q. Did you write it?

13 A. I did.

14 Q. Did you write the whole thing?

15 A. Not at the very bottom of it, I did not.

16 Q. Okay. All right. It's dated 09/26/14, that was the
17 date of this incident?

18 A. Correct.

19 Q. And it's signed by you?

20 A. That's correct.

21 Q. Now, what part of that is your handwriting?

22 A. At the very top of it.

23 Q. Okay. You want to read that?

24 A. Uh-huh. "Around 10:00 to 10:20 p.m., a motorcycle
25 driven by Brandon Rivers and another passenger on the back

KACY NOE - CROSS-EXAMINATION BY MR. GRIER

1 approached our driveway, but not -- but did not pull in,
2 but stopped in the road. The passenger on the back got
3 off and walked up the driveway. At that point, I informed
4 both of them that the law was on the way. The passenger,
5 who was walking up the driveway, turned around and got
6 back on the back of the bike. As he did, so I told him
7 that the law should be here shortly and it was best to go.
8 As he turned around, he then shot four times and drove
9 off."

10 Q. Okay. So it says "he." "He" is referring to the
11 passenger throughout that paragraph. And it says, "As he
12 turned around, he shot four times and drove off," correct?

13 A. It says 'he.' I didn't -- it says "he shot."

14 Q. That's what I said?

15 A. Right. I didn't specify who shot because I can't say
16 who shot. But he is referring to Mr. Rivers and
17 Mr. Steele who was on the bike.

18 Q. All right. Now, are you and Kacy still friends?

19 A. Me and who?

20 Q. Excuse me.

21 A. Kendra?

22 Q. Are you and Ms. Angela Steele still friends?

23 A. I haven't spoken to her since this incident, no.

24 Q. Are you and Ronnie Blackwell still friends?

25 A. Yes.

KACY NOE - CROSS-EXAMINATION BY MR. GRIER

- 1 Q. Okay. So do y'all live together?
- 2 A. Yes.
- 3 Q. So y'all have discussed this case a lot; haven't you?
- 4 A. Not really. I mean, only when we need to.
- 5 Q. All right. Did you know Brian Steele prior to this
- 6 incident?
- 7 A. Right, I did. I knew him through Ms. Steele.
- 8 Q. How did -- okay. So in your statement, you say
- 9 Brandon Rivers and another passenger?
- 10 A. Right.
- 11 Q. That was Brian Steele?
- 12 A. Yes, that was Mr. Steele.
- 13 Q. Now, Brian Steele was the one that was angry there on
- 14 the scene when the shooting occurred?
- 15 A. Mr. Steele never said anything. Once he got off the
- 16 back of the bike and walked up the driveway, he never
- 17 spoke a word. We then informed him that the law was on
- 18 the way because of the message that I had received prior
- 19 to them coming. And then Terry called Ronnie and told
- 20 Ronnie that they were on their way back down to the house.
- 21 So once that happened, and they did come to the house and
- 22 approach and Mr. Steele got off and was walking up the
- 23 driveway, I immediately told them that the law was coming
- 24 just to go ahead and just stop all this.
- 25 Q. Okay. So Mr. Steele said nothing?

KACY NOE - CROSS-EXAMINATION BY MR. GRIER

1 A. He never spoke a word.

2 Q. You were out there --

3 A. He never spoke a word to me. Once again, I was
4 standing --

5 Q. Not to you --

6 MR. GRIER: Excuse me, Madame Reporter.

7 BY MR. GRIER:

8 Q. Did he say anything to anybody after he got off the
9 motorcycle?

10 A. Not to my recollection, no, sir.

11 Q. Okay.

12 A. And again, I was speaking directly to him telling him
13 the law was on the way. It was like he was just focused
14 on Chris and Ronnie standing in front of the car. And I
15 was on the porch just telling him, Brian, the law is on
16 the way, just go ahead and leave. And it was like
17 something just -- he just turned around and just did a
18 U-turn and just walked back towards the bike.

19 Q. So he didn't even appear angry?

20 A. No.

21 Q. Brian Steele, I should say?

22 A. Right.

23 Q. Did not appear angry?

24 A. He just -- well, I don't really know his forms of
25 expression. I could appear angry and you could appear

KACY NOE - CROSS-EXAMINATION BY MR. GRIER

1 angry, but who's to say you're angry and I'm not.

2 Q. Well, I'm asking you what did it appear to you?

3 A. Again, he just had this blank look on his face as he
4 was walking towards Ronnie and Chris.

5 Q. Okay. But he was back on that bike when the shots
6 were fired?

7 A. That's correct.

8 Q. And you're -- where are you standing?

9 A. Again, on the porch.

10 Q. Are you right by the door?

11 A. Right. If you turn the picture back on, I'm standing
12 right there at the chair. I was sitting in the chair when
13 they approached and drove down the road. As they got
14 towards the road and stopped, I stood up, but I stayed
15 right there on the porch at the balcony. I never moved.

16 Q. So looking out at the motorcycle from your vantage
17 point where it's parked, which direction is it headed at
18 the time that the -- that the shots are fired?

19 A. Back up the street towards Lynwood, the direction he
20 came initially.

21 Q. So it's actually headed in the opposite direction
22 away from you?

23 A. Right.

24 Q. Okay. So you're looking kind of at the -- at their
25 backs?

KACY NOE - CROSS-EXAMINATION BY MR. GRIER

1 A. Right.

2 Q. They're on the motorcycle, Richard is behind Brandon,
3 you're looking at him?

4 A. Right.

5 MR. GRIER: Beg the Court's indulgence.

6 THE COURT: Yes, sir.

7 MR. GRIER: Thank you. That's all the questions I
8 have.

9 THE COURT: Anything on redirect?

10 MR. COOK: Nothing, Your Honor.

11 THE COURT: Thank you very much. You may step down.

12 MR. GRIER: It's not in evidence, Your Honor.

13 THE COURT: All right, ladies and gentlemen, we're
14 going to break at this time for lunch. We'd ask you if
15 you would please to back in your jury room at 2:30. Okay.
16 That gives you about an hour and five minutes for lunch.

17 As always, have no conversation with anybody about
18 the case, don't allow anybody to talk with you. And we'll
19 start back at 2:30 whenever everyone has reconvened, okay?

20 So everyone else, please remain seated.

21 Members of the jury, we'll see you back here at 2:30.

22 (The jury left open court at 12:51 p.m.)

23 THE COURT: All right. Anything we need to take up
24 before we break?

25 MR. COOK: Nothing from the state, Your Honor.

1 MR. GRIER: No, Your Honor.

2 THE COURT: We'll start back up at 2:30.

3 (A recess was taken from 12:52 p.m. to 2:44 p.m.)

4 MR. GRIER: Your Honor, I had a prisoner, a Tonya
5 Renee Snipes, transported as a witness in this case by
6 SCDC. SCDC is present. And the state advises they are
7 not going to finish today, so now it appears I won't be
8 able to call -- be able to present testimony until
9 tomorrow.

10 I'd ask that you inquire -- I don't know what the
11 SCDC procedure is, but my understanding is from past
12 experience if you would order SCDC, the personnel that are
13 transporting to transport her back tomorrow that we would
14 --

15 THE COURT: Do you need a written order, ma'am?

16 OFFICER HOLLOWAY: Yes, sir... If you give us a
17 written order, we could leave her and come back and get
18 her tomorrow.

19 THE COURT: Well, I don't think the jail here will do
20 that; is that right?

21 MR. COOK: I honestly haven't dealt with the jail on
22 that issue. Mr. Grier has some inquiries on whether they
23 would be able to house them.

24 THE COURT: Who can I talk with that has authority
25 over at the jail?

1 THE BAILIFF: I can make several phone calls.

2 THE COURT: Let me just tell you the situation -- and
3 I don't know the situation here, okay, so I'm at a little
4 bit of a disadvantage, but it seems foolish -- where did
5 you bring her from?

6 OFFICER HOLLOWAY: From Greenwood.

7 THE COURT: It seems foolish to send her back to
8 Greenwood and turn around and bring her back over here
9 tomorrow from Greenwood since she's here. Is there a
10 reason why the local --

11 THE BAILIFF: That's above my pay grade. Let me make
12 a phone call for you. Give me about two minutes, Judge.

13 THE COURT: Sure. Sure. They don't have room in the
14 women's facility here and so what we're just going to have
15 to do is just do a transport order to take her back this
16 evening and bring her back tomorrow.

17 MR. GRIER: Yes, sir.

18 THE COURT: You don't anticipating finishing the
19 state's case until about lunch tomorrow, right?

20 MR. COOK: Correct, Your Honor. I've got three
21 witnesses tomorrow morning, that is if we get through this
22 afternoon, which I anticipate we would, so I'd be done
23 about lunchtime.

24 THE COURT: So you wouldn't need her until tomorrow
25 afternoon?

1 MR. GRIER: That what it appears. Your Honor, I know
2 in the past we have had the judges I think just do a
3 handwritten order on copy of the subpoena and that has
4 worked for them.

5 Would that work for you?

6 OFFICER HOLLOWAY: You would have to contact our
7 personnel in Columbia before 5:00 in order for us to
8 transport --

9 THE COURT: Is there not -- come on, guys, there's
10 somebody in this building that can do us a quick order,
11 isn't there?

12 MR. GRIER: I can get my office to do it.

13 THE COURT: I'm sure there's somebody in your office
14 that can do a -- just -- we just need another transport
15 order, I think. That should be on the computer somewhere.
16 Or better yet, who --

17 Mark, who in your office prepared the order to have
18 her transported today?

19 MR. GRIER: I did.

20 THE COURT: I mean, do you have a secretary or
21 somebody that helps you out?

22 MR. GRIER: No, sir, we don't. And that's
23 regrettable, but that's the reality.

24 THE COURT: But it's on a computer, right?

25 MR. GRIER: Well, the request for transport order

1 that they use is. Let me -- if the Court would give me
2 one minute, hopefully, I can get that remedied through one
3 of the other lawyers.

4 (A discussion was held off the record.)

5 THE COURT: Anything we need to take up?

6 As soon as we get that order, I'll sign it and you
7 can get on your way.

8 OFFICER HOLLOWAY: Yes, sir.

9 THE COURT: Thank you.

10 Anything we need to take up before we bring the jury
11 out?

12 MR. COOK: Your Honor, one matter of law for the
13 state. The state intends to call the forensic scientist
14 from SLED. I think one issue that Mr. Grier raises is the
15 chain of custody on the GSR kit for the gloves. The
16 state's position is that Deputy Minors, who recovered the
17 gloves and testified he entered these gloves into the
18 interview marked with his name on them, the chain goes
19 from Deputy Minors to Ann Horton, who's the evidence
20 custodian here at the Lancaster County Sheriff's Office
21 and then straight to Ms. Berry at SLED. Ms. Horton is not
22 here. She is at a funeral.

23 The state's contention is that Ms. Horton isn't
24 needed, she didn't do anything. She didn't test it. The
25 testimony from Ms. Berry would be that she received this

1 envelope that Deputy Minors put into evidence, it was
2 sealed. She opened it, did her testing and resealed it
3 with the yellow SLED tape I opened this morning.

4 The case law in not every person in the chain is
5 necessary if the Judge feels it's been satisfied. I would
6 ask that Ms. Berry be able to testify without first
7 putting up Ann Horton, who is custodian who simply took
8 this bag to SLED, Your Honor.

9 MR. GRIER: Your Honor, I don't mean to be an
10 obstructionist, but I can't consent to the difficulty the
11 state's having as any potential for being --

12 THE COURT: I'm not telling you you have to at all.

13 MR. GRIER: No, sir.

14 THE COURT: But it's a fallacy when lawyers say that
15 they can't consent if -- you know the law as well as I do.
16 And I don't think the law requires them to have every
17 person in the chain as long as they can establish an
18 appropriate chain.

19 MR. GRIER: Well, I understand that. If the -- if I
20 had evidence that witness was going to be able to testify
21 to establish the chain, I would be in a position where I
22 could consent. But when I don't have any evidence that
23 they're going to be able to actually make that connection
24 they say they're going to make, with all due respect, Your
25 Honor, I don't believe that under those circumstances I

1 can consent unless I have something to show me it's
2 frivolous to object to it. Certainly, I understand.

3 THE COURT: Well, you can put Ms. Berry --

4 Is that her name?

5 MR. COOK: Yes, your honor.

6 THE COURT: Put Ms. Berry up and let's see what her
7 testimony is. If she can establish sufficient security
8 and chain on it, then I'll rule on it at that time.

9 MR. COOK: And just for clarification, that is once
10 the jury comes back and not right now. Or do you want to
11 hear Ms. Berry right now?

12 THE COURT: No, we'll bring the jury in, let you put
13 her up, go through whatever foundation you feel that needs
14 to be laid, you can go through all that. And at that
15 point, you can move it in and then Mr. Grier can make his
16 objection and I'll make my ruling based on what I've
17 heard.

18 MR. COOK: Yes, sir, Your Honor. And before we get
19 the jury out here, obviously, Ann Horton is not here, but
20 I would raise the other issue, chain of custody when done
21 by a government agency such as SLED, SLED can avail
22 themselves to the business record exception because the
23 chains of custody aren't done as collecting evidence
24 against the defendant. It's simply done as a business
25 practice. And the courts ruled, Your Honor, that these

1 chains can be entered sufficient to justify -- not to
2 justify, but to establish who all touched this. Because
3 the nature of the recordkeeping is not to build evidence,
4 it's simply procedure or protocol from the agency. So I
5 have the printout chain of custody which could be another
6 way to enter it, Your Honor.

7 THE COURT: Well, she can testify to that.

8 MR. COOK: I just wanted to raise that issue so we
9 don't have to send them back out. Nothing else from the
10 state.

11 THE COURT: Anything from the defense?

12 MR. GRIER: No, thank you, Your Honor.

13 THE COURT: Let's bring the jury in, please.

14 (The jury entered the courtroom at 3:01 p.m.)

15 THE COURT: All right. Ladies and gentlemen, we're
16 ready to get started back this afternoon. So we'll
17 recognize the state for it's next witness.

18 MR. COOK: Thank you, Your Honor. Your Honor, the
19 state calls Whitney Berry to the stand.

20 THE CLERK: Ma'am, please come around to be sworn.
21 Place your left hand on the Bible and raise your right.

22 WHITNEY BERRY, after having first being duly sworn,
23 testified under oath as follows:

24 THE CLERK: Please be seated.

25 DIRECT EXAMINATION

WHITNEY BERRY - DIRECT EXAMINATION BY MR. COOK

1 BY MR. COOK:

2 Q. Please state your name for the record.

3 A. My name is Whitney Berry.

4 Q. Ms. Berry, who is your employer?

5 A. I'm employed by the South Carolina Law Enforcement
6 Division, also known as SLED.

7 Q. Okay. What is SLED?

8 A. SLED is the state police agency. What we do at the
9 forensics lab is we assist other agencies throughout the
10 state in forensic investigations.

11 Q. Okay. Specifically, what is your title at SLED?

12 A. I'm a forensic scientist in the trace evidence
13 department.

14 Q. What does forensic scientist trace evidence -- what
15 does that mean?

16 A. The trace evidence is part of the forensic building
17 that is responsible for analyzing microscopic evidence
18 that you can't see with the naked eye. Most of our
19 evidence needs to be examined by some kind of microscope,
20 such a fibers, paint, bank dye, gunshot residue, glass.
21 We can also go a little further and analyze chemical
22 composition of these things. That's just something
23 specific to the trace department.

24 Q. How long have you been with SLED?

25 A. I've been at SLED about three years.

WHITNEY BERRY - DIRECT EXAMINATION BY MR. COOK

1 Q. Did you do any type of forensic science work before
2 you went to SLED?

3 A. No, sir.

4 Q. What type of specific training have you had in the
5 field of forensic science?

6 A. I received a bachelor's of science degree in
7 chemistry from the University of South Carolina. Then
8 when I began working at SLED and started my employment, I
9 completed the nine-month, in-house gunshot analysis
10 training course. This included multiple written exams,
11 hands-on practical exams, courtroom testimony,
12 observations, writing reports under the supervision of a
13 qualified analyst, taking samples of different items, such
14 as clothing or person's hands, and analyzing them to see
15 what their -- what would be there. As well as I've
16 completed a training course at Hook College for applied
17 science in Illinois. And that was the gunshot residue
18 analysis course for scanning electron microscopy.

19 Q. In your three years with SLED, how many times have
20 you testified in court in relation to gunshot residue?

21 A. About 27.

22 Q. Okay. Have you ever been qualified as an expert in
23 the field of gunshot residue testing?

24 A. Yes, sir.

25 MR. COOK: Your Honor, the state would move Ms. Berry

WHITNEY BERRY - DIRECT EXAMINATION BY MR. COOK

1 be deemed an expert in the field of gunshot residue
2 testing?

3 THE COURT: Any objection to this witness being --

4 MR. GRIER: No objection at this time.

5 THE COURT: All right. Folks, let me just briefly
6 instruct you and I'll instruct you in more detail. Any
7 time a person is classified as an expert in a particular
8 field, what that means is that because of their education,
9 their background and experience in that field, they're
10 allowed -- typically, witnesses, just lay witnesses are
11 not allowed to give opinion testimony. Once a witness is
12 qualified as an expert, they are allowed to give their
13 opinion in their field of expertise as to their findings.
14 And that's the main difference between an expert witness
15 and a lay witness.

16 But I will tell you this and I'll tell you in my
17 instruction to you, you're not to give a witness any more
18 weight of credibility because that witness is an expert
19 witness versus a lay witness. You are to give the
20 credibility to witnesses regardless of their designation
21 as a lay witness or an expert witness. You give it
22 whatever consideration you think it deserves. But based
23 on Ms. Berry's experience and education, I am going to
24 designate her as an expert in the field of gunshot residue
25 testing and allow her to testify as to report and opinions

WHITNEY BERRY - DIRECT EXAMINATION BY MR. COOK

1 regarding that.

2 MR. COOK: Thank you, Your Honor.

3 BY MR. COOK:

4 Q. Ms. Berry, have you seen this bag before?

5 A. Yes, sir.

6 Q. Can you tell what that is?

7 A. That is evidence that was submitted in SLED lab
8 number L14-12787.

9 Q. That -- the number you just read, L14-12787, where
10 does that number come from?

11 A. When evidence is brought to SLED by an outside
12 agency, it goes through our evidence control department.
13 We call them our log-in department. So the evidence is
14 brought in and submitted on a sudden contained basis. So
15 if the evidence custodian states that a container contains
16 a specific item, that is how it is logged in. Our
17 evidence control technicians at no point open the evidence
18 or inventory the evidence in any way.

19 Once they log it in, the case is given its lab
20 number. In this case, it was lab number L14-12787. and
21 each item within the case is given its own designated item
22 number. These are all printed out on bar code labels so
23 that we can electronically follow the chain of custody of
24 any given item in the lab.

25 Once an item is logged in at SLED, occasionally, the

WHITNEY BERRY - DIRECT EXAMINATION BY MR. COOK

1 evidence control technicians just for evidence
2 preservation sake will take, for example, a paper bag and
3 have the evidence custodian bring it, pack it into a box
4 that we have there. They will then seal the box or
5 envelope, whatever it may be, with SLED evidence tape and
6 the evidence custodian will be required to initial and
7 date that they sealed the evidence tape.

8 When the evidence gets to an analyst such as myself,
9 we then verify that the tape is sealed and has not been
10 tampered with and has been initialed and dated by the
11 person who delivered it.

12 Q. Ms. Berry, the bar code that you referenced, is it
13 the bar code on top generated by SLED?

14 A. No, sir.

15 Q. That's from a different agency?

16 A. Yes, sir.

17 Q. When you described the technicians at SLED, what is
18 the difference between a forensic technician and a
19 forensic scientist?

20 A. A forensic technician at SLED, it would depend on the
21 department as to what sort of capacity they have.

22 Generally, a forensic technician does not do any hands-on
23 analysis of the evidence. For our evidence control
24 department, they don't open or inventory or look at the
25 evidence at all. For other departments, an evidence

WHITNEY BERRY - DIRECT EXAMINATION BY MR. COOK

1 technician or a forensic technician might be someone who
2 prepares a sample for an analyst to analyze on an
3 instrument, but that's not the case for evidence control.

4 Q. Ms. Berry, I'm going to show you something. Can you
5 identify what this is?

6 A. This is a copy of the electronic chain of custody
7 generated by the SLED laboratory inventory management
8 system?

9 Q. Okay. The electronic chain of custody, what does
10 that mean?

11 A. This is the record of everywhere that this piece of
12 evidence went while it was at SLED. So at the top, you
13 can see where it was given by Ann Horton of Lancaster
14 County Sheriff's Office. It has the date and time and her
15 signature. And then you can see from that point every
16 person or every shelf or location that this piece of
17 evidence sat on or went through.

18 So when it was originally logged in, it was logged in
19 through forensic technician Annie Stephens. She then put
20 it on a storage shelf that was in climate controlled
21 secured area that is under magnetic lock as well as key
22 lock. The only people who have access to that area would
23 be the evidence control technicians and upper management
24 at SLED for safety reasons.

25 Q. You have a copy of this chain of custody that I

WHITNEY BERRY - DIRECT EXAMINATION BY MR. COOK

1 presented to you?

2 A. Yes, sir.

3 Q. Is there anything within that chain of custody that
4 notes that anyone besides yourself actually came into
5 physical contact with the contents of this package?

6 A. No, sir.

7 Q. When you received this package from the forensic
8 technician, was it sealed?

9 A. Yes, sir.

10 Q. Okay. And you broke the seal to perform some type of
11 test on the contents of this bag?

12 A. Yes, sir.

13 Q. Do you remember what the contents of this bag were?

14 A. I have that bag listed as containing one pair of
15 black knitted gloves.

16 Q. Okay. Show you --

17 MR. COOK: May I approach the witness, Your Honor?

18 THE COURT: Yes.

19 BY MR. COOK:

20 Q. Ms. Berry, do you recognize these gloves?

21 A. Yes, sir.

22 Q. Are these gloves in the same condition they were in
23 when they left your lab?

24 A. Yes, sir.

25 Q. There are markings on each of these gloves, can you

WHITNEY BERRY - DIRECT EXAMINATION BY MR. COOK

1 tell us what the markings on this particular gloves is?

2 A. Part of our protocol is that we have to -- especially
3 with clothing, write the file number, item number, our
4 initials and the date for every item. So in this specific
5 case, it says L14-12787, item number one, WKB, which is my
6 initials. There is a date on here and I can see it ends
7 with 15, but writing on it with Sharpee doesn't always
8 work very well. This glove is additionally labeled
9 item -- or number one, rather. Since there were two
10 gloves in the package, I wanted to be able to distinguish
11 number one from number two.

12 Q. Can you tell us what the markings on this glove say?

13 A. This one is also L14-12787. It has item number one.
14 This is a number two on it, so it's the second glove that
15 I sampled and inventoried. And it has my initials and the
16 date.

17 Q. Thank you. After you conducted a test on these
18 gloves, did you put them back into this bag?

19 A. Yes, sir.

20 Q. This yellow tape, was this yellow tape on the bag
21 when you received it?

22 A. No, sir, that is the SLED tamper evidence tape I
23 spoke of before. We have it printed up especially for
24 SLED. It's bright yellow in color and has SLED written on
25 it as well as date and initials so we can fill in the date

WHITNEY BERRY - DIRECT EXAMINATION BY MR. COOK

1 and our initials whenever we seal something.

2 Q. I kind of tore this up this morning, but if you're
3 able, can you tell us the markings on this yellow SLED
4 tape, what it says, what it did say before I tore it up?

5 A. It has the date 8/21/2015 with my initials WKB?

6 Q. When this left your possession, this was sealed and
7 signed by you?

8 A. Yes, sir.

9 Q. Do you know where this went after you finished
10 conducting whatever test it was that you performed on it?

11 A. Yes, sir. On 08-21-15, per our electronic chain of
12 custody, I scanned it into the trace department's 338
13 return shelf. That's just a shelf we have in one of our
14 locked rooms for storage. On 09-15, I scanned the item
15 back into my custody and took it downstairs for return to
16 our forensic technician, Annie Stephens.

17 Q. Now, just to back up a little bit, when you opened up
18 the gloves from this bag and removed them, what was the --
19 in what state were the gloves?

20 A. They were inside out.

21 Q. What did -- did you flip them inside out, what did
22 you do to the gloves?

23 A. When items of clothing come to me inside out, unless
24 it is otherwise designated from the detective or the
25 log-in sheets, I go with the normal assumption that a

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1 person would wear it right side out. So in this case with
2 the inside out gloves, I carefully took an ink pen and
3 flipped the gloves back right side out.

4 Q. After you did that, did you perform a test on these
5 gloves?

6 A. After I flipped them inside out, I took particle
7 lifts from the gloves so that I can do gunshot residue
8 analysis with a scanning electron microscope.

9 Q. When you said you take particle lifts, what does that
10 mean?

11 A. A particle lift is the black dot in the center here.
12 It's an aluminum stub that has black carbon double-sided
13 tape on it. This tape is sticky so that whenever you
14 apply it to a surface, it can remove any particular --
15 particulate matter that may be on the surface. We like
16 them to have the carbon tape because that blacks out any
17 of the higher element energy.

18 What we do is we put these particle lifts on a
19 scanning electronic microscope, which shoots a beam of
20 electrons down to the surface and it basically just sweeps
21 back and forth across the surface of the sample. And any
22 bumps or nicks or divots that might be in it are picked up
23 by the scanning electronic microscope. So you can see, if
24 there are particles on it, what the shape of those
25 particles are. And with the software, we set what kind of

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1 elements we're looking for, so the instrument will then
2 take an x-ray to tell us what the -- what sort of elements
3 the items is composed of.

4 Q. Now, Ms. Berry, did you perform -- you took particle
5 lifts from this pair of knitted gloves?

6 A. Yes, sir.

7 Q. And the lifts that you took were from the outside of
8 the gloves?

9 A. Yes, sir.

10 Q. After you take the particle lifts, you -- what are
11 you -- if you're doing a gunshot residue test, what are
12 you looking for in this particle lift to give you the
13 proof that there was actually gunshot residue in these
14 particles?

15 A. What we're looking for is the primer residue. So the
16 primer for most ammunition contains lead, barium and
17 antimony, so these are three metals. Whenever they come
18 under the high heat and pressure of gunshot, they will
19 vaporize and they will become molten. So they'll go from
20 a solid state to a liquid state. And then as they hit the
21 atmosphere, the air, they'll start to cool again and will
22 turn solid.

23 So what we're looking for is a round or molten
24 particle that contains all three elements, lead, barium
25 and antimony to indicate gunshot residue is present.

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1 Q. That compound that creates with those three metallic
2 elements, is there any other instance that naturally
3 occurs in nature some other type of chemical reaction that
4 would create that specific type of compound?

5 A. For molten lead, barium, antimony particle, we tend
6 to say that's unique to gunshot residue. There are some
7 other things that can produce those, however, they would
8 have what we would consider a high level of contaminants
9 in them because there would be other elements present.

10 For example, an air bag deploying could produce lead,
11 barium and antimony because it's the same kind of primer
12 you would find in a gun; however, there would also most
13 likely be a large amount of potassium and magnesium as
14 well and pyrotechnics, you could maybe find of three
15 component particle of lead, barium and antimony, but
16 again, it would have a high amount of magnesium in it.

17 Q. Okay. So in typical, everyday life, if you swipe
18 your hand on something, you're not going to generate that
19 unique type of compound outside of gunshot residue?

20 A. No, sir.

21 Q. Did you analyze the particle lifts that you took from
22 these black gloves?

23 A. Yes, sir.

24 Q. When was that test conducted?

25 A. I need to reference my notes on that. They were

WHITNEY BERRY - DIRECT EXAMINATION BY MR. COOK

1 analyzed August 28, 2015.

2 Q. Can you tell us what the results of that test were?

3 MR. GRIER: Your Honor, may we approach?

4 THE COURT: Yes.

5 (WHEREUPON, a bench conference was held in the
6 presence of the jury but not within the hearing of the
7 jury.)

8 BY MR. COOK:

9 Q. Ms. Berry, the last question I asked you was if you
10 could give us the results of the -- when you tested the
11 particle lifts from this pair of black gloves what it was
12 that you found?

13 A. Yes, sir. Particles of gunshot residue were found.
14 Gunshot residue come from being in the vicinity of the
15 discharge of a firearm or coming into contact with
16 something that was in the vicinity to the discharge of a
17 firearm. In the case of an inanimate object, such as
18 gloves, we can't give you a time frame as when these --
19 these particles may have been deposited.

20 Q. Obviously, you can't pull it off and say this was --
21 these gunshot particles fell on this glove at 10:30?

22 A. No, sir.

23 Q. But your testimony is that the lifts that you tested
24 off of this pair of gloves contained gunshot residue?

25 A. Yes, sir.

WHITNEY BERRY - DIRECT EXAMINATION BY MR. COOK

1 MR. COOK: No further questions. Answer anything
2 Mr. Grier may have for you. Thank you, Ms. Berry -- oh,
3 actually, before I go back, I left one thing out.

4 BY MR. COOK:

5 Q. Can you identify what this is, Ms. Berry?

6 A. Yes, sir, that is the -- those are the particle lifts
7 that were collected from the gloves in this case.

8 Q. Okay. This is your signature?

9 A. Yes, sir.

10 Q. This bag is -- does this bag appear to be open at
11 all?

12 A. No, sir.

13 Q. If anyone -- has anybody touched that since you
14 sealed this bag?

15 A. Not as far as I can tell, no.

16 Q. Okay. What's actually in that bag?

17 A. This is what we call item Number 1.1. These are the
18 four particles lifts that I took from the different areas
19 of the gloves.

20 Q. Where -- the particle lifts, where did you take them,
21 what part of the glove?

22 A. I sampled what I just designated as the palm and back
23 of the glove because when we sample someone's hand, we
24 sample their palm and the back of their hand. So on those
25 gloves, I believe I put in my notes that the side that had

WHITNEY BERRY -- DIRECT EXAMINATION BY MR. COOK

1 the number designation on it was considered the back,
2 which is why I had glove one and glove two distinguished.

3 Q. So two lifts were taken off each gloves?

4 A. Yes, sir.

5 Q. And can you see anything -- with the naked eye, can
6 you see anything on those lifts right there?

7 A. No, sir.

8 Q. You'd have to have whatever -- electron microscope
9 from SLED to be able to see anything?

10 A. Yes. Gunshot residue particles are between one and
11 10 microns in diameter. So if you pulled a hair out of
12 your head, about 100 GSR particles could fit across the
13 diameter of your head. Or if you're more of a football
14 fan, that's about looking for something the size of a pea
15 in the middle of two football fields.

16 MR. COOK: Your Honor, if the Court would allow, I'd
17 like to introduce --

18 BY MR. COOK:

19 Q. First off present -- Ms. Berry, can you identify what
20 this paper is?

21 A. This is a copy of my lab report that I generated on
22 the computer?

23 Q. And these are the results you just testified to that
24 gunshot residue was found on the gloves?

25 A. Yes, sir.

WHITNEY BERRY - DIRECT EXAMINATION BY MR. COOK

1 MR. COOK: Your Honor, if the Court would allow it, I
2 would like to introduce this as State's Exhibit Number 2.

3 MR. GRIER: No objection, Your Honor.

4 THE COURT: Without objection.

5 (WHEREUPON, State's Exhibit Number 2 was marked and
6 admitted into evidence.)

7 MR. COOK: Your Honor, the state would also like to
8 admit the particle lifts from the gloves into evidence as
9 State's Exhibit Number 3.

10 THE COURT: Any objection?

11 MR. GRIER: No objection, Your Honor.

12 THE COURT: Without objection, State's 3.

13 MR. COOK: Thank you, Your Honor.

14 (WHEREUPON, State's Exhibit Number 3 was marked and
15 admitted into evidence.)

16 MR. COOK: Beg Court's indulgence one moment.

17 THE COURT: Yes, sir.

18 MR. COOK: That's all the questions I have for you,
19 Ms. Berry. Answer anything Mr. Grier may have for you.
20 Thank you.

21 CROSS-EXAMINATION

22 BY MR. GRIER:

23 Q. Thank you for coming to visit us today, Ms. Berry.

24 Are you a chemist?

25 A. Yes, sir.

WHITNEY BERRY - CROSS-EXAMINATION BY MR. GRIER

1 Q. I mean, is that what you're training to prepare for
2 what you do is, basically, chemistry?

3 A. Yes, sir.

4 Q. But you don't perform any ballistics work, or do you?

5 A. No, sir. Any sort of ballistics work would be done
6 by our firearms department.

7 Q. Now, would your records indicate what was submitted
8 by the Lancaster County Sheriff's Department to SLED in
9 its totality for analysis, not just for you, but?

10 A. Our electronic chain of custody would have that. I
11 believe this may have been the only item submitted. I
12 just printed off the portion that was relevant to my
13 analysis.

14 Q. So to your knowledge, this was the only thing that
15 was submitted?

16 A. This is all that I printed the electronic chain for.

17 Q. All right. Now, would you have also been in a
18 position to have performed DNA testing for human tissue?

19 A. No, sir.

20 Q. How would that -- what's the procedure for testing
21 for human DNA through SLED?

22 A. For any item that is submitted to SLED, it is the
23 submitting agency's responsibility to list what sort of
24 testing they would like done on an individual item. So if
25 the agency wanted DNA testing done, be it ownership

WHITNEY BERRY - CROSS-EXAMINATION BY MR. GRIER

1 testing, blood testing or touch testing, they would have
2 had to designate that at the time of log in.

3 Q. Okay. But you would not have been the person to have
4 performed that testing had that been done?

5 A. No, sir.

6 MR. GRIER: Thank you.

7 MR. COOK: Nothing further from the state, Your
8 Honor.

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

11 Any objection to this witness being excused from her
12 subpoena?

13 MR. GRIER: None from the defense.

14 MR. COOK: No, Your Honor.

15 THE COURT: Thank you very much. You're free to go.

16 MR. COOK: Your Honor, my other witness is in the
17 hallway, I'll grab him.

18 Your Honor, the state calls Christopher Jones.

19 THE COURT: Mr. Jones, please come around and be
20 sworn, sir.

21 CHRISTOPHER JONES, after having first being duly
22 sworn, testified under oath as follows:

23 THE COURT: Please be seated in the witness stand.

24 DIRECT EXAMINATION

25 BY MR. COOK:

CHRISTOPHER JONES - DIRECT EXAMINATION BY MR. COOK

1 Q. All right, sir, can you state your name for the
2 record?

3 A. Christopher Laray Jones.

4 Q. Mr. Jones, were you at the house on Lymon Reece Road
5 September 26, 2014?

6 A. Yes, sir.

7 Q. You need to speak up just a little bit. We've got to
8 type up everything you say.

9 A. All right.

10 Q. Why were you there?

11 A. I was visiting my girlfriend.

12 Q. Who was your girlfriend?

13 A. Charlotte Bolen?

14 Q. Was that Charlotte's house?

15 A. No, sir.

16 Q. Whose house was that?

17 A. Kacy Noe and Ronnie Blackwell.

18 Q. Had you been there all day?

19 A. Yes.

20 Q. Show you a couple things. Something should pop up on
21 your screen here in just a second.

22 A. All right.

23 Q. While that's loading up, do you know Brandon Rivers?

24 A. No, I do not.

25 Q. Obviously, you know who he is now, right?

CHRISTOPHER JONES - DIRECT EXAMINATION BY MR. COOK

1 A. Yes.

2 Q. Did you know him September 26, 2014?

3 A. I saw him when he came over there with Angie Steele
4 and Terry -- I can't remember his last name.

5 Q. Okay. But the two of you weren't acquaintances?

6 A. No, sir.

7 Q. Was that the first -- the day all this happened,
8 everything we're going to talk about, at that point in
9 time, did you know Brandon?

10 A. No.

11 Q. And you were at the house with your girlfriend,
12 Charlotte?

13 A. Yes.

14 Q. You said you had been there all day. Had there been
15 some type of confrontation between the people at the house
16 that afternoon?

17 A. Yes.

18 Q. What happened earlier in the afternoon?

19 A. Well, I was asleep and I was awakened because there
20 was some kids over there being rowdy or whatever. And the
21 neighbor, who was Kacy Noe's brother, Shane Bolen, came
22 over and said that the little girl had knocked a picture
23 off his wall or whatever. And so he called her a redhead
24 B-I-T-C-H or whatever and so.

25 Q. So Shane -- now that you can see this picture -- can

CHRISTOPHER JONES - DIRECT EXAMINATION BY MR. COOK

1 you see it on your screen?

