

VOLUME TWO OF TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Greenville County

Honorable R. Knox McMahon, Circuit Court Judge

KINJTA KADEEM SADLER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-001716

APPENDIX

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Shawnee Peoples - Cross

1 Q. Ms. Peoples, when you took the statement from
2 Mr. Williams he was in handcuffs, wasn't he?

3 A. I do not recall. I don't recall him being
4 handcuffed.

5 Q. You were the person that had the typewriter that
6 was typing this up; is that correct?

7 A. It was a computer, yes.

8 Q. And he was sitting across from you; is that
9 correct?

10 A. He was not sitting there shackled when I was
11 talking to him.

12 Q. Was he sitting across from you or next to you?

13 A. He was sitting next to me.

14 Q. Did he reach over at any time and try to prevent
15 you from typing?

16 A. No.

17 Q. Was he cooperative and allowed you to type and so
18 forth?

19 A. Yes.

20 Q. Did you do this on a computer or typewriter?

21 A. This was a laptop.

22 Q. You didn't save any of the other parts?

23 A. No, when he asked me to delete it, I just deleted
24 it.

25 Q. But you were the one that typed all this up,

Shawnee Peoples - Cross

1 correct?

2 A. Yes.

3 Q. And you were the person who was the sole witness
4 to this, correct?

5 A. Yes, it was in the early morning hours.

6 Q. What time do you think it was?

7 A. It started from the 23rd on to the 24th so it was
8 a little after 12:00.

9 Q. As Mr. Chambers eluded to a few minutes ago this
10 was not videotaped or audio taped, correct?

11 A. No.

12 Q. And you were the only person in the room with
13 Mr. Williams at that time?

14 A. Yes, the door was open.

15 Q. But no one else was able to listen?

16 A. No.

17 MR. ROBINSON: Thank you.

18 BY MR. ABDALLA:

19 Q. You said you interviewed Michael and that he had
20 you change the statement around.

21 A. He asked me to delete and that's what I did.

22 Q. Now, essentially the order of things where he
23 said he went from the Red Planet to Club 864 and ended up
24 at the Waffle House, correct?

25 A. Yes. He said he went to the Red Planet with

Shawnee Peoples - Cross

1 Raymond, they went through the VIP line, there was a
2 fight. They heard the shots and then they went to Club
3 864, they hung out and they said they chilled with a
4 couple people and then they got in a burgundy mini-van and
5 then they left and went to the Waffle House.

6 Q. Did he ever tell you they went to Highland
7 Apartments before they went to the Waffle House?

8 A. No.

9 Q. You said you had a laptop, right?

10 A. Yes.

11 Q. Does that laptop have the ability to record?

12 A. I'm not sure.

13 MR. ABDALLA: No further questions.

14 MR. QUINN: No questions, Your Honor.

15 MS. SALISBURY: Nothing on redirect.

16 THE COURT: Thank you, ma'am, you may step
17 down.

18 (Witness leaves the witness stand.)

19 Let me talk to the lawyers for a second.

20 (Off the record discussion.)

21 Alright, ladies and gentlemen of the jury
22 were going to break for the evening and it's human nature
23 the deeper you get into it the more you're going to want
24 to talk about it if temptation arose. I hope you
25 understand why you can not do that. If you were to do

Shawnee Peoples - Cross

1 that, we'd have to through the case out and start over and
2 start with another jury so don't do it. Don't do any
3 investigation, don't visit the scene and we'll see you
4 tomorrow morning at 9:15.

5 (Jury exits the courtroom, excused for the
6 night.)

7 Let's talk about those videos. We do not
8 need to watch those whole videos unless you can somehow
9 prove to me that it's going to be relevant. The relevant
10 parts are what we want to see.

11 MS. SALISBURY: The relevant part is that
12 eleven minutes after the shooting every single one of the
13 co-defendants arrived at the Waffle House together. So I
14 can show the parking lot, but I don't have to show the
15 internal cameras because quite frankly from the exterior
16 black and white you simply can't tell the identify.

17 THE COURT: Is there any objection to paring
18 down the length of the video from any of the defendants?

19 MR. ABDALLA: I would suggest that she could
20 go at maybe a little faster speed and slow it down where
21 necessary just to hurry it along.

22 THE COURT: Can you work on that and speed it
23 up? Let's cut it out and by the acknowledgment that it's
24 okay to do that is implicit that you're not going to come
25 back and argue to the jury that oh, they could have showed

Shawnee Peoples - Cross

1 the whole video. Is that understood and agreed?

2 MR. QUINN: I'd like to see it before I agree
3 to that.

4 THE COURT: We've already watched it.

5 MR. QUINN: I don't know what she's going to
6 pare it down to. How about this, if I have some problem
7 with it, I'll address it with the Court at the end of the
8 showing of the video if I think there was some part that
9 wasn't shown. And she's making all of it available, it
10 would be up to us to introduce that if we wanted to.

11 THE COURT: That sounds good but what I'm
12 saying is ---

13 MR. QUINN: I understand but I don't want to
14 stipulate to something I haven't seen.

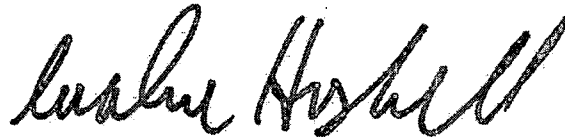
15 THE COURT: Okay.

16 ---End of transcript record - Day - 3 ---
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State versus Booker, Williams, Young, Sadler

1 I, the undersigned, Caroline Hiskell, the Official
2 Court Reporter for the Thirteenth Judicial Circuit of the
3 state of South Carolina, do hereby certify that the
4 foregoing is a true, accurate, and complete transcript of
5 record of all the proceedings had and evidence introduced
6 in the trial of the captioned case, relative to appeal, in
7 the General Sessions Court, South Carolina.

8 I do further certify that I am neither of
9 kin, counsel, nor interest to any party hereto.

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14 Caroline Hiskell
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State versus Booker, Williams, Young, Sadler

1 STATE OF SOUTH CAROLINA)
 2) COURT OF GENERAL SESSIONS
 3) 2011-GS-23-8010-8018
 4) 2012-GS-23-3838
 5) 2011-GS-23-9239-9245
 6) 2012-GS-23-3041,7491-79417
 7)
 8 STATE OF SOUTH CAROLINA) TRANSCRIPT OF RECORD
 9)
 10)
 11)
 12)
 13)
 14)
 15)
 16)
 17)
 18)
 19)
 20)
 21)
 22)
 23)
 24)
 25)

-vs-

Raymond Lewis Young
 Esaiveus F. Booker
 Kinjta Kadeem Sadler
 Michael W. Williams

Day - 4, January 9, 2014
 Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, Judge.

A P P E A R A N C E S

Katrina Salisbury, Esquire
 Assistant Solicitor
 Attorney for the State

Scott Robinson, Esquire
 Attorney for Michael Williams

Randy Chambers, Esquire
 Attorney for Esaiveus Booker

Thomas Quinn, Esquire
 Attorney for Kinjta Sadler

John Abdalla, Esquire
 Attorney for Raymond Young

CAROLINE HISKELL
 Thirteenth Circuit Court Reporter

State versus Booker, Williams, Young, Sadler

I N D E X

WITNESSES	DR	CR	RED	REC
Michael Moore	513			
Dustin Woodall	522	533		
Joseline Mack	535	552	559	562
Brandon Brown	567	586	591	596
William Whitlock	600			
Adrian Kerns	604			
Amanda Bell	607			
Devon Hoover	610			
David Weiner	612	613		
James Perry	614	619		
James Armstrong	620	640	645	
Larry Johnson	647	672	692	694
Shaquille Hogan	697	713	725	728
Wayne Campbell	730			
Larry Bruster	733	736		

E X H I B I T S

STATE'S	ID	IN EVID
3 Photograph	653	653
4 Photograph	574	574
5 Photograph	525	525
25 Bullet Casings	639	639
26 Cartridges	639	639
27 9 Millimeter casings	639	639
28 Cartridges	639	639
29 Cartridges	639	639
30 Luggar casings	639	639
31 .380 casings	639	639
32 Cartridge casings	639	639
33 Handgun	639	639
40, 41 Video	513	513
42 .380 firearm	639	639
51 Photograph	593	593
54 Photograph	595	595
55 Print out	616	616
56 Print out	730	730

State versus Booker, Williams, Young, Sadler

P R O C E E D I N G

THE BAILIFF: All rise, the Honorable Edward Miller presiding.

THE COURT: Please be seated. I need to see the lawyers up here.

(Whereupon, off the record bench conference.)

We had a bench conference and we got a note from the jury which we've discussed they want more clearly identify the defendants, attorneys, victims and they're assorted nicknames. So I'm just going to tell them that we're aware of their concerns and we're going to try to emphasize that throughout the course of the case. I'll make that Court's Exhibit No. 4.