2 A. No, sir.

3 Q. Tap the screen one time.

4 A. Okay. Yeah.

5 Q. Now, the apartment that you were at, can you mark
6 where that would be, where Kacy's is?

7 A. (Indicated.)

8 Q. Back around that corner?

9 A. Yes.

10 Q. Where did Shane live?

11 A. (Indicated.)

12 Q. Those two, they share a wall?

13 A. Yes.

14 Q. Shane Bolen?

15 A. Yes.

16 Q. Is there some relationship between Shane and your
17 girlfriend, Charlotte?

18 A. Yeah, they were married.

19 Q. Previously?

20 A. Yeah.

21 Q. So you saw Shane come in and say some foul things to
22 Angie's daughter?

23 A. Yes.

24 Q. What happened after Shane yelled at Angie's daughter?

25 A. They started arguing outside. And that's basically

CHRISTOPHER JONES - DIRECT EXAMINATION BY MR. COOK

1 all it was, was a bunch of arguing back and forth. And
2 then they left and then they came back --

3 Q. I'm going stop you right there, okay?

4 A. Okay.

5 Q. I don't mean to interrupt you, I just got to make
6 sure --

7 A. That's all right.

8 Q. So when Shane is arguing with Angie and Terry?

9 A. Uh-huh.

10 Q. Were you arguing with anybody?

11 A. No, sir.

12 Q. Had you been arguing with anybody else in the house
13 that day?

14 A. No, sir.

15 Q. You had been asleep?

16 A. Yes.

17 Q. All this ruckus woke you up?

18 A. Uh-huh.

19 Q. Did you go outside?

20 A. Yes.

21 Q. When Angie and Terry and Shane are all arguing, were
22 they inside or outside?

23 A. Outside.

24 Q. Did anybody ultimately throw blows out there at that
25 point?

CHRISTOPHER JONES - DIRECT EXAMINATION BY MR. COOK

- 1 A. No, sir.
- 2 Q. What happened? Everybody leave?
- 3 A. Yeah, they just left.
- 4 Q. Did Angie and Terry come back?
- 5 A. Yes.
- 6 Q. About how much longer after this first altercation
- 7 was it when they came back?
- 8 A. Probably 30 minutes, 45 minutes.
- 9 Q. Was it just the two of them?
- 10 A. No, sir.
- 11 Q. Who was with them?
- 12 A. Brandon.
- 13 Q. Did -- did you see when they first arrived?
- 14 A. Yes.
- 15 Q. Were they all together when they came?
- 16 A. Well, Angie and Terry pulled up in the driveway and
- 17 I'm guessing he parked by the bowling alley and walked up
- 18 around the house.
- 19 Q. Okay. What was Brandon doing?
- 20 A. He was just standing there with his hands in his
- 21 pockets.
- 22 Q. Did you ever speak to him?
- 23 A. No, sir.
- 24 Q. Who all was outside -- so now, Angie and Terry pull
- 25 up in the driveway right here in front of the house?

CHRISTOPHER JONES - DIRECT EXAMINATION BY MR. COOK

- 1 A. Uh-huh.
- 2 Q. Brandon comes from around the back?
- 3 A. Yes.
- 4 Q. Who else is out there?
- 5 A. Charlotte, the kids, Ronnie and Kacy.
- 6 Q. At this point, did anybody start throwing blows or
- 7 fighting?
- 8 A. No, they was just arguing.
- 9 Q. How did the argument ultimately end?
- 10 A. Somebody said something about the police and Brandon
- 11 said, "I can't deal with the police," so he took off.
- 12 Q. So he left. Did he leave with Angie and Terry or did
- 13 he go his separate way?
- 14 A. No, he walked around -- I guess he parked his
- 15 motorcycle by the bowling alley.
- 16 Q. So somebody said they're going to call the cops so
- 17 everybody decides to leave?
- 18 A. Right.
- 19 Q. There's no physical altercation with anybody?
- 20 A. No.
- 21 Q. During that one, did you have a problem with anybody?
- 22 A. No, huh-uh.
- 23 Q. So everybody's left, you stayed at the house?
- 24 A. Yes.
- 25 Q. Who stayed at the house with you?

CHRISTOPHER JONES - DIRECT EXAMINATION BY MR. COOK

- 1 A. Me, Charlotte, Kacy, Ronnie, and the kids.
- 2 Q. Okay. Did anybody come back a third time?
- 3 A. Yes.
- 4 Q. Who came back this last time?
- 5 A. Just Brandon and Brian Steele.
- 6 Q. Who is Brian Steele?
- 7 A. Angie's brother, I guess.
- 8 Q. Had you ever met or seen Brian before this incident?
- 9 A. Yes.
- 10 Q. Where had you seen Brian?
- 11 A. It was exactly a week before that, he did a tattoo on
- 12 my left shoulder.
- 13 Q. Where -- on your shoulder. Where did he do the
- 14 tattoo, at the house or --
- 15 A. At Kacy and Ronnie's.
- 16 Q. At that same location?
- 17 A. Uh-huh.
- 18 Q. So Brian and Brandon pull up on -- how did they get
- 19 there?
- 20 A. On a motorcycle.
- 21 Q. You recognize where this is, this picture?
- 22 A. Oh, yeah.
- 23 Q. Where did Brandon pull the motorcycle?
- 24 A. About right here.
- 25 Q. Okay. Did he park it right there?

CHRISTOPHER JONES - DIRECT EXAMINATION BY MR. COOK

- 1 A. Yes.
- 2 Q. What did he do next?
- 3 A. Him and Brian walked up to Shane's apartment and
- 4 knocked on the door.
- 5 Q. Did Shane come out?
- 6 A. No.
- 7 Q. Were you in the yard when they pulled up?
- 8 A. Yes.
- 9 Q. We'll go back to this one. When they pulled up on
- 10 the motorcycle -- actually, let me go to something else ,
- 11 for you. This is a picture -- do you recognize when this
- 12 picture was taken?
- 13 A. Yes.
- 14 Q. When was that taken?
- 15 A. Right after I got shot.
- 16 Q. Now, whose car is that right there?
- 17 A. Mine.
- 18 Q. When Brandon and Brian parked the motorcycle, where
- 19 were you standing when they parked it?
- 20 A. Right here.
- 21 Q. Was anybody else out there with you?
- 22 A. Yeah, Ronnie was standing over here somewhere.
- 23 Q. Ronnie was between you and the house?
- 24 A. Yeah. He was just walking back and forth.
- 25 Q. Okay. What about Kacy?

CHRISTOPHER JONES - DIRECT EXAMINATION BY MR. COOK

- 1 A. They were in the house.
- 2 Q. Did Kacy ever come outside?
- 3 A. Not that I know of.
- 4 Q. Okay. They come in the yard, did you speak to either
- 5 one of them?
- 6 A. No.
- 7 Q. So you said Shane never came out?
- 8 A. No.
- 9 Q. Okay. Did you see -- did you hear Ronnie speak to
- 10 them? Don't tell me what he said if he said anything, but
- 11 did you see Ronnie interact with the two of them?
- 12 A. Yeah.
- 13 Q. Okay. Did anybody else come out before they left?
- 14 A. Before they walked --
- 15 Q. Before Brian --
- 16 A. Before they started to walk away?
- 17 Q. When Brian and Brandon left, did somebody else come
- 18 outside?
- 19 A. Yeah, Charlotte and Kacy.
- 20 Q. So they went straight to Shane's door?
- 21 A. Uh-huh.
- 22 Q. They didn't come to your door?
- 23 A. Huh-uh.
- 24 Q. They go back to the motorcycle. Do they get on it?
- 25 A. Brandon did.

CHRISTOPHER JONES - DIRECT EXAMINATION BY MR. COOK

1 Q. Did he get on like he was about to drive it?

2 A. Yeah, he got on and crunk it up.

3 Q. What was Brian doing?

4 A. He was taking his time getting back to the
5 motorcycle.

6 Q. Was he saying anything?

7 A. Yes.

8 Q. What was he saying?

9 A. He was telling Brandon to shoot us.

10 Q. Shoot who?

11 A. Me and Ronnie, I guess. We were the only two people
12 out there.

13 Q. Okay. So Brian said shoot y'all?

14 A. Yeah.

15 Q. Did you ever see Brian with a gun?

16 A. No, I didn't.

17 Q. Did you ever see Brandon with a gun?

18 A. No, I didn't.

19 Q. Did you see somebody shoot from the road?

20 A. Yes.

21 Q. But you don't know who it was?

22 A. Yeah, I could see -- because I saw Brandon reach in
23 his pockets and pull out and I saw a sparks comes from
24 where Brandon was at.

25 Q. Okay. You saw sparks coming from the roadway, what

CHRISTOPHER JONES - DIRECT EXAMINATION BY MR. COOK

1 did you do?

2 A. I -- the first shot evidently hit me because I went
3 to turn and my leg collapsed, so I fell.

4 Q. Where did it hit you?

5 A. In my genitals.

6 Q. Did it go through?

7 A. I mean, it bounced around and ended up in my right
8 buttocks.

9 Q. Okay. So did you fall over -- you said you turned,
10 did you turn --

11 A. I went to try to run, but my leg collapsed, so I
12 fell.

13 Q. Did you see -- did anybody else get shot?

14 A. No, not that I saw.

15 Q. When you got shot, where were you in relation to the
16 car?

17 A. I was standing right in front of the car, right here.

18 Q. And what you believe to be the first shot hit you?

19 A. Uh-huh.

20 Q. How many gunshots did you hear?

21 A. Ten or 14 probably.

22 Q. Did you see him with -- I know you said you didn't
23 see Brandon with a gun, when he's on the motorcycle, did
24 you see him with the gun?

25 A. I saw him get off the bike and reach in his pockets

CHRISTOPHER JONES - DIRECT EXAMINATION BY MR. COOK

1 like this. So I couldn't really see the gun, but I saw
2 the spark, you know, right in front of him, so I assume
3 that's -- I mean, he shot me.

4 Q. So after you're shot, did you -- were you able to
5 move anywhere or did you pretty much go down right there
6 by the car?

7 A. I went down right there by the car and my girlfriend
8 jumped on top of me, but I kept hearing bullets going by,
9 so I was able to get back up and grab her and go around to
10 the side of the house where I collapsed.

11 Q. Okay. Were you transported to the hospital?

12 A. Yes.

13 Q. Did you -- how were you transported?

14 A. Lancaster EMS, and then I was air lifted to Carolina
15 Medical.

16 Q. Carolina Medical Center, where is that?

17 A. That's in Charlotte.

18 Q. There's a bunch of them, do you remember which one it
19 was?

20 A. Oh, Main.

21 Q. CMC Main?

22 A. CMC Main, yes.

23 Q. Is that the one --

24 A. Off of Kings Drive?

25 Q. The one uptown?

CHRISTOPHER JONES - DIRECT EXAMINATION BY MR. COOK

1 A. Uh-huh.

2 Q. How long were you in the hospital?

3 A. Two days.

4 Q. Did you have any type of procedures?

5 A. Yeah, I had two surgeries.

6 Q. What kind of surgeries did you have?

7 A. They had to -- I'm not even really sure, man. I was
8 out of it. I know they had to take the bullet out of my
9 right butt cheek and they had to fix my penis and my
10 genitals where it went through at.

11 Q. You still have complications from the gunshot?

12 A. Somewhat.

13 MR. COOK: Beg the Court's indulgence one moment.

14 BY MR. COOK:

15 Q. Mr. Jones, do you remember -- do you know anything
16 about what's called a starter pistol being found near you
17 at the house?

18 A. Yeah, I remember them saying that.

19 Q. Was that your starter pistol?

20 A. No, sir.

21 Q. Do you know what a starter pistol is?

22 A. No, sir.

23 Q. Do you have any explanation of why it was beside you?

24 A. I have no idea.

25 Q. You said that wasn't your house?

CHRISTOPHER JONES - DIRECT EXAMINATION BY MR. COOK

1 A. No.

2 Q. Where were you actually -- where was your actual --
3 your residence at that time? Where were you living?

4 A. In Charlotte.

5 Q. But you were just down here visiting?

6 A. Yes.

7 Q. Okay.

8 MR. GRIER: I'm sorry, I couldn't understand the
9 response.

10 THE WITNESS: Yes.

11 MR. GRIER: Before that.

12 THE COURT: Down here visiting.

13 THE WITNESS: I was down here visiting from
14 Charlotte.

15 MR. GRIER: Thank you.

16 THE WITNESS: Sorry.

17 MR. COOK: I think that's all I've got for you,
18 Mr. Jones. Answer any questions Mr. Grier may have for
19 you, okay?

20 THE WITNESS: Yes, sir.

21 MR. COOK: Thank you.

22 THE WITNESS: Thank you.

23 THE COURT: Cross?

24 CROSS-EXAMINATION

25 BY MR. GRIER:

CHRISTOPHER JONES - CROSS-EXAMINATION BY MR. GRIER

1 Q. All right, Mr. Jones, you still in contact with Kacy
2 and Ronnie and --

3 A. Yes, sir.

4 Q. -- Charlotte and all them?

5 A. Yes.

6 Q. You and Charlotte still together?

7 A. Yes, sir.

8 Q. See them recently?

9 A. Yes.

10 Q. Y'all have remained good friends throughout all this?

11 A. Pretty much.

12 Q. How about with Angie and Terry, were y'all kind of
13 friends before this incident happened?

14 A. Yes.

15 Q. Have you continued to maintain some contact with
16 them?

17 A. No, sir.

18 Q. You haven't? Okay. So who was outside at the time
19 of the shooting?

20 A. Just me and Ronnie.

21 Q. Okay. So I didn't quite follow, you said -- you
22 don't know how many shots, but you estimate 10 to 14; is
23 that what I heard?

24 A. Yes.

25 Q. And did Charlotte come out of the house and jump on

CHRISTOPHER JONES - CROSS-EXAMINATION BY MR. GRIER

1 you or cover you? What did you say about she covered me?

2 A. Well, she come outside because -- evidently, Kacy and
3 Brandon had been exchanging text messages. And Charlotte
4 come outside and was trying to get us to come in the house
5 and that's when the gunshots started. So she tried to
6 cover me, I guess, because she didn't want me to get shot
7 anymore or whatever. I don't know.

8 Q. Well, I mean, was she not exposed to being shot
9 herself at the time?

10 A. What do you mean?

11 Q. At the time the gunshots were going, she covered you?

12 A. Yeah, she jumped on me because I collapsed.

13 Q. Okay.

14 A. And she was coming out of the house and I guess she
15 was trying to shield me from getting shot anymore or
16 whatever. I don't know.

17 Q. But -- so -- and you may not know, but did she come
18 straight out of the house and try to shield you? She
19 wasn't out there when anything started, but she came
20 straight out?

21 A. No, sir. She was on her way out the door. When she
22 said Chris, I looked at her and then I heard something go
23 pop and I looked back and I saw gunshots coming.

24 Q. Now, Brian, was approaching y'all initially -- was he
25 coming at you earlier just talking?

CHRISTOPHER JONES - CROSS-EXAMINATION BY MR. GRIER

1 A. No, they were going to talk to Shane, I guess. They
2 wasn't coming to talk to me.

3 Q. Was Shane even outside?

4 A. No, sir, they knocked on the door. He wouldn't come
5 to the door.

6 Q. Who knocked on the door?

7 A. Brian and Brandon.

8 Q. So they both got off and went to Shane's door?

9 A. Yes.

10 Q. Knocked on it?

11 A. Uh-huh.

12 Q. Was there anything being said at that time -- not
13 what they said, but was there fussing going on, screaming,
14 yelling?

15 A. No, sir. No.

16 Q. After they knocked on the door, what did they do?

17 A. They -- when he didn't come to the door, they --
18 Brandon went to get on his bike and crank it up and Brian
19 was scraggling along and he just told him to shoot us.

20 Q. I mean, y'all were just standing there, y'all --

21 A. Yeah.

22 Q. You weren't speaking to them, you weren't saying
23 nothing?

24 A. I didn't say nothing to them.

25 Q. Did Ronnie say anything to them?

CHRISTOPHER JONES - CROSS-EXAMINATION BY MR. GRIER

1 A. He said something about the police.

2 Q. Okay. Now, you spoke with investigators, didn't you?

3 Did you go to the police station after you got out of the
4 hospital or did anyone ever speak with you?

5 A. No, sir.

6 Q. Did you ever give statements to law enforcement?

7 A. No, sir.

8 Q. So you don't recall saying "I don't know who shot me"
9 to law enforcement?

10 A. No, sir.

11 Q. And I know this was a terrible experience and I hate
12 to ask you to revisit it, but you said you were hit by the
13 first shot, you believe?

14 A. That's what I think, yes, sir.

15 Q. And you went down beside the car?

16 A. Yes, sir.

17 Q. Were you behind it or in front of it or --

18 A. I was standing in front of my car.

19 Q. And was Ronnie standing there with you?

20 A. He was standing somewhere around. I don't know
21 exactly where he was at.

22 Q. Nothing being said, nobody yelling?

23 A. No, sir.

24 Q. Nobody mad, nobody angry --

25 A. Not that I know of.

CHRISTOPHER JONES - CROSS-EXAMINATION BY MR. GRIER

1 Q. -- calm conversation? Was there anything that you
2 noticed that would have caused somebody to say shoot
3 y'all?

4 A. I have no idea, man.

5 Q. So -- okay, you said -- now, you're at the car and
6 you're looking out and the motorcycle is out there by the
7 street?

8 A. Yes.

9 Q. And it's facing away from you kind of?

10 A. What do you mean?

11 Q. Well, I mean, it's on the street -- from what you
12 were looking at, how was the motorcycle positioned, was it
13 --

14 A. Like this.

15 Q. It was positioned directly sideways to you?

16 A. Yes, like it was going up the road.

17 Q. At the time of the shooting, where is Brian Steele?

18 A. He's standing right at the back of the motorcycle.

19 Q. So he's not on the motorcycle?

20 A. No, sir.

21 Q. Is the motorcycle cranked up?

22 A. No, sir.

23 Q. All right. You know nothing about the pistol that
24 was found there?

25 A. No, sir.

CHRISTOPHER JONES - CROSS-EXAMINATION BY MR. GRIER

1 Q. Did you see that it was underneath you at some point
2 or ever feel it or anything?

3 A. No, sir, not until the police told me to turn over.

4 Q. Did they question you about it?

5 A. No, sir.

6 Q. So law enforcement never interviewed you about the
7 gun or about the facts and circumstances?

8 A. No, sir.

9 Q. All right. Mr. Jones, you didn't shoot any guns at
10 anybody?

11 A. No, sir.

12 Q. Nobody was responding, shooting back at you because
13 you were shooting?

14 A. No, sir.

15 Q. Or anybody that was at that house, nobody was
16 shooting at --

17 A. No, sir.

18 Q. -- Brian or Brandon?

19 A. No, sir.

20 MR. GRIER: Beg Court's indulgence.

21 Thank you, Mr. Jones.

22 THE WITNESS: You're welcome.

23 THE COURT: Anything on redirect?

24 MR. COOK: Nothing from the state.

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

1 down.

2 MR. COOK: Your Honor, my other witness is upstairs.

3 THE COURT: Give them a moment to get them.

4 MR. GRIER: Judge, if I may run back up to the
5 office? I had a file for the next witness that I
6 apparently left up there. Will take me one minute.

7 THE COURT: All right. Hurry up.

8 MR. GRIER: I apologize for that.

9 MR. COOK: Your Honor, this will be the last state's
10 witness for the afternoon.

11 THE COURT: All right.

12 (Pause.)

13 MR. COOK: Your Honor, the state calls Brian Steele.

14 THE CLERK: Mr. Steele, please come around. Place
15 your left hand on the Bible and raise your right.

16 BRIAN STEELE, after first being duly sworn, testified
17 under oath as follows:

18 THE CLERK: Please be seated in the witness stand.

19 DIRECT EXAMINATION

20 BY MR. COOK:

21 Q. Please state your name for the record.

22 A. Richard Brian Steele.

23 Q. You go by Richard or Brian?

24 A. Brian.

25 Q. Just to get this out in the air so everybody knows

BRIAN STEELE - DIRECT EXAMINATION BY MR. COOK

1 what you're situation is, are you charged in this case as
2 well?

3 A. Right.

4 Q. What are you charged with?

5 A. Three attempted murders.

6 Q. The exact same thing Mr. Rivers is charged with?

7 A. Yes.

8 Q. Are your charges still pending?

9 A. Yes.

10 Q. Have you been promised anything by me or anybody from
11 my office?

12 A. No.

13 Q. Mr. Steele, did you see Brandon Rivers September 26,
14 2014?

15 A. Yeah.

16 Q. You're going to have to speak up.

17 A. Yes.

18 Q. Where did you first see him?

19 A. I went over to his house to talk about doing a
20 tattoo.

21 Q. Pull that mic down a little bit closer to you or sit
22 up. Okay. You went to Brandon's house?

23 A. Right.

24 Q. Who was Brandon living with at that time?

25 A. April, I can't remember her last name -- April

BRIAN STEELE - DIRECT EXAMINATION BY MR. COOK

1 Roberts.

2 Q. That's what you say?

3 A. Yeah, I don't know.

4 Q. Did you go -- you went to his -- somewhere he and his
5 girlfriend were living?

6 A. Right.

7 Q. What time of day was this?

8 A. I don't know, it was just after lunch. I don't know
9 exactly what time.

10 Q. Was anybody -- who else was there?

11 MR. GRIER: I can't hear him.

12 THE WITNESS: It was after lunch. I don't know
13 exactly what time.

14 BY MR. COOK:

15 Q. What were y'all doing at Brandon's house?

16 A. I went over there to see about trying to make some
17 money doing a tattoo.

18 Q. Did you give Brandon a tattoo?

19 A. Yeah, I have.

20 Q. Did you give him one that day?

21 A. Not that day.

22 Q. Okay. Are you and Brandon friends?

23 A. I known -- well, I done one tattoo on his arm, on his
24 lower arm, like three hours one day like the weekend
25 before that and then I came another day to do like three

BRIAN STEELE - DIRECT EXAMINATION BY MR. COOK

1 hours and I went over there to talk to him about doing
2 another one. He wanted me to sleeve his whole arm out.

3 Q. Outside of you doing tattoos on Brandon, were y'all
4 friends or you just tattoo him?

5 A. Just tattoo him.

6 Q. How did you meet Brandon?

7 A. Through my sister.

8 Q. Who is your sister?

9 A. Angie Steele.

10 Q. So on September 26, you went to Brandon's to see
11 about doing a tattoo?

12 A. Right.

13 Q. Now, I can't remember if you already told me this, I
14 apologize. Did you do a tattoo that day?

15 A. No.

16 Q. What did y'all --

17 A. He was in and out, so....

18 Q. Okay.

19 A. He just -- I sat there talking with April and she had
20 left and it was some other stuff going on with them, so.

21 Q. Okay. So how did you get to Brandon's house?

22 A. I walked over there.

23 Q. At this time, did you have a car?

24 A. No.

25 Q. So what was your primary mode of transportation?

BRIAN STEELE - DIRECT EXAMINATION BY MR. COOK

1 A. Just walking, depending on somebody else for a ride.

2 Q. Where were you living?

3 A. I was staying with my sister.

4 Q. Where was your sister living in September of 2014?

5 A. Right off Airport Road near the end of Lynwood. I
6 can't remember the exact address or nothing.

7 Q. You were living there with her?

8 A. Right.

9 Q. So you and Brandon are at Brandon's or Brandon's
10 girlfriend's house that afternoon?

11 A. Right.

12 Q. And where was the next place that you went after you
13 left that house?

14 A. We left that house and we went back to my sister's,
15 went over there and then I was -- we had been drinking.

16 Went over there, I thought I was leaving, then my sister
17 when I got there, she said all this stuff with my niece
18 was going on --

19 Q. I'm going to stop you real quick. I don't mean to be
20 rude when I interrupt you; I've just got to make sure we
21 don't say something out of line, okay? So were you
22 drinking at Brandon's house?

23 A. Yeah.

24 Q. What were you drinking?

25 A. Some bootlegger.

BRIAN STEELE - DIRECT EXAMINATION BY MR. COOK

- 1 Q. What is bootlegger?
- 2 A. It's like a little wine drink.
- 3 Q. Does it have alcohol in it?
- 4 A. Yeah.
- 5 Q. Was Brandon drinking?
- 6 A. Yeah.
- 7 Q. Y'all doing any other types of drugs?
- 8 A. No.
- 9 Q. Okay. So y'all were drinking at Brandon's and then
- 10 you go your sister's house?
- 11 A. Yes.
- 12 Q. Did Brandon go with you to your sister's house?
- 13 A. Yeah. I rode with him on the back of the bike. It
- 14 ain't but a mile or two up the road.
- 15 Q. So Brandon's house at the time was about a mile from
- 16 Angie's house?
- 17 A. Something like that.
- 18 Q. So the two of you are drinking at Brandon's, get on
- 19 his motorcycle and go to Angie's?
- 20 A. Right.
- 21 Q. Who's at Angie's when you get there?
- 22 A. Angie and Terry.
- 23 Q. About what time of day was this?
- 24 A. This is starting around getting dark, like -- I don't
- 25 know. It was dark.

BRIAN STEELE - DIRECT EXAMINATION BY MR. COOK

1 Q. What are y'all doing at Angie's house?

2 A. We just come in drinking. I was getting ready to go
3 home.

4 Q. You started drinking again when you got to Angie's?

5 A. No, I was still drinking. I had stuff under the seat
6 on the motorcycle.

7 Q. You were drinking riding down the road on the
8 motorcycle?

9 A. No, I wasn't drinking going down the road now. I was
10 just carrying it with me.

11 Q. You had to stop a little while to ride over there?

12 A. Do what?

13 Q. You had to stop for a little while just to get over
14 to your sister's and then you kept drinking?

15 A. No, we went from his house straight to my sister's.

16 Q. So you're drinking at your sister's house. Is
17 Brandon drinking at Angie's?

18 A. When I went in, I took them straight in there, I put
19 them in the fridge. I went to the bathroom.

20 Q. Okay.

21 A. I mean, I was already feeling sick.

22 Q. All right. So you're at your sister's house?

23 A. Right.

24 Q. Brandon is at your sister's house?

25 A. Right.

BRIAN STEELE - DIRECT EXAMINATION BY MR. COOK

1 Q. What are y'all doing there?

2 A. I don't know, I figured -- he said something about
3 going to his uncle's, cousin, somewhere out there toward
4 Heat Springs or somewhere out there.

5 Q. Did he -- did Brandon leave?

6 A. No.

7 Q. Okay. So he didn't actually go anywhere?

8 A. No.

9 Q. Did the two of you leave your sister's house
10 together?

11 A. Right.

12 Q. Why did you leave your sister's house?

13 A. To go over there and confront Shane Bolen.

14 Q. Why did you want to go confront Shane?

15 A. Because he pushed the door open and supposedly hit my
16 niece with the door and cussing her out and stuff and all
17 that.

18 Q. Okay.

19 A. Just -- I don't know, I had been drinking, too.

20 Q. So who is your niece?

21 A. Emily.

22 Q. Emily is who?

23 A. My sister's daughter.

24 Q. Okay. So you get word that Shane has done something
25 to your niece, Emily?

BRIAN STEELE - DIRECT EXAMINATION BY MR. COOK

1 A. Right.

2 Q. Okay. And you want to go fight Shane?

3 A. Right.

4 Q. So Brandon is going to give you a ride?

5 A. Yeah.

6 Q. Did you ever see Brandon with a gun?

7 A. No, never.

8 Q. I'm going to rephrase that question. Did you see
9 Brandon with a gun while you were at your sister's house?

10 A. No.

11 Q. When you leave -- you said you left your sister's
12 house, the two of you?

13 A. Yes.

14 Q. How did y'all leave?

15 A. On the motorcycle.

16 Q. Where did y'all go?

17 A. Straight right there about -- it probably ain't a
18 quarter of a mile past his house down Lynwood Drive,
19 behind the bowling alley, right beside it.

20 Q. I'm going to show you a picture. You recognize what
21 this is?

22 A. Yeah.

23 Q. What is that?

24 A. It's where Shane lives in the first apartment on the
25 left and Kacy and them stayed in that apartment right

BRIAN STEELE -- DIRECT EXAMINATION BY MR. COOK

1 there where the car is it.

2 Q. Okay. Can you draw an X with your finger on that
3 screen where you believe to be Shane's door?

4 A. (The witness complied.)

5 Q. Okay. This is where you went the night of
6 September 26, 2014?

7 A. Right.

8 Q. You and Brandon are on this motorcycle and you come
9 to this house. What happened -- when you first got there,
10 what did do you?

11 A. Got off the bike and went straight up there to where
12 they was all standing outside by the tree.

13 Q. You went -- got off the bike, where was the bike?

14 A. The bike was parked right here at the road.

15 Q. I'll show you a different picture. This isn't the
16 same night, obviously, because this picture is going to be
17 daylight. Put an X with your finger where the bike was.

18 A. (The witness complied.)

19 Q. Right out by the end of the driveway?

20 A. Yes.

21 Q. And that's where Brandon parked?

22 A. Right.

23 Q. You got off the bike?

24 A. Right.

25 Q. What did do you?

BRIAN STEELE - DIRECT EXAMINATION BY MR. COOK

1 A. I went straight up to where that tree and car is at
2 and they was standing outside there?

3 Q. Who was standing outside?

4 A. Ronnie -- Kacy was on the porch. Ronnie and Chris
5 and -- I think Chris was over there in front of a car.

6 Q. I'm going to give you a closer picture so you can
7 tell us where these people were when you pulled up, okay?
8 Do you recognize where this is?

9 A. Yeah.

10 Q. All right. Put a mark where Chris was when you
11 pulled up.

12 A. It ain't on here. It's over towards the -- to the
13 right over here next to where the tree was where he was
14 at.

15 Q. Let me --

16 A. He took -- now, when all this happened, he was
17 moving.

18 MR. GRIER: I can't follow the testimony.

19 THE WITNESS: Where the tree is at.

20 BY MR. COOK:

21 Q. I'm -- now, can you see the tree you're talking
22 about?

23 A. Right. Right here.

24 Q. Chris was over there?

25 A. Yeah.

BRIAN STEELE - DIRECT EXAMINATION BY MR. COOK

1 Q. Where was Ronnie?

2 A. Ronnie was over towards where that car is at.

3 Q. And where was Kacy?

4 A. Kacy was on the porch.

5 Q. You went back there or did you go to the door that
6 you believed to be Shane's door?

7 A. I walk up to Ronnie first and asked him, I said,
8 Where's Shane at? They said he wasn't there. I still
9 went over to the door, where Shane's door was.

10 Q. Did you knock on the door?

11 A. Yeah.

12 Q. Did you ever see Shane that night?

13 A. No.

14 Q. Did you have words with anybody outside?

15 A. No, they asked me to leave, said they had called the
16 law.

17 Q. They told you law enforcement was coming?

18 A. Yeah. So I went ahead -- I mean, I started walking
19 back. I mean, I was friends. I didn't have no problem
20 with him, it was just Shane.

21 Q. So you realize that you're not going to be able to
22 fight Shane, so you go back to the motorcycle?

23 A. Right.

24 Q. When you got back to the motorcycle, did you get on?

25 A. Yeah.

BRIAN STEELE - DIRECT EXAMINATION BY MR. COOK

1 Q. Was Brandon already on the motorcycle?

2 A. Yeah, he was getting on. They was cussing back and
3 forth.

4 Q. Who was cussing?

5 A. Brandon and all them, everybody that was out there in
6 the yard. He was cussing. I mean, they was just cussing
7 back and forth with him.

8 Q. So they were yelling at Brandon from the yard and he
9 was yelling back from the road?

10 A. Right.

11 Q. All right. Did you get on the motorcycle?

12 A. Yeah.

13 Q. What happened after you got on the motorcycle?

14 A. Started to pull off and it almost choked down,
15 whatever, and he started it back up and was like -- it was
16 right along somewhere over in here.

17 Q. Let me change this picture for you so you can --
18 again, this picture is not from the night it happened,
19 but, hopefully, you can show us. You get on the
20 motorcycle with Brandon, Brandon is yelling and screaming
21 back and forth with the people in the yard?

22 A. Yeah.

23 Q. And at this point, you're on the bike, what happens?

24 A. He reached into his coat pocket -- I was holding on,
25 he was -- he reached in his coat pocket and started

BRIAN STEELE - DIRECT EXAMINATION BY MR. COOK

1 shooting. He first shot and I looked over and I seen
2 Chris. There was another car out in this yard on this
3 side of that tree, that's where Chris was when all this
4 happened. And he took off running and I seen him grab
5 like that. When all this was happening, like real quick,
6 and I was pushing Brandon's arm down hollering and telling
7 him to stop, stop.

8 Q. Did you see Brandon pull the gun out of his pocket?

9 A. Yeah. Yes.

10 Q. How many shots did he shoot?

11 A. It was like four or five.

12 Q. Okay. You saw Chris double over?

13 A. Yeah.

14 Q. Did you see Chris fall down?

15 A. Yeah.

16 Q. After he's -- Brandon's shooting, what did he do?

17 A. I told him to stop. He said, "I'm a real
18 motherfucker."

19 Q. That's what Brandon said?

20 A. Yes.

21 Q. This is while you're still right here?

22 A. Yeah. When we was like pulling off, all this was
23 happening.

24 Q. Draw a line where you went, where you took off to.

25 A. Somewhere right in here, started driving and went on

BRIAN STEELE - DIRECT EXAMINATION BY MR. COOK

1 around out that way.

2 Q. Where does that road go to?

3 A. That's right behind the bowling alley, comes out over
4 on Lynwood Drive where we were headed.

5 Q. Okay. I'm sorry, I don't mean to cut you off.

6 Brandon says, I'm a real motherfucker after he shoots at
7 the yard?

8 A. Yeah.

9 Q. Okay. And from your testimony, Ronnie, Kacy and
10 Chris were all out in the yard when he's shooting?

11 A. Yeah -- well, Kacy was on the porch.

12 Q. Kacy's on the porch?

13 A. Yeah.

14 Q. And then y'all leave towards Lynwood Drive?

15 A. Right.

16 Q. All right. Did you take a left or a right?

17 A. Took a right. Because it was almost like -- we went
18 across in the other lane, he come out of that stop sign
19 and went around -- another car was coming, he went on that
20 side of the car where that bridge is at.

21 Q. So when did you get off the motorcycle?

22 A. At the end of Lynwood Drive.

23 Q. Somewhere on Lynwood Drive?

24 A. At the end of Lynwood Drive at the stoplight.

25 Q. Did you ask to be let off?

BRIAN STEELE - DIRECT EXAMINATION BY MR. COOK

- 1 A. Yeah.
- 2 Q. So you got off -- was it near --
- 3 A. Near the Pantry Pack.
- 4 Q. The Pantry Pack is where?
- 5 A. Near the end of Lynwood Drive, Airport Road.
- 6 Q. Where Lynwood and Airport merge together?
- 7 A. Right.
- 8 Q. Right there?
- 9 A. Yes.
- 10 Q. So you got off the bike at that stoplight. What did
- 11 you do after you got off the bike?
- 12 A. Went to my sister's.
- 13 Q. Did you -- you walk to your sister's house?
- 14 A. No, I ran.
- 15 Q. Before you got off the motorcycle, did you ever see
- 16 law enforcement?
- 17 A. No.
- 18 Q. Y'all -- you were off the bike by the time --
- 19 A. Yeah --
- 20 Q. -- Brandon got --
- 21 A. When I was -- soon as I got to her house, I heard the
- 22 siren way down on like McIlwain.
- 23 Q. But by the time law enforcement started chasing
- 24 Brandon, you were off the motorcycle?
- 25 A. Yeah.

BRIAN STEELE - DIRECT EXAMINATION BY MR. COOK

1 Q. Okay. Did you ever see Brandon again after you got
2 off the motorcycle that night?

3 A. No. Nope.

4 Q. Did you have a gun on you that night?

5 A. No.

6 Q. You own a gun?

7 A. No, I never even shot a gun.

8 Q. Did you see anybody at that house besides Brandon
9 Rivers with a gun?

10 A. No.

11 Q. Okay.

12 MR. COOK: Beg the Court's indulgence one moment,
13 Your Honor.

14 THE COURT: Yes, sir.

15 MR. COOK: All right, Mr. Steele, I don't have any
16 more questions for you right now. Answer anything Mr.
17 Grier may have for you, okay. Thank you.