I know you've been doing it a little bit but when you stand up perhaps once before lunch, once after lunch Randy Chambers for and no questions or whatever you got and sort of try to hammer it in there. And do it clearly.

MS. SALISBURY: Judge, one thing inadvertently two exhibits were labeled Exhibit 13. I just want to clarify for the record that the surveillance video from the Li'l Cricket Gas Station is now State's Exhibit 13a.

THE COURT: Okay.

(Surveillance video previously marked as

State versus Booker, Williams, Young, Sadler

1 State's Exhibit No. 13 and admitted is now State's Exhibit
2 13a.)

3 MS. SALISBURY: And State's Exhibit 40, it's
4 my understanding that the party agreed to stipulation that
5 State's Exhibit 40 is surveillance video obtained from the
6 Melvin Drive Waffle House from July 17, 2011.

7 THE COURT: What approximately time?

8 MS. SALISBURY: From 3:45 a.m. until 4:30. I
9 don't anticipate playing it in real time.

10 THE COURT: Okay.

11 MS. SALISBURY: And State's Exhibit 41 are
12 actually two discs of the surveillance video obtained from
13 the White Horse Road Waffle House from the morning of July
14 17, 2011. These two discs actually cover six or seven
15 hours, but the relevant portion I would play for the jury
16 is from 4:15 until about 4:45 a.m.

17 THE COURT: Alright. You agree that these
18 are admitted into evidence without the necessity of
19 brining in a Waffle House representative?

20 MR. CHAMBERS: Yes, Your Honor.

21 MR. ROBINSON: Yes, sir.

22 MR. ABDALLA: Yes, Your Honor.

23 MR. QUINN: Yes, Your Honor.

24 THE COURT: Bring in the jury.

25 MS. SALISBURY: Judge, while we wait, I might

State versus Booker, Williams, Young, Sadler

1 have a suggestion that might eliminate another couple of
2 witnesses. At some point in the days after the incident
3 police executed a search warrant at an apartment on
4 Webster Road. The testimony would be that that was the
5 residence of Ms. Joseline Mack and Ms. Kera Kerns.
6 Ms. Kerns is prepared to testify that she found guns in
7 the apartment and made efforts to get rid of them. When
8 police arrived those guns were already gone, but Ms. Kerns
9 will testify that she made contact with her brother Adrian
10 Kerns to whom she have given the guns. Mr. Kerns would
11 testified that he delivered the guns to his mother because
12 he was scared to return to the scene. And Ms. Amanda
13 Bell, who is the Kerns mother would testify that she
14 delivered the guns back to the police on scene.

15 If we can eliminate any of those individuals,
16 that may save some time too. It's just a suggestion.

17 MR. CHAMBERS: Speaking on behalf of my
18 client and I want to do everything I can to expedite
19 things, but I would not at this point be willing to
20 stipulate to their testimony.

21 THE COURT: Okay. Although you could --
22 she's just trying to eliminate people in the chain if the
23 parties were willing to stipulate that they would allow
24 whoever it was to deliver the weapons to police to say I
25 got it from so and so and got it from so and so, but if

State versus Booker, Williams, Young, Sadler

1 y'all want to go through the chain, we'll do that.

2 Whatever you think is, you know.

3 MR. CHAMBERS: Your Honor, the defendants
4 have consulted with each other and we don't want to
5 stipulate at this time.

6 THE COURT: That's fine.

7 (Jury enters the courtroom.)

8 Alright, ladies and gentlemen, welcome back.
9 I hope you had a pleasant evening. Sorry about the delay
10 however worked out a couple of things and I want to tell
11 you I told you in my opening comments that there were
12 three ways that evidence can be obtained before the jury.
13 The first is the oral testimony, the second is the
14 introduction of tangible objects or documents, and the
15 third would be by way of stipulation of the parties.

16 So the parties have stipulated to the
17 introduction of some tangible items and that's State's
18 Exhibit No. 40 which is a surveillance video of the Melvin
19 Drive Waffle House from July 17, 2011 from approximately
20 3:45 to 4:30 a.m., in the morning and also 41 which is the
21 Whitehorse Road Waffle House from the morning of July 17,
22 2011 from approximately 4:15 to 4:45 a.m. So this
23 eliminates bringing in some witnesses who would have to
24 introduce them, so I want you to know we are working to
25 try to speed things up.

Michael Moore - Direct

1 With that I turn it over to the State.

2 (Video marked as State's Exhibit No. 40 for
3 identification and admitted into evidence.)

4 (Video marked as State's Exhibit No. 41 for
5 identification and admitted into evidence.)

6 MS. SALISBURY: The State calls Mr. Mike
7 Moore.

8 THE CLERK: Place your left hand on the Bible
9 and raise your right hand.

10 MICHAEL MOORE, having been duly sworn,
11 testified as follows:

12 Thank you. Please be seated. State your
13 name for the record.

14 THE WITNESS: Michael M. Moore.

15 DIRECT EXAMINATION

16 BY MS. SALISBURY:

17 Q. Mr. Moore, where do you work?

18 A. Currently?

19 Q. Yes.

20 A. I am self-employed.

21 Q. Where were you working in July of 2011?

22 A. With the Greenville County Sheriff's Office.

23 Q. How long were you with the Sheriff's Office?

24 A. Approximately 12 years.

25 Q. Do you recall assisting in the investigation of

Michael Moore - Direct

1 this case that's the subject of this trial?

2 A. Yes, ma'am.

3 Q. What was your role in assisting in the
4 investigation?

5 A. My role was basically as a cover officer because
6 of the violence that went on that day. I was assigned to
7 the warrant task force and the gang task force at that
8 point in time as a cover officer.

9 Q. How did you become involved in assisting this
10 case?

11 A. I was basically assigned to ride with one of the
12 warrant officers and on the night in question I was
13 basically -- we were there to apprehend a suspect.

14 Q. And were you attempting to serve the warrants
15 related to this incident?

16 A. Yes, ma'am.

17 Q. Where did you go?

18 A. I can't recall the address. I know that we went
19 to a resident, a young man who was seen at that address,
20 and that's about it.

21 Q. Do you remember what day of the week this would
22 have been?

23 A. It was in July, Saturday night, Sunday morning.

24 Q. Now, when you got to this residence, what did you
25 do?

Michael Moore - Direct

1 A. We knocked on the door, the suspect came to the
2 front door. Once we came to the front door we placed him
3 in handcuffs. Then we conducted a protective sweep of the
4 house itself. It's basically conducted for officer safety
5 reasons in case there's another person inside with a gun
6 that they don't come on top of us and do harm to us while
7 we're trying to conduct the arrest.

8 Q. Do you remember exactly who it was you arrested
9 at that residence?

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

11 Q. And at this point in your role, were you familiar
12 with any of the individuals in the case?

13 A. No, ma'am, not at all.

14 Q. Now, you mentioned you did this protective sweep.
15 What do you remember seeing in the residence?

16 A. When we entered the residence, I immediately went
17 to the right inside of the trailer, went to the bedroom.
18 When we did the sweep, I saw laying on the floor on the
19 right hand side by the door a duffel bag, it looked like a
20 black bag and it had holsters inside of it. It was open,
21 it wasn't locked. I went in and made sure there was no
22 people inside the residence, did a quick check and went
23 right back out and cleared the rest of the building.

24 Q. How many people do you being at the residence at
25 that time?

Michael Moore - Direct

1 A. There were three. There were two females and a
2 male.

3 Q. Is the male the person that you arrested?

4 A. Yes, ma'am.

5 Q. Do you remember how many cars were parked at the
6 residence?

7 A. There were two cars in the driveway at that time.

8 Q. Did you look inside the duffel bag?

9 A. Not at that point in time.

10 Q. Why not?

11 A. Because we didn't have a search warrant at that
12 point.

13 Q. Did you collect the duffel bag as possible
14 evidence?

15 A. No, I didn't touch anything. I was looking for
16 people at that point in time with guns. That's the only
17 thing we did.

18 Q. What happened next?

19 A. We appended the suspect. Investigator Woodall
20 asked the female who was the resident, basically was the
21 tenant, for a consent to search. At first she said, yes.
22 We got the paperwork ready and then she denied the search
23 warrant. At that point in time we left the residence.

24 Q. And where did you go?

25 A. We went to three different addresses that night.

Michael Moore - Direct

1 We finally ---

2 Q. Immediately after that, did you escort the person
3 that you arrested to the detention center?

4 A. Yes, ma'am, we did.

5 Q. At some point in the evening did you return to
6 this residence?

7 A. Yes, ma'am. We had a meeting right about 1:00 in
8 the morning. We discussed what I had seen at the trailer
9 and at that point in time we basically came up with the
10 conclusion we did have enough probable cause to go back
11 because something that had happened. More information was
12 coming in at a regular basis because of the fact that
13 there were guns, there was a black bag involved so
14 therefore we had enough probable cause at that point in
15 time to get the search warrant and go execute the search
16 warrant. It happened at about 5:00 in the morning so
17 there was about anywhere from five to seven hours in
18 between the time that we saw the evidence versus the time
19 we got back.