18 CROSS-EXAMINATION

19 BY MR. GRIER:

20 Q. All right, Mr. Steele, Angie is your sister?

21 A. Yes.

22 Q. You were friends with Ronnie and Kacy?

23 A. Yeah.

24 Q. And --

25 A. Not like close, but friends.

BRIAN STEELE - CROSS-EXAMINATION BY MR. GRIER

1 Q. Well, okay. How often did you -- I mean, you knew
2 where they lived enough, you had been over there before?

3 A. Yeah.

4 Q. And y'all had partied together?

5 A. Yeah.

6 Q. How did you -- who told you about the fuss to begin
7 with involving your niece?

8 A. My sister.

9 Q. Okay. You were at Brandon's and Brandon took you
10 over to your sister's?

11 A. Right.

12 Q. So Brandon doesn't say nothing about that fuss?

13 A. She said that soon as we walked in.

14 Q. Well, you saw Brandon at his house first, right?

15 A. Right.

16 Q. Y'all didn't talk about what had happened over at
17 your sister's?

18 A. No.

19 Q. So Brandon didn't tell you -- I mean, not at your
20 sister's, but at Kacy's?

21 A. No.

22 Q. Brandon didn't say anything about having been over
23 there?

24 A. No.

25 Q. But you know he had just been over there, correct?

BRIAN STEELE - CROSS-EXAMINATION BY MR. GRIER

1 A. I didn't know he went there.

2 Q. Okay. All right. So you and he -- you were -- he
3 showed up at his house in the afternoon before all this
4 melee and all this mess happened, right?

5 A. Huh?

6 Q. You were at his house?

7 A. Yeah.

8 Q. And you had done a tattoo for him sometime, what,
9 week maybe before earlier?

10 A. It was two or three days before that, one of them.

11 Q. All right. In fact, you asked him if you could crash
12 over there, didn't you? Didn't you have another fellow
13 with you?

14 A. Well, I had asked about it, yeah.

15 Q. You did?

16 A. My sister and them was getting ready to move.

17 Q. I'm sorry?

18 A. My sister and Terry was getting ready to move.

19 Q. All right. So nothing comes up, Brandon says nothing
20 to you about your sister having been in a fuss with Angie
21 and Kacy -- I mean, with Kacy and all them?

22 A. No.

23 Q. But he takes you over to her house?

24 A. Yeah, takes me over to my sister's house.

25 Q. To your sister's house?

BRIAN STEELE - CROSS-EXAMINATION BY MR. GRIER

1 A. Yeah.

2 Q. That's right. Okay. Okay. You know nothing about
3 your sister being in a fuss with Kacy and Ronnie --

4 A. Not until we get to my sister's.

5 Q. Pardon?

6 A. Not until we get to my sister's.

7 Q. Not until you get to your sister's. Okay. So when
8 you get there and you learn about that, what's your
9 reaction?

10 A. I was mad. I mean, that's my niece. I love her.

11 Q. I know. I appreciate that. What did you want to do?

12 A. Fight.

13 Q. So while you were at your sister's, did they
14 encourage you to go over there, anybody encourage you to
15 go over there?

16 A. No.

17 Q. All right. Did you ask Brandon to take you over
18 there?

19 A. He was going over there already to argue with
20 somebody else, some other people, Kacy and them. And I
21 went over there because I wanted to confront Shane.

22 Q. Now, did your sister give him a jacket while y'all
23 were at your sister's house; do you recall?

24 A. I don't remember all that.

25 Q. When's the first time you saw a gun that night?

BRIAN STEELE - CROSS-EXAMINATION BY MR. GRIER

1 A. I didn't see nothing that night. I seen it earlier
2 that day. I seen him hide a couple guns in a toilet
3 outside of April and his house inside the little barn.

4 Q. Okay.

5 MR. COOK: Your Honor, I'm sorry, can you ask him to
6 speak up. I can't hear.

7 THE WITNESS: I seen him hide a couple guns inside of
8 a toilet, at the bottom of a toilet beside a little barn
9 beside the trailer where they was staying.

10 BY MR. GRIER:

11 Q. That night, when did you see a gun?

12 A. When he pulled it out and started shooting?

13 Q. Okay. Didn't see anything earlier?

14 A. No.

15 Q. Okay. So there's no discussion of guns or anything
16 when y'all are heading over to that house?

17 A. No.

18 Q. In fact -- okay. Now, when you -- when y'all got
19 over there, do you have any idea -- it's dark?

20 A. Yeah.

21 Q. Okay. The motorcycle was parked a little bit to the
22 left, right there at -- in the driveway -- kind of
23 blocking the driveway; was it not? Is that what you
24 indicated on that?

25 A. It was about right in there.

BRIAN STEELE - CROSS-EXAMINATION BY MR. GRIER

1 Q. Pardon?

2 A. Somewhere right along in here.

3 Q. Was it not blocking the driveway or kind of in the
4 driveway?

5 A. It may have been on the edge right there.

6 Q. Okay:

7 A. Six foot long.

8 Q. All right. Close to it?

9 A. Yeah.

10 Q. Facing -- we're looking at it right there, it was
11 facing in the right-hand direction, which taking a left
12 out of that driveway would have been as though you were
13 taking a left coming out of that driveway?

14 A. No, he came in that way and turned the bike around
15 and parked it right there.

16 Q. Okay. So is he facing in the direction of the
17 mailbox or...

18 A. Direction going back out towards the mailbox, facing
19 toward the mailbox like.

20 Q. Facing towards the mailbox on that picture you're
21 looking at?

22 A. Yeah.

23 Q. All right. Well, is the -- you cut the motorcycle
24 off. Y'all both get off?

25 A. He got off and stood there.

BRIAN STEELE - CROSS-EXAMINATION BY MR. GRIER

- 1 Q. Did you get off?
- 2 A. Yeah, I got off and walked up to where they was at.
- 3 Q. And what -- who was out there?
- 4 A. Ronnie, Chris and they call him Bear.
- 5 Q. Uh-huh.
- 6 A. And Kacy was on the porch. I walked all the way up
- 7 to Ronnie. Me and Ronnie had no trouble.
- 8 Q. All right. So you weren't mad?
- 9 A. I wanted Shane.
- 10 Q. But you weren't fussing at anybody else?
- 11 A. No, I don't fuss at nobody.
- 12 Q. How did -- you said Brandon was fussing?
- 13 A. Yeah.
- 14 Q. He was fussing at who?
- 15 A. They was just hollering back and forth, just cussing
- 16 each other out.
- 17 Q. Who was doing the cussing on the other end besides
- 18 Brandon?
- 19 A. Kacy. Kacy was doing most of it.
- 20 Q. How many times -- you said there were four or five
- 21 shots?
- 22 A. Yeah.
- 23 Q. Now, is -- you said the motorcycle started moving and
- 24 choked down before any shots were fired?
- 25 A. It didn't choke all the way down, it just started to

BRIAN STEELE - CROSS-EXAMINATION BY MR. GRIER

1 choke down.

2 Q. Okay. And so --

3 A. When he started to pull off, that's when he pulled it
4 out and started shooting.

5 Q. Now, before any shooting happens, the motorcycle is
6 sitting there, he's gotten off. What kind of crank does
7 this motorcycle have on it?

8 A. It's an electric start.

9 Q. So does it have a clutch?

10 A. Yeah.

11 Q. Okay. And a gas?

12 A. Yeah.

13 Q. So you've got to do both of those? It's an electric
14 start, but you've got to be using both hands to move that
15 motorcycle, correct?

16 A. I mean, not necessarily.

17 Q. Okay. At a slow speed?

18 A. Yeah.

19 Q. All right. Well, how familiar are you with
20 motorcycles?

21 A. I ride them.

22 Q. You ride them?

23 A. Yeah.

24 Q. Is that a hobby of yours?

25 A. I ride dirt bikes.

BRIAN STEELE - CROSS-EXAMINATION BY MR. GRIER

1 Q. Now, Brandon took you to your sister's house; did he
2 not?

3 A. Yeah.

4 Q. Okay. And you had a conversation with your sister?
5 You saw her at that point?

6 A. Yeah.

7 Q. It wasn't telephone; you were at her house?

8 A. Yeah.

9 Q. How long did you stay at her house?

10 A. We wasn't there probably, I don't know, five, ten
11 minutes.

12 Q. Who wasn't there?

13 A. Me and Brandon.

14 Q. So y'all both stayed at her house after it happened?

15 A. After it happened, no. This was -- I'm talking about
16 okay --

17 Q. All right, sorry. My confusion. I'm confusing you.
18 After the shooting, Brandon took you to your sister's
19 house; didn't he?

20 A. No, I got off at the light and ran.

21 Q. You went to your sister's house?

22 A. Yeah.

23 Q. How far was that?

24 A. It was quarter of a mile.

25 Q. You saw your sister then?

BRIAN STEELE - CROSS-EXAMINATION BY MR. GRIER

1 A. Yeah.

2 Q. How long did you stay at your sister's then?

3 A. I left right then.

4 Q. You left right then?

5 A. Uh-huh.

6 Q. Did y'all discuss what had happened?

7 A. I just told her what had happened, yeah.

8 Q. Okay.

9 A. It freaked me out, man. I was crying. I ain't been
10 around nothing like that. I wanted to go see my baby
11 momma and I couldn't get ahold of her, so he took me to
12 another friend's house.

13 Q. Okay. Now, you say that when -- there was a picture
14 up here that showed one car. You said it really wasn't
15 like that at the time of the shooting; there were two cars
16 out there?

17 A. No, there was one car, but it was parked on the other
18 side of the tree.

19 Q. Okay. So --

20 A. Because I could see Bear, and Bear was all the way
21 back there next to the bowling alley. I could see
22 straight back through there.

23 Q. And Bear is who?

24 A. Jerry.

25 Q. Jerry Railey?

BRIAN STEELE - CROSS-EXAMINATION BY MR. GRIER

1 A. I guess that's his name. I don't know.

2 Q. He was standing out there?

3 A. Yeah.

4 Q. In the direction of the bowling alley, which is back
5 behind the tree?

6 A. It was in between -- I can't see it, but it's in
7 between the tree and the apartments, right there.

8 Q. Okay. When did you speak with law enforcement?

9 A. The very next day.

10 Q. Okay. Who did you speak with, do you know?

11 A. Mike Adams.

12 Q. All right. About what time of day was it?

13 A. I can't remember. It was in the morning. I was at
14 my baby's momma.

15 COURT REPORTER: I'm sorry, what?

16 THE WITNESS: I was at my baby's momma. She carried
17 me out there to talk to him.

18 BY MR. GRIER:

19 Q. All right.

20 A. No, that was Joanne. Joanne carried me up there that
21 time. I went like three different times.

22 Q. How many times did you go out before you got charged?

23 A. Three times.

24 Q. Okay. Third time, you got locked up?

25 A. Third time, they called me and told me to turn myself

BRIAN STEELE - CROSS-EXAMINATION BY MR. GRIER

1 in.

2 Q. Okay. And you eventually got out on a PR bond that
3 the solicitor consented to; didn't you?

4 A. Yeah.

5 Q. And, you know, why did the solicitor -- do you know
6 how that got worked up --

7 MR. COOK: Objection, Your Honor. He can't testify
8 to what my thought process was on setting the bond.

9 BY MR. GRIER:

10 Q. Well, anybody discuss any concessions in exchange for
11 your testimony?

12 A. No.

13 Q. You're charged with attempted murder as well?

14 A. Right.

15 Q. And you're out on a PR bond?

16 A. Right.

17 Q. Okay.

18 MR. GRIER: Beg the Court's indulgence a minute.

19 THE COURT: Yes, sir.

20 BY MR. GRIER:

21 Q. All right. You expect any concessions in exchange
22 for your --

23 A. No.

24 Q. For your testimony today?

25 A. No.

BRIAN STEELE - CROSS-EXAMINATION BY MR. GRIER

1 Q. Okay. You've been convicted of breach of trust in
2 the past?

3 A. I think so. I think so.

4 Q. Okay. Shoplifting third or subsequent offense?

5 A. It was first shoplifting, but it was personal
6 property or something like that. That's why they said it
7 was third because it was a property.

8 Q. Did you tell Brandon to shoot anybody?

9 A. No.

10 Q. You didn't see Chris Jones shooting?

11 A. No. I seen him running. That's it.

12 Q. Okay. Do what?

13 A. I seen him running, that's it.

14 Q. You seen him run?

15 A. Yeah.

16 Q. You see anybody shooting towards you and Brandon at
17 all?

18 A. No.

19 Q. Okay. So did you learn that a gun was found over in
20 the premises of where the cars were at, a starter pistol?

21 A. That's what I heard.

22 Q. Okay. You know nothing about that starter pistol?

23 A. No.

24 Q. Nobody threatened y'all with guns?

25 A. No.

BRIAN STEELE - CROSS-EXAMINATION BY MR. GRIER

1 Q. Okay. All right.

2 MR. GRIER: Beg the Court's indulgence.

3 No further questions, Mr. Steele.

4 MR. COOK: Nothing else from the state.

5 THE COURT: Thank you very much, sir. You may step
6 down.

7 MR. COOK: Your Honor, that's all from the state
8 today. Have a few more tomorrow.

9 THE COURT: All right. Ladies and gentlemen, we're
10 going to adjourn at this time. The state is not done with
11 their case, but we have -- the next couple of witnesses
12 couldn't be here until the morning, so we'll break at this
13 time.

14 Please continue to maintain your ability to remain
15 fair and impartial. Let your friends, family and loved
16 ones know that the case is still going on and that you'll
17 need to be back in the morning and ask them to continue to
18 be patient. And you'll be able to share with them
19 whatever they want to know whenever it's over.

20 And again, try to get a good night's rest if you can
21 and we'll see you back here at 9:30. If you would, be
22 back in the jury room at 9:30 and we'll start when
23 everyone gets here.

24 Everyone please remain seated, and we'll see you
25 tomorrow morning.

1 (WHEREUPON, the jury left the courtroom at 4:42 p.m.)

2 THE COURT: All right. Anything we need to take
3 up --

4 Oh, Mark, you wanted to make sure that we noted on
5 the record that you were renewing your --

6 MR. GRIER: Well, Judge, my objection -- I mean, I
7 abandoned that by consenting and not objecting on the
8 record, so I'm going to abandon that.

9 THE COURT: All right. Is there anything else we
10 need to take up today?

11 MR. COOK: Not that I'm aware of, Your Honor.

12 THE COURT: You have two or three folks in the
13 morning?

14 MR. COOK: I have three. One of them is somebody who
15 picked up a piece of evidence and the other two are crime
16 scene investigators who did some testing on firearm
17 measurements at the scene and measurements.

18 THE COURT: Okay. And I know it's kind of a fluid
19 thing, depending on how cross goes, but you imagine it
20 being done maybe prior to lunch?

21 MR. COOK: Yes, sir.

22 THE COURT: All right. And so, Mark, that gives you
23 just some idea on planning your witnesses and stuff.

24 MR. GRIER: Yes, sir. We'll be ready to go before
25 lunch if need be.

1 THE COURT: Well -- and we'll see how it goes. We'll
2 have to take up motions at the close of the state's case.
3 We'll see how that goes.

4 MR. GRIER: I won't be able to put up my SCDC witness
5 until after lunch, but we certainly aren't going to finish
6 before lunch.

7 THE COURT: Okay. Well, if there's nothing else,
8 then, we'll adjourn for the afternoon and start back at
9 9:30 in the morning.

10 MR. GRIER: Thank you, Your Honor.

11 MR. COOK: Thank you, Judge.

12 (Court adjourned at 4:44 p.m. on February 17th, 2016, and
13 resumed at 9:58 a.m. on February 18th, 2016.)

14 THE COURT: Folks, is there anything we need to take
15 up before we bring the jury out?

16 MR. GRIER: Judge, I know it's early, but I was
17 wondering if you kind of have any standard charges just to
18 start getting ready to think about charges that you --

19 THE COURT: Yeah, and let me just while we -- I
20 appreciate you mentioning that, Mark. I don't know what
21 y'all's experience is with the judges that you have up
22 here because I know it's different --

23 MR. GRIER: Yes, sir.

24 THE COURT: -- with everybody. I do my charges and I
25 do them in a formal written form. I put them in a

1 notebook and I send the charge back with the jury. So
2 they'll have my jury charge. We'll go over it, obviously,
3 beforehand, so you'll know everything that I'm going to
4 charge them. But we do have -- I can give you a draft of
5 what we've got --

6 MR. GRIER: Yes, sir, I understand.

7 THE COURT: -- sometime today. But, you know, unless
8 you have any specific requests to charge, I've got our
9 charge on attempted murder.

10 MR. GRIER: Just in preparation for closing, I'd just
11 like to see what your charge is on the burden of proof and
12 reasonable doubt and standard stuff. I mean, it probably
13 is what most likely -- you know, fairly standard.

14 THE COURT: Sure.

15 MR. GRIER: But just over lunch --

16 THE COURT: And more than likely -- and I don't know.

17 Andy, for example, if you finish this morning,
18 depending -- and then, Mark, if you're going to put up a
19 case, more than likely, it looks to me like best case
20 scenario this goes to the jury sometime in the morning.
21 So I'll definitely have you something to have -- as you
22 prepare your --

23 MR. GRIER: I wanted to thank you for anticipating
24 that because that's the question I had, kind of typically
25 what's your cut off date or your cut off time during the

1 day to give it to the jury because I don't know -- it's
2 kind of giving it to them late.

3 THE COURT: I don't like getting a case to a jury
4 late in the afternoon, after 4:00 or something unless we
5 have to. If it's Friday and it's after 4:00, obviously --

6 MR. GRIER: Got to keep working.

7 THE COURT: But because -- and I don't want to waste
8 time, but like, for example, tomorrow, once it goes to the
9 jury, we can do as much work as y'all have while the jury
10 is deliberating. But we'll just have to see how it goes.
11 I kind of -- not knowing what the defense may put up, I'm
12 anticipating that's probably what we're looking at.

13 MR. GRIER: Understood, and depending on the rest of
14 the testimony what I'll be asking for for charges is
15 likely to vary.

16 MR. COOK: And I know Your Honor will give us a
17 draft, but is it your standard practice to do all
18 lesser-included on any type of assault charge?

19 THE COURT: Only if the evidence supports it. We can
20 talk about that.

21 MR. COOK: Because some judges they say they're all
22 lesser-included, so I give them all of them and let them
23 see.

24 THE COURT: The way I read case law is you charge the
25 lesser-included offense if --

1 MR. COOK: I don't want you to, I'm just saying --

2 THE COURT: -- if the evidence supports it. The
3 evidence doesn't always support the lesser-included, so
4 we'll just have to see what we have.

5 MR. GRIER: I certainly agree with that's the correct
6 way to interpret whether they're included.

7 THE COURT: We'll look at it and talk about it.
8 Anything else then before we --

9 MR. COOK: One issue I may want to take up before the
10 jury comes in, my next witness is an investigator who
11 picked up a bullet from the hospital. The chain is the
12 investigator who picked it up. There's nobody from the
13 hospital. But I didn't want to get into it, an objection
14 and have to send them back out. My stance is this is a
15 nonfungible item and the only reason it was collected was
16 for measurement purposes... There's no bodily fluids...
17 There's no DNA, nothing to be tampered with outside of --
18 the only purpose our investigators, our CSI used this
19 bullet for were measurements.

20 THE COURT: It was -- they removed it from the
21 victim's body and it was collected after they removed it
22 from the body?

23 MR. COOK: Yes, sir. I think it goes to -- not the
24 admissibility, but the credibility of who all's involved
25 in that chain since it's a nonfungible physical item, Your

1 Honor. And the only thing we intend to offer is
2 measurements and size of that projectile that was
3 collected. And we've already established a basis
4 through -- and I intentionally asked the victim earlier
5 which branch of Carolina Medical Center he went to given
6 there are five, I believe. He stated he went to Carolina
7 Medical Center Main, which is located uptown.

8 The anticipated testimony from the investigator is he
9 went to Carolina Medical Center uptown, the main branch,
10 specifically asked for something from that particular
11 patient. It was two days after the accident. And he
12 collected it, it's sealed and it's been in the evidence
13 locker. And the only test we conducted were just
14 measurements, Your Honor.

15 MR. GRIER: Judge, I would stipulate that would be
16 the testimony proffered and let you decide. Judge, I --
17 you know, I don't mean to be frustrating, but I'll tell
18 you, I was trying a murder case in front of Judge Hayes
19 and he was -- it was in-camera and he was basically
20 telling me -- not agreeing with anything I was saying and
21 I said well, I'm sorry, I need to put something on the
22 record. I said, I'm sorry, I need to put something on the
23 record. I said it like the third time and he snapped at
24 me and said "Quit apologizing. Your job is to wreck the
25 train." And Judge, you know --

1 THE COURT: Trying to wreck the train.

2 MR. GRIER: I think it was a license -- not a
3 license, I mean, for anything other than for me to be the
4 advocate to every extent I can, Your Honor. I mean, I
5 could stipulate that would be the evidence proffered and
6 ask you to rule on it, but --

7 THE COURT: But you do object to that coming in?

8 MR. GRIER: I would object, but I stipulate that
9 would be the presentation. I can see that from the record
10 and I agree that's the record and I don't take issue with
11 what is argued by the --

12 THE COURT: Okay.

13 MR. GRIER: But as a matter of law, the absence of a
14 critical person who supposedly removed this, whether
15 that's acceptable based on that stipulation.

16 THE COURT: That's the concern that I've got with --
17 regards to -- you know, we get wrapped up in a chain and
18 we get all caught up in the chain and how perfect does
19 that have to be or whatever. But here, the concern is --
20 and I mean, I have to hear the testimony. I'm not saying
21 I'm not going to let it in, but you don't have the person
22 who removed the bullet.

23 MR. COOK: Correct, Your Honor.

24 THE COURT: You may not need that person if what
25 your -- if the testimony is that --

1 MR. COOK: Your Honor, if I may, the basis for -- the
2 State's argument is case law says any defect in chain of a
3 nonfungible item would only go to the credibility of the
4 evidence and not to its admissibility.

5 THE COURT: Yeah. Yeah. We'll get to that.

6 And Mr. Grier, you make your objection and I'll rule
7 on it.

8 MR. GRIER: Okay. Judge, I'd ask -- the predicament
9 as a defense lawyer is, you know, objections in front of
10 the jury are, you know, I think held oftentimes are more
11 damaging than letting evidence in. I don't know if that's
12 your experience.

13 THE COURT: I think juries expect lawyers to object.
14 I don't think they hold it against you.

15 MR. GRIER: Well, in this situation, there's no
16 challenge to the fact the man was shot and had a bullet in
17 him. I don't have an objection to stipulating to that.
18 But if -- I'd prefer to have you rule on a proffer rather
19 than have that done in a jury. If you can't -- if you
20 don't think it's acceptable to rule based on the
21 stipulation that that's what the evidence would be.

22 THE COURT: Right. But I don't know we get around
23 the -- you know how the appellate courts can be. And I
24 don't know we can get around they're ruling that
25 objections have to be timely and they have to be

1 simultaneous with the motion to move it in.

2 MR. GRIER: Yes, sir.

3 THE COURT: Contemporaneous with it. So I don't
4 think you have to -- in front of the jury, I don't think
5 you have to get up and make an argument, but I think just,
6 Judge, we would ask the Court to note our objection and as
7 brief as that.

8 MR. GRIER: Yes, sir. Thank you.

9 THE COURT: But I think it needs to be made
10 contemporaneous with the State moving it in.

11 Anything else?

12 MR. COOK: Nothing from the state, Your Honor.

13 MR. GRIER: Nothing from the defense, Your Honor.

14 THE COURT: Bring the jury in, please.

15 (The jury entered the courtroom at 10:09 a.m.)

16 THE COURT: All right. Good morning, folks. I hope
17 everyone had a good evening and is ready to get started.
18 We took up a few matters this morning to help us move
19 things along. I apologize for the little bit of delay in
20 bringing you out, but we've done those things and we've
21 taken those matters up, so we're ready to proceed. And
22 again, we'll start where we left off yesterday. If you
23 recall, we were still on the state's case and so we'll
24 proceed and recognize Mr. Cook for the state's next
25 witness.

PAUL LYONS - DIRECT EXAMINATION BY MR. COOK

1 MR. COOK: Thank you, Your Honor, may it please the
2 Court. State calls Investigator Paul Lyons to the stand.

3 THE CLERK: Sir, if you would please come around to
4 be sworn.

5 PAUL LYONS, after having first being duly sworn,
6 testified under oath as follows:

7 THE CLERK: Please be seated in the witness stand.

8 DIRECT EXAMINATION

9 BY MR. COOK:

10 Q. Can you state your name for the record, please?

11 A. Investigator Paul Lyons.

12 Q. Investigator Lyons, who is your employer?

13 A. I'm employed with the Lancaster County Sheriff's
14 Office.

15 Q. How long have you been with the sheriff's office?

16 A. I've been with the sheriff's office for a little over
17 four years.

18 Q. What is your current role with Lancaster County
19 Sheriff's Office?

20 A. I'm currently assigned to the investigation division
21 of the sheriff's office.

22 Q. As part of investigations, do you do any specific
23 type of crime or...

24 A. I usually deal with anything from burglaries to
25 assaults to shopliftings. I'm a general investigator

PAUL LYONS - DIRECT EXAMINATION BY MR. COOK

1 assigned to a specific division.

2 Q. Were you working with the sheriff's office in October
3 of 2014?

4 A. I was, yes.

5 Q. On October the 2nd of 2014, did you go to Carolina
6 Medical Center?

7 A. Yes, I did.

8 Q. Which branch of Carolina Medical Center did you go
9 to?

10 A. I responded to Carolina Medical Center's main campus,
11 which is located 1000 Blythe Boulevard in Charlotte, North
12 Carolina.

13 Q. Why did you go the CMC Main in Charlotte?

14 A. I was advised by one of my supervisors that there was
15 evidence that needed to be picked up.

16 Q. When you went to CMC, what part of the hospital did
17 you go to?

18 A. I responded to the fifth floor, which is the OR.

19 Q. OR, what is that?

20 A. The operating room.

21 Q. When you went, were you looking for a particular
22 item?

23 A. I was told that there was a bullet that needed to be
24 picked up.

25 Q. What -- when you got to the operating room floor, the

PAUL LYONS - DIRECT EXAMINATION BY MR. COOK

1 fifth floor of CMC Main, what did you ask for?

2 A. I met with Nurse Lisa Carr. I identified myself as
3 an investigator with the Lancaster County Sheriff's
4 Office. I advised her I was at the hospital to pick up a
5 bullet for evidence purposes.

6 Q. Did you tell her who -- this bullet you were looking
7 for who that bullet belonged to?

8 A. I did not.

9 Q. Okay. Do you recognize what this is?

10 A. Can you turn it to the side, please? Yes, I do.

11 Q. Okay. It's taped up here.

12 (A discussion was held off the record.)

13 BY MR. COOK:

14 Q. There's a biohazard, so I'm not sure where I want to
15 cut this thing. Be sure I don't tear it up. Investigator
16 Lyons, can you tell us what's on the outside of this bag?

17 A. Sure. This is a evidence bag that we complete,
18 describes the case number assigned to this case, the
19 charge, possible suspect, possible victim, the date of
20 collection, who collected it, where the item was collected
21 and a brief description of what the contents inside the
22 bag are?

23 Q. When was this collected?

24 A. This was collected October 2nd of 2014.

25 Q. Where was -- does it say where it was collected?

PAUL LYONS - DIRECT EXAMINATION BY MR. COOK

1 A. It was collected from CMC Main Hospital, Charlotte
2 Hospital.

3 Q. Can you tell what the contents of that package?

4 A. It's a plastic jar that contains bullets.

5 Q. Does it say -- did this package -- did you put it in
6 this package?

7 A. I did, yes.

8 Q. Okay. Who is the victim listed on that package?

9 A. The victim listed on this evidence bag is a
10 Christopher Jones.

11 Q. Is this in the same condition it was when you picked
12 it up on October the 2nd, 2014?

13 A. Yes, sir, it is.

14 Q. Was it in that plastic container when you picked it
15 up?

16 A. When I obtained the evidence from Nurse Carr from the
17 hospital, yes, it was in this jar.

18 Q. When you put it in that package and identified what
19 it was to your knowledge, did you seal it?

20 A. I did, yes.

21 Q. The seal that I just tore up, is that the seal you
22 placed on it when you placed that into evidence at the
23 Lancaster County Sheriff's Office?

24 A. Yes, sir.

25 Q. Do you remember what time it was when you picked that

PAUL LYONS - DIRECT EXAMINATION BY MR. COOK

1 up from CMC Main?

2 A. I believe it was approximately 11:40 to 11:41 in the
3 morning.

4 Q. Do you remember when you entered it into evidence at
5 the sheriff's office?

6 A. I do. I believe it was about 1:55 to 1:57 in the
7 afternoon.

8 Q. Can you explain where that was between 11:40 in the
9 morning until 1:50 in the afternoon?

10 A. By the time I finally left the hospital, I responded
11 to my vehicle and drove down to the Indian Land substation
12 where I'm currently assigned. I had some paperwork that I
13 had to complete along with the supplement to the items I
14 had obtained. From there, I responded back down to the
15 main sheriff's office, spoke to my supervisor and advised
16 him the item that I had picked up. The evidence
17 submission form was then completed and the items were then
18 taken to Lancaster County Sheriff's Office's evidence
19 building where they were secured in an evidence locker.

20 Q. Have you seen this since October 2nd when you put it
21 in the locker?

22 A. I have not, sir.

23 Q. So to the best of your knowledge, nobody else has
24 touched this?

25 A. No, sir.

PAUL LYONS - DIRECT EXAMINATION BY MR. COOK

1 MR. GRIER: What was the question? I'm sorry, Mr.
2 Cook.

3 MR. COOK: To his knowledge, nobody has tampered with
4 this.

5 Your Honor, the state moves to introduce this as
6 State's Exhibit Number 4.

7 MR. GRIER: No objection.

8 THE COURT: Without objection.

9 (WHEREUPON, state's Exhibit Number 4 was marked and
10 admitted into evidence.)

11 BY MR. COOK:

12 Q. Just to show you one thing, Investigator Lyons, can
13 you identify what this form is?

14 A. Yes. Once I responded to the hospital and inquired
15 about picking up the evidence, once the evidence was
16 provided to me, I was told by Nurse Carr I needed to fill
17 out an OR chain of evidence form stating that I did take
18 possession of the item that was provided to me. With
19 that, I did place my name, the agency I'm employed with,
20 the date and time of when I picked up the item.

21 Q. And once you signed this form -- did you sign this
22 form?

23 A. I did, yes.

24 Q. Once you signed it, was that when this piece of
25 evidence was turned over -- released to you by the

PAUL LYONS - DIRECT EXAMINATION BY MR. COOK

1 hospital?

2 A. Yes, sir.

3 Q. Okay.

4 MR. COOK: Your Honor, the state moves to introduce
5 this chain of custody as State's Exhibit Number 5 in
6 evidence.

7 MR. GRIER: No objection.

8 THE COURT: Without objection.

9 (WHEREUPON, state's Exhibit Number 5 was marked and
10 admitted into evidence.)

11 BY MR. COOK:

12 Q. Investigator Lyons, did you ever respond to Lymon
13 Reece Road on September 26, 2014?

14 A. I did not, no.

15 Q. Was your involvement in this case strictly going to
16 the hospital?

17 A. Yes, sir. My responsibility was to respond to the
18 hospital per my supervisor and obtain evidence.

19 Q. And you didn't do any other work on this particular
20 case?

21 A. No, sir, I did not.

22 MR. COOK: Thank you, Investigator Lyons. Answer
23 anything Mr. Grier may have for you.

24 MR. GRIER: I think the solicitor asked all my
25 questions. No questions.

PAUL LYONS - DIRECT EXAMINATION BY MR. COOK

1 THE COURT: All right. Thank you very much. You may
2 step down.

3 MR. COOK: Your Honor, the state calls Christy Rogers
4 to the stand.

5 THE COURT: All right. Ms. Rogers, if you would
6 please come around. Place your left hand on the Bible and
7 raise your right.

8 CHRISTY ROGERS, after first being duly sworn,
9 testified under oath as follows:

10 THE COURT: Please be seated.

11 DIRECT EXAMINATION

12 BY MR. COOK:

13 Q. Good morning, Ms. Rogers.

14 A. Good morning.

15 Q. Would you please state your name for the record?

16 A. Christine Michelle Rogers.

17 Q. Who is your employer, Ms. Rogers.

18 A. Lancaster County Sheriff's Office.

19 Q. How long have you been with the sheriff's office?

20 A. Nineteen years.

21 Q. What is your current role with the Lancaster County
22 Sheriff's Office?

23 A. I'm lieutenant over crime scene and evidence.

24 Q. As a lieutenant, what are your general duties in
25 regards to crime scene and evidence?

CHRISTY ROGERS - DIRECT EXAMINATION BY MR. COOK

1 A. Well, I supervise both sides of our unit, but I'm
2 also on rotational call with two other crime scene
3 investigators. So every third week, I have call for an
4 entire week and if there's any calls for service that
5 require crime scene investigation, then I will respond to
6 the scene and process and document.

7 Q. When you reference crime scene investigation, can you
8 just give us a brief overview of the type of work that you
9 and the people that work for you do?

10 A. Just like Investigator Lyons said, he may investigate
11 a number of different types of incident, we do, too. We
12 handle anything from homicides to sexual assaults to
13 property crimes and anything in between.

14 One of our main goals is to document the scene
15 exactly as we find it. And documentation can include
16 photographs, measurements, videos sometimes. And then we
17 search for evidence on scenes. We may process if evidence
18 needs processing, like for fingerprint evidence, if we
19 need to be able to visualize evidence, we process things.
20 And we collect evidence and secure it in our evidence
21 facility.

22 Q. Okay. Did you respond to Lymon Reece Road on
23 September 26, 2014?

24 A. I did. I was on call that week.

25 Q. The location you went to, was it a building, what

CHRISTY ROGERS - DIRECT EXAMINATION BY MR. COOK

1 kind of establishment was this?

2 A. The location I went to, there was a duplex apartment
3 on one side of the scene and then another series of
4 apartments on the left side of the scene. And behind
5 where the victim was located was Lancaster Bowling Center
6 or bowling alley.

7 Q. I'm going to show you a couple of pictures,
8 Lieutenant Rogers, and see if you can tell us what this --
9 do you recognize what this is?

10 A. Yes, sir, it looks like a picture I took the night of
11 the incident that includes where the victim was found by
12 First Responders.

13 Q. And you actually took this photograph?

14 A. I believe I did, yes, sir, it looks like one I took.

15 MR. COOK: Your Honor, if I may, I've got a series of
16 photographs I would like to present to Lieutenant Rogers
17 and at the end, if I could introduce these collectively as
18 one exhibit?

19 MR. GRIER: Can I look at these to save some time?

20 MR. COOK: So we don't have to do each one
21 individually.

22 MR. GRIER: I've got all of these and I've reviewed
23 them all. I have no objection to their entry into
24 evidence.

25 THE COURT: Mr. Cook, do you want those as one --

CHRISTY ROGERS - DIRECT EXAMINATION BY MR. COOK

1 numbered as one exhibit?

2 MR. COOK: I was going to do that just to simplify it
3 so the court reporter doesn't have to do each one, just
4 this group of --

5 THE COURT: What we may have to do -- I don't think
6 that's a problem, but just like, for example, if that's
7 going to be state's Exhibit like 10, then they probably
8 need to be like 10A, B, C so that you can tell --

9 MR. COOK: We'll just do them individually.

10 THE COURT: It's probably easier to give each one a
11 number.

12 MR. COOK: Your Honor, the state would like to
13 introduce this photograph as state's Exhibit 6.

14 THE COURT: How many do you have total?

15 MR. COOK: We have six.

16 THE COURT: All right. So you're going to do six
17 through 12 or something of that nature?

18 MR. COOK: Yes, sir, Your Honor.

19 THE COURT: And you don't object to any of that?

20 MR. GRIER: We can mark them now.

21 THE COURT: Let the court reporter mark those six
22 through whatever they are and let the record note the
23 defense has posed no objection to any of those
24 photographs. So those are all in evidence without
25 objection.

CHRISTY ROGERS - DIRECT EXAMINATION BY MR. COOK

1 MR. COOK: Okay.

2 THE COURT: And let's just take a few minutes and let
3 the court reporter go ahead and just mark them. And you
4 can refer to them.

5 MR. COOK: Yes, sir.

6 (WHEREUPON, state's Exhibit Numbers 6 through 11 were
7 marked and admitted into evidence.)

8 BY MR. COOK:

9 Q. Lieutenant Rogers, State's Exhibit marked Number 7,
10 can you tell us what this is?

11 A. Yes, sir, it's a photograph of a cartridge casing
12 that was located in the roadway in front of where the
13 victim was shot. And there's an evidence marker number
14 one placed beside the casing to show the location for
15 photographic purposes.

16 Q. Is this the picture you're holding in your hand?

17 A. Yes, sir, it's looks like it.

18 Q. The yellow one, did you place that there?

19 A. I did.

20 Q. That -- can you draw -- on that screen in front of
21 you, you can mark -- circle the -- touch it -- what -- the
22 casing.

23 A. (The witness complied.)

24 Q. Okay. There's a rock beside that. Do you know what
25 that rock is there for?

CHRISTY ROGERS - DIRECT EXAMINATION BY MR. COOK

1 A. Yes, sir. Very often, if patrol units have arrived
2 on scene before I and they note things of evidence or
3 think I might be interested in, they'll place a piece of
4 paper, a rock, something to note the location so they can
5 find it again and show me what they located. So that's a
6 rock that I believe was placed there by patrol.

7 Q. Okay. Ultimately, did you collect this casing from
8 the roadway?

9 A. I did.

10 Q. I show you what's marked State's Exhibit Number 8.
11 Can you identify what this picture is?

12 A. Yes, sir, this is a second cartridge casing that was
13 marked with a rock and then I marked it with evidence
14 marker two.

15 Q. Is this the picture you're looking at?

16 A. Yes, sir.

17 Q. Can you do what you did on the last slide and circle
18 the shell casing you're talking about?

19 A. Yes, sir.

20 Q. Is this the same situation with the rock beside it?

21 A. It is.

22 Q. Did you collect this shell casing from the roadway?

23 A. I did.

24 Q. Do you remember what condition this casing was in?

25 A. As far as -- there wasn't any significant damage to

CHRISTY ROGERS - DIRECT EXAMINATION BY MR. COOK

1 it. It didn't look to me like it had been run over by a
2 car or anything like that, if that's what you mean.

3 Q. Show you State's Exhibit Number 9. Can you identify
4 what this picture shows?

5 A. Yes, sir, this is just an overall picture of the
6 scene that shows the location of the two cartridge casings
7 in relation to the structure and the vehicle in which the
8 victim was found beside.

9 Q. It should pop back up here in just a second. Is this
10 the photograph you're looking at?

11 A. Yes, sir, it is.

12 Q. Those one and two markers, those are the -- does that
13 indicate those first two casings that we just discussed?

14 A. Yes, sir.

15 Q. Did you take a measurement of how far apart those two
16 casing were?

17 A. How far apart the casings were from one another?

18 Q. Yes, ma'am.

19 A. I don't believe so.

20 Q. Show you what's marked State's Exhibit Number 10.

21 Can you tell the jury what this depicts?

22 A. This is a photograph I took to -- after I placed
23 evidence markers using evidence marker number three as an
24 approximate, just a general position for the location of
25 the victim upon the first responders' arrival. And that's

CHRISTY ROGERS - DIRECT EXAMINATION BY MR. COOK

1 based on what witnesses said and, of course, what the
2 first responders found when they got there. Then evidence
3 marker number four is marking a projectile that I found
4 behind the Maxima that you see in the picture.

5 Q. This is the picture you hold in your hand?

6 A. Yes, sir, it is.

7 Q. And marker number three indicates where the victim
8 allegedly was?

9 A. Right, at the time of the shooting.

10 Q. And marker four was -- what did you say marker four
11 was, I'm sorry?

12 A. It's marking the location of a projectile that I
13 found on the ground behind the car.

14 Q. Okay. Show you State's Exhibit Number 11. If you
15 could tell us what this is.

16 A. This is a picture that I took that's more of a
17 close-up photograph of the projectile that's marked by
18 evidence marker number four, again, on the ground behind
19 the Maxima.

20 Q. Is this the picture you're currently looking at?

21 A. Yes, sir, it is.

22 Q. It's a little bit hard to see. Can you circle the
23 projectile that you located?

24 A. (The witness complied.)

25 Q. Okay. Did you collect this what you've referred to

CHRISTY ROGERS - DIRECT EXAMINATION BY MR. COOK

1 as a projectile?

2 A. I did.

3 Q. What did you do with that projectile once you
4 collected it?

5 A. The projectile, along with the casings were committed
6 into evidence at our evidence and crime scene building.

7 Q. Okay. Did you do any measurements of how far from
8 where the victim, Mr. Jones, was said to be located to
9 where the projectile was?

10 A. I took triangulated measurements from different
11 structures, corners of buildings to the position of three
12 and four and those are documented in my report.

13 Q. Did you find any casings anywhere around where you
14 marked CSI number three where the victim allegedly was?

15 A. No, sir. The only casings that we located were in
16 the roadway at markers one and two. There were no
17 additional casings located.

18 Q. Was anybody else helping you look for evidence on the
19 scene that night?

20 A. There were a number of deputies that remained on
21 scene and they had conducted a general search before I
22 arrived and marked the casings in the roadway. And
23 Sergeant Funderburk assisted me with measuring.

24 Q. About how long were you on the scene canvassing the
25 area looking for pieces of physical evidence?

CHRISTY ROGERS - DIRECT EXAMINATION BY MR. COOK

1 A. I arrived at 10:35 and I left at 1:07, so it was
2 about three hours.

3 Q. Okay.

4 A. Well, two and a half hours.

5 Q. And the only things that were located were two
6 casings in the road and one projectile in the yard?

7 A. That's correct.

8 Q. Did you do any measurements on any of these casings
9 or projectiles?

10 A. Yes, sir. I identified what I would call reference
11 points. They were corners of structures and used them to
12 measure from to the location of the evidence and
13 documented those measurements to items one and two, which
14 were the cartridge casings and to the projectile and to
15 the position of the victim.

16 Q. To the actual projectile or the casings themselves,
17 did you measure any of those items, on what size the
18 bullet was, what size the casing was?

19 A. No, sir, I did not.

20 Q. When you collected the shell casing, are there any
21 markings on the casing that would identify it as what
22 caliber it is?

23 A. Yes, sir, a lot of the cartridge casings will have --
24 on the head stamp will have notes about the manufacturer
25 and the caliber of the bullet.

CHRISTY ROGERS - DIRECT EXAMINATION BY MR. COOK

1 Q. When you say head stamp, what do you mean?

2 A. It's the end of the cartridge where the primer is
3 that would face the firing pin when it's loaded into a
4 gun.

5 Q. Okay. And what did the head stamp on -- the item
6 that was marked number one in the roadway, that casing,
7 what marks -- what identifying marks did you locate on
8 that casing?

9 A. On both casings on the head stamp were the letters RP
10 and 25.

11 Q. Do you know what RP would mean?

12 A. It's just -- it's a Remington brand or Remington and
13 Peters brand ammunition.

14 Q. Okay. That was found on both casings?

15 A. It was. They were the same markings.

16 Q. The 25 that's on the head stamp, what does that
17 indicate to you?

18 A. It indicates that it's a 25-caliber bullet.

19 Q. Now, the casing is not a bullet, correct?

20 A. That's correct. It's part of the cartridge of the
21 whole assembly, but it is not the projectile or the
22 bullet.

23 Q. How does one come -- how does a bullet get to the
24 point where all you have left is a casing?

25 A. Well, it's -- after the gun is fired and the

CHRISTY ROGERS - DIRECT EXAMINATION BY MR. COOK

1 reaction, the heat is -- the primer elements are ignited
2 and it lights the gun powder in the bullet and that
3 forces -- that heat and that pressure force the bullet
4 down the barrel of the gun, then -- in the case of a
5 revolver, the casing is going to remain in the cylinder
6 and it's just the metal piece that kind of holds those
7 components together. In the case of a semiautomatic
8 pistol, then the casing will be ejected if the gun is
9 functioning properly.

10 Q. So in basic terms, if you've got a casing, it means
11 that a bullet has been fired previously?

12 A. Yes, sir, that's what that usually indicates to us.

13 Q. Outside of the two casings and the projectile behind
14 the car, did you collect any other physical evidence on
15 the scene that night?

16 A. Those are the items that I collected. Prior to my
17 arrival, Deputy Mahadeen had secured some items that he
18 transferred to me while we were on the scene.

19 Q. What were those items?

20 A. He gave me a bag that he said contained the victim's
21 pants or his blue jeans, and he also gave me a starter
22 pistol that was found on the ground close to where the --
23 the position of the victim was.

24 Q. The pants that were turned over by Deputy Mahadeen,
25 did you do any type of testing or anything on those pants?

CHRISTY ROGERS - DIRECT EXAMINATION BY MR. COOK

1 A. I did not do any testing on them. We searched the
2 pants and did some photographs, but I didn't do any
3 testing on them.

4 Q. The starter pistol, did you do any type of analysis
5 on that starter pistol?

6 A. I did not do any analysis on the pistol.

7 Q. Okay.

8 MR. COOK: Beg the Court's indulgence one moment,
9 Your Honor.

10 BY MR. COOK:

11 Q. Lieutenant Rogers, can you identify what these are?

12 A. I believe that's the pants that the victim had on
13 that were transferred to me by Deputy Mahadeen.

14 Q. Okay. You didn't do any type of testing on these?

15 A. No, sir.

16 Q. Okay. - And the starter pistol, I know you said you
17 didn't do any test on it. Did you have a chance to look
18 at it or examine it?

19 A. Yes, sir, I did.

20 Q. Can you tell us what a starter pistol is?

21 A. It's just a -- it's made to make the noise that you
22 would associate with a firearm, the bang, to start events.
23 It's not made to fire a projectile. So it does not
24 meet -- by definition, it is not a firearm.

25 MR. COOK: Beg the Court's indulgence one moment,

CHRISTY ROGERS - CROSS-EXAMINATION BY MR. GRIER

1 Your Honor.

2 I think that's all, Lieutenant Rogers. Answer
3 anything Mr. Grier have for you. Thank you.

4 CROSS-EXAMINATION

5 BY MR. GRIER:

6 Q. Morning, Lieutenant.

7 A. Morning.

8 Q. So what's the acronym for your division?

9 A. The CSI or crime scene investigation?

10 Q. Right, I don't think you said CSI. You hear that so
11 much --

12 A. We're a crime scene unit, but all the unit are
13 investigators.

14 Q. Now, distinguish that from the different
15 responsibilities of the crime scene. Distinguish CSI from
16 the other responsibilities of other law enforcement
17 officers at the scene.

18 A. Our unit's specific task is to deal with the scene,
19 to search for evidence, document evidence, and basically,
20 what working from -- looking for physical evidence in the
21 crime scene. Deputies respond to calls for service and
22 provide peace and security. And then the investigators
23 will conduct the criminal investigation and interview
24 victims, witnesses, suspects.

25 Q. Thank you. Now, who's responsible for doing GSR?

CHRISTY ROGERS - CROSS-EXAMINATION BY MR. GRIER

- 1 What does GSR stand for?
- 2 A. Gunshot residue.
- 3 Q. Okay. And whose responsibility is it to conduct GSR
- 4 on the individuals at the scene of a crime if there's a
- 5 reason to do it?
- 6 A. To collect gunshot residue or to analyze it?
- 7 Q. To collect it, yeah.
- 8 A. To collect it, we normally do if we have a person
- 9 that's on the scene.
- 10 Q. CSI?
- 11 A. Yes, sir, if you're speaking about from a shooter's
- 12 hands or potential shooter's hands, we collect it.
- 13 Q. Okay. All right. Now, in this case, were any GSR of
- 14 any -- anybody at the scene done?
- 15 A. I'm sorry?
- 16 Q. Did anybody have GSR taken off of their hands?
- 17 A. At the scene, no, sir, they did not.
- 18 Q. Okay. Now, Mr. Jones was wearing these at the time,
- 19 he was shot?
- 20 A. I was given a bag of evidence that contained those
- 21 jeans from Deputy Mahadeen. He told me they were the
- 22 victim's jeans.
- 23 Q. So from that, would you conclude that Jones was
- 24 wearing these at the time he was shot?
- 25 A. That's all I can tell you. They were given to me and

CHRISTY ROGERS - CROSS-EXAMINATION BY MR. GRIER

1 they were identified as such.

2 Q. So, you know, you got all these different divisions,
3 y'all don't communicate that information?

4 A. I just testified that Deputy Mahadeen said that these
5 were the victim's pants.

6 Q. Okay. Well, if he wasn't wearing them, what point
7 would there be in him having turned them over to you?

8 A. I don't know that there would be any point if they
9 didn't seem pertinent to him in the case.

10 Q. Okay. All right. Well, there are no gunshot -- you
11 call it a defect -- if there's a hole in a piece of fabric
12 on something worn, you'd call that a defect, wouldn't you?

13 A. What we identify as potential bullet holes, we refer
14 to as defects. Whether they're in clothing, in a person,
15 in a wall, they're all referred to as defects.

16 Q. Any defects in these pants?

17 A. I did not locate any bullet defects in those pants.

18 Q. So, you know, do y'all talk about theories of the
19 case with the investigators? The theory of the case, is
20 that discussed between CSI and the investigators?

21 A. We discuss different things among ourselves, the
22 investigators. If we think there's something that needs
23 to be brought to the attention of the criminal
24 investigator, then we'll call him or her and give that
25 information to them.

CHRISTY ROGERS - CROSS-EXAMINATION BY MR. GRIER

1 Q. Okay. All right. Well, if you were -- let's assume
2 he was wearing these pants, okay. Can we assume that for
3 a minute? And he's got a bullet wound in his crotch.

4 Would you assume if you had a bullet wound in your crotch
5 and you were wearing these pants, there would be a defect
6 in the pants?

7 A. Not necessarily.

8 Q. Why not?

9 A. Because there are people that wear their pants very
10 low?

11 Q. Okay.

12 A. And they may have been at a level to be lower than
13 the flight path of the bullet.

14 Q. Let's assume that, okay, but it would also suggest
15 that maybe he shot himself, would it not?

16 A. I saw nothing in this scene to suggest that the
17 victim shot himself.

18 Q. You got a pants without a defect in them?

19 A. Yes, sir, that's not the first time that I've seen a
20 pair of pants that the victim was absolutely, positively
21 wearing and the bullet didn't travel through the pants,
22 but struck an area that you would think would normally be
23 covered by pants.

24 Q. So it occurred to no one that he might have shot
25 himself?

CHRISTY ROGERS - CROSS-EXAMINATION BY MR. GRIER

1 A. Again --

2 Q. In the investigation?

3 A. We don't go in with any assumptions. We listen to
4 what victims, witnesses say. We look at the physical
5 evidence. I heard nothing, I saw nothing in my
6 investigation that would lead me to think the victim shot
7 himself.

8 Q. Don't you use logical inferences and investigate
9 those, too?

10 A. Absolutely.

11 Q. Okay. Is it not a logical inference if someone is
12 wearing pants and they have a gunshot in their crotch that
13 maybe they shot themselves? That's not a logical
14 inference to you?

15 A. Not in this case. Again, I looked at everything, all
16 the physical evidence, I saw nothing --

17 Q. So -- I'm sorry, I apologize. So that potential
18 doesn't even merit testing these pants for GSR?

19 A. I saw nothing to make me believe that we needed to
20 send the pants off to have them searched for gunshot
21 residue.

22 Q. Okay. The -- do you guys -- does CSI set up lighting
23 for the crime?

24 A. Depending on the scene, we may provide some external
25 lights.

CHRISTY ROGERS - CROSS-EXAMINATION BY MR. GRIER

1 Q. Now, is that what was done here? Is this how --
2 these pictures of the house and all this, you looked at
3 all this?

4 A. Yes, sir, I have.

5 Q. For example, that -- the Exhibit 6, the house, that
6 lighting was -- there was lighting that was provided by
7 CSI?

8 A. The lighting that you see there is provided by my
9 flash that's on my camera.

10 Q. Okay. All right. Was there lighting on the scene?

11 A. Yes, sir.

12 Q. Who provided the lighting on scene?

13 A. Are you talking about what was added or what was
14 there? There were street lights. Those pictures you're
15 seeing, there's added flash to them.

16 Q. But did anybody set up lights on the scene as part of
17 the investigation?

18 A. No, sir.

19 Q. Okay. All right. Okay. Now, you took custody of
20 that starter pistol?

21 A. I did.

22 Q. Okay. And that starter pistol was found -- did you
23 know, perhaps, or maybe did anybody tell you that the
24 starter pistol was found under the man who had a defect in
25 his crotch and no defect in his pants?

CHRISTY ROGERS - CROSS-EXAMINATION BY MR. GRIER

1 A. I read the report, yes, sir, that's where it was
2 found.

3 Q. Now, were y'all curious about who -- where the
4 starter pistol came from and what -- you know, what
5 evidence potentially could have been gleaned from that
6 starter pistol?

7 A. As far as trying to determine possession of it or --

8 Q. Yes.

9 A. We could have fingerprinted it. We could have
10 swabbed it for DNA.

11 Q. Did you do those things?

12 A. No, sir, I did not.

13 Q. Why did you not do that?

14 A. Because I didn't think the starter pistol was
15 relevant as far as how Mr. Jones obtained his injury. And
16 I heard nothing from anybody that placed that starter
17 pistol as part of the incident.

18 Q. Well -- so the starter pistol is just totally
19 irrelevant to what happened out there that night? I mean,
20 there's no -- your investigatory instincts don't tell you
21 there might be something to be learned from that pistol
22 about whether people are telling the truth or not?

23 A. We collected it. We have it in evidence if there was
24 any need for any further examination of it. Because of
25 its proximity to the victim, it seemed to have relevance.

CHRISTY ROGERS - CROSS-EXAMINATION BY MR. GRIER

1 Q. And so why wasn't it tested to see if it had the
2 victim's fingerprints on it or his DNA on it, Ronnie
3 Blackwell's DNA, fingerprints, Kacy Noe's fingerprints, I
4 mean, the people out there? I mean, if they can't account
5 for a starter pistol, aren't you curious as to how this
6 pistol is out here at a shooting and we might be able to
7 find out whose DNA or fingerprints are on this pistol? Is
8 it not just intuitive that you would want to know that
9 about that starter pistol?

10 A. We kept the starter pistol in evidence in the same
11 condition it was in when I received it from Deputy
12 Mahadeen, so if at any point we determined further testing
13 seemed relevant, we would have done it.

14 Q. And nobody felt it was relevant?

15 A. No, sir, we did no further testing other than
16 examining it to make sure it was incapable of firing a
17 bullet.

18 Q. You had Brandon Rivers in custody and that's all you
19 cared about. You weren't going to do anything that might
20 break the theory down, were you?

21 A. No, sir, that wasn't my intent at all.

22 Q. I know that wasn't your intent to do anything to
23 break the theory down. But, I mean, you know -- so nobody
24 was GSR tested? You had people out there at a shooting
25 and there was no investigatory curiosity about when you

CHRISTY ROGERS - CROSS-EXAMINATION BY MR. GRIER

1 got a starter gun out there as to whether the people that
2 say they don't know anything about it are telling the
3 truth or not? (

4 A. I'm sorry, what was the question?

5 Q. There was no curiosity as to where it might lead and
6 what it might tell you in your investigation about
7 determining if there was any evidence on that pistol, that
8 starter pistol?

9 A. Again, it was collected, and we did not process it
10 for prints or swab it for DNA.

11 Q. Okay. Would you agree if you had done that and it
12 turned out that the victim's fingerprints or DNA were on
13 that starter pistol, then it would have created an
14 inconsistency in what he was telling you?

15 A. If he was lying on top of the starter pistol as was
16 testified to by other law enforcement agents, then his DNA
17 would have been on the gun. I don't know that that would
18 have proved anything other than his DNA was on the gun.

19 Q. Okay. That starter pistol had the appearance of a
20 real gun if you're looking at it, you know, from -- okay?

21 A. Yes, sir.

22 Q. And so it didn't occur that if he was using the
23 starter pistol and had his DNA on it that meant that he
24 was on the scene of a shooting with the apparent ability
25 to harm someone? You can't see how that would be an

CHRISTY ROGERS - CROSS-EXAMINATION BY MR. GRIER

1 inference in the investigation?

2 A. Again, just reviewing everything that we had heard
3 from victims and witnesses and other involved parties, I
4 heard nothing about this other gun or potentially another
5 gun being used.

6 Q. Okay. And there was no curiosity about that starter
7 pistol, about what information you could get from it.

8 MR. GRIER: That's all. Thank you.

9 MR. COOK: Briefly on redirect, Your Honor.

10 REDIRECT EXAMINATION

11 BY MR. COOK:

12 Q. Lieutenant Rogers, the starter pistol that Mr. Grier
13 keeps talking about that you didn't test for DNA or
14 fingerprints, if you took that starter pistol and tested
15 it and found Christopher Jones's DNA on it, would it
16 magically make it an operable firearm that would allow him
17 to shoot himself in the crotch?

18 A. No, sir.

19 Q. If you found Ronnie Blackwell's DNA or fingerprints
20 on that gun, would it turn it into an operable firearm?

21 A. Absolutely not.

22 Q. If you found my DNA on that gun, would it turn it
23 into an operable firearm?

24 A. No, sir.

25 Q. So if you did any of these tests for fingerprints or

CHRISTY ROGERS - REDIRECT EXAMINATION BY MR. COOK
CHRISTY ROGERS - RECROSS-EXAMINATION BY MR. GRIER

1 DNA on this gun, the only thing that would mean is that
2 somebody on scene touched that gun, correct?

3 A.. Or came in -- yes, sir.

4 MR. COOK: Thank you.

5 RECROSS-EXAMINATION.

6 BY MR. GRIER:

7 Q. That's the only thing it would mean?

8 A. I'm sorry, what's the question?

9 Q. That's the only thing it would be that somebody else
10 touched the gun?

11 A. If they're DNA or prints were on it.

12 Q. Yeah, uh-huh.

13 A. Yes, sir, they had possession of it at some point.

14 Q. It wouldn't also make them liars?

15 A. I don't know what their statements were, I didn't
16 interview them.

17 Q. You don't talk to the other investigators?

18 A. I read over the reports, yes, sir.

19 MR. GRIER: Okay. That's all.

20 THE COURT: Thank you very much. You may step down.

21 Call your next witness.

22 MR. COOK: Your Honor, the state calls Investigator
23 Ken Taylor to the stand.

24 THE CLERK: Sir, please come around. Place your left
25 hand on the Bible and raise your right.

KEN TAYLOR - DIRECT EXAMINATION BY MR. COOK

1 KEN TAYLOR, after having first being duly sworn,
2 testified under oath as follows:

3 THE CLERK: Please be seated in the witness stand.

4 DIRECT EXAMINATION

5 BY MR. COOK:

6 Q. Can you please state your name for the record?

7 A. Yes, sir, Investigator Ken Taylor.

8 Q. And Mr. Taylor, who is your employer?

9 A. Lancaster County Sheriff's Office.

10 Q. How long have you been with the sheriff's office?

11 A. Almost 11 years.

12 Q. Okay. What is your current role at the sheriff's
13 office?

14 A. I am a crime scene investigator.

15 Q. Can you elaborate on that for a little bit for the
16 jury?

17 A. Yes, crime scene investigators, typically, when we
18 arrive at the scene -- again, we're all part of our crime
19 scene unit. Usually, when we come on scene, we're looking
20 more so for physical evidence rather than verbal
21 statements, things like that. I mean, if we have to take
22 those type of statements or those type of measures, we do
23 it, but typically, we're looking for physical evidence.
24 We want to document the scene through photography, through
25 taking measurements, through, again, any type of notes we

KEN TAYLOR - DIRECT EXAMINATION BY MR. COOK

1 might take on the scene to try to help us explain the
2 physical evidence.

3 Q. How long have you been doing crime scene
4 investigation?

5 A. I think it's going on just about six and a half years
6 now.

7 Q. So you were working in this unit of the sheriff's
8 office in September of 2014?

9 A. Yes.

10 Q. September 26, 2014, did you go out to Lymon Reece
11 Road?

12 A. No, sir, I did not.

13 Q. Okay. How did you become involved in this case?

14 A. I was actually contacted, let's see, October 30th of
15 2015 by my lieutenant, Christine Rogers. And she had
16 forwarded a request from the solicitor's office to do some
17 measurements and examinations on a starter pistol that was
18 collected during this initial investigation.

19 Q. Okay. Now, Lieutenant Rogers -- is Lieutenant
20 Rogers, would she be considered your supervisor, superior
21 at the sheriff's office?

22 A. Yes, she is my boss.

23 Q. So she requested that you analyze this starter
24 pistol?

25 A. Yes.

KEN TAYLOR - DIRECT EXAMINATION BY MR. COOK

1 Q. What special training do you have in regards to -- in
2 regards to firearms that Lieutenant Rogers would hand you
3 this task?

4 A. Well, as part of some of my training at the National
5 Forensic Academy, which is a 10-week in-residence or
6 in-house training program that I participated back in
7 2010, we had a block on shooting reconstruction. And part
8 of that and part of some of our other training dealt with
9 firearms, ammunition, ballistics, flight path trajectory,
10 things like that. Since that 10-week class, I think the
11 following year I had another 40-hour class on shooting
12 reconstruction, which again dealt with ballistics and
13 things like that as part of that overall training.

14 Prior to working at the sheriff's office, I worked in
15 a manufacturing machine shop for 22 years. And about 20
16 years of that, we operated a machine shop where we
17 manufactured small parts very similar to what you might
18 find associated with ammunition and guns and other things.
19 So as far as looking at those parts, measuring those
20 parts, analyzing those parts, as far as, you know, just
21 getting overall dimensions, things like that, it's
22 something I've been doing for a long time. And then with
23 firearms, I've been handling some type of gun, shooting
24 some type of gun since my early youth. So I've been
25 familiar with those for years.

KEN TAYLOR - DIRECT EXAMINATION BY MR. COOK

1 Q. Not to embarrass you, but how old are you,
2 Investigator Taylor?

3 A. I'm 50.

4 Q. So it's been a while since you've been dealing with
5 firearms?

6 A. Yes.

7 Q. Now, you've had all this training. Did you analyze
8 the starter pistol in any way?

9 A. Yes, I did.

10 Q. Based on your -- well, first of all, what type of
11 test, if any, did you do on the starter pistol?

12 A. Really, just an overall taking a look at it and
13 looking to see what the manufacturer of the item said that
14 it was, took some measurements, took some pictures.

15 Q. What type of -- who is the manufacture of the
16 firearm?

17 A. The manufacture as far as I can find is Kimar,
18 K-I-M-A-R.

19 Q. And based on your looking at this starter pistol,
20 what conclusions did you draw about that?

21 A. Well, it is, indeed, that. It is a starter revolver,
22 starter gun, which you would typically use to start say a
23 race or some kind of event you might see. If you're at
24 all familiar with Fourth of July picnics, things like
25 that. Even the literature that's available at Kimar's

KEN TAYLOR - DIRECT EXAMINATION BY MR. COOK

1 website -- or it's actually -- they're owned by Chiappa
2 Firearms, I believe it is. Their cut sheet for that item,
3 the very first thing it states on the cut sheet is,
4 important, the item you have just bought is not a firearm.
5 So again, it is a starter gun, a starter revolver.

6 Q. What is different about the construction of a starter
7 pistol from a standard firearm that makes it different?

8 A. First off, you see a lot of similarities. Again, the
9 overall appearance, it looks like a functioning revolver.
10 And to the most extent, it rolls its cylinder around just
11 like a normal firing revolver would. But in the case of a
12 starter gun, it's typically designed to either fire some
13 type of blank ammunition or some type of cap or some type
14 of primer insert.

15 In the case of this one, the barrel, where typically
16 if you looked at a semi-automatic pistol or even a
17 revolver shotgun or rifle, as far as that goes, you would
18 see a through hole, meaning that from the breach end to
19 the muzzle end, there would be an opening, so that when
20 that bullet -- that cartridge comes up in there and it
21 fires, the bullet can go from one end and all the way
22 through and out the muzzle end.

23 In the case of this item, the breach end coming back
24 towards the midsection of that revolver is solid steel.
25 It's not open. So a bullet could not pass from one end

KEN TAYLOR - DIRECT EXAMINATION BY MR. COOK

1 through the barrel out to the other nor could a cartridge
2 be inserted into there so that you might be able to fire
3 it. It's just physically impossible for it to do that in
4 case of this item.

5 Q. This item, in particular, that was found on Lymon
6 Reece, you're telling me it has something in the barrel
7 that prohibits anything from going through it?

8 A. Correct. It's steel. There's no hole there.
9 There's no through hole. There is a hole in front of the
10 barrel that you can see that makes it look like a real
11 operating gun, a real operating revolver. But again, near
12 the backside of the breach end of that is solid metal.
13 There is no hole there. There's no through hole.

14 Q. So no projectile is coming out of that gun in
15 particular?

16 A. Correct.

17 Q. Outside the presence of there's something in the
18 barrel -- is there anything else on this particular
19 starter pistol that would prohibit it from being able to
20 fire?

21 A. Yes. On this particular one, again, looking in the
22 front end out of it in the barrel, there's something
23 lodged in there. And I don't know if -- I couldn't tell
24 from -- even putting it on a comparative microscopic type
25 viewer that we use, I couldn't even tell if it was

KEN TAYLOR - DIRECT EXAMINATION BY MR. COOK

1 something that was made into the barrel or it was .
2 something that somebody had plugged in there somehow. But
3 there's something in there actually blocking that open
4 portion of the barrel that's there. It may have been
5 something -- again, I can't substantiate that, but it may
6 have been something with the manufacturer, the way it's
7 made, or it could be something that someone just stuffed
8 in there, plugged in there. There was a lot of dirt,
9 debris, something in there as well. But again, that would
10 be in addition to the metal that's there.

11 Q. So whatever is jammed in there, the initial part you
12 referenced in the barrel, that is something provided by
13 the manufacture?

14 A. Yes, yes, it's manufactured that way as far as I can
15 tell.

16 Q. So even if somebody in between the time it was sold
17 and the time it was collected jammed something in there,
18 it wasn't going to fire anyway?

19 A. It wouldn't make any difference, correct.

20 Q. So it would have been impossible for Mr. Jones to
21 sustain his injuries from the particular starter pistol
22 that was collected that night?

23 A. Correct.

24 Q. Now, I'm going to show you a couple things.

25 MR. COOK: Beg the Court's indulgence one moment,

KEN TAYLOR - DIRECT EXAMINATION BY MR. COOK

1 Your Honor.

2 BY MR. COOK:

3 Q. Okay. Investigator Taylor, can you tell us what this
4 is? Can you identify that?

5 A. Yes, sir. This is one of our metal evidence tins
6 that's labeled that it's containing a casing at evidence
7 marker number one.

8 Q. Okay. Now, do you know what evidence marker
9 number one is?

10 A. Yes, I believe in reference to the pictures you
11 showed earlier, it was showing the location of a casing at
12 the roadway at the incident, it appeared at the roadway.

13 Q. Back up and you should be able to see this in a
14 second. So it says evidence marker number one?

15 A. Yes, sir.

16 Q. So what's in that little tin?

17 A. In this tin is the metal cartridge casing that you
18 see in the picture besides the rock next to the one in the
19 photograph we're looking at.

20 Q. Did you do any type of testing or measurements on the
21 casing in this tin?

22 A. I did take some measurements of this item, yes.

23 Q. Do you have those measurements in front of you?

24 A. Yes, sir, I do.

25 Q. Now, we're talking about a casing that was found at

KEN TAYLOR - DIRECT EXAMINATION BY MR. COOK

1 marker number one. And can you tell us the measurements
2 that you were able to take from that casing?

3 A. Yes, for an overall description, including the
4 measurements, again, it's stamped number 25 auto on the
5 head stamp, on the base plate of it. And it also says RP,
6 which I believe we talked about earlier, usually stands
7 for Remington and Peters in most circles?

8 Q. Okay.

9 A. And the length of that casing, the overall length was
10 measured at 610 thousandths of an inch and its material
11 appears to be brass.

12 Q. Do you remember the condition of that casing when you
13 tested it?

14 A. Yes. It's -- few nicks and scratches on it like
15 maybe it had been bounced around after falling from
16 somewhere, but overall in pretty good shape. Slight
17 deformity to it.

18 Q. Okay. Now, can you tell us what this is?

19 A. Again, another evidence tin with label casing at
20 evidence marker number two.

21 Q. Now, when you reference evidence marker number two,
22 the picture in front of you, is this what you believe to
23 be evidence marker number two that indicates what's in
24 that tin?

25 A. Yes, sir.

KEN TAYLOR - DIRECT EXAMINATION BY MR. COOK

1 Q. Tell us what that is.

2 A. Again, that's another casing that was brought in with
3 the evidence at marker number two. Again, with the same
4 nomenclature on it, the RP 25 auto.

5 Q. Now, can you tell us the length of that casing? I
6 know you said the one at number two was points was 610
7 thousandths of an inch?

8 A. Yes, sir, the first one at marker number one was 610
9 thousandths of an inch. The second one at marker
10 number two measured 608 thousandths of a inch.

11 Q. What's the difference in size on those two casings?

12 A. Two hundred thousandths of an inch, which is very,
13 very small. But again, in any kind of manufacturing --
14 again, going back to machine shop work, manufacturing, you
15 have a little bit of tolerance plus or minus of a set
16 goal, a set standard, if you will.

17 Q. So there's a standard range in size that anything
18 that falls in that range would still be considered the
19 same caliber?

20 A. Yes.

21 Q. Now, what were there -- did you say they were
22 identifying marks on that casing as well?

23 A. Yes, sir, it's stamped on the head stamp exactly the
24 same as the other, RP 25 auto.

25 Q. Okay. Can you tell us what's in this tin?

KEN TAYLOR - DIRECT EXAMINATION BY MR. COOK

1 A. Again, another evidence tin. It's labeled projectile
2 at evidence marker number four.

3 Q. One second. Evidence marker number four, are you of
4 the belief that that corresponds with the marking
5 number four behind the car?

6 A. Yes, sir.

7 Q. Okay. And this is just a picture of this item?

8 A. Yes, that is it.

9 Q. Now, did you do any type of measurements or analysis
10 on this projectile?

11 A. Yes, I took measurements of it as well.

12 Q. Now, what are -- what were the -- first off, how did
13 you measure this projectile?

14 A. Using a set of dial calipers.

15 Q. What is a dial caliper?

16 A. Dial caliper is a device you use -- typically,
17 they're made of metal, some can be made of plastic. But
18 the two pieces slide in and out and give you two sets of
19 points that you can measure the diameter or the length or
20 the height of the depth of a item sometimes. And most of
21 them have some type of dial readout or digital readout
22 that measures in whatever your setting is. It can be in
23 millimeters. It may be in tenths of an inch, thousandths
24 of an inch or however it's set up. My measures down to
25 thousandths of an inch.

KEN TAYLOR - DIRECT EXAMINATION BY MR. COOK

1 Q. Is this the same instrument that you used previously
2 on the two casings to measure?

3 A. Yes.

4 Q. And you are trained to use this machine?

5 A. Yes.

6 Q. Now, back to this projectile, what were the
7 measurements that you obtained after measuring the
8 projectile?

9 A. On the projectile from marker number four, it was
10 labeled as bullet from the ground behind a Nissan Maxima
11 at marker number four. It's overall length is 442
12 thousandths of an inch. It's diameter -- and to kind of
13 preface this, it's slightly deformed just because it
14 apparently impacted something when it landed there, either
15 the ground or something. So just a slight deformity to
16 it, not too much out of round, just slight. So if you
17 measure around the edges of it, it's diameter measures
18 between 248 and a half thousandths of an inch up to about
19 252 thousandths of an inch. And then its weight was
20 weighed at 49.69 grains.

21 Q. What is -- grains is not a typical measurement. What
22 is grains?

23 A. Grains is a unit of measure that's most often --
24 you'll see it in dealing with firearms, ammunition. It's
25 probably an older standard. Just like drams used to be

KEN TAYLOR - DIRECT EXAMINATION BY MR. COOK

1 something you'd see when measuring gun powder. Most
2 people use grams now. Grains is still a unit of measure
3 that's used in the firearm industry for ammunition.

4 Q. Now, we've got one other item, do you recognize what
5 this item is in this cup?

6 A. Yes, that's going to be a bullet that was recovered
7 at the hospital. I believe Paul Lyons testified he picked
8 it up.

9 Q. Did you do any analysis of it?

10 A. Took some measurements of that as well.

11 Q. Now, used the same instrument as you used previously?

12 A. Yes. Yes.

13 Q. And you're under the impression that this is the
14 projectile that was picked up at the hospital, correct?

15 A. Yes.

16 Q. What were the measurements on this projectile?

17 A. This one -- again, the overall length measured 446
18 thousandths of an inch. It's diameter, again, slightly
19 out of round. It measured 246 and a half thousandths to
20 253 thousandths of an inch. And its weight, again, was
21 identical to the other at 49.69 grains.

22 Q. So the weight of that projectile and the weight of
23 the projectile located at marker four were exactly the
24 same?