20 Q. And did you assist in the execution of the search
21 warrant?

22 A. Yes, ma'am, I did.

23 Q. Did you find the duffel bag when you went back?

24 A. No, ma'am. When returned there was only one
25 female still in the residence. We did the protective

Michael Moore - Direct

1 sweep, of course, we came back with secured -- I don't
2 recall her name -- we secured her and we basically
3 conducted the room by room search. At that point in time
4 there was a vehicle missing. I want to say it was like a
5 light colored four door sedan, that was gone. The other
6 black female was gone and the evidence that we saw, the
7 duffel bag with the holsters right there. All that
8 evidence was gone.

9 Q. Were the holsters still there?

10 A. I can't recall.

11 Q. Okay. Other than assisting in the search, that
12 room by room search, did you handle any of the evidence
13 that was collected from the scene that night?

14 A. No, I did not. I basically was the security on
15 the black female.

16 Q. And after that night specific operation to serve
17 these search warrants and make arrest, did you have any
18 other involvement with the investigation of this case?

19 A. No, ma'am, I did not.

20 MS. SALISBURY: I have no further questions.

21 CROSS-EXAMINATION

22 BY MR. CHAMBERS:

23 Q. So you went out there to serve this arrest
24 warrant and you gained entry into this trailer; is that
25 correct?

Michael Moore - Cross

1 A. Yes, sir.

2 Q. Was that because they let you into the trailer or
3 did you just go in based on the fact ---

4 A. I think the suspect was inside the trailer. They
5 entered the residence and then once they entered the
6 residence, that's when I conducted the protective sweep.

7 Q. And he wasn't hiding from you, this person, or
8 anything?

9 A. No, sir.

10 Q. You were doing a protective sweep throughout the
11 house.

12 A. Because of the violence and officer safety
13 reasons, yes, sir.

14 Q. And you said that during this protective sweep
15 you see holsters but even though what you're looking for
16 is weapons as far as protective sweep you don't look any
17 further.

18 A. When I entered the residence, I almost tripped
19 over the bag. When you come in the bedroom on the right
20 hand side near the door, there was a black bag and visible
21 to the eye were holsters and that's what I saw.

22 Q. You don't know who lived there?

23 A. No, sir. I can't recall at this time.

24 Q. And you don't know who the person was that you
25 went there to arrest?

Michael Moore - Cross

1 A. At that time we did. We had those photos but I
2 can't recall.

3 Q. But the reason you went to go get a search
4 warrant was specifically because of this bag that you saw?

5 A. Well, there was some other evidence that was in
6 there and I can't recall everything that happened but
7 there was like I said there were four other officers there
8 and the lead investigator at that time gave them the
9 information and he said discuss at that time that he think
10 he didn't have enough probable cause and we went to
11 another residence after that.

12 Q. Are you aware, officer, that procedurally if
13 there was evidence in there that you wanted to preserve
14 that without doing a search that you could have secured
15 the premises until you got your search warrant?

16 A. Well, sir, once we asked permission to search,
17 the female initially said, yes, then she said no. Once we
18 said no we left the residence. Did I know that I wanted
19 to say there, yes. Professionally do I know that we could
20 have preserved the evidence, yes, we could have. However,
21 I don't believe that was evidence until later one when the
22 information kept flowing in during the investigation.

23 Q. Well, it was enough that you wanted to get a
24 search warrant. You thought it was important.

25 A. I was not the lead, I was a cover officer.

Michael Moore - Cross

1 Q. So you all made a choice at that point to leave?

2 A. Yes, sir.

3 Q. Thank you.

4 MR. CHAMBERS: Randy Chambers on behalf of
5 Mr. Booker.

6 MR. ROBINSON: Scott Roberson on behalf of
7 Michael Williams. I have no questions, Your Honor.

8 MR. ABDALLA: John Abdalla on behalf of
9 Raymond Young.

10 BY MR. ABDALLA:

11 Q. You said you didn't get that black duffel bag,
12 did you ever recover it later?

13 A. I don't recall what evidence was taken, sir. I
14 had a different function after that. I have no idea what
15 they collected then. Once we did the protective sweep --
16 we came back the second time, we came in and secured the
17 black female that was there and I was basically with her
18 watching her.

19 Q. Was she ever charged as far as you know?

20 A. I think she was charged with a misdemeanor, but I
21 don't know everything else.

22 MR. ABDALLA: Nothing further.

23 MR. QUINN: Tom Quinn on behalf of
24 Mr. Sadler, no questions.

25 REDIRECT EXAMINATION

Michael Moore - Redirect

1 BY MS. SALISBURY:

2 Q. Based on your understanding of your
3 responsibilities as a law enforcement officer at the time,
4 would it have been appropriate for you to go through this
5 bag without having to obtain a search warrant?

6 A. No, ma'am, it was not.

7 MS. SALISBURY: No additional questions.

8 THE COURT: Thank you. You can step down.

9 (Witness leaves the witness stand.)

10 MS. SALISBURY: State calls Deputy Dustin
11 Woodall.

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

14 DUSTIN WOODALL, having been duly sworn,
15 testified as follows:

16 Thank you. State your name for the record.

17 THE WITNESS: Dustin Woodall.

18 DIRECT EXAMINATION

19 BY MS. SALISBURY:

20 Q. Deputy, where do you work?

21 A. Greenville County Sheriff's Office.

22 Q. And what's your current capacity?

23 A. Currently investigator, master deputy.

24 Q. How about in July of 2011?

25 A. Investigator in Vice and Narcotics.

Dustin Woodall - Direct

1 Q. Do you recall becoming involved in the
2 investigation that's the subject of this trial?

3 A. Yes, I do.

4 Q. How did you become involved?

5 A. I was contacted by Investigator Brown on the 17th
6 of July, 2011.

7 Q. What did you do to become truly involved?

8 A. I responded originally to Li'l Cricket where I
9 met with Investigator Brown and the deputies who were on
10 the scene where they briefed me on the incident and
11 everything that was going on.

12 Q. So did you stay there on the scene at Li'l
13 Cricket?

14 A. No, I did not. I then responded to the Red
15 Planet on Cedar Lane Road where I met with Investigator
16 Peoples where I assisted her in getting statements.

17 Q. I want to show you a photograph State's Exhibit
18 5. Do you know what's depicted in that photograph?

19 A. Yes, that is what was then known as the Red
20 Planet.

21 Q. Is it still in operation?

22 A. Not that I'm aware of.

23 Q. Where was the Red Planet?

24 A. It was located on what's referred to the west
25 side of Greenville County which is the Berea area. It's

Dustin Woodall - Direct

1 kind of in between Hunts Bridge and 253 on Cedar Line
2 Road.

3 Q. Do you remember what time you got there?

4 A. I believe the phone call came in some around 3:00
5 or 3:30 in the morning, but it was early morning hours
6 when I responded.

7 Q. Was it still dark?

8 A. Oh, yes.

9 Q. And when you arrived were there still many people
10 on scene?

11 A. Not when I got there. There were some security
12 guard, Investigator Peoples and security people around the
13 parking lot.

14 Q. Had the parking lot cleared out?

15 A. Yes, ma'am.

16 Q. Is what's depicted in No. 5 an accurate
17 representation of the Red Planet and what the club looks
18 like?

19 A. Yes, ma'am.

20 MS. SALISBURY: Your Honor, I'd offer State's
21 Exhibit No. 5.

22 MR. CHAMBERS: On behalf of Mr. Booker no
23 objection.

24 MR. ROBINSON: On behalf of Mr. Williams, no
25 objection.

Dustin Woodall - Direct

1 MR. ABDALLA: On behalf of Mr. Young, no
2 objection.

3 MR. QUINN: No objection on behalf of
4 Mr. Suber.

5 (Photo marked as State's Exhibit No. 5 for
6 identification was admitted into evidence.)

7 BY MS. SALISBURY:

8 Q. Now, were you on scene when the evidence was
9 being collected from the Red Planet scene?

10 A. Later that morning I responded back because there
11 was firearm that had been located in one part of the
12 parking lot when they were cleaning it up. I responded
13 back until forensics got there to photograph it and
14 process it.

15 Q. Are you familiar with a different nightclub
16 called Club 864?

17 A. Yes, I am.

18 Q. Can you describe where that club is located?

19 A. Yes, I can. It is at Whitehorse Road and Highway
20 253 which is West Blue Ridge Drive which is also the west
21 side of Greenville County in Berea.

22 Q. How is it situated? What does it look like?

23 A. There's a shopping center that used to be the
24 former Walmart actually and it's tucked back in the corner
25 of this shopping center. It sits off the road a good 150,

Dustin Woodall - Direct

1 200 yard at least.

2 Q. Does it have a very large parking lot?

3 A. Yes.

4 Q. Now, how far away is the Red Planet from Club
5 864?

6 A. I don't know as far as mileage goes but it's a
7 couple of miles.

8 Q. You mentioned earlier that you initially
9 responded to the Li'l Cricket scene.

10 A. Yes.

11 Q. How far away is Club 864 from the Li'l Cricket
12 scene

13 A. Less than a mile I would think.

14 Q. Now, are all of those locations inside Greenville
15 County?

16 A. Yes.

17 Q. Now, specifically at the Red Planet you said you
18 assisted Investigator Peoples, what did you do?

19 A. When I got there, she was actually taking the
20 statements from the security guards. At that point in
21 time she had that under control so I canvassed the parking
22 lot, attempted to locate any possible evidence, anything
23 that can help the investigation of this crime.

24 Q. Did you have an opportunity to speak with
25 Mr. Travis Wear that night?

Dustin Woodall - Direct

1 A. Yes, I did.

2 Q. Do you know what his nickname is so to speak?

3 A. Smoke.

4 Q. And heard testimony about Mr. Wear being
5 ultimately charged with one of the shootings that took
6 place in the parking lot that night? Was he charged that
7 night?

8 A. I'm not sure. You'd have to ask Investigator
9 Campbell, the lead investigator.

10 Q. But do you remember speaking with Mr. Wear?

11 A. Yes, I do.

12 Q. And what happened after you finished there
13 immediately on scene?

14 A. As far as speaking with Mr. Wear?

15 Q. After you finished assisting Investigator
16 Peoples, what did you do?

17 A. I then responded to the hospital.

18 Q. What did you do at the hospital?

19 A. I actually met with the Sergeant Patheny who
20 asked me to assist in speaking with some of the victims
21 where I met with victim Russell Patterson.

22 Q. After you finished assisting immediately that
23 night, how did you then continue your role in your
24 investigation? What did you do?

25 A. Myself and another investigator who was in vice

Dustin Woodall - Direct

1 and narcotics at the time, Investigator Brown, we compiled
2 information, attempted to gain intelligence, any kind of
3 surveillance of anything because there had been some names
4 that had been brought up, any kind of surveillance that we
5 could use to assist.

6 Q. At that point in the investigation, based on your
7 interviews with the victims there at the Red Planet,
8 witnesses at the Red Planet or your conversations with
9 Investigator Brown, did you have any information about how
10 many shooters had been at the gas station, the Li'l
11 Cricket incident?

12 A. As far as the number of shooters?

13 Q. Yes, sir.

14 A. I had not been given a number, no.

15 Q. And did you have any affirmative leads about
16 where to direct the investigation from here?

17 A. As far as a name coming up through investigation
18 that's far as we went as far as going off that name.

19 Q. Which name was that?

20 MR. ABDALLA: Objection.

21 THE COURT: Overruled. Go ahead.

22 BY MS. SALISBURY:

23 Q. I'm sorry. Go ahead.

24 A. Raymond.

25 Q. Raymond who?

Dustin Woodall - Direct

1 A. Raymond Young.

2 Q. Can you identify Mr. Young in the courtroom?

3 A. Yes, ma'am, I can. He's sitting right there.

4 Q. What is he wearing?

5 A. White shirt and a tie.

6 Q. Fastfoward a few days later, what happens next
7 for you in this investigation?

8 A. Next we were attempting to locate suspects or
9 defendants who had arrest warrants on them.

10 Q. For this incident?

11 A. Yes. One in particular where I was involved in
12 was at [REDACTED] Davis Road where we had apprehend and arrested
13 Michael Williams.

14 Q. And can you identify Mr. Michael Williams for the
15 jury?

16 A. Yes, ma'am. He's sitting with the stripped
17 button down shirt and the dark tie.

18 Q. Were you working with Mr. Moore that night?

19 A. Yes, ma'am.

20 Q. You mentioned that you went to where?

21 A. [REDACTED] Davis Road.

22 Q. What happened there specifically?

23 A. The first incident we went there is where we
24 apprehended and arrested Michael Williams at that point in
25 time.

Dustin Woodall - Direct

1 Q. Did you assist in this protective sweep of that
2 residence?

3 A. At the time of the protective sweep I did not.
4 Once Michael Williams was arrested, I then spoke to the
5 other occupants in the house and we were thinking there
6 would be some evidence of this crime at this house.

7 Q. Do you remember who else was at the residence?

8 A. Karima Johnson and Britney Phillips.

9 Q. Did you end of searching the house then?

10 A. No, ma'am. I offered a consent to search were
11 she first agreed then she said no, I don't want you
12 searching the house, so then we left, she refused to sign
13 and we left.

14 Q. What happened next?

15 THE COURT: Who?

16 THE WITNESS: Britney Phillips.

17 BY MS. SALISBURY:

18 Q. What happened next?

19 A. We left the residence.

20 Q. Did you ever return to that residence that night?

21 A. Yes, ma'am, we did.

22 Q. Under what circumstances?

23 A. Investigator Brown had obtained a document search
24 warrant for the residence through some information that he
25 had gained about some black canvass bag I believe that was

Dustin Woodall - Direct

1 in the residence that had been seen during the protective
2 sweep when Michael Williams was arrested.

3 Q. And did you assist in the search of that
4 residence?

5 A. Yes, ma'am, I did.

6 Q. Did you locate the black duffel bag?

7 A. They were not located in the house at that time.

8 Q. What did you end up seizing during that search
9 warrant?

10 A. I would have to refer to the report for
11 everything that was taken but there was some miscellaneous
12 documents and paperwork. There was some unspent .40
13 caliber ammunition, some holsters, I believe there was six
14 items totally that was seized, some marijuana was
15 received.

16 Q. Were you able to determine who lived in that
17 residence?

18 A. Based on what we were being told that night,
19 Britney said she was living there, but some of the
20 paperwork had Raymond's name on it. I was assuming it was
21 Britney at that point in time.

22 Q. Was it your understanding that Raymond Young
23 lived at this residence?

24 A. Yes, ma'am.

25 Q. Deputy, I'm going to show you State's Exhibit 50.

Dustin Woodall - Direct

1 That bag is sealed but if you could take a look at it and
2 if you need to open it you can, but tell me if you can
3 identify what's inside of that bag?

4 A. You happen to have a pair of scissors. Outside
5 of the bag is labeled as a black nylon pistol holster.
6 Inside is two holsters, one is a digital camera holster
7 and the other one is the black nylon.

8 Q. Do you recognize those holsters as the ones that
9 you recovered from the residence that night?

10 A. Yes, ma'am, I do.

11 Q. State's Exhibit 36, can you tell me whether you
12 recognize that exhibit?

13 A. This is going to be ammunition that's located
14 inside the house.

15 Q. Is that the ammunition that you remember
16 retrieving from the residence that night?

17 A. Yes, ma'am, .40 caliber.

18 Q. You mentioned there were some other documents and
19 items located, but after these pieces of evidence were
20 seized, what did you do with them?

21 A. DWI some paperwork and documents, it was released
22 to Investigator Brown on a property and evidence sheet for
23 him to further investigate. Everything was taken to
24 property and evidence at the Law Enforcement Center. The
25 ammunition was put in for prints and do forensics.

Dustin Woodall - Cross

1 Q. What do you mean prints?

2 A. To get a possible positive match on fingerprints
3 or anything that they can do as far as processing.

4 Q. Did you deposit all of the evidence in property
5 and evidence that night?

6 A. Yes, ma'am.

7 Q. After that night's search warrant, did you have
8 any other role in the investigation in the case?

9 A. No, ma'am.

10 Q. If you would answer any questions these attorneys
11 may have.

12 MR. CHAMBERS: Randy Chambers on behalf of
13 Mr. Booker. I have no questions for this witness.

14 MR. ROBINSON: Scott Robinson on behalf of
15 Mr. Williams.

16 BY MR. ROBINSON:

17 Q. Officer, Michael Williams was not living at that
18 residence, was he? You have no evidence he was living at
19 that residence?

20 A. No, sir, not that I'm aware of.

21 Q. And in terms of the holsters and bullets you
22 can't say that those belonged to him?

23 A. I can not.

24 MR. ABDALLA: On behalf of Mr. Young.

25 BY MR. ABDALLA:

Joseline Mack - Direct

1 Q. When you recovered those holsters, were they
2 hidden or were they out in plain sight?

3 A. I was actually my job that night on a search
4 warrant was a scribe. I was there to document all seized
5 evidence on to the return portion of the search warrant.
6 Other deputies were searching the residence. Items would
7 have been photographs and then brought to me and write
8 down. Where the holsters were located, I'm not sure.