25 A. Yes.

KEN TAYLOR - DIRECT EXAMINATION BY MR. COOK

1 Q. At 49.69 grains?

2 A. Yes.

3 Q. And just to back up, the length of the bullet at
4 marker four was what?

5 A. At marker number four was 442 thousandths.

6 Q. And the length of the projectile from Mr. Jones was
7 what?

8 A. Four hundred forth-six thousandths.

9 Q. What was the difference in those two?

10 A. Four thousandths of an inch, very, very small.

11 Q. What about the diameter from the projectile located
12 at marker number four?

13 A. Number four ranged from 248 and a half thousandths to
14 252 thousandths of an inch.

15 Q. And the diameter of the one located -- that was
16 removed from the Mr. Jones?

17 A. It ranged from 246 and a half thousandths to 253
18 thousandths of an inch.

19 Q. What's the measurable difference between those two
20 diameters?

21 A. Again, just one or two thousandths difference plus or
22 minus either way.

23 Q. And you said the weight was exactly the same?

24 A. Weight was exactly the same, yes.

25 Q. Now, outside the weight, there's differences in the

KEN TAYLOR - DIRECT EXAMINATION BY MR. COOK

1 length and the diameter of those two projectiles?

2 A. Yes.

3 Q. It's minimal?

4 A. Yes.

5 Q. As we mentioned earlier, with the casing, there's a
6 margin for error in manufacturing, correct?

7 A. Right, yes, sir.

8 Q. Would both of these two projectile, given that
9 there's some slight difference in diameter and length,
10 would they still be classified as the same caliber
11 projectile?

12 A. Yes. Typical bullet diameter for 25 caliber bullet,
13 the nominal diameter is 251 thousandths of an inch, so you
14 can see that.

15 Q. So the diameter of those projectiles is the diameter
16 of a bullet that would be housed in 25-caliber casing?

17 A. Cartridge.

18 Q. Cartridge casing, same thing?

19 A. A cartridge assembly, yes. Cartridge or bullet as we
20 might refer to it, but the cartridge is the assembly.

21 Q. And the two casings that you measured were both
22 25-caliber, correct?

23 A. Yes.

24 Q. So in -- based on your measurements, the two
25 projectiles that were found both could be housed in the

KEN TAYLOR - DIRECT EXAMINATION BY MR. COOK

1 casings that were located in the roadway?

2 A. Yes.

3 Q. And based on your measurements, both of those
4 projectiles would be able to be fired from the same
5 firearm?

6 A. Yes, I would say they could have been.

7 Q. Okay. We touched on this, but, obviously, there's
8 some differences in the sizes. Could both -- could
9 bullets of that difference in size be sold together in the
10 same packaging?

11 A. Yes.

12 MR. COOK: I think that's all I've got for you,
13 Investigator Taylor. Thank you. Answer anything
14 Mr. Grier may have for you.

15 THE WITNESS: Yes.

16 MR. COOK: Your Honor, actually, before I turn to
17 Mr. Grier, I would ask that these four items be introduced
18 in state's evidence as the casing located at marker one as
19 State's Exhibit Number 12.

20 THE COURT: Any objection to these?

21 MR. GRIER: I don't think I've got any objection if
22 you want to state them. I'm either going to object to all
23 of them or none of them.

24 MR. COOK: The casing at marker two is 13, projectile
25 at marker four as 14, and projectile -- this one is

KEN TAYLOR - CROSS-EXAMINATION BY MR. GRIER

1 already entered, excuse me.

2 THE COURT: All right.

3 MR. GRIER: No objection.

4 THE COURT: All right, without objection.

5 (WHEREUPON, State's Exhibit Numbers 12 through 14
6 were marked and admitted into evidence.)

7 CROSS-EXAMINATION

8 BY MR. GRIER:

9 Q. Did you bring the starter pistol with you?

10 A. It should be in -- yes.

11 Q. Ask you to examine that, if you would.

12 MR. GRIER: I should have marked it for
13 identification, but I didn't.

14 BY MR. GRIER:

15 Q. Do you recognize that object?

16 A. Yes.

17 Q. What is that?

18 A. That is the Kimar competitive alarm starter revolver
19 that was collected in this case.

20 Q. Okay. And from your understanding, where was it
21 collected?

22 A. Just from reading the reports, I believe it was found
23 somewhere near where the victim had fallen to the ground.

24 Q. Okay.

25 MR. GRIER: Your Honor, I'd ask this be entered as

1 defense Exhibit?

2 THE COURT: Any objection?

3 MR. COOK: No objection.

4 THE COURT: Defense 1?

5 MR. GRIER: That's right. First exhibit.

6 (WHEREUPON, Defendant's Exhibit Number 1 was marked
7 and admitted into evidence.)

8 BY MR. GRIER:

9 Q. Nobody believes this pistol shot Christopher Jones
10 and nobody made that allegation or argument. Have you
11 heard that at all in the courtroom?

12 A. I have not heard that.

13 Q. And it's obvious that it didn't in your opinion,
14 isn't it?

15 A. It's incapable of doing that.

16 Q. But it is capable of having the appearance of a real
17 gun?

18 A. Yes.

19 Q. And sounding like a real gun?

20 A. Yes.

21 Q. And a -- have you fired them before? You ever fired
22 a starter pistol?

23 A. I personally have not. I've been near them when they
24 were fired.

25 Q. Let me ask you this, if you had no idea of -- you

1 knew nothing about this gun, but I pulled it out on you at
2 the street and pointed it at you, what would your initial
3 reaction be?

4 A. I would think you were pointing a real gun at me.

5 Q. Okay. The projectiles, I guess these -- we call
6 these projectiles or what?

7 A. Some refer to it as a projectile, some just call it
8 the bullet end of the cartridge.

9 Q. And actually, this is marked casing, so that's not
10 what I --

11 A. That's the opposite end.

12 Q. That's not -- okay, this is marked projectile,
13 State's Exhibit 14?

14 A. Yes, sir.

15 Q. Now, that's pretty common ammunition?

16 A. Yes.

17 Q. And you see it a lot, don't you?

18 A. Yes.

19 Q. And typically, it weighs about the same when you
20 weigh it?

21 A. Typically, there are two commercially that you
22 usually see in the case of 25 auto, either 35 grain or 50
23 grain, which again, the 49.69 is in tolerances.

24 Q. It's just not uncommon stuff out there in the gun
25 world?

1 A. Correct.

2 Q. Very common?

3 A. Correct.

4 Q. Do you know anything about the frequency of gun sales
5 in terms of what the most popular guns are?

6 A. Other than my own opinion, I don't know any real
7 data.

8 Q. What kind of guns might have -- from your experience,
9 what type of guns might have fired these projectiles?

10 A. Most likely a 25 semiautomatic pistol.

11 Q. Now, I'm not talking about in criminal scene, but
12 just, generally, you're around -- you know, you're around
13 law enforcement a lot. It's a pretty popular gun for
14 recreation purposes and just for shooting among law
15 enforcement officers and for duty, too, as well?

16 A. I wouldn't say necessarily for duty, but, in general,
17 many people do own 25 caliber semiautomatic handguns.

18 Q. Do you own one?

19 A. No, sir, I do not own that particular caliber.

20 Q. Why are they popular?

21 A. It's just one of many -- I couldn't say. It's one of
22 many calibers that are available.

23 Q. Are they relatively inexpensive in terms of what guns
24 are, if you know?

25 A. In comparison, generally, yes.

1 Q. So it just wouldn't be any surprise at all that even
2 though these projectiles that were covered -- measured out,
3 very close, they could have come from different guns?

4 A. I wouldn't say it's impossible.

5 Q. Okay. All right. Well, the -- you know, the
6 standard ammunition sold is generally weighed out at a
7 certain standard weight that's very close, isn't it, just
8 generically speaking?

9 A. Yes.

10 Q. So I mean -- okay. I apologize got my different
11 notebooks mixed up. Did you conduct any of the search of
12 the premises at all?

13 A. No, sir. I was not at the scene at all.

14 Q. Okay. All right. You didn't make any decisions
15 about what should be -- what type of testing should be
16 done and who should be GSR tested? You technically
17 carried out what you were asked to do for CSI purposes?

18 A. Correct. And again, I was only contacted this past
19 October 30th and November 3rd to do the functions that I
20 did.

21 Q. Yes, sir.

22 MR. GRIER: Okay. Thank you. No further questions.

23 MR. COOK: Briefly, Your Honor.

24 REDIRECT EXAMINATION

25 BY MR. COOK:

KEN TAYLOR - REDIRECT EXAMINATION BY MR. COOK

~~KEN TAYLOR - RECROSS EXAMINATION BY MR. GRIER~~

1 Q. Investigator Taylor, Mr. Grier was asking about how
2 common 25 caliber pistols are. Is that a big gun?

3 A. No, sir. It's typically a small gun, fits in your
4 hand pretty well.

5 Q. So it's not something that would be difficult to
6 transport?

7 A. Not difficult to transport, easy to conceal.

8 MR. COOK: Thank you, Investigator Taylor.

9 THE COURT: Thank you very much, sir. You can step
10 down.

11 MR. COOK: Your Honor, if I may, that's all the
12 witnesses I currently have right here. If the Court would
13 allow it, to take a short break before the state makes a
14 final decision to rest the case to look at a couple items.

15 THE COURT: Ladies and gentlemen, we're going to take
16 a short recess. If you need anything while you're back
17 there just let the bailiffs know. Please have no
18 conversation about the case. I'll bring you back out
19 shortly.

20 (The jury left open court at 11:25 a.m.)

21 THE COURT: All right. We'll be at ease for a few
22 minutes.

23 (A recess was taken from 11:25 a.m. to 11:47 a.m.)

24 (The jury entered the courtroom at 11:47 a.m.)

25 THE COURT: Thank you, ladies and gentlemen.

1 Mr. Cook, does the state have any additional evidence
2 or witnesses?

3 MR. COOK: At this time, I believe the state has
4 called all of its witness and introduced all of the
5 evidence the state intends to present. And at this time,
6 the state rest its case, Your Honor.

7 THE COURT: Thank you, sir.

8 Ladies and gentlemen, the state has rested their
9 case. And what occurs in all trials is at the close of
10 the state's case, I have to take up a matter of law with
11 the attorneys before we proceed. It's a little bit before
12 12:00. And it will take me 20 or 30 minutes to take up
13 the matters of law, so rather than have you sit around,
14 there's no sense in doing that. It's lunchtime and I'll
15 go ahead and send you all out to lunch early.

16 Now, I think -- and I haven't talked -- it's
17 completely unrelated to this case. I think there's a
18 couple of matters I need to handle after lunch for the
19 solicitor's office. So I'm going to get you to come back
20 a little bit later than I normally would. I'm going to
21 ask you to be back at -- let me get you to come back at
22 2:30. That gives you about two hours and 45 minutes for
23 lunch. Get you to come back at 2:30. And we'll come back
24 earlier and take care of those matters I need to take care
25 of and, hopefully, be ready to go at 2:30 when you return.

1 So continue to do everything you can to guard your
2 ability to remain fair and impartial. Have no
3 conversation with anybody. Enjoy your lunch break and
4 we'll see you back at 2:30.

5 Everyone else remain seated.

6 (The jury left open court at 11:49 a.m.)

7 THE COURT: At this time, I'll take up any motions at
8 the close of the state's case.

9 MR. GRIER: Your Honor, I think at this time, the
10 defense would make its motion for a directed verdict. I
11 understand that you're not going to determine any issues
12 that are reserved for the jury, but I would submit the
13 judge sits as the 13th juror as to presiding over the
14 state's case.

15 Your Honor, the evidence presented by the witnesses
16 was so inconsistent and contradictory, I would submit that
17 as a 13th juror, the sitting judge could determine that
18 the issues were not -- was not credible evidence to turn
19 over to a jury under these circumstances. I'm asking you
20 to make that determination as a matter of law, having
21 heard the evidence, that the contradictions and the
22 failures of the part of law enforcement, quite frankly,
23 compromised the credibility of the state's case to the
24 point where it's a matter the 13th juror could decide.

25 THE COURT: All right. I'm going to respectfully

1 deny that motion, Mr. Grier. I think there's a lot of
2 testimony here. I think it's a credibility issue. I
3 think it's a factual issue that the jury is burdened to
4 consider. And I think it would be inappropriate to take
5 that away from them as the fact finders. So I would
6 respectfully deny the motion and allow the case to go
7 forward.

8 Anything else with regard to that -- those --

9 MR. GRIER: No, Your Honor.

10 THE COURT: All right. Have you talked with
11 Mr. Rivers and his decision to put up a case?

12 MR. GRIER: Your Honor, I have discussed it with him.
13 And I know you're going to need -- and it's probably an
14 appropriate time to go ahead and have that conversation
15 with him. He's indicated that he would like to discuss it
16 in more detail with me over lunch. Based on what -- how
17 our witness list turns out here, too -- not sure how
18 that's going to be at this point.

19 THE COURT: What we'll do is -- whether or not
20 Mr. Rivers testifies, you're definitely putting up a case?

21 MR. GRIER: I intend to put up a case, Your Honor. I
22 certainly have. We'll put up my SCDC witness at a
23 minimum. I've already compromised my last argument.

24 THE COURT: We're going to then -- I'll give you that
25 opportunity to -- you and Mr. Rivers to discuss that

1 during the break. But I would like to once we get back
2 from the lunch break then be able to go over that before
3 we call any witnesses and get his decision at that point.

4 MR. GRIER: Yes, sir. We'll be prepared then.

5 THE COURT: Anything else we need to take up before
6 we --

7 MR. COOK: Not in regards to this case, but as far as
8 scheduling, I need to speak with Mr. Stein in the public
9 defender's office. He had two matters you talked about
10 earlier. And there's some medical issues with the jail we
11 need to get in and get these people out of here. But as
12 soon as we conclude here, I can go upstairs, ask him and
13 come back before lunch and let you know how extensive, how
14 long that's going to take.

15 THE COURT: My understanding is -- and it may be more
16 to it, may be less to it, but, at least, there were two
17 pleas they wanted to get done if they could. And I told
18 them I didn't think we'd have a problem doing that. So
19 run talk to him.

20 MR. COOK: They may be the same two pleas, but I know
21 there's some medical issue and may be just pleaing to get
22 him out of jail.

23 THE COURT: That's what was indicated to me, but it
24 might be something else. So just go ahead and talk to
25 them and let me know and we'll just be at ease while they

1 come down.

2 But as far as this case goes, we're going to be at
3 ease until 2:30, at least.

4 (A recess was taken from 11:54 a.m. to 2:42 p.m.)

5 THE COURT: All right. Mr. Grier, have you discussed
6 with Mr. Rivers whether or not he intends to testify in
7 this matter?

8 MR. GRIER: Yes, I have, Your Honor.

9 THE COURT: All right. And what's his indication?

10 MR. GRIER: He indicated he desires to testify.

11 THE COURT: All right. Mr. Rivers, I'm going to just
12 discuss that with you briefly. You understand, sir, that
13 you have a constitutional right to remain silent, but you
14 also have a constitutional right to testify. You
15 understand that, sir?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And it's always important that I have
18 these conversations with every person. This is not just
19 personal with you. I have it with every criminal
20 defendant because what's important for you to understand
21 is this, I encourage folks to always talk to their
22 attorneys, get their attorney's thoughts and ideas, if you
23 choose to, to talk to family members or whatever. But the
24 important thing is to understand this, because this is a
25 constitutional right of yours, it's kind of like the buck

1 stops with you. It's your constitutional right. It's not
2 Mr. Grier's. It's not any family members, it's yours.
3 And so when it comes time to make the decision to either
4 exercise a constitutional right or to waive one, it needs
5 to be your decision. It can't be someone else's, it has
6 to be yours. And so I want to make sure that the decision
7 you've made has been your decision and it's been an
8 informed decision. I know you've talked with Mr. Grier
9 about it, but let me just briefly go over some things with
10 you.

11 Now, you've indicated that at this time you intend to
12 testify and that's fine. Let me talk about the other
13 issues first and then we'll talk about this one. You have
14 the right to remain silent. And if you did decide to do
15 that, Mr. Rivers, then I would give the jury an
16 instruction -- when I charge them on the law, I would give
17 them an additional instruction. And what I would tell
18 them is this. I would tell them that in this case, you
19 are presumed innocent of these charges and the state has
20 the burden of proof. The burden always rests on the
21 state. You do not have to prove innocence. You do not
22 have to present anything.

23 And the fact that you -- in other words, you have a
24 constitutional right to remain silent. And the fact that
25 you have exercised that right, that is a factor that the

1 jury cannot consider at all in their deliberations. As a
2 matter of fact, I would tell them the fact that you chose
3 to remain silent could not even be discussed in the jury
4 room because it is your constitutional right and they
5 could not consider that in their decision as your guilt or
6 innocence. The burden of proof rest on the state. You
7 don't have to prove anything. And so, therefore, they are
8 not to have any consideration of your desire to remain
9 silent. And I would instruct them and order that of them.
10 Do you understand that, sir?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Now, the other side of the coin is that
13 if a person does testify, which you've indicated you
14 intend to do. Now, if you do go forward and testify, you
15 understand that you would be required to answer questions
16 obviously from Mr. Grier, but you would also be required
17 to answer questions from Mr. Cook, from the state's
18 attorney. Do you understand that, sir?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Is there any prior criminal history that
21 is subject to impeachment?

22 MR. COOK: Your Honor, the only thing on his record
23 is a burglary second 2010 and the assault from last year.
24 I don't think there's any crime of dishonesty that would
25 be subject for impeachment.

1 THE COURT: What's the burglary second?

2 MR. GRIER: It was a juvenile.

3 THE COURT: That was in juvenile court?

4 MR. COOK: Yes, sir, Your Honor.

5 THE COURT: Okay. So there's nothing that would
6 subject him to cross-examination on his prior record?

7 MR. COOK: Not -- I don't believe so, Your Honor.

8 THE COURT: Well, so that's not a concern,
9 Mr. Rivers, but you do understand, though, that you would
10 be required to answer the state's questions as well as
11 from your own lawyer?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Now, the other thing is -- I want to
14 share with you is you have the right to exercise your
15 constitutional rights at any time. So we're going to
16 proceed and we're going to go forward with my
17 understanding that you do intend to testify. But if at
18 any time before that you change your mind and you decide
19 you're not going to, you just need to inform your lawyer
20 of that and we'll certainly honor whatever decision you
21 make. Okay. All right, sir. Thank you very much.

22 MR. COOK: Your Honor, one issue that I would like to
23 take up right now is in regards to the letter that
24 Mr. Rivers wrote to Solicitor Newman. There's some
25 statements in here that I think I may be able to ask him

1 about, but I didn't want to do that in front of the jury
2 at this point, Your Honor. If -- as a statement against
3 his own interests.

4 THE COURT: All right. Are you familiar with what
5 he's referring to, Mr. Grier?

6 MR. GRIER: Judge, we discussed this in chambers
7 earlier. My understanding was that you didn't believe --
8 unless we open the door in some way that that -- you know,
9 that he'd be able to question him on this letter that he
10 sent to the solicitor.

11 MR. COOK: Well, Your Honor, just to give you a
12 brief, the letter starts out saying, "My name is Brandon
13 Rivers. I'm currently held at the county jail being
14 charged with three attempted murders." And then he says
15 armed robbery, failure to stop for a blue light and posing
16 a firearm. "Sir, with all due respect, I know I'm in big
17 trouble and I know I've done a lot of bad."

18 THE COURT: Okay.

19 MR. COOK: And I'd like to ask him what he means by
20 that. He's writing to the solicitor's office about these
21 charges saying I know I'm in trouble and I've done a lot
22 of bad. And I think he should be subject to explain what
23 he meant by that. I know there's an issue with
24 referencing some other charges, which I don't have a
25 problem.

1 THE COURT: See, that's the problem, Mr. Cook.
2 That's the -- one of the main issues I see here. Because
3 it depends on -- I mean, I can't crawl inside Mr. Rivers's
4 head and understand exactly what he meant, but he may have
5 meant that I'm involved in that armed robbery and stuff,
6 but not this other stuff.

7 MR. COOK: Right.

8 THE COURT: It just -- the danger or prejudice there
9 just far outweighs any probative value that I see. I
10 think it would be improper to publish to the jury these
11 other charges that are pending that have not been disposed
12 of.

13 MR. COOK: Yes, sir, Your Honor.

14 THE COURT: So I wouldn't allow that.

15 Go ahead.

16 MR. COOK: Your Honor, I also have a couple Facebook
17 posts by Mr. Rivers that don't reference any other crimes
18 that -- one being a post that he made just a couple days
19 ago on his Facebook status that concluded by "I love
20 shooting rounds." This is a shooting case. He's
21 published this. This is public. I mean, anybody could go
22 on and see this. Ask him what he's talking about. He's
23 got --

24 THE COURT: I love shooting rounds, too.

25 MR. GRIER: The authentication part of it is very

1 troubling, Your Honor. I can set up an account in
2 somebody's name.

3 MR. COOK: And that's why I'd ask him if he wrote it.

4 MR. GRIER: I think he --

5 THE COURT: I'm going to the relevance, though. And
6 that's what I meant when I -- I wasn't trying to be cute,
7 I'm just trying to make a point. Because someone likes to
8 shoot rounds, I don't know that that bears any relevance
9 just because this is a shooting case.

10 MR. COOK: Your Honor --

11 THE COURT: You said you had a couple of posts. Is
12 there not something else?

13 MR. COOK: One more, it says, "I'm done with them
14 streets, but I'm still about that gangster shit so don't
15 rub my the wrong way, kill or killed."

16 THE COURT: That's all going to -- number one, that's
17 going to character issues, which unless they're put
18 into -- unless it's put into play, I don't think is
19 relevant.

20 MR. COOK: Your Honor, that's why I asked outside the
21 presence of the jury. I didn't want to cause a issue
22 later that may put all this in jeopardy so that's why I
23 raised the issue.

24 THE COURT: I don't know where you intend to go
25 Mr. Grier, but --

1 MR. GRIER: I understand, Your Honor.

2 THE COURT: I can tell you, you're subject to those
3 things coming in or that type of thing coming in if
4 somebody is going to take the stand and talk about his
5 character in the community and all.

6 MR. GRIER: I understand that, Your Honor. I still
7 just blanketly would object to it regardless because of
8 the authentication issue. They can't prove he posted it
9 and asking him that in itself is prejudicial, you know,
10 suggesting that he did and then, you know, the defense has
11 got to say no, I didn't and prove that they didn't do it.
12 I mean, it's a burden shifting issue in some respects,
13 too.

14 THE COURT: I don't know that -- you know, if you
15 show it to him and you ask him did you post this, you're
16 stuck with his answer.

17 MR. GRIER: If you show it to him?

18 THE COURT: Right.

19 MR. GRIER: Okay, but if the jury hears the substance
20 of it.

21 THE COURT: We're not going to publish anything until
22 it's in evidence.

23 MR. GRIER: I understand.

24 THE COURT: I wouldn't allow that.

25 MR. GRIER: Thank you.

1 THE COURT: All right. Anything else before we get
2 the jury?

3 MR. COOK: Nothing from state at this time, Your
4 Honor.

5 THE COURT: Anything from the defense?

6 MR. GRIER: No, Your Honor.

7 THE COURT: All right. Let's bring the jury in,
8 please.

9 (The jury entered the courtroom at 2:54 p.m.)

10 THE COURT: All right, ladies and gentlemen. I hope
11 everyone had a good lunch break and we're ready to get
12 started this afternoon. If you recall when we broke at
13 lunch, the state had rested their case. And I indicated
14 to you, I needed to take up matters of law at the close of
15 the state's case. We've done that. We've taken care of
16 those matters and we're now ready to proceed.

17 And so at this time, I'd recognize Mr. Grier on
18 behalf of the defense for his first witness.

19 MR. GRIER: Thank you, Your Honor. I'd call
20 Investigator Adams for very brief testimony.

21 THE COURT: Investigator Adams, if you would please
22 come around. Sir, you are still under oath from your
23 earlier testimony. I will let you go ahead and give your
24 name for the record.

25 THE WITNESS: Michael Adams.

MICHAEL ADAMS - DIRECT EXAMINATION BY MR. GRIER

1 DIRECT EXAMINATION

2 BY MR. GRIER:

3 Q. Investigator, you recall subsequent to Ronnie
4 Blackwell -- do you remember who Ronnie Blackwell was?

5 A. Yes, sir.

6 Q. You did an interview with him, correct?

7 A. Yes, sir.

8 Q. And he made a statement in the courtroom that Brian
9 Steele had said, Shoot the N's, right?

10 A. Yes, sir.

11 Q. He made that statement in court?

12 A. Yes, sir.

13 Q. That wasn't reflected in your report and you
14 indicated that you were never told that; is that true?

15 A. That's true. He never said that.

16 Q. Did you do a -- you did a videotape with him as well,
17 correct?

18 A. Yes, sir, we did videos of everybody.

19 Q. And you reviewed that and you have good recollection
20 of that?

21 A. Yes. The videos didn't take.

22 Q. At any rate, do you have a good recollection of what
23 he said?

24 A. Yes, sir.

25 Q. You would have recorded that had he told you that at

MICHAEL ADAMS - DIRECT EXAMINATION BY MR. GRIER

1 the time of the interview?

2 A. Yes, that is a pretty definitive statement. He never
3 said that.

4 MR. GRIER: That's all I wanted to ask you.

5 THE COURT: Any questions?

6 MR. COOK: No questions.

7 THE COURT: Thank you very much. You may step down.

8 MR. GRIER: Your Honor, I'd call Tonya Renee Snipes.

9 THE COURT: Place your left hand on the Bible and
10 raise your right.

11 TONYA RENEE SNIPES, after having first being duly
12 sworn, testified under oath as follows:

13 THE COURT: Please be seated on the witness stand.

14 DIRECT EXAMINATION

15 BY MR. GRIER:

16 Q. Good afternoon, Ms. Snipes. You go by Renee or
17 Tonya? What's your full name?

18 A. Tonya Renee Snipes.

19 Q. Can I call you Renee?

20 A. That's fine.

21 Q. Well, Ms. Snipes, you're under subpoena today?

22 A. Yes, sir.

23 Q. Are you excited about coming here to testify?

24 A. No, I'm just here.

25 Q. Ms. Snipes, you made contact with me some time last

TONYA RENEE SNIPES - DIRECT EXAMINATION BY MR. GRIER

1 year; is that correct?

2 A. Yes, sir.

3 Q. Do you recall approximately when that was?

4 A. No, sir.

5 Q. And I'm sorry your mother passed away, but I think
6 you had referenced that your mother passed away shortly
7 after we had that conversation?

8 A. Yes, sir.

9 Q. Where did we meet at?

10 A. Here in the courthouse down there.

11 Q. And were you -- was your mother with you?

12 A. Yes, sir.

13 Q. Now, how did I come to learn about you?

14 A. I came to you.

15 Q. Okay. Now, do you recall a night down at Kacy and
16 Ronnie's house? Would you know what date that was if I
17 told you?

18 A. No, sir, I don't remember what date it was.

19 Q. Well, February 26, 2014, would that be about the time
20 frame?

21 A. Yes, sir.

22 Q. Okay. Were you present throughout that day at Kacy
23 and Ronnie's?

24 A. Yes, sir.

25 Q. And tell me what happened that day. Tell me why you

TONYA RENEE SNIPES - DIRECT EXAMINATION BY MR. GRIER

1 were over there.

2 A. I was going to get pills, to be honest.

3 Q. All right. How long did you stay?

4 A. Couple hours.

5 Q. All right. Were you kind of partying, too?

6 A. Yes, sir.

7 Q. Were -- who was present?

8 A. It was Ronnie Blackwell, Kacy Noe, Angie Steele,
9 Terry Laney, myself, my mother, Cathy Snipes, couple more
10 in and out, Chris -- I don't remember his last name --
11 Charlotte Parker. It was a house full, apartment full.

12 Q. When you got there, Angie -- were Angie and Terry
13 there?

14 A. Yes, sir, and Emily, also.

15 Q. You're friends with them?

16 A. Yes, sir.

17 Q. How do you know Brandon Rivers and his family?

18 A. I've known them my whole life, everybody.

19 Q. Do you socialize with them?

20 A. I hadn't in a long time.

21 Q. You know -- how long has it been since you had any --

22 A. A good year or more.

23 Q. Were you at the home -- what time did you arrive,
24 approximately, do you have any idea?

25 A. Maybe 3:00, 4:00.

TONYA RENEE SNIPES - DIRECT EXAMINATION BY MR. GRIER

1 Q. And was there a disturbance in the -- some kind of
2 confrontation that happened?

3 A. Emily knocked the mirror off the wall.

4 Q. Who is Emily?

5 A. That's Angie's daughter.

6 Q. And Angie -- and that's Brian's --

7 A. Sister.

8 Q. Angie is Brian's sister and Emily is Brian's niece?

9 A. That's correct.

10 Q. Go ahead. I'm sorry.

11 A. And Emily knocked the mirror off the wall and Shane
12 come over and asked Angie to keep her youngen in line.
13 And instead of keeping the youngen in line, she uproared
14 and that's when she got -- said -- got Brandon and Brian
15 involved in it. And then Brandon come over there and they
16 had a couple words. Then Brandon left because the law was
17 being called --

18 Q. Okay, slow down just a second. Did Angie and Terry
19 stay the whole time and get Brandon to come over?

20 A. No, sir, they left.

21 Q. Okay.

22 A. Then when they came back, that's when Brandon was
23 with them.

24 Q. Now, did Brandon say anything?

25 A. No, sir.

TONYA RENEE SNIPES - DIRECT EXAMINATION BY MR. GRIER

1 Q. Why -- what happened? I mean, was there any kind of
2 reconciliation?

3 A. Kacy and Angie had words, but from my understanding,
4 Brandon was inside of the apartment, but he didn't say
5 anything.

6 Q. You said from your understanding or from your
7 knowledge. Did you see it?

8 A. From my knowledge.

9 Q. Now -- and so how did things end with that situation?

10 A. Well, they said the law was coming, so Brandon left
11 and he was dropped off at the bowling alley part. And
12 then there were texts back and forth --

13 Q. Hold on a second. Did Angie and -- did Angie and
14 Terry stay or did they leave?

15 A. No, sir, they left, too.

16 Q. Now, what else did you see? What was the next thing
17 that happened that you saw with your own eyeballs?

18 A. And then we were back in the house. There was some
19 commotion going on, so we went outside and that's when
20 Brandon and Brian pulled up. They got off the bike, acted
21 like, you know, they wanted to fight, this and that.
22 Chris pulls the gun, and then Brandon gets back on the
23 bike, which his hands is on the motorcycle and then
24 there's gunfire, but it wasn't Brandon that shot.

25 Q. Who was shooting?

TONYA RENEE SNIPES - DIRECT EXAMINATION BY MR. GRIER

- 1 A. It was Brian. How can he shoot a gun when his hands
2 is on the steering wheel?
- 3 Q. Where were you at?
- 4 A. It was on the porch.
- 5 Q. Where did you start out at?
- 6 A. Inside the apartment.
- 7 Q. Who was inside the apartment?
- 8 A. It was me and my momma and Kacy at the time. Ronnie
9 and Chris was outside at the car.
- 10 Q. And what, you know, brought y'all outside?
- 11 A. The commotion.
- 12 Q. All right. Well, how soon when you got outside did
13 you see some shooting?
- 14 A. Couple minutes.
- 15 Q. Okay.
- 16 A. No more than five.
- 17 Q. And who -- there's what, argument going on? Were
18 there threats being passed or what?
- 19 A. Just words.
- 20 Q. How did it come to pass that Chris pulled a gun out?
- 21 A. Just calling names, arguing back and forth.
- 22 Q. Okay. Did you see the gun prior to that happening?
- 23 A. Yes, sir.
- 24 Q. Where did you see it?
- 25 A. In Chris's hand.

TONYA RENEE SNIPES - DIRECT EXAMINATION BY MR. GRIER

- 1 Q. But I'm talking about earlier in the evening?
- 2 A. No, sir.
- 3 Q. Okay. How long after Chris shot before Brian shot
- 4 back?
- 5 A. Couple minutes.
- 6 Q. Couple minutes?
- 7 A. Five minutes maybe.
- 8 Q. And where was the motorcycle parked at?
- 9 A. It was at the end of the driveway.
- 10 Q. And which direction was it facing?
- 11 A. It was facing going out towards the Cauthen Motors
- 12 Park.
- 13 Q. So if you're at the -- from your perspective, your on
- 14 the porch and looking out down the driveway to the --
- 15 towards the motorcycle, which way is the motorcycle
- 16 pointing?
- 17 A. To the right.
- 18 Q. What -- at the time Brian shot, where was he at?
- 19 A. On the back.
- 20 Q. Of the motorcycle?
- 21 A. (The witness nods her head.)
- 22 Q. Okay. What did you do after that happened?
- 23 A. I got my mother and left.
- 24 Q. All right. You had driven over there?
- 25 A. Yes -- well, my mother did.

TONYA RENEE SNIPES - DIRECT EXAMINATION BY MR. GRIER

1 Q. And where were you parked?

2 A. Right near the porch.

3 Q. So you were parked out where the shooting was going
4 on?

5 A. Yes.

6 Q. And in relationship to your car, were you parked
7 beside another car?

8 A. It was behind the car.

9 Q. You were behind the other car, okay. How soon did
10 you leave?

11 A. Shortly, right after.

12 Q. Why did you leave?

13 A. Because I was on probation. I can't have no contact
14 with the law.

15 Q. Had you done anything wrong?

16 A. No, I was -- I shouldn't have been there.

17 Q. Okay. Why did you feel it was necessary to contact
18 me?

19 A. To be honest and tell the truth.

20 Q. But was the truth not being told?

21 A. No.

22 Q. Okay. Do you owe any favors to anybody in the case?

23 A. I'm paying my dues.

24 Q. Was -- do you recall whether Brandon was wearing a
25 helmet or not?

TONYA RENEE SNIPES - DIRECT EXAMINATION BY MR. GRIER

1 A. Everything happened so fast and, I mean, I was doing
2 pills. That's the reason I was there, to get pills, so...

3 Q. Well, given the fact you were doing pills, do you
4 have confidence what you testifying to today --

5 A. Yes, sir.

6 Q. -- as being true?

7 A. Yes, sir.

8 Q. Now, of course, the state will ask you about your
9 record. Why don't you just go ahead and tell us?

10 A. I've got four or five shoplifting, false pretenses,
11 property crimes. I was doing cocaine and I was doing
12 pills. And I took my punishment and I'm taking my
13 punishment. And I believe it's in my best interest to get
14 the help that I need where I'm at.

15 Q. Okay.

16 A. I stood up for what I've done and I've done wrong and
17 I've admitted my wrongs.

18 Q. You didn't feel like you could go to police about
19 this?

20 A. No, sir, I'm not supposed to have no police contact
21 when I'm on probation.

22 Q. Okay. Were you worried about any other consequences?

23 A. No, sir.

24 Q. Okay. Have you maintained any relationship,
25 continued to have a relationship with Kacy and Terry after

TONYA RENEE SNIPES - CROSS-EXAMINATION BY MR. COOK

1 this happened?

2 A. No, sir.

3 MR. GRIER: Okay. Thank you. Answer any questions
4 the solicitor may have for you.

5 CROSS-EXAMINATION

6 BY MR. COOK:

7 Q. All right, Ms. Snipes, when did you say -- what month
8 was it when you were over at Kacy's house?

9 A. I said it was February.

10 Q. Okay. Well, this happened in September, so what were
11 you doing in February?

12 A. I don't know what I was doing in January.

13 Q. Okay. Well, this happened in September, so you're
14 talking about February, right?

15 A. That's what Mr. Grier just said, February. I told
16 him I didn't remember what month it was.

17 Q. Was it cold outside?

18 A. No, because I had shorts on. I had shorts on in
19 January, too.

20 Q. Okay. So when did you decide that you wanted to be
21 honest and come talk to Mr. Grier about all this?

22 A. I talked to Mr. Grier probably a year ago.

23 Q. A year ago? Okay. You met with him up here?

24 A. Yes, sir.

25 Q. About what time did you get to Kacy's house that day?

TONYA RENEE SNIPES - CROSS-EXAMINATION BY MR. COOK

1 A. 3:00, 4:00, 5:00.

2 Q. What time did you start doing pills that day?

3 A. About 3:00, when I got there.

4 Q. What time -- about what time did this whole shooting
5 mess happen?

6 A. Sun was still up.

7 Q. The sun was up?

8 A. 6:00, 7:00.

9 Q. Okay. Well, the shots fired call was about
10 10:00 that night. So did Mr. Jones lay there for four
11 hours before they called the cops?

12 A. I left. I don't remember what date it was and what
13 time it was.

14 Q. But you remember everything else clearly? So you
15 remember every single person in that house?

16 A. Me and Kacy and Ronnie, Chris and Charlotte, Angie
17 and Terry, Emily.

18 Q. Okay. What kind of pills were you taking?

19 A. Percocet, Xanax.

20 Q. What's Percocet?

21 A. Pain pills.

22 Q. What is Xanax?

23 A. Nerve pills.

24 Q. You take them for health issues or you take them to
25 get high?

TONYA RENEE SNIPES - CROSS-EXAMINATION BY MR. COOK

- 1 A. Both.
- 2 Q. Were you taking them to get high that day?
- 3 A. Yes.
- 4 Q. Okay. You started that about 3:00 or 4:00?
- 5 A. Yes, sir.
- 6 Q. Why would nobody say you were there that day?
- 7 A. I don't know.
- 8 Q. What was your mom doing there that day?
- 9 A. She wanted a pill, too.
- 10 Q. Okay. So you were there the first time that Brandon
- 11 came over?
- 12 A. Yes, sir.
- 13 Q. Was Brian with him then?
- 14 A. Yes, sir.
- 15 Q. Brian was there the first time that day?
- 16 A. And Angie and Terry. Brian was living with Angie at
- 17 the time.
- 18 Q. What did Brian do the first time he came over?
- 19 A. I can't recall.
- 20 Q. Okay. But nothing happened the first time people
- 21 came over there?
- 22 A. No, Brandon was inside of the apartment. From my
- 23 understanding, he got dropped off at the bowling alley.
- 24 Q. But you don't know because you were inside?
- 25 A. No.

TONYA RENEE SNIPES - CROSS-EXAMINATION BY MR. COOK

1 Q. Were you inside -- did you ever come out the first
2 time Brandon came over?

3 A. No.

4 Q. So how do you know Brian was outside?

5 A. Because that's what they said.

6 Q. So somebody told you that, you never actually saw him
7 out there?

8 A. No, Angie.

9 Q. So you can't testify Brian was there that first time.

10 A. No, not really.

11 Q. Because you didn't see him. So Angie and Terry had
12 words with Shane while you were there?

13 A. Shane came over and asked Angie -- because Emily had
14 knocked a mirror off the wall, so Shane came over there
15 and asked her to keep the youngen from beating on the wall
16 and Angie got an attitude with him. That's what it was
17 all over.

18 Q. So when you heard a commotion outside, you said you
19 saw Chris with a gun?

20 A. Is this the second time or the first time?

21 Q. Well, this is -- when is the first time you ever saw
22 Brian Steele that day?

23 A. Later on that evening with the motorcycle came up.

24 Q. Okay. Were you outside?

25 A. I was inside at first and then I heard the commotion

TONYA RENEE SNIPES - CROSS-EXAMINATION BY MR. COOK

1 going on and that's when I come outside with Kacy on the
2 porch.

3 Q. Okay. So you say you saw Chris with a gun?

(4 A. Yes, sir.

5 Q. You didn't see Chris fire a gun, did you?

6 A. I heard a gun, fire.

7 Q. Did you see anybody get hurt?

8 A. Chris got shot.

9 Q. Okay. Did you see who shot him?

10 A. Brandon had his hands on the steering wheel of the
11 bike.

12 Q. Okay. Did you ever see Brian Steele with a gun?

13 A. He's the one had the gun.

14 Q. Did you see him with a gun?

15 A. Brian had it.

16 Q. Okay. Did you see him pull it on anybody?

17 A. I heard gunfire.

18 Q. That's not what I asked. I said: Did you see Brian
19 pull a gun?

20 A. There was a gun pulled.

21 Q. By who?

22 A. By Brian.

23 Q. Okay. That's what I asked. Did you see him fire it?

24 A. He had to fire it, Chris got shot.

25 Q. After Brian fired the gun, where did he go?

TONYA RENEE SNIPES - CROSS-EXAMINATION BY MR. COOK

- 1 A. They left on the bike.
- 2 Q. Which way did that go?
- 3 A. Toward Cauthen Motors.
- 4 Q. You say towards Cauthen Motors --
- 5 A. To the right when you come around the curb straight
- 6 on.
- 7 Q. Okay. And what road is Cauthen Motors on?
- 8 A. 200.
- 9 Q. Okay. And 200 -- you know where Brandon Rivers where
- 10 they saw him, where he started a traffic stop?
- 11 A. No.
- 12 Q. Would you believe me if I told you it was on Lynwood
- 13 Drive?
- 14 A. I got my mama and left.
- 15 Q. Okay. Well, he wasn't on 200. Okay. So after --
- 16 how much longer after Chris -- you saw Chris get shot that
- 17 you and your mom leave?
- 18 A. Five, ten minutes.
- 19 Q. Okay. You're not aware law enforcement was there
- 20 within five, ten minutes after he got called?
- 21 A. I left. I got out of there because my mom has
- 22 seizures. Number one, we didn't need to be there anyway.
- 23 Q. I agree with that.
- 24 A. Because there's a lot of activity at that apartment
- 25 anyway.

TONYA RENEE SNIPES - CROSS-EXAMINATION BY MR. COOK

1 Q. And you went over there to engage in that activity,
2 didn't you?

3 A. No, I went over there to get some pills.

4 Q. So you know somebody got shot, but you didn't go to
5 law enforcement to tell them who did it?

6 A. No, sir, I went to Grier.

7 Q. And you went to him because you wanted to be honest
8 because that's how you -- that's what you do, right?

9 Where are you living now?

10 A. In Greenwood at SCDC.

11 Q. What is SCDC?

12 A. Correctional center.

13 Q. You're there for shoplifting?

14 A. That's correct, and false pretenses and property
15 crimes.

16 Q. That's a crime of dishonesty, isn't it?

17 A. Yes, sir, because I was in an addiction.

18 Q. You were still addicted when this happened, weren't
19 you?

20 A. Yes, sir.

21 Q. Whatever month it allegedly was that this happened
22 that you were allegedly there?

23 A. That's right.

24 Q. Is your mom on probation?

25 A. No, my mom is dead.

TONYA RENEE SNIPES - CROSS-EXAMINATION BY MR. COOK

1 Q. When your mom was alive, was she on probation before
2 she died?

3 A. No.

4 Q. Why didn't she tell somebody what happened?

5 A. She did talk to Mark Grier.

6 Q. You were friends with Kacy?

7 A. Acquaintance. I wouldn't say friends.

8 Q. Were you friends with anybody at that house?

9 A. Acquaintance.

10 Q. Is there any reason why they would -- wouldn't say
11 you had been there?

12 A. It was a drug house. I don't reckon they tell
13 everybody that's coming in and out.

14 Q. Who was -- when Brian and Brandon came up the one
15 time you said you saw Brian, was Brian arguing with
16 anybody?

17 A. They got off the bike and threw their hands up like
18 they wanted to fight.

19 Q. Both of them did? Did Brandon come in the yard?

20 A. No, they was at the end of the driveway.

21 Q. Did Brian come in the yard?

22 A. No, it was end of the driveway.

23 Q. Who was he yelling at?

24 A. At Chris and Terry was out there and Shane, and me
25 and Kacy was on the porch.

TONYA RENEE SNIPES - CROSS-EXAMINATION BY MR. COOK

1 Q. So everybody was out there when the two of them were
2 out there?

3 A. Pretty much.

4 MR. COOK: Beg the Court's indulgence one moment,
5 Your Honor.

6 BY MR. COOK:

7 Q. And it's your testimony that it was light outside
8 when the shooting occurred, correct?

9 A. As I recall. I mean, it's been a year or more, you
10 know.

11 Q. Well, I mean, you remembered everything else pretty
12 vividly. If that's what you believe, then that's what
13 you're telling the Court it was light outside. How many
14 shots did you hear fire?

15 A. One.

16 Q. That one shot came from the road?

17 A. Yes, sir.

18 MR. COOK: Beg the Court's indulgence one moment,
19 Your Honor.

20 BY MR. COOK:

21 Q. Ms. Snipes, was Shane inside or outside when this
22 happened? Because when Mr. Grier asked you, I believe you
23 said he was inside.

24 A. Like I said, I don't know everybody that was out
25 there.

TONYA RENEE SNIPES - CROSS-EXAMINATION BY MR. COOK

- 1 Q. Okay. So you said he was inside and outside?
- 2 A. No, I didn't say inside, I said I don't know.
- 3 Q. So you don't know if Shane was outside?
- 4 A. Shane is deceased, too, because he OD'd.
- 5 Q. Okay. You said you saw Chris pull a gun, or did he
- 6 already have it out when you saw it?
- 7 A. When I come on the porch, he had a gun.
- 8 Q. Did he point it at anybody?
- 9 A. He pointed it toward the road.
- 10 Q. But he never fired it?
- 11 A. No, because it wasn't real --
- 12 Q. How did you know that?
- 13 A. -- come to find out. Because I come back later.
- 14 Q. You come back to the house later?
- 15 A. Later. And that's when I was laughing and saying
- 16 that it wasn't even real.
- 17 Q. Was law enforcement at the house when you came back?
- 18 A. No.
- 19 Q. What time did you come back?
- 20 A. I don't know. I didn't know what time it was before.
- 21 Q. Did you come back -- you think it was probably before
- 22 or after midnight?
- 23 A. I don't know. I don't remember. You said it didn't
- 24 take place until 10:00, so...
- 25 Q. You were there. You tell me when it happened?

TONYA RENEE SNIPES - CROSS-EXAMINATION BY MR. COOK

1 A. I don't know.

2 MR. COOK: No further questions, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. GRIER:

5 Q. Ms. Snipes, you weren't keeping track of time?

6 A. No, sir. When you're on an addiction like that, you
7 don't be thinking about what time it is.

8
9 Q. Okay. But did you hear gunshots while Chris was
10 pointing the firearm? Did it make a noise?

11 A. Not as I recall.

12 Q. Didn't even make a noise?

13 A. Not as I recall.

14 Q. But -- and you did not see with certainty who fired?
15 I mean, did Brian shoot the gun or he had the gun?

16 A. Brian, because it wasn't Brandon.

17 Q. Okay. You saw how many guns?

18 A. Two.

19 Q. Okay. And they were in whose possession?

20 A. Chris and Brian.

21 Q. Okay.

22 MR. GRIER: Thank you.

23 THE WITNESS: Thank you.

24 MR. COOK: Nothing further.

25 THE COURT: Thank you very much, ma'am. You may step

TONYA RENEE SNIPES - REDIRECT EXAMINATION BY MR. GRIER

1 down.

2 Call your next witness.

3 MR. GRIER: Thank you, Your Honor, the defense calls
4 Brandon Rivers.

5 THE CLERK: Sir, please come around to be sworn.
6 Place your left hand on the Bible and raise your right.

7 BRANDON RIVERS, after having first being duly sworn,
8 testified under oath as follows:

9 THE CLERK: Please be seated in the witness stand.

10 DIRECT EXAMINATION

11 BY MR. GRIER:

12 Q. Please state your name for the record.

13 A. Brandon Rivers.

14 Q. Mr. Rivers, how old are you?

15 A. Nineteen.

16 Q. When did you turn 19?

17 A. August.

18 Q. Of -- okay. So at the time this happened -- when did
19 this happen?

20 A. September 26, 2014.

21 Q. Okay. I misspoke when I spoke to Ms. Snipes?

22 A. Yes, sir.

23 Q. Who is in the courtroom with you today?

24 A. My mother, my aunt, friends, family members, loved
25 ones.

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 Q. Okay. How much education you got, Mr. Rivers?

2 A. I have a GED.

3 Q. And what kind of work have you done?

4 A. I've done all types of construction, painting, labor
5 work, roofing, mostly hands on.

6 Q. Mostly hands on?

7 A. Mostly like hands-on work, like outside physical
8 construction work, carpentry, done things like that.

9 Q. Okay. All right. Okay. September the 26th, 2014
10 correct?

11 A. Yes, sir.

12 Q. What -- do you recall what you had done earlier in
13 this day?

14 A. Yes, sir. It was kind of a long day. Started out
15 with me and my girlfriend arguing earlier that morning, so
16 I left the house, went to one of my buddy's house. And it
17 was a guy over there. That's how I met Brian, through
18 him, as one of my friends. I've actually known him
19 earlier, maybe two weeks before that. He was --

20 Q. You had known who?

21 A. Brian.

22 Q. Brian Steele?

23 A. Yeah, he was over there that day. He was actually
24 supposed to give one of my friends a tattoo, but I ended
25 up talking him into giving me one. We went to the store,

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 got some liquor, some alcohol. We were smoking, drinking.
2 We were doing whatever, done a couple tattoos. Stayed
3 there probably, I'd say a couple hours. I left, went back
4 home, and me and my girlfriend, we was going through it,
5 confusions, confusions, confusions. And Brian actually
6 happened to be with me at the time because he was supposed
7 to be coming back to stay the night at my house. He
8 wanted to stay the night at my house.

9 I left. As I left, she had -- my girlfriend had left
10 before me. I went outside and hid our key in the house,
11 hid some money, put everything up. You know, other than
12 that --

13 Q. Okay.

14 A. I took Brian back to my buddy's house. It was on
15 Smoke Rise. I was supposed to come back, but I didn't.
16 This was probably around, I'd say around 7:00, somewhere
17 around in there, maybe before then. I actually ended up
18 going to my mother's house on Springdale Road. As I got
19 there, I was just sitting around talking. I had actually
20 got my brother-in-law to go to the store for me so I could
21 get some more alcohol. I was drinking. At that time,
22 Terry and Angela had came with their -- with Emily,
23 Angela's daughter.

24 Q. Where are you at?

25 A. I'm at my mother's house on Springdale Road.

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 Q. And you go there by yourself?

2 A. Yes, sir, I drove my motorcycle there.

3 Q. All right.

4 A. So as I get -- as I'm sitting there chilling,
5 whatever, they get there. They arrive.

6 Q. They? They?

7 A. They being Terry, Angie and Emily. Terry is going
8 all ape -- you know what I'm saying, he's flipping because
9 they been going at it with Kacy and Ronnie or whatever.
10 And so he tells me about what's going on. He asked me to
11 ride back over there with him. He's flipping, talking
12 about he's going to whip somebody's ass, this, that and
13 the third.

14 At this time, my mother is begging me, please don't
15 go, Brandon, don't go with him. That's none of your
16 business, you know, this, that and the third. So they
17 asked my mother to keep Emily. I told him I'd ride over
18 there with him and see what was going on or whatever.

19 As we left -- he left first, I followed him on my
20 motorcycle. As we pulled up, I pulled to the front of the
21 bowling alley. They pulled around me. The reasoning of
22 me pulling up because I don't know who stayed there. I
23 didn't know who was there, what was going on. They
24 supposed to be going to fight. So I walked around the
25 side of the house. As I get --

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 Q. Let me ask you this.

2 A. All right.

3 Q. Why are you going over there?

4 A. Really, I just was frustrated. He said they was
5 going to argue, they was going to fight. I was really
6 just going to be there for him because he supposedly --
7 so-called supposed to be my family, you know. And I was
8 really just going to be there to watch out for him. I
9 guess to say to help him out to make sure no one would
10 jump on him.

11 Q. When you got there, what did you do?

12 A. I got off my motorcycle. I walked around the side of
13 the house.

14 Q. What's going on?

15 A. Everybody is outside. I'm not really familiar with
16 how everybody looks and who every person is because I do
17 not know them. So I'd say there's probably six, seven,
18 maybe eight people outside arguing. Terry's trying to
19 snatch Shane's door open. Angie's trying to jump on Ann
20 Marie. There's all types of things going on.

21 So I was actually holding a conversation with Ronnie
22 Blackwell at the time standing beside the car. I was
23 sitting there talking to him. He's asking me who I am.
24 I'm like I'm just here with him, you know what I'm saying.
25 They was talking about they was calling the police, this,

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 that and the third, so I left. I told Terry, I got to go,
2 you know what I'm saying, I can't be around the police.
3 So I leave.

4 Q. Where do you go from there?

5 A. I leave, I go straight back to my house right on
6 Lynwood Drive, maybe --

7 Q. How far is that?

8 A. -- a minute up the road. Not even a minute, right up
9 the street to the right.

10 Q. When you get there, who is there?

11 A. I pull in, I see Brian Steele and some older man
12 standing on my front porch. Nobody is at home. My
13 neighbor is not at home, so I asked him what's he doing at
14 my house, how did he get to my house. He was 'like, Well,
15 I thought you was going to let me spend the night. I told
16 him, Yeah, I mean, I told you I would think about it, but
17 I don't even know you. So me and him had -- not -- I
18 wouldn't say we had words, but, you know, we was -- you
19 know what I'm saying, I was kind of frustrated he just
20 popped up at my house like that.

21 So as we go in the house, I sit down. And the guy
22 that was with him was asking me questions about me and one
23 of my friends falling out weeks prior to the incident, you
24 know. And I tell him that's none of his business, he
25 needs to leave my house.

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 So the other guy leaves. As the other guy leaves, I
2 sit down and I start telling Brian what just went on with
3 Angie and Terry and Emily or whatever. So he starts
4 getting frustrated. As he starts getting frustrated --

5 Q. Well, when you say frustrated --

6 A. You can tell he's angry. He's fidgety like he's
7 wanting to fight. He's cussing. You know, now he's
8 wanting to leave. He wants to go to Angie. So I told
9 him, all right, I'll take you. I'll give you a ride up
10 the street.

11 Q. And Angie is who?

12 A. It's his sister. So as we get to his sister's house,
13 whenever we get there, something told me don't go in.
14 Anyways, I walk in with him. We go in, we sit down.
15 Angie is sitting there on the phone going back and forth
16 with Kacy, I believe, text messages back and forth, text
17 messages, text messages. So Terry is telling Brian about
18 what's going on. Emily is sitting in there playing
19 around.

20 Q. What kind of reaction was Brian having?

21 A. He's still angry. He's still angry. I asked Terry
22 for a jacket because one of my jacket -- my jacket
23 was broke -- my zipper was broke on my jacket. So I get a
24 jacket from him, I put the jacket on or whatever. I had
25 some alcohol. We was drinking.

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 So Brian was like -- I was actually on the phone with
2 one of my friends. He was my neighbor at the time. I was
3 supposed to be going to hang out with him for the rest of
4 the night. So Brian asked me, he said, Well, will you
5 give me a ride back over there because I'm going to go
6 whip Shane's ass for talking to my niece like that. I was
7 like, Yeah, sure, why not? I'll give you a ride. Come
8 on, let's go.

9 I let him get back on the bike with me, we head back
10 over there. As we head over there, there's no
11 conversations, no questions asked, no nothing. Soon as we
12 pull up --

13 Q. Well, okay, we're arriving at the next scene. Let's
14 finish the last scene. While you were at Angie's, did you
15 have a gun?

16 A. No, I didn't have no gun.

17 Q. Did -- did you see any guns?

18 A. No.

19 Q. Was there any conversation about guns?

20 A. No, I ain't see no gun all day that day. I ain't see
21 no gun period.

22 Q. Was anybody talking about anything other than
23 fighting?

24 A. No. Nobody was really talking about even fighting
25 except just Brian. He was just pissed, you know.

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 Everybody else had let it go. Terry and Angie was
2 supposedly letting all the problems go, everything was
3 supposed to be okay. Angie kept reading out text messages
4 talking about I was a skinny crackhead and all this, that
5 and the third.

6 Q. Did that make you mad?

7 A. Which you can tell, just like the jury, everybody can
8 see, I'm not skinny and I do not smoke crack. That does
9 not offend me. I do not care what nobody says.

10 Q. Whatever, did it make you mad?

11 A. No, sir, it didn't. So I blow it off, I let it go.
12 Anyway, me and Brian leave on the way over there.

13 Q. So why are you going over there?

14 A. So he can fight him. You know, he wanted to take out
15 his anger. I was really being careless for putting myself
16 in that situation just for taking him over there.

17 So as we pull up -- whenever we get there, we
18 actually we pull up actually off Lynwood Drive. The bike
19 actually is pointing towards 200, towards Cauthen Motors.
20 I stop, I turn the bike off. As I turn the bike off,
21 Brian steps off the bike. As he steps off the bike, he
22 walks probably four, five steps --

23 Q. Okay. All right. You get there, who is there?

24 A. Only two people was in the yard at the time. I'm
25 guessing it was Chris and Ronnie.

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 Q. What race are they?

2 A. They was black.

3 Q. Well, you saw Chris and Brian in here?

4 A. Chris and Ronnie.

5 Q. Ronnie, excuse me.

6 A. Yeah.

7 Q. So were they there?

8 A. Yeah. Soon as he got off -- soon as Brian got off,
9 he started raising hell, this, that and the third. So as
10 I turned the bike off, I set my kickstand down or
11 whatever, he started to walk up to him and they talking
12 about they calling the police. At that time, Kacy and
13 probably, I'd say maybe three or four other people walk
14 outside. I do not know who all these people was. Because
15 if you actually look at that residence at nighttime, you
16 might be able to see the road where the street lights is,
17 but actually back in that little cul-de-sac or whatever
18 you want to call it, it's really dark, you know what I'm
19 saying.

20 Q. Okay.

21 A. So I really didn't know who walked outside. I heard
22 a female say she was calling the police. I was like all
23 right, she's calling the police, let's go. I threw my
24 hands up, I was like, Why y'all saying y'all want to fight
25 and y'all calling the fucking police. Be real, you know.

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 So I go to get back on my bike, as I go to get back
2 on my bike, I crank my bike up, I pull right to the
3 bowling alley, I turn around. As I turn around, Brian is
4 standing there. He gets on the bike, as he gets on the
5 bike, I turn and look at Chris. When I look at Chris, I
6 see him pull out a gun. I tell Brian, I say, Watch out.
7 As I go to pull out, Brian pulls out a gun and starts
8 shooting four times, maybe six at the most. It was not no
9 10, no 12, no three, no one, none of that. It was at
10 least five to six times.

11 And as we got to the stop sign, he tells me stop.
12 Turn around, take me back. I tell him, No, I'm not. I'll
13 drop you back off at your sister's house. I took him to
14 Powell Avenue. I didn't actually take him exactly to his
15 sister's house --

16 Q. Hold on. Hold on. Let's stay where we were for a
17 minute. Do you recall how many cars were out there?

18 A. I believe there were two.

19 Q. Do you know that for certain?

20 A. Not for sure.

21 Q. Okay.

22 A. Not for sure, but I really believe it was two.

23 Q. Okay.

24 A. Because I believe there was one closer to the right,
25 maybe where the blue house is maybe. I think there was

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 one pointed like right here, kind of in the driveway,
2 though, not like -- you know what I'm saying.

3 Q. You say when you pulled up, only two people were
4 there?

5 A. There was only two people outside.

6 Q. Did other people show up? Before you left, were
7 there other people out there outside before you left?

8 A. Yeah, yeah. As Brian started arguing, I'm guessing
9 with Ronnie or Chris, they walked out the house. I don't
10 know which one they came out of, if they came out of
11 Shane's apartment or if they came out of Kacy's apartment.
12 I'd say by the time I pulled off, it was probably, at
13 least, five, six, seven people outside.

14 Q. All right. Well, who is Brian mad at?

15 A. He was actually mad at Shane.

16 Q. Okay.

17 A. As far as I was understanding, he was mad at Shane
18 and Ann Marie, I'm guessing.

19 Q. Who is Ann Marie?

20 A. That's Shane's girlfriend, I guess it was.

21 Q. And why?

22 A. Because of the incident that happened earlier with
23 his niece, Emily.

24 Q. Okay. Did you say anything to anybody out there?

25 A. I asked them, I said, Why you want to fight somebody

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 and you call the police? I mean, I really didn't have too
2 much to say because it didn't have nothing to do with me.

3 Q. Well, what were you wearing at the time?

4 A. I had on a pair of khaki cargo shorts, a pair of Nike
5 slide sandals and a helmet, a black, red and white USA
6 jacket with another black leather jacket on top of it.

7 Q. Let me ask you about that. Do you recognize these
8 items?

9 A. Yes, sir.

10 Q. How do you recognize them?

11 A. They're mine.

12 Q. How are they yours?

13 A. Because that's the helmet and the jacket that I had
14 on the night that --

15 Q. Where did you get this jacket?

16 A. My father gave it to me.

17 Q. Now, how about this helmet, where did you get this
18 helmet?

19 A. Bought it from the Yamaha place on the bypass.

20 Q. And is it in the condition it was in when you were
21 over at Kacy's that night?

22 A. No, sir, the mask on it got ripped off as I was
23 actually being chased by the police.

24 Q. When you wrecked?

25 A. The shield. Yeah, it actually got snatched off

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 whenever I wrecked.

2 Q. I want to ask you to put this on your for a second.

3 Tell me about that shield.

4 A. It's just -- it's a shield that comes straight down.

5 It locks in. It's got buttons that you press and it pops
6 back up.

7 Q. Let me have it back. All right. How good is your
8 side vision with this helmet on?

9 A. I mean, not too good. I mean, it's -- you really
10 can't --

11 Q. What color was the shield?

12 A. It was a clear glass shield, but, you know, you can't
13 really see too far to the sides.

14 Q. Okay. How about this jacket? Did you purchase it or
15 was this --

16 A. No, my father gave it to me.

17 Q. Okay. When did he give that to you?

18 A. Probably like three days -- two or three days before
19 that incident happened, I had rode my motorcycle to go see
20 him and he gave me the jacket.

21 Q. Okay. Did you end up wearing another jacket, too?

22 A. Yeah, I had another jacket on because that zipper on
23 the jacket is actually broke.

24 Q. Were you wearing cargo pants?

25 A. Yes, sir, I had cargo shorts on.

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 Q. Was there anything in the pockets of this jacket?

2 A. It might have been some alcohol in there. I
3 remember -- I think there was a pair of gloves in there
4 that my daddy might have gave me. That might be what you
5 recall as -- Andy Cook recalled as the gloves. I do not
6 remember where they came from. I do not deny having them,
7 but I don't know how they got any type of GSR residue on
8 them from my person itself.

9 Q. Okay. Well, did you have gloves on that night at
10 all?

11 A. I never wore gloves.

12 Q. Were they your gloves?

13 A. I mean, I had a pair of gloves, but I never wore
14 gloves. I never wore gloves. Like regardless of how cold
15 it was, I never wore gloves.

16 Q. Brian tell you to shoot anybody?

17 A. No, he didn't tell me to shoot anybody.

18 Q. What did he say?

19 A. He didn't tell me anything about shooting nobody. He
20 just got on and was like, Go. Whenever we got to the stop
21 sign, he was like stop, turn around, take me back.

22 Q. Take you back where -- take him back where?

23 A. To Kacy's, I'm guessing, or he was meaning take him
24 back home. He was meaning take him back somewhere.

25 Q. Did you say anything to him?

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 A. I told him I wasn't stopping and I wasn't letting him
2 off.

3 Q. All right. Did you say I'm a real motherfucker to
4 him?

5 A. No, I didn't.

6 Q. Okay. Which direction was the motorcycle headed --
7 did you park at Kacy's, the motorcycle?

8 A. Yeah, I parked like in the driveway, like right past
9 the mailboxes. I parked right at the edge of the road.

10 Q. And which direction were you pointing -- was the
11 motorcycle pointing?

12 A. Toward south, 200 way.

13 Q. Okay.

14 A. Toward the main highway.

15 Q. So looking out from the back porch of Kacy's?

16 A. Like would be pointing right.

17 Q. You're pointing to right?

18 A. Uh-huh.

19 Q. Now, ultimately, did you go out and leave in that
20 direction?

21 A. I actually went out that way and turned around in the
22 bowling alley parking lot and came back to the Lynwood
23 Drive area.

24 Q. So again, facing from the porch at Kacy's, looking
25 out towards your motorcycle, to the right is when we say

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 200, going towards 200?

2 A. Yes, sir.

3 Q. And to the left is going towards Lynwood?

4 A. Yes, sir.

5 Q. So you went to the right, turned around and went back
6 by?

7 A. Yes, sir.

8 Q. Okay. Did you -- what did you see Chris do while you
9 were at Kacy's?

10 A. I seen him pull out a gun.

11 Q. Did he fire it? Did it make any noise?

12 COURT REPORTER: I'm sorry, what did you say?

13 THE WITNESS: I seen him pull out a gun..

14 BY MR. GRIER:

15 Q. Did it make any noise?

16 A. No, sir, not besides screams. I mean, he was
17 hollering with the gun pointed.

18 Q. He what?

19 A. He was hollering with the gun pointed.

20 Q. Okay. Did it appear to be a real gun?

21 A. I mean as far as what I could tell, yeah. I mean,
22 personally, you really can't tell if it was -- been a cap
23 gun or if it would have been a chrome pistol.

24 Q. Right.

25 A. You know, but --

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 Q. Where did you take Brian?

2 A. To Powell Avenue.

3 Q. What's at Powell Avenue?

4 A. That's where Angela and Terry was actually living.

5 Q. And did you take him to the house?

6 A. I took him right to the driveway.

7 Q. Okay. Why did you run from the police?

8 A. I didn't have no license, didn't have no insurance.

9 I was supposed to be on house arrest, wasn't at home. I
10 was drunk. I was underage drinking. I had marijuana on
11 me. I mean, at that time, I felt like I had every reason
12 to run. I wasn't thinking about what just happened. I
13 was thinking about saving myself from going to jail
14 because I knew if I would have got locked up without my
15 bracelet on, I wasn't getting out.

16 Q. Did you know anybody had been shot?

17 A. Not necessarily, I really didn't. I mean, I heard
18 people screaming, but the whole time, everybody was
19 screaming, so it wasn't like no horror scream like --

20 Q. Right.

21 A. -- you know.

22 Q. Did you have a cell phone on you?

23 A. Yes, sir.

24 Q. What happened to that cell phone that night?

25 A. I got arrested with it.

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 Q. Okay. Police took possession of that?

2 A. No, sir.

3 Q. Okay.

4 A. Well, actually, I believe they did, but put it back
5 in my property. And maybe like two or three months after
6 that, I got my mother to get it out of my property.

7 Q. So your cell phone was returned to you?

8 A. Yes, sir.

9 Q. Did you ever send any texts to anybody?

10 A. No, sir.

11 Q. To cause this problem to erupt?

12 A. No, sir.

13 Q. Have you shot guns before?

14 A. Yes, sir, I have.

15 Q. How long you been shooting guns?

16 A. My father used to take me hunting when I was younger.
17 It was mostly like hunting rifles and shotguns. I say
18 since I been like eight years, old nine years old.

19 Q. Okay. Is there any legal reason why couldn't be in
20 possession of a gun?

21 A. I mean, I'm out on bond right now, so yeah, I
22 couldn't be around a gun now.

23 Q. On these charges?

24 A. Yeah.

25 Q. All right. Did you see Shane out at the house at

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 Kacy's, going back to Kacy's?

2 A. Yeah, I seen him the first time. He was out there.
3 He was actually trying to fight at first. Then he went in
4 the house when people started talking about calling the
5 police. The second time, I didn't see him there. I guess
6 he went ahead and ran. At that time, he had warrants on
7 him.

8 Q. Okay. All right. Those are the gloves that were --
9 they say were taken off of -- out of your pants; is that
10 correct? Do you recognize them?

11 A. I'm guessing so.

12 Q. Do you know how they got in your pants?

13 A. I'm pretty sure I had them. I mean, if they found
14 them off me, I'm not going to deny it. I had numerous
15 pairs of gloves.

16 Q. Okay. What else did you have on you at the time you
17 were arrested?

18 A. I had a cell phone, my wallet, cigarettes, some
19 money. I think I had a cell phone charger in my pocket.

20 Q. Okay. Once you were arrested, where were you taken?

21 A. To the hospital.

22 Q. And what did you -- do you recall being treated
23 there?

24 A. Yes, sir.

25 Q. What were you treated there for?

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 A. My knee was actually -- they said it was -- I'm
2 guessing it was fractured or something, something was
3 wrong with my knee. They never really told me too much.
4 It was sewed up, I had to get it sewed up. I had to get
5 stitches. It was a real big gash. I had a burn going
6 down the back of my calf and a couple scratches and
7 scrapes on me.

8 Q. After you left the hospital, you were taken to the
9 Lancaster County Sheriff's Department?

10 A. Yeah, to the sheriff's office.

11 Q. Did you meet with anybody there?

12 A. Yeah, I believe I met with Mike Adams.

13 Q. Okay. And did he ask you to give a statement?

14 A. Yes, sir.

15 Q. And did you give a statement?

16 A. Yes, sir, about the chase.

17 Q. Okay. Well, why didn't you give a statement about
18 what happened at Kacy's?

19 A. Because I just watched him shoot somebody. Why would
20 I tell it? I was terrified. I mean, I'm not about to sit
21 here and watch a man shoot somebody and then tell on him,
22 especially not while he's still free.

23 Q. Well, you don't think that might have helped you out?

24 A. I mean, I kind of feel like it might have helped me
25 out, but I had a grandfather in law enforcement. He

BRANDON RIVERS - DIRECT EXAMINATION BY MR. GRIER

1 retired from the chief of the city. He always told me
2 making a statement never helps anything.

3 Q. You pled guilty to failure to stop for a blue light?

4 A. Yes, sir.

5 Q. Why did you plead guilty to that?

6 A. Because I was taking responsibility for my actions.

7 Q. Well, is that the crime you committed?

8 A. Yes, sir.

9 Q. Why are you going to trial on these charges?

10 A. Because I'm not guilty on these charges.

11 Q. Okay.

12 MR. GRIER: Answer any questions that Mr. Cook might
13 have for you.

14 THE WITNESS: Yes, sir.

15 MR. COOK: Judge, I think I've got a matter we may
16 need to take up outside the presence of the jury before I
17 begin.

18 THE COURT: Folks, let me get you to step back to
19 your jury room. Do not discuss the case.

20 (The jury left open court at 3:53 p.m.)

21 THE COURT: All right.

22 MR. COOK: Your Honor, we discussed this previously,
23 this letter that Mr. Rivers wrote to the solicitor's
24 office. We talked this may not be relevant, but
25 Mr. Rivers just testified that the text message that Kacy

1 Noe sent to Angie Steele said he was a skinny crackhead.
2 He said, "You can look at me, I'm not skinny, I don't do
3 crack."

4 Well, in the letter that he wrote to our office, he
5 said, I started off smoking weed, breaking into houses,
6 then drug problem got worse. It led -- it went to cocaine
7 and crack, before I knew it, I was hooked on heroin. He's
8 got an inconsistent statement. He wrote a statement to
9 our office saying, "I was hooked on crack". He just told
10 the jury "I don't do crack" --

11 THE WITNESS: Your Honor --

12 MR. COOK: -- and I think that I should be able to
13 cross him on this statement that he wrote to our office.
14 Also, he brought out -- opened the door that he was out on
15 bond at this time. And I think the main issue here was he
16 had other pending charges. He's already made it known to
17 the jury he was out on bond, on house arrest when this
18 incident occurred, Your Honor.

19 THE COURT: What relevance has that got to do with
20 anything?

21 MR. COOK: Well, I mean, it can be tailored to the
22 did you write a statement to -- a letter to the
23 solicitor's office and in that letter you said that you
24 started off smoking weed and it led to you smoking crack.
25 It's an inconsistent statement, Your Honor, that

1 Mr. Rivers gave.

2 THE WITNESS: I didn't say I was hooked on crack, I
3 said I've done it.

4 THE COURT: I'll let you ask him if he's ever done
5 crack and see how he responds. I believe what he said in
6 reference to Mr. Grier's questions was he's not a
7 crackhead. That letter doesn't state he's a crackhead.
8 Mr. Cook, I'm going to give you all the leeway that you're
9 entitled to, but I'm not going to set this thing up for --
10 that letter has just any kind of numerous issues and
11 problems.

12 MR. COOK: Yes, sir.

13 THE COURT: You might be coming dangerously close to
14 bringing your boss in as a witness in this case since that
15 letter was written to him.

16 MR. COOK: Yes, sir.

17 THE COURT: So there's all kinds of issues with that
18 letter. For some reason, you're like a dog with a bone on
19 that letter. You think that letter is going to --

20 MR. COOK: Yes, sir.

21 THE COURT: I -- I'm going to let you --

22 MR. COOK: I had to try.

23 MR. GRIER: That was a compliment.

24 THE COURT: I've got no problem with you trying, but
25 what I'm saying is, you know, again, it's a matter of

1 relevance and whether it's admissible. If you feel that
2 there's been something you can impeach him with with that
3 letter, you can ask -- and the proper way to do that,
4 anyway, is to ask him. If he testifies inconsistent, then
5 you can possibly use that to impeach, but it will be very
6 limited, if at all with regards to that, so.

7 MR. COOK: Yes, sir, Your Honor.

8 THE COURT: Anything else?

9 MR. GRIER: Judge, I don't feel like I opened the
10 door on any bad acts and so I don't want him to be able to
11 blanketly ask questions about that letter. I mean, if he
12 wants to ask him something, can we take it up on a sidebar
13 on a case-by-case basis?