9 Q. And you don't know who they belonged to?

10 A. I'm not sure, yes, sir.

11 BY MR. QUINN:

12 Q. Officer, did you testify that you went back to
13 the Red Planet a second time later in the day?

14 A. Yes, sir.

15 Q. And you located a firearm at that time?

16 A. There's been a firearm that was located in a part
17 of the parking lot that was -- they were cleaning the
18 parking lot, I believe it was, and they located it.

19 Q. And it hadn't been noticed prior that as far as
20 you know?

21 A. No, sir, in my incident report, I had put in
22 there it looked like it had been probably placed.

23 Q. And did you run that to see if it was registered
24 to anybody? Was there a serial number on it?

25 A. Yes, sir. I checked it to make sure it was not

Joseline Mack - Direct

1 stolen through NCIS.

2 Q. Was that turned in for ballistics in this case,
3 do you know?

4 A. It was turned over to forensics, yes, sir.

5 Q. Thank you.

6 THE COURT: Anything else?

7 MS. SALISBURY: No, sir. The State calls
8 Ms. Joseline Mack. Please come up to be sworn.

9 THE CLERK: Place your left hand on the Bible
10 and raise your right hand.

11 JOSELINE MACK, having been duly sworn,
12 testified as follows:

13 Thank you. Please state your name for the
14 record.

15 THE WITNESS: Joseline Mack.

DIRECT EXAMINATION

16 BY MS. SALISBURY:

17 Q. Ms. Mack, what do your friends call you?

18 A. Joseline.

19 Q. Do some of them refer to you as Jos?

20 A. No.

21 Q. Do you work?

22 A. Yes.

23 Q. Where do you work?

24 A. Level One.
25

Joseline Mack - Direct

1 Q. How long have you worked there?

2 A. The past twenty months.

3 Q. Do you live here in Greenville?

4 A. Yes.

5 Q. How long have you lived in Greenville?

6 A. All my life.

7 Q. Do you know Mr. Raymond Young?

8 A. Yes.

9 Q. How long have you known him?

10 A. We were dating.

11 Q. When were you dating?

12 A. In 2011.

13 Q. How long did you date Mr. Young?

14 A. Two months probably.

15 Q. Were you dating him in July of 2011?

16 A. Probably not.

17 Q. Do you remember the night of July 16, 2011?

18 A. Vaguely.

19 Q. Starting as early in the evening as you can

20 remember, what do you remember about that night

21 specifically as it relates to the Red Planet?

22 A. Everybody was at the Red Planet and then it was a
23 shooting in the parking lot up there.

24 Q. How did you get to the club that night?

25 A. I drove.

Joseline Mack - Direct

1 Q. What kind of car did you drive?

2 A. 2009 Honda Accent.

3 Q. What color is it?

4 A. Burgundy.

5 Q. Did you drive that car that night?

6 A. Yes.

7 Q. You mentioned that there was a shooting in the
8 parking lot, were you outside to see that shooting?

9 A. Yes.

10 Q. What did you see?

11 A. It started out as a fight and I'm not sure who
12 was shooting but Raymond was in the car the whole time
13 they was shooting.

14 Q. What kind of car was that?

15 A. A green Crown Vic.

16 Q. Do you remember who you saw fighting?

17 A. No.

18 Q. What happened next?

19 A. After everybody had drove got in the car and left
20 and I ran in to see what happened and I met him off of
21 Whitehorse Road.

22 Q. Where did you meet him?

23 A. Club 864.

24 Q. Did you talk to him there?

25 A. Yes.

Joseline Mack - Direct

1 Q. What happened?

2 A. He was just mad about the shooting in the parking
3 lot and then everybody agreed to go to the Waffle House
4 and get something to get something to eat.

5 Q. Who else was in the parking lot?

6 A. The people that came with me, a few of Raymond
7 friends that I remember. I don't remember all that was
8 out there.

9 Q. You mentioned that the plan was to leave Club 864
10 and go to Waffle House. What was your understanding of
11 which Waffle House you'd be going on?

12 A. The one that was farther down on White Horse
13 Road.

14 Q. How far away is that from 864?

15 A. Probably about 10, 15 minutes.

16 Q. Did everyone leave at the same time to go to the
17 Waffle House?

18 A. Yes.

19 Q. Who do you remember being in that caravan so to
20 speak?

21 A. The what?

22 Q. The group of cars.

23 A. I know Raymond was in his car. I don't believe
24 anybody was in his car with him. Me in my car and then
25 Larry and then Trez because he was in my cousin's car.

Joseline Mack - Direct

1 Q. What kind of car was Larry driving?

2 A. A black something or other.

3 Q. What kind of car was Trez driving?

4 A. A green Toyota.

5 Q. Did you recognize Trez in the courtroom?

6 A. Yes.

7 Q. Could you point him out for the jury? What is he
8 wearing?

9 A. The navy blue vest.

10 Q. So what happened as you all left 864 together?

11 A. Heading towards White Horse Road and then
12 everybody just made a U-turn and went back to 864 parking
13 lot.

14 Q. Did you turn around with them?

15 A. Yes.

16 Q. What happened when you got back to the parking
17 lot?

18 A. Raymond asked to switch cars with me and told me
19 to drive his car to the Waffle House and he jump in mines.

20 Q. Why?

21 A. He didn't say.

22 Q. Do you remember what he was wearing that night?

23 A. No.

24 Q. Do you remember giving a statement to police at
25 some point during this investigation?

Joseline Mack - Direct

1 A. Yes.

2 Q. I'm going to hand you a copy of the statement.

3 Do you recognize that document?

4 A. Yes.

5 Q. Does it have your signature on it?

6 A. Yes.

7 Q. Could you read it over and see if that refreshes
8 your memory about what happened that night. After reading
9 that over, is that the statement that you gave the police?

10 A. Some of the things.

11 Q. Did the officer that interviewed you give you and
12 opportunity to read it over after he had typed it?

13 A. No.

14 Q. Why did you sign it?

15 A. Because I was ready to go.

16 Q. So is it now your testimony that what's in that
17 statement is not the truth?

18 A. Some of it is.

19 Q. Well, tell me what's the truth. What do you
20 remember about that night?

21 A. As I told you we were in 864 parking lot and when
22 we was leaving to go to the Waffle House everybody make a
23 U-turn. Raymond switched cars with me, first he was in my
24 car and then his. I pulled out of the parking lot at 864
25 and nobody was behind me. I was just straight on to the

Joseline Mack - Direct

1 Waffle House.

2 Q. I have a question, you said the person that was
3 in your car got into his?

4 A. Yes.

5 Q. Who?

6 A. Joel.

7 Q. So Joel got into the green Crown Vic?

8 A. Yes.

9 Q. With you?

10 A. Yes.

11 Q. Who else was in the green Crown Vic with you?

12 A. I don't know the other females, Brandon's
13 sisters.

14 Q. How many people were in that green Crown Vic with
15 you?

16 A. I think it was five or six.

17 Q. I'll ask you again, do you remember what Raymond
18 was wearing that night?

19 A. No.

20 Q. Do you remember telling police that in the
21 parking lot he changed from a black tee-shirt into a white
22 tee-shirt?

23 A. No, I never said that.

24 Q. Yet it's in your statement, is it not?

25 A. I told him that Raymond had on a black tee-shirt

Joseline Mack - Direct

1 that night.

2 Q. Could you read this sentence right here starting
3 with Raymond?

4 A. "Raymond took off his black tee-shirt and put on
5 a white tee-shirt."

6 Q. But it's your testimony today that's not what you
7 told the police?

8 A. No. I told him that Raymond had on a black
9 tee-shirt, they asked me if he had on a white tee-shirt
10 and I said no.

11 Q. So the investigator decided to put it in your
12 statement anyway and then you signed it?

13 A. I never read over the statement.

14 MS. SALISBURY: Your Honor, with the Court's
15 permission, I'd like to treat Ms. Mack as a hostile
16 witness.

17 THE COURT: Permission granted.

18 BY MS. SALISBURY:

19 Q. During your interview with the police you told
20 the investigator that Raymond took his gun out from under
21 the driver's seat of his car and took off his black
22 tee-shirt and put on a white tee-shirt, did you not?

23 A. I told him that Raymond took his gun out of his
24 car but I never said that Raymond switched tee-shirts.

25 Q. Alright. Did you not tell the police that you

Joseline Mack - Direct

1 saw several guys with Raymond pull out guns?

2 A. I did not.

3 Q. You told the police that you saw Larry get into
4 his car -- and just to be clear we're talking about Larry
5 Johnson, right?

6 A. I don't know his last name. I think.

7 Q. You also told the police that you saw Lipz, Trez,
8 Ken and Drek Glover get into Simone's green Toyota Camary,
9 didn't you?