14 THE COURT: He's telling me right now one of the
15 issues he has is he feels that Mr. Rivers testified that
16 he's never used crack. I don't think he testified to
17 that. I think he testified I'm not a crackhead, you can
18 see I'm not a crackhead.

19 MR. COOK: He said I don't smoke crack, Your Honor.
20 That's the quote that he said.

21 THE COURT: Well...

22 MR. COOK: Which it's cutting edging here, but --

23 THE COURT: How big an issue is this, folks?

24 MR. COOK: I think -- honestly, Your Honor, I think
25 it is important because I think it's characterizing

1 Mr. Rivers and how the jury feels what his --

2 THE COURT: I think Mr. Rivers did not hide from the
3 jury that he's a fellow who is under age and he drinks and
4 does drugs. I mean, I don't think he's tried to hide
5 that.

6 MR. COOK: Yes, sir.

7 THE COURT: But I'll let you -- you know, you can ask
8 him about -- I'll let you ask point-blank the question in
9 response to Mr. Grier's question about crack and let him
10 respond to it.

11 MR. GRIER: Again, my question wasn't about crack,
12 actually, Your Honor, just to clear the record. That was
13 a response.

14 THE COURT: It wasn't your question, it was his
15 response to your question.

16 MR. GRIER: Yes, sir. I know we're cutting nuances
17 about something. I don't know why, but.

18 THE COURT: So anyway, that's the way that will be
19 handled.

20 MR. COOK: Yes, sir.

21 THE COURT: All right. Let's bring the jury back in,
22 please.

23 (WHEREUPON, the jury enters at 3:58 p.m.)

24 MR. COOK: May it please the Court?

25 THE COURT: All right. Cross-examination.

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

CROSS-EXAMINATION

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BY MR. COOK:

Q. Mr. Rivers, you said this afternoon -- that afternoon on September 26, you started off drinking that morning or that afternoon?

A. After lunch kind of.

Q. Okay. What did you start drinking that afternoon?

A. We went and got a bottle of liquor.

Q. What kind of liquor did you get?

A. Burnett's.

Q. Did you buy it?

A. I paid for it, I didn't actually purchase it.

Q. Why didn't you purchase it?

A. Because I was under age.

Q. Who purchased it for you?

A. Actually, Brian purchased it.

Q. So Brian helped you out and got you some liquor?

A. Yeah.

Q. And then y'all started drinking a little bit after lunchtime and y'all went over to a buddy's house and y'all supposed to do some tattoo?

A. We was already at the buddy's house.

Q. But you had to buy the liquor first, didn't you?

A. We went to his house before we got the liquor. He stayed at Smoke Rise. The liquor store was right there.

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

- 1 Q. So Burnett's vodka?
- 2 A. Yes, sir.
- 3 Q. Did y'all finish it off?
- 4 A. Not fully. I left some there.
- 5 Q. How big a bottle did you get?
- 6 A. A fifth.
- 7 Q. Y'all split it down the middle, half and half?
- 8 A. No, it was probably about six of us drinking.
- 9 Q. So you go to your mom's house, Angie and Terry are
- 10 over there saying that Shane did something to Emily,
- 11 right?
- 12 A. Not necessarily.
- 13 Q. But they were mad because Shane yelled at Emily?
- 14 A. Terry was.
- 15 Q. Okay. And Emily is Terry's daughter?
- 16 A. No.
- 17 Q. Angie's daughter?
- 18 A. Yeah.
- 19 Q. But Terry is Angie's husband?
- 20 A. Yeah.
- 21 Q. And Terry is your mom's first cousin?
- 22 A. Yes, sir.
- 23 Q. Through technicalities, Emily is also related to you;
- 24 isn't she?
- 25 A. I guess you could say by marriage.

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

1 Q. Do you consider Emily part of your family?

2 A. No, sir.

3 Q. You consider Terry part of your family?

4 A. No, sir.

5 Q. But by blood, Terry is your family?

6 A. By blood, yeah.

7 Q. Okay. And y'all were hanging out together on
8 September 26?

9 A. No, we wasn't hanging out. He just popped up.

10 Q. Y'all were in the same place?

11 A. Yeah, he was around me.

12 Q. Were y'all on good terms at that point?

13 A. Yeah, you could say that. We ain't never really been
14 on bad terms.

15 Q. You were on good enough terms to go over to
16 somebody's house when he was looking to fight and look out
17 for him, weren't you?

18 A. Yes, sir.

19 Q. So you didn't dislike Terry?

20 A. Not a dislike thing. It's just I ain't never really
21 been around him enough like that to consider him family.

22 Q. But you consider him enough family to go fight with
23 him?

24 A. Yeah.

25 Q. Okay. You already said your mom told you not to go

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

1 over there, didn't you?

2 A. Yes, sir.

3 Q. Why didn't you listen to your mom?

4 A. I was drinking, I was smoking, I was under the
5 influence. I took a couple pills.

6 Q. What kind of pills you take?

7 A. Xanaxes.

8 Q. What does Xanax do to you?

9 A. Mellow you out. It's a nerve pill.

10 Q. You got a prescription for Xanax?

11 A. No, sir.

12 Q. Is it -- you take Xanax mixed with alcohol?

13 A. I did that day.

14 Q. What effect did that have on you?

15 A. A down feeling. You know, a mellow.

16 Q. Okay. You driving around all over Lancaster after
17 drinking and taking Xanax?

18 A. Yes, sir.

19 Q. So mom tells you not to go, you ain't got no business
20 going over there, but you go to Kacy's house with Terry
21 because he's going to fight somebody. You know he's going
22 to fight somebody, you go anyway, don't you?

23 A. Yes, sir.

24 Q. You go over there knowing there's about to be a
25 confrontation. And then law enforcement -- somebody

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

1 threatens to call law enforcement?

2 A. Yes, sir.

3 Q. And you leave?

4 A. Yes, sir.

5 Q. Because you're supposed to be on house arrest?

6 A. Yes, sir.

7 Q. And you took your ankle monitor off?

8 A. Yes, sir.

9 Q. You took your ankle monitor off so when they went
10 back and checked it, nobody would know you were there,
11 right?

12 A. Not necessarily.

13 Q. Well, you took it off so whenever you go somewhere
14 you're not supposed to, law enforcement can't come pick
15 you up?

16 A. No, sir.

17 Q. Why didn't you just leave it on then?

18 A. I was young and making careless mistakes. I was
19 immature and I was just -- I made mistakes. You made
20 mistakes before, right?

21 Q. Yeah, but I wasn't on house arrest.

22 A. Yes, I understand, but we was also brought in two
23 different categories of life.

24 Q. Well, let's not get into how I was brought up because
25 you don't know me.

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

1 A. You don't know me, sir.

2 Q. Well, I know that you're 19 years old riding around
3 town on a motorcycle taking Xanax and drinking liquor. I
4 know that because you told me.

5 A. All due respect, I sit here and tell you that because
6 that's the truth, sir.

7 Q. You went over to Kacy's house. Law enforcement --
8 somebody threatens to call law enforcement, you leave, you
9 go back to your house. And you say Brian is at your house
10 when you get back there?

11 A. Yes, sir.

12 Q. You said at this point you're mad at Brian because he
13 just shows up at your house, right? You said you were
14 frustrated.

15 A. I wasn't really mad, but yeah, I was a little
16 frustrated.

17 Q. Oh, I thought y'all were buddies?

18 A. No, I didn't know Brian. I said that. I knew Brian
19 prior to him doing one tattoo on me.

20 Q. Y'all close enough for him to buy you alcohol,
21 weren't you?

22 A. It don't take nothing -- you don't have to be close
23 to somebody for them to buy you alcohol.

24 Q. Y'all were hanging out drinking together, weren't
25 you?

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

1 A. Yeah. He was doing a tattoo on me, also, so, I mean,
2 that's basically business.

3 Q. Okay. Well, later on that night when he said, I'm
4 going to fight somebody, you said, Sure, I'll give you a
5 ride. You didn't have any problem with that, did you?

6 A. No.

7 Q. So you had a problem with him just showing up at your
8 house because he thought he was under the impression that
9 you were going to let him stay there and that made you
10 mad, but you weren't mad -- no hesitation when he asked
11 you to take him over to Kacy's house to fight, right?

12 A. Yeah.

13 Q. Okay. And before you went to Kacy's house, you went
14 to Angie and Terry's house, right?

15 A. Uh-huh.

16 Q. And Kacy texted Angie calling you a crackhead, didn't
17 you?

18 A. Yes, sir.

19 Q. And Angie told you that she texted her that, didn't
20 she?

21 A. Yes, sir.

22 Q. And that made you mad, didn't it?

23 A. No, sir, it did not.

24 Q. You didn't say, "Fuck that, I'm going back over
25 there"?

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

- 1 A. No.
- 2 Q. Why would Angie say you did that?
- 3 A. The same reason everybody else got up here on the
- 4 stand and lied.
- 5 Q. So everybody has lied, but you?
- 6 A. Not everybody.
- 7 Q. What about Tonya Snipes, did she lie?
- 8 A. No, sir.
- 9 Q. Was she there?
- 10 A. She was.
- 11 Q. She said that she was inside. Did you see her
- 12 inside?
- 13 A. I didn't go inside.
- 14 Q. So you are at Angie's house with Brian and both y'all
- 15 have been drinking and Brian is mad and he wants to go
- 16 fight Shane, right?
- 17 A. Yes, sir.
- 18 Q. And that's fine with you, you're going to give him a
- 19 ride to Kacy's house?
- 20 A. Yeah.
- 21 Q. And you have no business going to Kacy's house, do
- 22 you?
- 23 A. No business.
- 24 Q. Why did you go?
- 25 A. Like I said, I was smoking, I was drinking. I made a

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

1 mistake.

2 Q. You knew what Brian was going over there to do,
3 didn't you?

4 A. I knew he was going to fight. I didn't know it was
5 going to end in a gunfire.

6 Q. Well, if Brian was going to get in a fight, were you
7 going to be there to back him up?

8 A. Yeah, if it was a physical altercation.

9 Q. Okay. But you just said he wasn't your friend, so
10 you're just going to fight this random guy that gives you
11 tattoos, you're going to go fight with him?

12 A. If somebody's with me, I'm going to be with them till
13 the end.

14 Q. But you wouldn't even let him come in your house?
15 You're frustrated because he wants to just stay there
16 because he's practically homeless, but if he wants to go
17 fight some stranger that you don't know, that's all well
18 and good to you, right?

19 A. No, sir, you got it mistaken.

20 Q. No, that's exactly what you said.

21 A.. No. I said I let him come in my house. I said I was
22 frustrated that he popped at my house, not that he asked
23 to stay at my house. I didn't know him well enough to let
24 him live in a place where I rest my head, where I had my
25 family at, where I had my girlfriend and her child at.

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

1 That's a whole totally different situation from what was
2 going on with me just going with him to a physical
3 altercation.

4 Q. Do you know Chris Jones?

5 A. No, sir, I do not.

6 Q. Do you know Ronnie Blackwell?

7 A. No, sir.

8 Q. Do you know Shane Bolen?

9 A. Yeah, I knew Shane.

10 Q. You friends with Shane?

11 A. No, I was not.

12 Q. Were you going to fight Shane?

13 A. No, sir.

14 Q. Were you going to fight Ronnie?

15 A. No.

16 Q. You going to fight Chris?

17 A. No.

18 Q. Well, who you going to go over there -- what business
19 you got to go over there?

20 A. It wasn't me going to fight. I was just giving him a
21 ride.

22 Q. So if somebody, Brian, who you say you're not even
23 friends with goes to -- you take him to this house knowing
24 he's going to fight somebody, you going to take Brian's
25 side and fight these random people that you don't know for

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

1 no reason?

2 A. I was taking him over there and if it would have went
3 to a fight, I probably would have helped him.

4 Q. Not even with no idea who these people are, had done
5 nothing to you, have no reason to do anything to you, but
6 you're going to go over there in the middle of the night
7 and fight them?

8 A. It wasn't as just like them not doing anything to me.
9 It was all behind the child. That's why I was really
10 participating in even going over there. Which I don't
11 consider that child being my family, and I don't consider
12 Brian being a friend, but if I was there with him, he
13 asked me for a ride, yes, sir, I did give him a ride.
14 Yes, sir, I was going to stand there and back him up.
15 Yes, sir, I did do that.

16 Q. So you're the white knight coming in to protect this
17 girl that you don't even consider family and that's the
18 only -- somebody ask you to come on, you're going to come
19 on and fight because that's how you --

20 A. Wasn't nothing about no white knight or none of that.
21 I was just there.

22 Q. You went over there because Kacy called you a
23 crackhead, didn't you?

24 A. No, I did not.

25 Q. You didn't want -- that made you mad and that's why

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

1 you went over there?

2 A. No, it didn't.

3 Q. You had a gun in your pocket, didn't you?

4 A. No, I did not.

5 Q. Now, you already said that it's dark up in that
6 cul-de-sac area and you don't even know who all was in
7 there, you couldn't see, but you could see well enough to
8 see Chris with a gun?

9 A. Yes, sir.

10 Q. What did the gun look like?

11 A. It was a black gun. It wasn't a very big gun.

12 Q. So did you ever go in the yard -- when you and Brian
13 went back, did you ever go in the yard?

14 A. No, sir.

15 Q. You stayed on the motorcycle?

16 A. No, I got off the motorcycle when I first pulled up.

17 Q. Did anybody ever throw any blows in the yard?

18 A. No, sir.

19 Q. Okay.. So luckily, you didn't have to fight anybody
20 out there, these random people?

21 A. Yes, sir.

22 Q. So what happened that Brian, ultimately, came back
23 and got on -- came back to the bike?

24 A. Well, as they was arguing, I believe it was Kacy came
25 outside. I'm not sure exactly which female it was, but

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

1 one of them came outside. Her and I'm guessing Ronnie or
2 Chris, one of them, everybody started screaming police,
3 police. At that time, I got on my motorcycle, I turned
4 around and came back to where Brian was.

5 Q. So you turned around before Brian got on the
6 motorcycle?

7 A. Yes, sir.

8 Q. You and Kacy didn't have words in the yard?

9 A. No, sir.

10 Q. Nobody ever said anything to you?

11 A. Nobody said anything to me. I did say why y'all
12 planning to fight people and you want to call the police.
13 But nobody actually said any direct words towards me.

14 Q. You got on the bike to leave because they said law
15 enforcement was coming?

16 A. Yes, sir.

17 Q. So you went down towards 200, turned around and came
18 back and picked up Brian?

19 A. Right there at the little bowling alley, right behind
20 the apartment. It's right there.

21 Q. When you came back, where was Chris?

22 A. I'm not sure exactly where Chris was. It was people
23 scattered. It was people everywhere in the yard.

24 Q. Is this when Chris allegedly pulled a gun or is this
25 after?

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

1 A. This is whenever Chris pulled his gun.

2 Q. He pulled the gun as you're coming back to get Brian?

3 A. As I came back, I stopped. I turned and looked at
4 Brian. Brian was going to get on the motorcycle. When
5 Brian got on the motorcycle, I turned and looked, I seen
6 Chris pull out a gun.

7 Q. So he doesn't pull the gun until Brian was on the
8 motorcycle?

9 A. Yeah, as Brian was getting on the motorcycle, he
10 pulled out his gun.

11 Q. So y'all were on the motorcycle already headed out
12 towards Lynwood Drive?

13 A. Not headed out.

14 Q. But y'all were facing that way?

15 A. We was facing that way, yes.

16 Q. He's already on the back?

17 A. Yes, sir.

18 Q. When did Brian start shooting?

19 A. They had maybe two or three words. As soon as I
20 started to pull off and whenever I went to pull off, Brian
21 said go and I heard gunfire.

22 Q. Did you ever see Brian shoot?

23 A. I mean, I didn't see him exactly shoot, but I could
24 feel the way he was moving. I about dropped the
25 motorcycle.

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

1 Q. And you -- he told you to stop and you said you
2 weren't stopping?

3 A. Yeah, I told him I wasn't stopping.

4 Q. Why wouldn't you stop and let him off?

5 A. Because I was scared.

6 Q. Well, wouldn't that be a good idea if there's
7 somebody people on the back of your bike to get them off?

8 A. I mean, I seen him have a gun, too, so I didn't know
9 if they was right there. The stop sign is right there
10 behind Kacy and them's house.

11 Q. What they going to do, run and get you?

12 A. I mean, they could have. They could have shot.
13 Bullets don't have names on them.

14 Q. Well, Brian asked you to get off. You would not let
15 him off, right?

16 A. Yeah.

17 Q. Okay.

18 A. At the stop sign, but I did let him off up the road.

19 Q. You didn't stop at the stop side going on Lynwood,
20 though, did you?

21 A. Yeah, I stopped, barely. I didn't come to a complete
22 stop.

23 Q. Okay. Did you go somewhere, stop and let Brian get
24 off or when you stopped, he just hopped off?

25 A. I took him to Powell Avenue, that's where Angie

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

1 stayed. She stayed right off Powell Avenue. Her driveway
2 was probably from here to the street out in front.

3 Q. Okay. So when you get to the stoplight at McIlwain
4 headed south, you see Deputy Minors behind you, don't you?

5 A. I was actually past the beverage -- past the Country
6 Corner store going down McIlwain Road before I actually
7 seen the blue lights. I did not know there was a police
8 behind me until I actually turned around and seen the blue
9 lights.

10 Q. You saw them. Was there a car in between the two of
11 you?

12 A. No, sir.

13 Q. So wouldn't it make sense that he was trying to get
14 you?

15 A. Yes, sir.

16 Q. You didn't stop, did you?

17 A. No, sir, I didn't.

18 Q. You know how far it was before you wrecked?

19 A. Not exactly. I heard you say 14 miles, but I mean,
20 not approximately, don't know.

21 Q. And because you didn't have insurance, and a license,
22 you figured the best thing for you to do is to try to
23 outrun this cop?

24 A. It wasn't just because of the license and the
25 insurance. It was also about the bond situation.

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

1 Q. Now, your dad gave you this USA jacket?

2 A. Yes, sir.

3 Q. Was it a gift or -- was it a hand-me-down or was it
4 brand new?

5 A. Just a hand-me-down.

6 Q. And you have no idea how gunshot residue got on the
7 gloves in your pocket?

8 A. No, sir, I do not.

9 Q. That's rough. That's just a coincidence they were in
10 your pocket?

11 A. No, sir. I mean, just like whenever the woman got on
12 the stand and said it could have come from it being in the
13 vicinity of a gun. My father has guns. My father goes
14 hunting every day -- well, during hunting season. It
15 could have easily came from that. It could have easily
16 came from something else.

17 Q. Okay. They just happened to be in your pants pocket
18 the night that you are the suspect in a shooting?

19 A. Yes. I believe -- actually, I really believe they
20 was in my jacket.

21 Q. But you were drunk and high when this happened, so
22 you probably -- your memory is probably a little bit
23 blurred about all of this, isn't it?

24 A. Somewhat. Not very much, though. This is the night
25 I had to relive for the rest of my life.

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

1 Q. You don't think taking pills, mixing with alcohol,
2 smoking weed is going to have any effect about how much
3 you remember about this?

4 A. It could have, but doing 16 months in the county for
5 something you did, you realize how much you did do that
6 night.

7 Q. So it just comes back to you after you sit around
8 forever, you start remembering everything that happened
9 spontaneously?

10 A. I didn't say I actually forgot everything.

11 Q. I didn't say you forgot everything, but wouldn't it
12 cloud your memory of what was going on?

13 A. Some things it could have, yeah, some things.

14 Q. You said you had a grandfather in law enforcement?

15 A. Yes, sir.

16 Q. And his words to you were it never helps anything to
17 make a statement?

18 A. Yes, sir.

19 Q. Even if you are completely innocent and somebody is
20 saying you shot somebody, it wouldn't be in your best
21 interest to say I didn't shoot this person? You don't
22 think that would be in your best interest?

23 A. See, whenever I actually met with the investigators
24 that night, nobody told me I actually -- somebody told me
25 that I shot somebody. Nobody said anything about that.

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

1 Q. Did somebody --

2 A. He said what happened at Kacy's house that night.

3 Q. Does somebody have to tell you that you're accused of
4 shooting somebody? You knew that Brian had shot at
5 somebody at that point, didn't you?

6 A. I didn't know he had been shot. I knew there was
7 gunfire. I didn't know anybody was hit.

8 Q. You knew that it wasn't you, if that's the truth,
9 didn't you?

10 A. Yes, sir.

11 Q. But you didn't tell the police -- you don't think
12 that would have been beneficial to you to say I didn't
13 shoot anybody?

14 A. Yeah, it could have been, but like I said earlier in
15 my earlier statement, I just seen that man shoot somebody.
16 He was not locked up. He could have went and done
17 anything. He could have went and harmed my family. He
18 could have went and done something to my child. He could
19 have done anything.

20 Q. You saw somebody or heard somebody, was with somebody
21 shooting at people and this is a person that you don't
22 even consider a friend and you won't tell law enforcement.
23 Why is that?

24 A. Just told you my reason why.

25 Q. Wouldn't it be safer if you told them and they locked

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

1 him up so he'd be in jail and he couldn't shoot your
2 family or hurt your friends, wouldn't that make sense?

3 A. Yeah, that kind of would have in your perspective.

4 Q. But instead --

5 A. But how I was looking at it at that point in time,
6 that's not what I was thinking was best to do.

7 Q. You wouldn't have felt safer with him being locked
8 up?

9 A. Yeah, but I knew he wasn't going to get locked up
10 that night.

11 Q. But you were locked up, weren't you?

12 A. Yes, sir, I was.

13 Q. You said it was one gunshot and that shot was from
14 Brian?

15 A. No, I didn't.

16 Q. Excuse me, you said there was four to six and they
17 were all from Brian?

18 A. Yeah.

19 Q. Nobody shot but Brian?

20 A. No.

21 Q. And you knew why Brian was going over there, correct?

22 A. He was going to confront Shane about talking to his
23 niece the way he did.

24 MR. COOK: Beg the Court's indulgence one moment,
25 Your Honor.

BRANDON RIVERS - CROSS-EXAMINATION BY MR. COOK

1 BY MR. COOK:

2 Q. Do you remember what Brian was wearing that night?

3 A. I believe he had on a white T-shirt and some blue
4 jeans, I believe. I might be mistaken.

5 Q. He didn't have a jacket on, though, did he?

6 A. No, sir.

7 MR. COOK: No more questions of this witness.

8 THE COURT: Any redirect?

9 REDIRECT EXAMINATION

10 BY MR. GRIER:

11 Q. Brandon, you've used the terminology went over to
12 confront and you went over -- going over to confront and
13 going over to fight. What do you mean when you say those
14 terms?

15 A. Basically, the same thing. I mean, you might look at
16 that as different terms, but as far as this coming to like
17 something like that with a family member or somebody going
18 to confront somebody on a level like that, I would feel
19 like they would be going to fight. I mean, other people
20 would probably resolve it different, but, you know.

21 Q. Okay. Well, are you talking about a physical
22 altercation when you say going to fight?

23 A. Not necessarily a physical altercation, it could be
24 verbal.

25 Q. What was your -- what did you anticipate happening

BRANDON RIVERS - REDIRECT EXAMINATION BY MR. GRIER

1 when you left with Brian to go see Shane about Emily?

2 A. Really, I just figured just another argument.

3 Because they already been over there earlier that day,
4 they was already about to fight. I figured if they was
5 going to fight, they was going to fight from the
6 beginning. Nobody wanted to fight then.

7 Q. Well, when you arrive, they're waiting on you?

8 A. Yeah, they was.

9 Q. Did y'all tell them you were coming?

10 A. I'm not sure if Angie told them or not, but I didn't
11 have no contact with them. I don't know their number or
12 none of that. I don't know.

13 Q. Who was waiting on you when you got there?

14 A. If I'm not mistaken, it was Ronnie and Chris outside.

15 Q. Anybody have a beef with them before this happened?

16 A. Not that I know of.

17 Q. Any -- you had a conversation with Ronnie earlier,
18 was that a civil conversation or how would you have
19 described that earlier in the day?

20 A. It was more of just he was like, what the fuck are
21 you doing here? I was like, I'm just here with them. He
22 was like, All right, well, I'm calling the police so you
23 better leave. So I left.

24 Q. All right. Well, who started the let's call it words
25 as you pulled up?

BRANDON RIVERS - REDIRECT EXAMINATION BY MR. GRIER

1 A. As soon as I pulled up, I parked the bike, Brian got
2 off. I'm pretty sure Brian started it. Pretty sure he
3 was, Where's Shane? Where's Shane? And Chris and Ronnie
4 started to intervene. But it wasn't long before they
5 started screaming calling the police, you know, maybe a
6 minute or two.

7 Q. And when that happened?

8 A. When that happened, more people came outside. They
9 started screaming the police was coming. I walked back to
10 my bike, I crank it up. I pulled around right there at
11 the bowling alley, I turned around. As soon as I got back
12 there, I stopped. As I stopped, Brian went to get on the
13 bike. As Brian getting on the bike, I turned and looked.
14 I looked at Chris, I seen him pull out his gun. Brian
15 looked at me, Brian told me go. As I started to go, Brian
16 pulled out a gun and started shooting. As he started
17 shooting, that's whenever I pulled up to the stop sign.

18 MR. GRIER: Thank you. That's all.

19 RECROSS-EXAMINATION

20 BY MR. COOK:

21 Q. Mr. Rivers, you said you didn't have any
22 communication with Kacy because you don't know her number?

23 A. Yes, sir.

24 Q. You texted her from Angie's phone, didn't you?

25 A. No, sir.

BRANDON RIVERS - RECROSS-EXAMINATION BY MR. COOK

1 Q. Told her you had guns and you were coming back over
2 there?

3 A. No, sir, I did not.

4 Q. How else they know you're coming over there?

5 A. I have no idea. Her and Angie was sitting there
6 texting each other back and forth whenever I got to
7 Angie's house. I've never in my life seen Kacy until the
8 other day when I seen her in the courtroom.

9 Q. You'd never seen her until you saw her in this
10 courtroom?

11 A. Not like -- I'm saying that's probably the second or
12 third time I've ever seen her in my life. From the first
13 incident, the second incident, and then whenever I seen
14 her in the courtroom.

15 Q. You didn't tell her that you had guns and if she had
16 said -- called you a crackhead when you were over there
17 earlier, you would have shot all them then?

18 A. No, sir.

19 Q. She just made all that up?

20 A. Yes, sir, they had to.

21 MR. COOK: Nothing else from the state, Your Honor.

22 THE COURT: Thank you very much, sir. You may step
23 down.

24 MR. GRIER: Your Honor, the defense is concluded.

25 THE COURT: All right. Ladies and gentlemen, the

BRANDON RIVERS - RECROSS-EXAMINATION BY MR. COOK

1 defense has rested their case and it's about 4:25. I have
2 to take up matters of law at the close of the evidence.
3 The evidence is now closed. And that's going to take some
4 time. And then we've reached the portion of the trial
5 where the attorneys have an opportunity to argue to you
6 what they believe the evidence has shown and then I'll
7 charge you on the law and then it will be your case for
8 your decision.

9 But as I said, it's a little after -- 25 after 4:00.
10 I think what we're going to do is we're going to recess
11 for the afternoon, have you come back first thing in the
12 morning where I think you can anticipate the closing
13 arguments, and then I'll give you the charge on the law
14 and then you'll have the case for your consideration.
15 Okay.

16 Now, you can let your friends, family, loved ones
17 know that you still can't talk about the case, but
18 probably at some point tomorrow, you'll be able to talk
19 about it when it's all over. So ask them to continue to
20 be patient and respect your need to not talk about the
21 case. If you'll be back at 9:30, we'll get started once
22 everyone is here. And I don't anticipate there being
23 anything that would present us from starting on time, so
24 as soon as everyone is reconvened, as soon as you're all
25 here, we'll be ready to go.

1 So everyone remain seated.

2 Folks, we'll see you back here first thing in the
3 morning. 9:30 in the morning.

4 (The jury left open court at 4:32 p.m.)

5 THE COURT: Okay. At this time, I'll take up any
6 motions at the close of all the evidence.

7 MR. GRIER: Judge, the defense simply renews its
8 motion for directed verdict. Based on the additional
9 evidence I believe the Court has heard would further erode
10 our confidence that this is a case that ought to go to the
11 jury.

12 THE COURT: I'll going to respectfully deny that.
13 Again, Mr. Grier, I really think this is actually a
14 factually driven case. Obviously, most are, but, clearly,
15 there are facts at issue here. I think the jury has to
16 resolve those.

17 Anything from the state?

18 MR. COOK: Nothing from the state, Your Honor.

19 THE COURT: Guys, here's what I'd like to do if you
20 don't have any objections or issues with it, basically,
21 adjourn for the afternoon, let these folks go. But if
22 y'all want to step back in chambers, we'll do an informal
23 conference about the charge. Everything that -- anything
24 that needs to be put on the record, we'll do in the
25 morning.

1 MR. GRIER: Yes, sir.

2 THE COURT: But rather than bore everybody and keep
3 everybody here listening to us talk about what's
4 appropriate on the charge, I think we'll probably be more
5 effective just going back there and talking off the
6 record. Anything that needs to be on the record, we'll
7 certainly put on the record in the morning. But that's
8 kind of my suggestion. Y'all have other thoughts, let me
9 know.

10 MR. GRIER: I think it's an excellent idea. I think
11 it will save folks inconvenience and we can hash things
12 out. Makes a lot of sense to me.

13 THE COURT: For purposes of today's proceedings,
14 we'll be in recess then until 9:30 in the morning. If
15 y'all need to take a short break or go by your office and
16 grab something, whatever you want to do, then whenever you
17 get a chance, come on down here in chambers and we'll talk
18 about it.

19 MR. COOK: Thank you, Judge.

20 (Court adjourned at 4:34 p.m. on February 18th, 2016 and
21 resumed at 9:45 a.m. on February 19th, 2016.)

22 THE COURT: Yesterday, we did an informal charge
23 conference back in chambers and went over some things in
24 trying to put together a charge. And so at this time, I
25 think it would be appropriate that we put on the record

1 anything that we need to put on the record with regards to
2 the charge.

3 As I said in the informal conference, I kind of gave
4 y'all what I consider to be a rough draft of a charge and
5 something that we could use to make changes, alterations,
6 whatever we needed to do.

7 So with regard to -- let me just begin with the
8 State. Is there anything with regard -- regarding the
9 draft charge that we need to alter, amend, change or
10 whatever?

11 MR. COOK: Your Honor, I was satisfied with the draft
12 of the charge and I don't think that the State would
13 request anything to be added or taken out, Your Honor.

14 THE COURT: Okay. And Mr. Grier, with regard to the
15 Defense, I know you have some requests and exceptions to
16 the Court's rulings on those.

17 MR. GRIER: I do, Your Honor. I'll try to be as
18 brief as possible. But my request is that there be a
19 self-defense charge with regard to the hand of one, hand
20 of all charge. In other words, some instruction that in
21 the event that the jury concluded that Brian Steele was
22 the shooter in this case, since they're being told that
23 that would subject my client to accomplice liability, that
24 the defense of self-defense would be applicable to my
25 client as a defense as well.

1 And my reason being, I understand the record is very
2 muddled on every issue with regard to that and that if my
3 client -- you know, if there were no evidence that my
4 client was not at fault -- I mean, if all the evidence was
5 that he was at fault in bringing about the difficulty,
6 then on the face of it, he wouldn't be, you know,
7 permitted that charge. However, I believe there is some
8 evidence that he is without fault. In fact, by his own
9 account, as far as the crime, the crime, of course, is
10 attempted murder and I know was at fault in bringing about
11 the difficulties.

12 But I take the position that once -- there's also
13 evidence, not just from my client, but also from Kacy Noe
14 that the motorcycle was moving at the time the shots were
15 fired, that the police -- that my client retreated, left,
16 was leaving the scene. There's evidence he was leaving
17 the scene at the time of the -- you know, the shooting
18 took place. That the -- so he had withdrawn from -- if
19 there was any prior difficulty, he had withdrawn from it,
20 there is evidence of that, at the time of the shooting.
21 And therefore, there is evidence that a jury could find
22 that he -- that Brian Steele was acting in self-defense
23 because there's evidence that a gun was presented. And
24 that, certainly, you have no duty to subject yourself to
25 being at gunpoint if you have some reason to believe

1 you're in imminent fear of your life. And I believe
2 there's an inference, certainly, of that from -- you know,
3 that's in the record as evidence.

4 Bottom line is all of these points of there being
5 some evidence of the things I've described, I think in
6 their totality would create circumstance where my client
7 if he's subject to accomplice liability is also entitled
8 to being -- the jury considering -- they could find that
9 he was at fault, but they could also find he was not at
10 fault in bringing about the difficulties. But given that,
11 I think those are jury issues. There are some evidence of
12 them and that that would mean my client is entitled to
13 that instruction as well.

14 THE COURT: And I'm going to respectfully deny
15 charging that and note your exception to that.

16 MR. GRIER: Yes, sir.

17 THE COURT: From my recollection of all the evidence
18 in the case, regardless of who you want the jury to
19 believe, whether it be the codefendant or Mr. Rivers, both
20 were fairly adamant that their whole purpose in going over
21 there was to fight. Mr. Rivers more so to support the
22 codefendant in his desire to fight. Not that Mr. Rivers
23 had a dog in that fight, so to speak, but that he was
24 taking him over there to fight. And that if he got in a
25 fight, Mr. Rivers was very candid he would have, you know,

1 supported him in that and joined him in that.

2 The -- the other situation is that the codefendant in
3 his testimony never testified that he saw a gun. And
4 that -- so for him to -- first of all, he's the one who
5 goes over there to fight. If he never sees a gun, which
6 he testified he didn't, then it's hard to imagine he's
7 acting in self-defense if he's not defending himself from
8 anything. But be that as it may, the evidence in this
9 case just didn't support -- in my opinion, didn't support
10 a charge on self-defense, but I certainly would note your
11 position.

12 MR. GRIER: Thank you, Your Honor. Also --

13 THE COURT: Anything else?

14 MR. GRIER: -- if we're done with that one, I had
15 requested a jury charge under Kacy vs. -- State vs.
16 Manning. Kacy vs. Manning, I don't know where I got that.
17 State vs. Manning.

18 THE COURT: Judge Kacy Manning.

19 MR. GRIER: Maybe from a judge's name. Your Honor,
20 I'd asked for a hesitate to act charge based on the State
21 vs. Manning case. And I believe that is the law -- that
22 was a Supreme Court case and it is the law of the land and
23 that it would be appropriate -- that's been kind of what
24 the tradition of -- our local tradition has been that that
25 is a local charge. And I understand that's in your

1 discretion and you have to weigh out all that. And that
2 is certainly -- but I am requesting it. I believe it
3 should be charged. And it could be -- if there are
4 objections to the way that it's argued and abused, I
5 believe we could -- that could be -- there could be
6 something put on the record or some limitations on the way
7 it could be argued that could remedy any perception that
8 that charge can be abused by counsel. And therefore, I
9 ask you to charge it.

10 THE COURT: And again, I'm going to deny the request
11 to charge that, but note your position and your exception
12 to that. I think the case law is clear that the Court has
13 discretion with regards to going with the Manning charge
14 or the firmly convinced language. I think the firmly
15 convinced language is more accurate. I think it's less
16 susceptible to confusion and misunderstanding potential
17 abuse. I know there are some judges that out of an
18 abundance of caution will charge both.

19 MR. GRIER: Yes, sir, in fact, that's what we --

20 THE COURT: I think that lends to even more
21 possibilities of confusion. And that's just one person's
22 thought, that's my thought. But I do think that the law
23 is clear that the Court has discretion and I choose to
24 exercise that discretion in charging the firmly convinced
25 language, but will note your exception to that.

1 MR. GRIER: Thank you, Your Honor.

2 THE COURT: Anything else?

3 MR. GRIER: That's all.

4 THE COURT: Now, we will bring the jury out. I'll
5 basically give them a little bit of an introduction as to
6 where we're at and where we're heading. We'll then turn
7 it over to the attorneys for your closing arguments. I
8 would ask that -- again, I'm not going to handcuff you
9 with a time limit, but I would ask you to be sensitive to
10 that and not be terribly lengthy with your closing
11 argument. I just don't think it's very effective to be
12 that way. That's not to say that if you get on a
13 diatribe, I'm not going to --

14 MR. GRIER: Understood.

15 THE COURT: You know, but I'm not going to put you on
16 an official clock. Once you've concluded your remarks,
17 then I'll give them the charge on the law and then we'll
18 pass it over to the jury for their deliberations.

19 Bring the jury in please.

20 (The jury entered the courtroom at 9:58 a.m.)

21 THE COURT: All right, ladies and gentlemen, welcome
22 back. When we left yesterday, you heard that -- from
23 Mr. Grier that the defense had rested their case and I had
24 the matters of law to take up, which I've done and we're
25 now ready to proceed with the trial. And the place we're

1 at now is the evidence in the case is closed. All of the
2 evidence that you're going to have at your disposal is in.
3 And it is --

4 We're at the point now where the attorneys are going
5 to have an opportunity to address you with what we
6 typically refer to as closing arguments or final
7 summation. It's their opportunity to speak to you about
8 what they believe the evidence and the law in this case
9 has shown. It is just like I told you in -- with their
10 opening statements, what they're going to share with you
11 in their closing arguments is not evidence. The evidence
12 is closed. And they're not under oath. But it's their
13 opportunity to give you their position or their take on
14 what the evidence in the case has produced. It's
15 important that you give them your undivided attention as
16 they go through their argument. Once they've concluded
17 their remarks to you, I will then give you the charge on
18 the law. At that point, you'll finally have everything
19 you need.

20 If you recall earlier in the week when I spoke to
21 you, I gave you an analogy about baking a cake. And
22 you're not to have conversation about any of the case
23 until all of the evidence is in because it's kind of like
24 baking a cake and taking it out of the oven before you
25 have all the ingredients. Well, once I've given you the

1 law you will then have all the ingredients and that cake
2 will be ready for you to bake. Ready for you to
3 deliberate. So that's the process we'll go through this
4 morning.

5 And so at this point, I'm going to turn it over to
6 the attorneys, let them give your their final summations,
7 I'll give you the law, and then it will be your case.

8 Mr. Grier.

9 MR. GRIER: May it please the Court, Solicitor.

10 THE COURT: Yes, sir.

11 CLOSING ARGUMENTS

12 BY MR. GRIER:

13 See the light at the end of the tunnel, been a long
14 trial. Appreciate your attentiveness and service. I know
15 it's been an inconvenience for you. It's what we do, so
16 it hasn't been an inconvenience, but it has been a
17 challenge. Been a difficult, confusing case for
18 everybody. It's an important day. It's an important day
19 to y'all because you're done with hearing all the
20 evidence, and that means you're going to get to return
21 back to your lives and your families here real soon. But
22 it's maybe the most important day in the lives of Brandon
23 Rivers, my client, and his family and also to the victims
24 to have a decision made on something that they've been
25 waiting to be resolved for quite some time now.

1 When the -- of course, the state opened the trial
2 with their opening argument. And Solicitor Cook, I think,
3 said you could expect some inconsistencies in the case.
4 And well, you certainly got that, but I think it might
5 have been, in retrospect, more accurate to say you could
6 expect some consistencies because it just didn't seem like
7 there really were any in this case. We know that all the
8 witnesses and, most certainly, you know, were partying.
9 There was, apparently, a lot of drug use at the time this
10 incident happened. And there was, you know, a lot of
11 confusion and a lot of chaos and lot of apparent alcohol,
12 pill popping and other things going on, which contributed
13 I think probably to what -- what you saw as far as the
14 confusion and the evidence here. But I think all of that
15 confusion, you know, together certainly renders any
16 accusations that are made against my client suspect
17 because I don't think the people that are accusing him
18 really knew what happened out there.

19 What they did know is that they were friends with one
20 of the two people on the motorcycle. They were friends
21 and, you know, apparently, very close friends as far as
22 the association over using drugs and partying and having a
23 good time. And one of the two people on that motorcycle
24 was -- and he was also friends with the -- actually,
25 apparently, did a tattoo on the victim. I believe Chris

1 Jones testified that Brian Steele had done a tattoo on him
2 previously.

3 So, you know, the accusations against my client, of
4 course, you know, have to be taken in the light of at the
5 time it happened I believe, you know, there was no
6 certainty among -- based on all the contradicting
7 testimony of -- and inconsistent testimony of the state's
8 witnesses as to what happened out there, but they had a
9 choice to make about who they accused. And, most
10 certainly, that was less likely to be a brother of one of
11 their close friends, who was always a friend of their's
12 and that's born out by the evidence.

13 Well, you know, the state didn't really help you
14 much, quite frankly, in this case either in terms of the
15 investigation. And I say that with regard to, you know,
16 the -- number one, you know, this starter pistol. And
17 you'll get to see it. You can even lay on it and see if
18 you can feel it if you're laying on it. I think an
19 officer said you might not even be able to feel it laying
20 on it, but you can do whatever you want to with it. But
21 it certainly has the appearance of a real gun and it was
22 found on location underneath the victim. And it has a
23 story in it that we don't know because the state was
24 totally on a railroad train on this case once somebody was
25 accusing my client and they didn't do anything to find out

1 if there was evidence on this gun that would show whether
2 their witnesses were being truthful or not. And it might
3 still be on there. There may be fingerprints or DNA on
4 here, but no, that wasn't something they were interested
5 in because they already, you know -- they already had --
6 basically had the case wrapped up.

7 It's complicated doing GSR on the people that were
8 present. They knew there's a gun there and they knew that
9 nobody could account for the gun. And so there was a
10 story behind that about why that gun was out there that
11 the state wasn't even interested in. But it really became
12 important in terms of whether -- even though it doesn't
13 shoot, that's not relevant. It looks like it could shoot.
14 So what role did that gun play in what happened outside
15 that night? And the state wasn't interested in whether
16 anybody was being truthful about that gun or not. But
17 it's obvious they weren't then.

18 I mean, I'm not saying that gun shot Chris Jones.
19 Obviously, it didn't based on what I think the expert told
20 us. And you can look at it for yourself, that gun didn't
21 shoot Chris Jones in his crotch, but, you know, there's a
22 real possibility that a gun that we don't even know about
23 shot him in the crotch because -- you know, I don't --

24 Where are the pants at?

25 Well, you got to see the pants. I guess they weren't

1 put into evidence, but you got to see them yesterday. And
2 it's uncontradicted, the pants didn't have a defect in
3 them and yet, this man got shot in the crotch. I know we
4 got low riders out there and, you know, that's some -- an
5 explanation that Ms. Rogers brought up and I knew that we
6 could expect that. But, you know, for Mr. Jones to be
7 shot by anybody but himself, his pants had to be where his
8 junk was hanging out. And I don't know how that happens.
9 I mean, there's no evidence he was wearing a shirt. I
10 mean, I don't even know how pants can ride that -- or
11 whether -- I've never seen that, I don't know. I've seen
12 them low, but I've never seen anybody's genitals just out
13 there exposed, you know, and it really doesn't make sense
14 that they were.

15 It just -- I just think those pants have a story that
16 needs to be told one way or the other whether there's some
17 possibility there was another gun out there. We know
18 somebody -- we know the witnesses aren't being truthful
19 about this gun. I mean, it's underneath somebody and
20 nobody knows anything about it. It just means -- you
21 know, it just appears there ought to be some, you know,
22 investigation to try to figure out these mysteries and
23 rule out possibilities so that you can have confidence
24 that you're actually getting the whole story. It just
25 wasn't done in this case.

1 There was no GSR. The only thing they're interested
2 in is these gloves. Now, these gloves, are kind of small
3 gloves, and there's no evidence about -- nobody says
4 anything about anybody wearing any gloves that night.
5 There's no evidence -- I mean, you know, when he was --
6 Mr. Rivers wrecked, he wasn't wearing them, I think that's
7 clear. The officer says they were in his cargo pants. He
8 says he thought that they were in his pocket.

9 And then, of course, the jacket that he was wearing,
10 he received that from his dad a little bit earlier.
11 There's no evidence that he was wearing these gloves that
12 night and you would expect there to be somebody saying
13 they saw that he was wearing gloves. I mean, certainly,
14 lots of people say they were in a position to see him well
15 enough to see a gun and to see -- you know, to identify
16 him and all of that. You know, it -- I think it would
17 have been pretty apparent if he had been wearing gloves,
18 but you'll get the SLED report in evidence where these
19 were tested.

20 You know, when I listened -- and I probably should
21 have asked Ms. Berry about it because I don't think she
22 really quoted her results accurately, but what the results
23 of testing those gloves are is that particles of gunshot
24 residue were found. Gunshot residue can come from being
25 in the vicinity of -- to the discharge of a firearm or

1 coming into contact with a surface that has gunshot
2 residue on it; however, no information can be provided as
3 to the time frame in which these particles were deposited.
4 And so I -- you know, there's just a million ways that
5 gunshot residue can get on these gloves. And, certainly,
6 likely that it didn't get on there that night through
7 Brandon Rivers discharging a firearm.

8 We like to get copies of videos as defense attorneys
9 and, oftentimes, want to use those to be able to say if
10 the witness -- to determine whether the witnesses say
11 what -- you know, are saying now what they said at the
12 time. Are they saying at trial what they said at the time
13 of the trial? And, of course, the state didn't help us
14 there either. Those were lost. The video of the chase, I
15 don't know what consequence it would have been in this
16 trial, but that got lost. And so we just have this, you
17 know, indifference on one hand to following up on leads
18 that could give us information about what really happened
19 out there that night. And then we just have technical
20 problems, lost of stuff, which I understand happens to
21 people. It's happened to me before and it happens, but
22 it's frustrating not to have, you know, to be able to
23 compare the evidence they say they have with what they
24 actual have. And we didn't get that opportunity and, of
25 course, you didn't get an opportunity to either, which

1 it's likely that you would.

2 Well, you heard -- and I said it a few minutes ago, I
3 think with all the state's witnesses, I believe it's
4 pretty evident that nobody knows who the shooter was. I
5 think the only two people that know who the shooter was
6 are my client and Brian Steele with certainty. Otherwise,
7 there would be some consistencies in the evidence here.

8 Now, what's -- what's the evidence that there's a
9 real possibility that Brian was the shooter? Well, you
10 know, he had -- when he and Brandon went over that
11 night -- I don't know what you believe, it's a lot of
12 contradictory evidence about it, but I think one thing is
13 very certain and you can see it on the stand when Brian
14 testified, he was really pissed off about his niece
15 getting cussed out. And, you know, he got red faced I
16 think even on the stand and it still obviously bothers
17 him, but he was very angry about that.

18 Now, Brandon Rivers shouldn't -- didn't have any
19 business taking him over there mad, but I think in light
20 of what was going on and what the evidence shows that
21 Brian was the person that really was angry because he was
22 going over to confront Shane Bolen, I believe was his
23 name, who kind of started this whole mess by cussing out
24 Brian's niece. So he is angry and goes over there. And
25 so that suggest that he has the most to -- you know, he's

1 got the motive to be angry. I don't think he goes over
2 there to shoot anybody, but he's the most likely person to
3 have something that he's really angry about and I think
4 you could see that from the evidence from that stand up
5 there.

6 Renee Snipes, she was another one that, you know,
7 she's out there doing pills and, you know, she was
8 confused. Now, of course, I didn't help her. I gave her
9 the wrong date and suggested the wrong date, but she --
10 from her testimony, you could tell that she knew the facts
11 of what happened out there. And while she doesn't have --
12 I mean, she wasn't able to tell you with any certainty who
13 the shooter was, she had a strong enough conviction to
14 seek me out and tell me it couldn't have been Brandon.
15 And she was friends with Kacy and Angie and all that crowd
16 and hanging out with them that night. But she obviously
17 didn't believe that what went down was the truth and she
18 sought me out for -- as a matter of conscience.

19 Now, what -- you know, I imagine the state is going
20 to say she obviously wasn't even there because she didn't
21 know if it was daylight or dark and couldn't remember the
22 date. Of course, she wouldn't remember the date. She
23 would have no way of remembering what the date was. But I
24 think what -- when we think about what she testified to,
25 which was she came out -- you know, she heard the

1 commotion, came out and Chris was pointing a gun and that
2 Brandon was turning the motorcycle around and he wasn't in
3 a position to shoot. That Kacy was not even out there,
4 that she and Kacy ran out together. What I think, you
5 know, supports the fact that she -- number one, she had a
6 command of facts about what she did see and didn't say
7 things -- you know, basically, her testimony was what her
8 belief was based on what she saw and what her conscience
9 told her was wrong with what was -- with the charges
10 against Brandon Rivers.

11 But what I think proves that she was there was what
12 Brian Steele said, which was when they got there, he
13 looked at -- I don't know, I think this is the same
14 picture that was up there. And he said, Well, wait a
15 minute, there were two cars out there. Well, that's
16 because there were. And, of course, Renee, Tonya, I've
17 always called her Tonya, said they left. Wished she had
18 stayed, but she left because she's got trouble with the
19 police. But I think what Brian Steele told you, there
20 were two cars out there. And then when the police get
21 there and take pictures, there's only one car there tells
22 you that Tonya was there. Somebody left and it's
23 consistent with what Tonya told you and supports the fact
24 that she was there. The solicitor is probably going to
25 say she wasn't there, she just came in to help Brandon,

1 made up a bunch of stuff and didn't even know it. But you
2 saw her and she didn't -- I mean, I think she told what
3 she could tell. And there was some confusion, like with
4 everybody else that testified, because of the chaos and
5 the intoxication out there.

6 Is it really possible that Brian was the shooter? I
7 think another one of the more compelling pieces of
8 evidence that points to Brian as having been the shooter
9 is what his sister, Angela Steele, says that, you know,
10 she got a call from him and he was crying. And he was
11 all, you know, upset and hysterical. Well, yeah, that's
12 consistent with -- you know, I don't think Brian is a bad
13 guy or he intended to hurt anybody, but I think he
14 realized he had and he was upset and hysterical and
15 crying. And he didn't turn himself in to the police
16 either until he found out that everybody had already gone,
17 you know, in and out and given statements implicating
18 Brandon Rivers and he was safe to go in the next day. He
19 goes in -- apparently, you know, he goes in after his
20 sister is running interference with him because she's
21 talking to the police and she's orchestrating everything
22 she can to implicate Brandon.

23 And I think that him -- his sister talking about how
24 upset he was, well, really creates a likelihood he was
25 upset because he had just shot a man. And he was not

1 happy about it and he was upset about it and knew it was
2 going to change his life. And at that time, he didn't
3 know they were going to be able to -- they were going to
4 be able to fix it up so they could blame Brandon Rivers
5 and he was just out there.

6 Couple things about Brian's credibility. And to
7 argue everything -- and you don't want to hear it because
8 it isn't going to mean anything for me to go through every
9 inconsistency in this case. We'd basically have to argue
10 for the next two days because this whole case has been so
11 inconsistent. But things that go to Brian's credibility I
12 think that I'd like you to consider are he said he didn't
13 know nothing about Shane Bolen cussing out his niece until
14 he got to his sister's house. He's over at Brandon's,
15 Brandon shows up. Brandon has been over at Kacy's house,
16 didn't do anything, apparently, didn't say anything,
17 didn't get in any -- Brandon that is, but he didn't.

18 So when Brandon gets home -- and I think Brian and he
19 agree on this, when Brandon gets home from Kacy's,
20 according to Brian, Brandon doesn't say a thing about, you
21 know, this confrontation over his niece. I don't know why
22 he -- you know, it just doesn't make any sense that
23 Brandon -- I guess I don't -- I don't understand it. It
24 just doesn't bode well for his credibility. But he didn't
25 know anything about it until they got to his sister's, but

1 they went over to his sister's. And I think, you know,
2 the -- what really happened, obviously, and what Brandon
3 testified to is he gets mad when, you know, Brandon tells
4 him what is going on, Brian gets angry. He wants to go to
5 his sister's house, talk to his sister about this because
6 he knows his sister has been over trying to go fight Kacy.
7 And so he wants to go over and talk to his sister. He is
8 all -- he's all ginned up. Certainly, it's not credible
9 that he would -- didn't find out about that over at his
10 sister's house. It appears to me he wanted to minimize
11 his culpability in this, his anger in it. I think it's
12 pretty obvious and even the sister described how angry he
13 was over at her house when Brian and Brandon got over
14 there.

15 Brian did say he didn't know that Brandon had a gun,
16 but he said that Brandon had a gun in the toilet, I ----
17 believe is what he said, outside. I find that --
18 credibility of that pretty perplexing because what -- if
19 you have a gun, why do you keep a gun outside? I mean, if
20 you're going to have a gun, you need it inside where you
21 have access to it if you need it, so sticking it in the
22 toilet just doesn't make any sense.

23 Going back to the testimony of who was outside, who
24 was not outside is fairly -- is just not very
25 consistently. Either Chris says Kacy wasn't outside. I

1 think -- I mean, the victim says so, Kacy wasn't outside
2 at the time of the shooting. Renee said she wasn't
3 outside. You know, it's just all over the map, whether
4 she is was outside or inside. And would it matter -- how
5 much that matters, I don't know. But the number of shots
6 fired is just, you know, all over the map about how many
7 -- the victim says there were like 14 fired. Who's
8 fussing? If you believe Ronnie, Brian was out there --
9 Ronnie Blackwell, of course, if you believe him, well, he
10 was just livid and trying to find Shane and wanting to
11 fight everybody were his words. And ultimately, turned to
12 Brandon and said shoot -- shoot him using a racial
13 epithet. And he and Chris Jones both said that. But
14 certainly, that would have been a really important thing
15 to have said and told during your interview with the
16 police. But Investigator Adams says never said that. But
17 it certainly discredits Brian's account of what happened
18 out there because I don't believe he knows who shot.

19 Which direction was the motorcycle facing? We've got
20 contradictory evidence about that. You know, one of the
21 things I think you can conclude from all the evidence and
22 there was some testimony even out there, according to
23 Kacy -- and I think it's pretty evident that they knew
24 that Brian and Brandon were coming over. And it's pretty
25 evident that Chris and Ronnie were waiting. And so it was

1 ripe for confrontation because, you know, Brian is angry,
2 according to Kacy. Brandon is coming over because she
3 called him a crackhead. But I think there's certainly
4 enough evidence -- and you're going to have to -- you get
5 to make the decisions based on sorting all this out. But
6 the Judge will instruct you that the state has the burden
7 of proof and they have to prove the evidence beyond a
8 reasonable doubt. And he's going to instruct you that
9 beyond a reasonable doubt -- that reasonable doubt and as
10 to the burden of proof, the state if you're firmly
11 convinced of the guilt of the charged person, you've got
12 to convict them. However, if there's a real possibility
13 of their innocence, then you -- you must acquit them.

14 And so the issues that you'll have to deal with is
15 whether there's even a real possibility of innocence and
16 it is what -- the burden of proof the state is going to
17 have to overcome is any doubt that you that it's even
18 possible that Brandon might be innocent for a reason.

19 Now, if -- and I believe there's certainly strong --
20 there's a lot of evidence that points to the fact that
21 Brian still may have been the shooter. We don't know,
22 none of us. We weren't out there. And there's a real
23 possibility that he was the shooter in this case. And,
24 you know, the -- what -- the state is going to say well,
25 that doesn't matter. Because the state recognizes well,

1 y'all could believe Brandon Steele -- I mean, Brian Steele
2 was the shooter and it doesn't matter because the hand of
3 one is the hand of all. And I'm sure that's what they're
4 going to argue. And you're going to be charged hand of
5 one is hand of all, which simply means that if you think
6 that -- if you conclude that Brian Steele was the shooter,
7 if Brandon Rivers was part of that common scheme of that
8 crime, then, you know, he's as guilty as the shooter.

9 Well, what the Judge will also tell you -- and he's
10 going to give you an instruction and I know the solicitor
11 is going to argue that Brian -- all you need to know is --
12 you know, if you think Brandon Rivers did it well,
13 obviously, no issue. I mean not if you think, but if
14 you're convinced beyond a reasonable doubt. But if you
15 think -- if you conclude that oh, Brandon didn't do it,
16 Brian did it, but Brandon's still guilty because he went
17 over there. Well, that ain't the law. But that's going
18 to be an appearance that the state is going to try to, I
19 believe, make here because the hand of one is hand of all
20 in, you know, the common scheme to commit a crime.

21 Well, what is the crime in the case? I had the
22 indictments out to argue with you, but anyhow, the crime
23 is attempted murder. And so you're going to -- the
24 indictments were read earlier, doesn't matter, I was going
25 to waive them around, give me something to do. But at any

1 rate, it's the attempted murder of three individuals.
2 Okay. But in the crime that -- for Brandon Rivers to be
3 guilty as by hand of one, hand of all, he would have to be
4 an accomplice in the crime of the attempted murder, and
5 not just simply having gone over there or being merely
6 present. The Judge is going to charge you on mere
7 presence as well -- or I expect him too. And I'm not
8 going to read the whole thing, you're going to get a copy
9 of it, actually. But, you know, the important part that I
10 think -- or one of the most important parts of mere
11 presence charge is this language, mere association with a
12 person who commits a crime does not make a defendant an
13 accomplice. And so hand of one, hand of all is basically
14 an accomplice. Merely being there.

15 So what I think the evidence points to and is that
16 regardless of what transpired before, somebody said the
17 police are coming. When they heard the police are coming,
18 everybody -- you know, Brandon gets on -- I don't know
19 anybody disputes that or there's any evidence to
20 contradict that. Brandon gets on the motorcycle, maybe
21 Brian did, maybe he didn't, depending on what you believe
22 or who you believe or whether you know what to believe,
23 and is leaving. And so he is -- he's -- the intention was
24 to go over there and confront Shane Bolen. The -- but the
25 attempted murder involves the shooting at these three

1 individuals.

2 Now, if Brandon Rivers was retreating and most
3 certainly not -- no fight happened. No -- nobody was
4 attacked. There was no assault prior to the shooting.
5 But at any rate, his mere presence if you believe that
6 it's really possible -- if you believe that it's possible
7 that Brian Steele was the shooter and that Brandon Rivers
8 was present, and therefore, the state is going to argue
9 he's an accomplice, well, being merely present when Brian
10 Steele is doing the shooting doesn't make him accomplice.
11 Mere presence will give you guidance on how to sort that
12 out.

13 Well, the state gets to go first. And if the
14 defendant presents any evidence, the state gets to go
15 last. And so, you know, getting that first argument and
16 getting that last argument, you know, it's kind of
17 usually -- it's an advantage. And it's that along with
18 the fact that we don't -- you know, you've got a
19 presumption of innocence and we want to give -- we want to
20 protect our freedom and we don't want to send innocent
21 people to jail is why our -- the framers of our
22 constitution set up our system of criminal justice, which
23 is the best in the world, to protect people who are
24 accused of crimes from a powerful state. I mean, there's
25 no arguing -- there's no debate about the state is very

1 powerful compared to individual. And our system -- I've
2 already argued that in opening, but it's set up to hold
3 people -- give the state the power to fully investigate
4 and have a procedure for bringing people that are accused
5 of crimes before a jury and having a jury decide whether
6 the state has met their burden of proof. And that's where
7 y'all come in.

8 You'll get the -- at this point, you haven't
9 deliberated. And each of you is sitting here and you've
10 heard all of this and, you know, you haven't been able to
11 discuss it with your fellow jurors. But you're going to
12 get that opportunity here in a few minutes. And, you
13 know, after you've done that, I -- you know, you will, of
14 course, have to determine whether the state has met their
15 burden of proof. And if they have and if you are firmly
16 convinced of the guilt according to the law -- the state's
17 met their burden of proof if you're firmly convinced, but
18 if you believe there's a real possibility of innocence,
19 then you must acquit.

20 So went through the civil business earlier. The
21 Judge is going to go through that with you again, not a
22 civil case. If you believe, you know, when you're sorting
23 this out, Brandon Rivers might be guilty -- well, most
24 certainly, nobody knows except him. I don't believe
25 anybody knows but him and Brian, actually. Everything

1 else is just speculation out there. If you determine he
2 might be guilty, well, the state hasn't met their burden
3 of proof. If after deliberating, you believe he's
4 probably guilty, the state hasn't met the burden of proof
5 because burden of proof is beyond a reasonable doubt. If
6 you're a civil jury and you believe he was probably
7 guilty, you could award Chris Jones money for his
8 injuries. But you can't take -- can't convict somebody
9 and take away their freedom on belief that they probably
10 did it because freedom is so cherished by our society and
11 we don't want to send -- take the chance of sending
12 innocent people to jail. Therefore, if you believe that
13 Brandon Rivers -- after deliberating and going through all
14 the evidence and sorting all this out, if you believe that
15 he might be innocent, then you must acquit.

16 Ladies and gentlemen of the jury, you've heard it
17 all. You're got to sort it out. I thank you for your
18 patience and listening and attentiveness. I believe that
19 after you have deliberated, you'll come to the conclusion
20 the state has not met their burden of proof and you'll
21 find Brandon Rivers not guilty. Thank you.

22 THE COURT: Thank you, Mr. Grier.

23 Mr. Cook.

24 MR. COOK: May I step out for one second?

25 THE COURT: Yes, sir.

1 MR. COOK: May it please the Court?

2 THE COURT: Yes, sir.

3 CLOSING ARGUMENTS

4 BY MR. COOK:

5 Y'all didn't think I was going to come in here with
6 some surprise evidence. The honest truth is I drank way
7 too much coffee this morning and I had to step out for a
8 second.

9 Just to start off with what I told y'all Tuesday, the
10 first thing I said was this was all senseless and uncalled
11 for was an understatement. This whole thing was
12 absolutely ridiculous. And the fact is none of this would
13 have ever happened if Brandon Rivers wouldn't have gone
14 over to that house that night.

15 Now, I also told you Tuesday that you can expect some
16 inconsistencies, which you did. Some people said that
17 certain people were in certain spots, maybe there was a
18 car here. But I also said the one thing that is going to
19 be consistent is the only gunfire came from that
20 motorcycle, Brandon Rivers's motorcycle. Every single
21 person who testified, including Brandon, said the shots
22 came from the motorcycle. He didn't say he did it, of
23 course, he didn't say he did it. I didn't know if he was
24 going to testify or not, but I knew good and well if he
25 did, he wasn't going to get up here and say I shot him.

1 Of course, he's going to say Brian shot him. That's the
2 only logical thing he could say. Because everybody that
3 was there said the shots came from the motorcycle. Every
4 single story. No testimony any shots from the yard. All
5 the gunshot came from the road.

6 Now, I know y'all are all getting tired of me showing
7 this same picture to every single person that got up
8 there. I did the same thing and I probably bored you to
9 death. I'd get them up there and say, What is this? And
10 I'd tell them specifically this is not a picture of the
11 night this happened. In case you're wondering why I
12 didn't show anybody an actual crime scene picture is
13 because I didn't want to suggest to anybody -- suggest to
14 you guys that I'm telling these people where this stuff
15 should be. I took this picture off of Google earth and I
16 presented it to the witnesses and I said you tell me where
17 this stuff happened. This is a completely different day.
18 And every single one of them marked the same spots, said
19 the motorcycle was in the same spot. I never showed a
20 crime scene photo until law enforcement got up there. And
21 I did that for the specific reason so it didn't appear
22 that I'm giving them something that's going to tell them
23 what I want to hear. They told you what happened. They
24 didn't tell you what I wanted them to say. They said what
25 happened. And they marked it on a completely unmarked

1 picture from the internet that none of them had ever seen
2 before. This picture. Every one of them. Where did the
3 gunshots come from? Right in here out by the road. Where
4 did Brandon Rivers say he pulled up? Right there. Where
5 did they find the shell casings? Right there.

6 The same picture. This goes out to the bowling
7 alley. This goes out to Lynwood. Brandon said he shot --
8 Brian shot and they took off towards Lynwood. And we know
9 they went to Lynwood because Deputy Minors had to chase
10 him from Lynwood to Kershaw. He went down Lynwood to
11 McIlwain and finally ended up wrecking his motorcycle in a
12 ditch in Kershaw, which was from where Brandon said he
13 actually saw the police. Little red mark at the top,
14 that's Whistling Pig. That's the barbecue restaurant and
15 the gas station where Brandon saw law enforcement behind
16 him. That blue line is the path that he traveled while
17 Deputy Minors was chasing him. You can see -- you know,
18 we never recovered a gun. Look how much land is in
19 between where the gas station where Brandon saw the blue
20 lights, where he alleged first saw them, to where he
21 wrecked.

22 Now, could they have canvassed every single piece of
23 that land and potentially found the gun? Possibly. Is it
24 realistic? That's up for you to decide. But there's
25 plenty of opportunity for him to get rid of stuff. And he

1 got rid of some stuff. He got rid of some marijuana that
2 he told deputies about. He got rid of liquor bottles that
3 he told deputies about. As they're chasing him, he's just
4 throwing stuff out left and right.

5 And Deputy Minors wasn't always up on his bumper
6 because he was going 80, 85 miles an hour, running stop
7 signs. And the only reason Deputy Minors even pursued him
8 instead of calling it off because it was unsafe is because
9 he was a shooting suspect. And when he got him -- and he
10 never -- Mr. Grier alluded earlier, he said, How did
11 Brandon act when you arrested him? He was cooperative.
12 Yeah, he was cooperative after he wrecked in the ditch and
13 was under arrest. After he went 15 miles, he was
14 cooperative. That was noble of him to cooperate after he
15 wrecked in the ditch.

16 And he gets there, and what's in his pocket? A pair
17 of gloves. SLED, who has no bias, has no dog in this
18 fight said there's gunshot residue on the gloves. Now,
19 obviously, SLED can't tell you this gunshot residue came
20 from shooting a gun on September 26th, 2014 about 10:00.
21 There's no way they can do that. Brandon said, Well, my
22 dad gave me this jacket and he hunts. His dad doesn't
23 hunt in a motorcycle jacket with a big USA red, white and
24 black. Because if he did, he's the worst hunter in the
25 history of hunting. Because if he's out in the woods in a

1 motorcycle jacket -- that doesn't even make sense. He's
2 not -- that's -- the gloves with the gunshot residue are
3 not from his dad hunting. And it just happened to be
4 three days prior when he gave it to him. And it just
5 happened to be in there.

6 Ladies and gentlemen, it's not bad luck that Brandon
7 had gunshot residue on gloves in his pocket after he's a
8 suspect in a shooting case. It's not bad luck, it's not
9 coincidence. It is the result of a series of bad choices
10 by Brandon Rivers. And they can't say well, he shot the
11 gun. They said be in the vicinity, whether he was next to
12 Brian when he shot or Brandon shot. My belief is that
13 absolutely Brandon shot and that's where the gunshot
14 residue came from. The gloves were inside out, had to
15 flip them. So how did they get like that?

16 There's a moment in time there between when he
17 wrecked and they came up on him. They said they got out
18 of the car, they walked up, guns drawn and he's sitting
19 there and he's given up. Pulls them off, puts them in his
20 pocket. That's why they're inside out, that's why there's
21 gunshot residue on the outside, but they're inside out.
22 He pulls them off and stuffs them in his pocket. It's
23 over. You got me. That's where that came from.

24 Now, I was showing the pictures. So this picture,
25 one and two, both of those are shell casings. Both of

1 them are 25-caliber shell casings. Both of them were in
2 good condition. Both of them weighed exactly the same
3 amount of grains. There was a slight difference in the
4 diameter just because of natural wear and tear from being
5 fired from a gun. They didn't measure it, but you can
6 look at it, it's not more than three feet apart. You can
7 obviously conclude that those shell casings came from the
8 same incident. There's no other shell casings out there.
9 If they didn't come from the same incident, it would have
10 to be a situation where somebody randomly comes by and
11 shoots, and later on, somebody else randomly comes by and
12 shoots from the same caliber gun and the casings happen to
13 fall there within the same vicinity of each other. That's
14 not what happened. The gunshots came from the street,
15 from the same gun, right here where everybody marked.
16 Where was Brandon? Right here. All right in here.
17 Everybody, every single person said that's where -- even
18 Tonya, who --

19 I mean, Tonya Snipes, she may have been there, but
20 her recollection of what happened is I asked her what time
21 was it, about 6:00. Was it light outside? Yes, it was
22 light outside. Ladies and gentlemen, this happened at
23 10:00 at night. Now, there's a difference between Tonya
24 being at that house at some point in the day and her being
25 outside witnessing this. She's lifetime friends with the

1 Rivers family. She's in prison. She has nothing else to
2 do, but catch a ride up here and get out for the day and
3 take a field trip up here to tell you whatever it is that
4 she's going tell you about this case. I mean, she
5 probably -- she may have been there, but she doesn't
6 remember what happened in that yard. She thought it
7 was -- Mr. Grier said that he was wrong and told her, were
8 you there in February? Yes, sir. She didn't correct him.
9 She didn't know. I asked her, I said, Did it happen at
10 6:00? Yeah, around there. So he sat on the ground shot
11 in the penis for four hours before anybody decided to call
12 help.

13 She said she went back there that night. Well,
14 Christy Rogers from CSI told you that she was there from
15 10:30 until 1:30 in morning. Where was everybody else?
16 Everybody else was at the sheriff's office talking to Mike
17 Adams, giving statements that night all night long.
18 Wasn't anybody at the house. If that's the case of what
19 Tonya did, she just went back over to that house by
20 herself in the middle of the night for no reason. So take
21 Tonya's testimony for what it is. I mean, Tonya is Tonya.

22 Getting back to the actual physical evidence that CSI
23 found, there it is. You can see that shell casing --
24 well, I've got markings, but it's clean. It hasn't been
25 run over. It hasn't been there long. Same thing with

1 number two.

2 Now, this picture, three and four. I didn't show
3 this to any witnesses except law enforcement because they
4 know what it is because they did it. Three is where Chris
5 Jones was. Four is a projectile that measured the exact
6 same size as the projectile that was removed from Chris
7 Jones at the hospital. There's two casings in the road,
8 there's a projectile in Chris and a projectile behind his
9 car. They're the same size. There's no other casings in
10 the road.

11 I know Mr. Grier said, Well, couldn't another gun
12 have shot Chris? Didn't Chris shoot himself? Well, you
13 saw Chris walk in here. Chris's pants were probably
14 exactly where Mr. Grier said. That's where they were
15 yesterday when he walked in the courthouse until I told
16 him to pull his pants up and tuck his shirt in before he
17 came in here to testify. That's exactly how he got shot
18 in his crotch without a whole in his pants because his
19 pants were down around his knees. I don't have any doubt
20 about that. I'm sure that's what happened. But to say
21 another gun was involved, and that gun was hidden.

22 Let me get this out of my way. If that's the case,
23 they would have had to canvas the area around Chris, pick
24 up the casing that Chris allegedly shot himself with, hide
25 that gun, and in the meantime, they didn't think it would

1 be a good idea to get rid of this one, too, if they're
2 hiding evidence to cover up that Chris actually shot
3 himself. I mean, this is laying' there beside him. And I
4 know good and well somebody at that house had this starter
5 pistol with them. I'd be an idiot to get up here and say
6 that didn't belong to anybody at the house. Y'all know it
7 did. I know it did. They didn't say it did, but there's
8 no other reason for a gun -- this starter pistol to be
9 laying in the road. What they were using it for, I have
10 no idea. I didn't even know what a starter pistol was
11 until I started dealing with this mess.

12 But if they're going to cover what is damaging
13 evidence against them that Chris shot himself, wouldn't
14 they get this out of the way and get rid of it before the
15 cops got there? And the cops got there within four, five
16 minutes. Lieutenant Hall from the city, who doesn't
17 even -- it's not really in his jurisdiction, their
18 building in the city backs up to where they were, so he
19 was there within minutes. And he didn't say when he
20 pulled up they're all on the ground scrounging around
21 trying to find something. And CSI was there for two and a
22 half hours it took them to find anything.

23 Look at this. I mean, you can barely see it in the
24 picture. You know they're not going to find a casing or
25 whatever else in the yard within the three or four minutes

1 before first responders arrive. They didn't clean up a
2 mess that they made. Chris got shot by Brandon. There
3 wasn't another gun that somebody hid. And this starter
4 pistol, was it Chris's? Probably. Was it Ronnie's? It
5 could have been. It was somebody's. I know it was and
6 y'all know it was, too. I'm not going to sit up here and
7 say that -- I can't explain whose it was because I only go
8 on what they tell me. I only go on -- I wasn't there just
9 like y'all weren't there. I'm going off whatever they
10 said. They said it wasn't theirs, but I know just as well
11 as y'all do that it was somebody's.

12 Now, that's the door. And it's important because
13 Brandon is charged with attempted murder on all three
14 people, Kacy, Ronnie and Chris. Obviously, there's not an
15 issue with Chris. Chris got shot. And it's easy to go
16 yeah, because that's an attempted murder. Chris said
17 Ronnie was right beside him. I asked him. They were
18 marking on the car. Kacy said she was on the porch.
19 Tonya, although I've already told you don't believe half
20 of what she said, she said Kacy was on the porch when they
21 walked out there when the gunfire happened. Brandon said
22 a lot of people were outside. Kacy is on the porch,
23 Ronnie is closest to the house and Chris is at the corner
24 of his car when this happened.

25 I can't say that whoever the shooter was was only