10 A. If I'm not mistaken, Larry was in Devon's car.

11 Q. You testified a second ago that you saw Trez in
12 Simone's green Toyota Camary, correct?

13 A. Yes.

14 Q. Who else was in the green Toyota Camary?

15 A. Lipz.

16 Q. What's Lipz's real name?

17 A. I don't now.

18 Q. Do you know Ken's full name?

19 A. No.

20 Q. Do you recognize Ken in the courtroom?

21 A. Yeah, right there.

22 Q. What is he wearing?

23 A. The white vest.

24 Q. You told the police that Raymond and Michael
25 Williams got into your red Honda, correct?

Joseline Mack - Direct

1 A. No, that's what they told me. No one was in my
2 vehicle when I pulled out of the parking lot.

3 Q. So you left your car behind and never saw who got
4 into your car?

5 A. No, Raymond was still outside of my car when I
6 was pulling out of the parking lot is what I told them.

7 Q. So if the officer included in your statement that
8 you saw Raymond and Michael Williams get into your red
9 Honda Accent, that was made up, you didn't say that?

10 A. No.

11 Q. So you testified you left the parking lot and
12 nobody was behind you. Where did you go?

13 A. To the Waffle House.

14 Q. Which one?

15 A. On White Horse Road.

16 Q. How long were you there?

17 A. I was in the parking lot for like give or take
18 maybe 10, 15 minutes.

19 Q. Why didn't you go inside?

20 A. Because I was waiting for Raymond.d

21 Q. Did he ever show up?

22 A. No.

23 Q. Where did you go next?

24 A. He called me and told me to meet him at the White
25 House off of South Pleasantburg.

Joseline Mack - Direct

1 Q. Do you know if that's on Melvin Drive?

2 A. It's across the street from the Burger King and
3 Spinx.

4 Q. Is it near Fleetwood?

5 A. Yes.

6 Q. When you go there, who was there?

7 A. It was a lot of people.

8 Q. Who do you remember being there?

9 A. It was me, Joel, Raymond, Trez, Mikey, Ken and a
10 few other people.

11 Q. Do you remember whether they were already there
12 when you got there?

13 A. No, as I was pulling in Raymond was pulling in
14 behind me.

15 Q. In what car?

16 A. Mines.

17 Q. The red Accent?

18 A. The burgundy Accent.

19 Q. Who was in the car with him?

20 A. When he got out of the car it was him and Mikey.

21 Q. Did you see Travaris in the car with him?

22 A. Who is Travaris?

23 Q. If you don't remember, you don't remember, but
24 did you see anybody else?

25 A. No, I didn't.

Joseline Mack - Direct

1 Q. Do you remember what he was wearing when he got
2 out of your car in the Waffle House parking lot?

3 A. I don't remember.

4 Q. It wasn't a white tee-shirt?

5 A. No, because he had on a black tee-shirt, if I'm
6 not mistaken, some red shorts or black shorts that night.

7 Q. Okay. If that's what you remember. What
8 happened when y'all started arriving, what did you?

9 A. When everybody got out of their cars, Raymond
10 called a few people over to the parking lot and told
11 everybody else to go inside.

12 Q. Why?

13 A. I have no idea.

14 Q. What did you do?

15 A. I went inside and started ordering my food.

16 Q. Did you get your keys back to your car?

17 A. Yes.

18 Q. How?

19 A. He gave them to me.

20 Q. What did you tell you about the guns in the car?

21 A. Well, that night it was never mentioned that any
22 guns was in my vehicle, but the next day he called me to
23 go outside and look in my car and see if there was a gun
24 in my car.

25 Q. Did you find one?

Joseline Mack - Direct

1 A. Yes.

2 Q. What did you do with it?

3 A. I met him and I gave it to him.

4 Q. What did it look like?

5 A. It was black I think.

6 Q. Do you know the difference between a revolver and
7 a semi-automatic handgun?

8 A. No.

9 Q. What did you do after you got the keys to your
10 car back?

11 A. After he pulled up and I got my keys, I went
12 inside of the Waffle House and we ordered our food and
13 then I didn't eat there I left and went home.

14 Q. How did you get home?

15 A. In my car.

16 Q. Who was with you?

17 A. Joel, Simone and Tiara.

18 Q. Where did you go?

19 A. To my house.

20 Q. What do you remember happening when you got back
21 to your apartment?

22 A. As I was walking into the house Simone had went
23 in first and if I'm not mistaken Trez was already there
24 but I know him and Simone was going back and forth because
25 Tiara was there and that started up a whole lot of chaos.

Joseline Mack - Direct

1 Q. Why?

2 A. They don't like each other.

3 Q. Do you remember telling the police that you saw
4 Trez walk into your house with a black bag with several
5 guns?

6 A. I remember telling the police that Trez there was
7 a black bag in the house and they told me was there a gun
8 in that bag and I said I don't know because I didn't see
9 any.

10 Q. So you didn't tell the police that Trez put a
11 shot gun and black pistol with a long clip under Simone's
12 bed between the bed rails and the box springs?

13 A. I did not.

14 Q. The police made that up?

15 A. I seen the shotgun but I don't know where he put
16 it.

17 Q. What do you remember happening the next morning?

18 A. I don't remember.

19 Q. Did you tell the police that around noon time
20 Raymond started to reload his gun?

21 A. Yes.

22 Q. Do you remember telling the police that he was
23 very careful to wipe off every round with a shirt after he
24 touched it?

25 A. Yes.

Joseline Mack - Direct

1 Q. Did you tell the police that you saw him chamber
2 a round and then leave the house?

3 A. He left but I don't know about no chamber.

4 Q. So the police made that up too?

5 A. I don't even know what that is.

6 Q. Did you tell the police that Raymond told you to
7 tell Trez to call him that they needed to get together
8 when Trez got up?

9 A. Yes.

10 Q. Do you remember whether Trez stayed the night
11 that night?

12 A. Yes.

13 Q. After you gave this statement, do you remember
14 calling Investigator Brown?

15 A. We spoke a few times after I was arrested.

16 Q. Do you remember calling Investigator Brown a
17 couple days after you gave this statement and telling him
18 that you saw guns in your apartment?

19 A. Yes.

20 Q. And you told him that you had initially made a
21 mistake in your that you thought Drek Glover was one of
22 the individuals there in the 864 parking lot but that you
23 had been mistaken, do you remember that?

24 A. Right.

25 Q. Do you remember who you told him was actually in

Joseline Mack - Direct

1 the parking lot?

2 A. So many people I don't even know who they are
3 all.

4 Q. You don't remember telling Investigator Brown
5 that it was Buddah and not Drek Glover that was in the
6 parking lot?

7 A. I've never seen Buddah, I don't even know who he
8 is. I came across his picture the night that I was being
9 interrogated and he was showing me a lot of pictures of
10 people and was asking me did I know him and I told him no.
11 But I've never been around Buddah.

12 Q. What was the address that you were living at the
13 time?

14 A. I don't remember. I was only there for less than
15 two weeks.

16 Q. Was your apartment [REDACTED] Webster Road?

17 A. That could be the address.

18 Q. How long do you think it took you to get from the
19 parking lot of the Whitehorse parking lot where you said
20 you were waiting for Raymond Drive to the Melvin Drive
21 Waffle House?

22 A. I would say less than -- maybe not even three
23 minutes. Once you get on the highway you pretty much stay
24 and once you get off the exit, you right there. So it's
25 not that far.

Joseline Mack - Direct

- 1 Q. So did you take the interstate that night?
- 2 A. Yes.
- 3 Q. When you got there immediately after you saw
- 4 Raymond pull up in your red car, correct?
- 5 A. Yes.
- 6 Q. Mikey was in the car with him, correct?
- 7 A. Yes.
- 8 Q. Do you know who Mikey is?
- 9 A. Yes.
- 10 Q. Do you see him in the courtroom?
- 11 A. Yes.
- 12 Q. What is he wearing?
- 13 A. A stripped shirt.
- 14 Q. You saw Trez in Simone's green Camary, correct?
- 15 A. Yes.
- 16 Q. Was he driving it?
- 17 A. Yes.
- 18 Q. Do you recognize Trez in the courtroom?
- 19 A. Yes.
- 20 Q. What is he wearing?
- 21 A. The navy blue vest.
- 22 Q. And you saw Ken in that car?
- 23 A. Yes.
- 24 Q. Do you see Ken in the courtroom?
- 25 A. Yes.

Joseline Mack - Cross

1 Q. What is he wearing?

2 A. The white vest.

3 Q. And who else was in the car with Trez?

4 A. Lipz.

5 Q. Do you know Lipz's real name?

6 A. No.

7 Q. And you saw Larry driving his car?

8 A. Yes.

9 Q. Do you remember who was in his car?

10 A. No, I don't think no one was in his car.

11 Q. You don't remember seeing Daquan Bruster in
12 Larry's car?

13 A. I don't know who that is.

14 Q. I don't have any additional questions.

15 MR. CHAMBERS: Randy Chambers on behalf of
16 Mr. Booker.

17 CROSS-EXAMINATION

18 BY MR. CHAMBERS:

19 Q. When the police officer in this case Investigator
20 Brown spoke to you it was at least according to this
21 statement July 24th of 2011, is that what you recall?

22 A. I'm not sure of the date.

23 Q. Is that the date that's on the statement?

24 A. Yes.

25 Q. And you were arrested that's why you ended up

Joseline Mack - Cross

1 talking to Investigator Brown?

2 A. I mean, it was a bogus arrest.

3 Q. I understand but that's the reason why they were
4 talking to you because you had got arrested?

5 A. Yes.

6 Q. So this was about seven days after everything had
7 happened at the Red Planet and all this other stuff,
8 correct?

9 A. It was maybe a week.

10 Q. And when you went in there to talk to
11 Investigator Brown, there was a probation agent that was
12 also present, is that correct, Miranda Wear?

13 A. It was a few people. It was Brown, somebody
14 there that was typing and two other people that was in and
15 out of the room.

16 Q. Do you hear the name probation agent Miranda
17 Wear?

18 A. Yes.

19 Q. Were you on probation at the time?

20 A. No, I never been in trouble.

21 Q. But you had been arrested?

22 A. Yes.

23 Q. And when Investigator Brown talked to you, there
24 was some discussion that you could be charged as a result
25 of the things that happened at the Red Planet, correct?

Joseline Mack - Cross

1 A. No.

2 Q. And they already knew basically -- they kind of
3 told you what happened when they went in there and started
4 talking to you, didn't they?

5 A. Yes. What happened was -- when I was pulled over
6 because he said I made an illegal turn and the next thing
7 I know he was running my plates and the next thing I know
8 I have a lot of police officers pointing guns at my car
9 and then it was a lady, I'm not sure of her name, she was
10 just like I'm looking at 30 years of conspiracy and I was
11 like I hadn't did anything. And she was like it doesn't
12 matter if you did anything or not, your car was used in a
13 shooting and she was just like if you know anything or
14 heard anything you tell Detective Brown or your daughter
15 would be growing up without you.

16 Q. So you had an eight month old daughter at the
17 time, didn't you?

18 A. No, she had just turned one like when I was
19 getting arrested. I had to call one of my family members
20 to get her like they were trying --

21 Q. Take your time.

22 A. So Detective Brown, him and aunt was pretty much
23 arguing back and forth about her getting her and the next
24 thing I know is he goes to my car and he pulls Simone out
25 of the car.

Joseline Mack - Cross

1 Q. So they not only threatened you with prison, they
2 threatened you could lose your daughter too, correct?

3 A. They told me that I was.

4 Q. So then Investigator Brown is the one who wrote
5 this statement out, correct?

6 A. No, it was a lady.

7 Q. But it wasn't you who wrote it out?

8 A. No.

9 Q. And you said you've never read it?

10 A. No.

11 Q. And you've already indicated that a lot of this
12 stuff that's in here were things that you never said.

13 A. Correct.

14 Q. For example you didn't use this line Raymond then
15 chambered a round and left the house?

16 A. I never said chambered.

17 Q. That's something a police officer would say,
18 doesn't it?

19 A. I don't know what it is but I told him that he
20 left the house.

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

23 MR. ROBINSON: On behalf of Mr. Williams, I
24 have no questions.

25 MR. ABDALLA: I'd like these marked as

Joseline Mack - Cross

1 Defense Exhibits for identification.

2 (Photographs marked as Defendant Young
3 Exhibit No. 1 for identification.)

4 THE COURT: What is the exhibit?

5 MR. ABDALLA: Photograph.

6 THE COURT: Okay.

7 MR. ABDALLA: If it please the Court.

8 BY MR. ABDALLA:

9 Q. I wanted to show you what's been marked as
10 Defense Exhibit No. 1 for identification. Do you
11 recognize the people in that picture?

12 A. Yeah, I know the little boy.

13 Q. Do you know the fellow?

14 A. I had seen him but I don't know his first name.

15 Q. I show you what's been Defense Exhibit No. 2 for
16 identification, do you recognize that?

17 A. No.

18 Q. I want to ask you a couple of things about the
19 statements you made. You said you were at the Red Planet,
20 right?

21 A. Yes.

22 Q. There was a group of people?

23 A. I was there with three other females.

24 Q. And you left that club, right?

25 A. Yes.

Joseline Mack - Cross

1 Q. When you left there you eventually to the Waffle
2 House, right?

3 A. No, it wasn't the Waffle House, it was the
4 parking lot.

5 Q. You never went to the Club 864?

6 A. No, we never went inside.

7 Q. You said you went out with Raymond who was your
8 boyfriend him at the time this occurred?

9 A. I was only dating Raymond. He wasn't my
10 boyfriend.

11 Q. Who was your boyfriend at that time?

12 A. I didn't have one.

13 Q. You weren't dating another person at that time?

14 A. No.

15 Q. You know who Drek Glover is?

16 A. Yes.

17 Q. And you didn't date him?

18 A. I dated him way before Raymond.

19 Q. You never dated him afterwards?

20 A. Not until the winter, fall of last year.

21 Q. Do you know who Tavarus Holmes is?

22 A. No.

23 Q. So the fellow in this picture can't be Tavarus
24 Holmes?

25 A. That could be him.

Joseline Mack - Redirect

1 Q. But you don't know?

2 A. I don't know his name.

3 Q. But you have seen him?

4 A. I've seen him.

5 Q. And the statement you gave the police you
6 essentially said is worthless because it was mostly
7 coerced; is that correct?

8 A. Some of the things I said was in there but some
9 of the things, I mean, I didn't, you know.

10 Q. They threatened you to give a statement?

11 A. He told me that if I didn't talk to him then I
12 was pretty much looking at 30 years for conspiracy.

13 Q. So it would be coercion?

14 A. Yeah.

15 Q. When you went to the Waffle House over at
16 Flintwood Drive, that's where you ended up; is that
17 correct?

18 A. Yes.

19 Q. And you saw Raymond, right?

20 A. Yes.

21 Q. Did you see him get out of the car with Mikey?

22 A. Yes.

23 Q. Did you see anybody else get out of that car?

24 A. No.

25 Q. The pictures I showed you just a minute ago, can

Joseline Mack - Redirect

1 you definitely say that none of those fellows got out the
2 car with Raymond?

3 A. No.

4 MR. ABDALLA: No further questions.

5 MR. QUINN: On behalf of Mr. Sadler, Your
6 Honor, no questions.

7 REDIRECT EXAMINATION

8 BY MS. SALISBURY:

9 Q. To clarify that last question, do you know
10 whether you saw who got out of your car, the red Accent?

11 A. Yeah, it was only two people that got out of my
12 car.

13 Q. Only two people got out of that car.

14 A. Yes.

15 Q. There's been a lot of talk about this statement
16 being untrue. Let's talk about the parts that you know to
17 be true. Can you testify here today that you recall the
18 truth is that you traded cars Raymond Young in the parking
19 lot of 864, correct?

20 A. Correct.

21 Q. And the next time you saw him he pulled up in
22 your car with at least Michael Williams in the parking lot
23 of the Waffle House on Melvin Drive, correct?

24 A. If that's the road it's on, then, yes.

25 Q. The Waffle House by Fleetwood, correct?

Joseline Mack - Redirect

1 A. Yes.

2 Q. And it's also true independent of this statement
3 you recall seeing Esaiveus Booker, Shaquille Lipz Hogan,
4 and Kinjta Sadler in Simone's green Toyota Camary,
5 correct?

6 MR. ABDALLA: Your Honor, that's not part of
7 recross.

8 THE COURT: I'm going to allow it. Go ahead.

9 THE WITNESS: Yes.

10 BY MS. SALISBURY:

11 Q. Is that what you remember here today dispute of
12 the fact that this statement was somehow coerced?

13 A. Yes.

14 Q. You testified about being intimidated by the
15 investigator in this case. You were so intimidated by him
16 that you called him back on multiple occasions in the days
17 following this interview?

18 A. I mean I called him and he called me because I
19 had to go back downtown with a lawyer.

20 Q. Did you get a copy of this statement when you ---

21 A. No.

22 Q. When you called Investigator Brown back you tell
23 him I know I signed that statement, I don't feel
24 comfortable with that statement, it was wrong?

25 A. I never said anything else about the statement.

Joseline Mack - Redirect

1 Q. You didn't tell him that the statement he had
2 taken from you just wasn't true?

3 A. I never read over that statement but what I told
4 him was the truth.

5 Q. After you left the Waffle House by Fleetwood, you
6 went back to the Waffle House on Whitehorse Road, didn't
7 you?

8 A. No, I did not.

9 Q. Raymond didn't take your car from the parking lot
10 on the Whitehorse Road Waffle House?

11 MR. ABDALLA: Your Honor, again, she's going
12 beyond redirect.

13 MS. SALISBURY: There was discussion about
14 what happened after leaving the Fleetwood Waffle House.

15 THE COURT: Yes, there was and I'll let you
16 do this, but I'm not going to let you redo the whole
17 examination.

18 THE WITNESS: There was two Waffle Houses on
19 Whitehorse Road. We only went to one. We went to the 864
20 parking lot and there's a Waffle House right by there and
21 then there's a Waffle House by 85 and the Waffle House by
22 85 is the Waffle House that I went to.

23 BY MS. SALISBURY:

24 Q. And it's the Waffle House you returned to after
25 leaving the Fleetwood Waffle House, isn't it?

Joseline Mack - Recross

1 A. No.

2 MS. SALISBURY: No additional questions.

3 MR. CHAMBERS: Nothing else, Your Honor.

4 MR. ROBINSON: Nothing.

5 RECROSS EXAMINATION

6 BY MR. QUINN:

7 Q. I thought the solicitor specifically asked you
8 did you know Lipz real name and you answered you did not;
9 is that correct?

10 A. Correct.

11 Q. And yet she just asked you if Shaquille Hogan's
12 nickname is Lipz, do you know if it is or not?

13 A. I don't know Lipz first name.

14 Q. Do you know what the given name of Lipz is?

15 A. No.

16 Q. Then why did you tell the solicitor that she was
17 right that that was the name if you don't know if that's
18 true?

19 A. Because she said his first name and then his
20 nickname so I assumed that it was his first name.

21 THE COURT: Okay. You can stand down. Thank
22 you.

23 (Witness leaves the witness stand.)

24 Who is your next witness?

25 MS. SALISBURY: Investigator Brown.

Joseline Mack - Recross

1 THE COURT: I anticipate that to be a long
2 witness so we'll take a morning break. Don't talk about
3 the case.

4 (Jury exits the courtroom.)

5 (Whereupon, there was a brief recess.)

6 Are we ready to go?

7 MS. SALISBURY: Yes, Your Honor.

8 THE COURT: Let me see the lawyers for just a
9 second.

10 (Whereupon, there was a discussion off the
11 record.)

12 Ms. Moon, why are you not in the Detention
13 Center?

14 MS. MOON: I had went down there and they
15 said that my name wasn't in the system and they had no
16 paperwork on me.

17 THE COURT: Your name is in the system and
18 they've got paperwork on you. When did you go down there?

19 MS. MOON: The day you told me to. I have
20 the paper in the car that an officer wrote for me and
21 everything.

22 THE COURT: You are supposed to be in the
23 Detention Center and I'm taking you into custody. I'll
24 deal with your failure to report. Is there somebody with
25 you that can get the paper for you?

Joseline Mack - Recross

1 MS. MOON: Uh-hum.

2 THE COURT: Ask whoever it is bring the paper
3 up here.

4 MS. MOON: Okay. Can I go out now?

5 THE COURT: No.

6 Okay, as soon as we get this dealt with.

7 MR. CHAMBERS: Your Honor, the solicitor has
8 indicated that the next witness is going to be
9 Investigator Brown who was very much involved in this
10 investigation. I anticipate if she does what she has done
11 with all the other witnesses, she's going to ask him what
12 he does at the Sheriff's Office to which I am afraid he
13 will respond he is in the gang investigation unit or
14 something to that effect. I would object to him
15 identifying that because I think at that point it goes
16 into the very thing we think we said we weren't going to
17 get into.

18 THE COURT: It's already come out from ---

19 MR. CHAMBERS: The officer also said he was
20 working in the warrant's division, Your Honor.

21 THE COURT: He said he was working with the
22 gang investigation unit.

23 MR. CHAMBERS: And warrant's unit.

24 MS. SALISBURY: That was Mr. Moore.

25 THE COURT: Is it an official department of

Joseline Mack - Recross

1 the sheriff's Department?

2 MS. SALISBURY: It's my understanding that is
3 specific title with respect to Investigator Brown a gang
4 investigator. He might be able to answer that question
5 better whether it is a distinct division.

6 THE COURT: How are we going to, you know,
7 that's what he does.

8 MR. CHAMBERS: What he does, Your Honor, is
9 he is an investigator with the Greenville County Sheriff's
10 Office. That's certainly sufficient. For him to say gang
11 investigator, that implies he was called into this because
12 they were investigating a gang.

13 MS. SALISBURY: Which is the truth.

14 MR. CHAMBERS: They've laid no foundation
15 from any witness that these young men were members of a
16 gang.

17 THE COURT: Your exception I think was noted
18 for the record.

19 MR. ABDALLA: For the record, Mr. Young joins
20 in the exception.

21 THE COURT: I presume everyone joins in that
22 and I notice that they're all acknowledging that they're
23 joining in.

24 MS. SALISBURY: I again trying to expedite
25 the process I see as the afternoon progresses, I may be

Joseline Mack - Recross

1 able to eliminate a couple of witnesses. As we eluded to
2 already from Investigator Campbell's testimony there were
3 a couple cell phones retrieved at the address of Larry
4 Johnson and Mr. Young. I planned to called the deputies
5 that were responsible for making those arrests in an
6 effort to demonstrate that these phones were the actual
7 phones that were seized at the time of the defendants
8 arrest. After that the forensic examiner for the
9 Sheriff's Office is going to testify about the data that
10 he retrieved off of those guns. If I could skip the two
11 deputies who seized the phones, that will eliminate short
12 witnesses but nonetheless witnesses.

13 THE COURT: Are y'all in the position to
14 stipulate to that that the phones that they are going to
15 discuss are the ones taken off of the individuals at their
16 arrest.

17 MR. CHAMBERS: I'll stipulate to that.

18 MR. ROBINSON: Stipulate to it, Your Honor.

19 MR. ABDALLA: Who are they going to say they
20 got the phone from?

21 MS. SALISBURY: Deputy Devon Hoover is going
22 to testify that at the time he arrested Raymond Young he
23 had a phone in his possession and that's the phone that he
24 turned into property and evidence.

25 THE COURT: And who was the other individual?

Brandon Brown - Direct

1 MS. SALISBURY: Deputy Weiner arrested Larry
2 Johnson and Larry Johnson's phone was in his possession at
3 the time of his arrest.

4 THE COURT: Larry Johnson is not a defendant.

5 MS. SALISBURY: That's what makes me think I
6 need to go through the exercise anyway, but in any event.

7 THE COURT: We'll just go through the
8 exercise. We'll just make it really quick.

9 You ready?

10 MS. SALISBURY: Yes.

11 THE COURT: Get the jury.

12 (Jury enters the courtroom.)

13 MS. SALISBURY: If it please the Court, Your
14 Honor, the State calls Investigator Brown. Investigator,
15 if you would please come up to be sworn.

16 THE CLERK: Investigator, if you would please
17 place your left hand on the Bible and raise your right
18 hand.

19 BRANDON BROWN, having been duly sworn,
20 testified as follows:

21 Thank you. Please state your full name.

22 THE WITNESS: Brandon Brown.

23 DIRECT EXAMINATION

24 BY MS. SALISBURY:

25 Q. Investigator, where do you work?

Brandon Brown - Direct

1 A. Greenville County Sheriff's Office.

2 Q. In what capacity?

3 A. Gang investigator assigned to the Federal Bureau
4 of Investigation as a task force officer.

5 Q. What are your responsibilities in that capacity?

6 A. To maintain all gang intelligence throughout
7 Greenville County area, be responsible for knowing all
8 players involved, all entities thereof throughout the
9 county involving everything from A to Z as long as it
10 pertains to gangs and violent crimes.

11 Q. How often do you assist in the investigation of
12 incidents like the one that's the subject of this trial?

13 A. On quite a regular basis. I get calls from all
14 the different divisions on the Sheriff's Office whenever
15 they believe there was possibly something involved in my
16 field.

17 Q. How is it you became involved in this
18 investigation?

19 A. I was contacted by homicide Investigator Wayne
20 Campbell and asked if I could respond to the Li'l Cricket
21 area off of Whitehorse Road in reference to multiple
22 shootings.

23 Q. When is it that you responded?

24 A. I don't recall exactly. It was early morning but
25 I'd have to look at my notes to know the exact time.

Brandon Brown - Direct

1 Q. Was it immediately to the crime scene as it
2 existed that night?

3 A. Yes.

4 Q. What was your role there on scene?

5 A. My immediate role anytime I get to an
6 investigation is not to take over the investigation from
7 the lead investigator which at this time would be homicide
8 due to the attempted murder aspect of it. My job is to
9 take the information that I can obtain from the incident
10 location whether it's victims, witnesses so on and so
11 forth various people around and try to gather whether
12 there is any information that I currently know in my job
13 description as gang investigator that can further the
14 investigation for the lead investigator.

15 Q. Did you collect any evidence on the scene?

16 A. No, ma'am, I did not.

17 Q. So what did you do there on the scene?

18 A. I spoke with what witnesses that were left. All
19 victims at the time had already been transported and there
20 was several deputies already on scene that were working
21 that night were able to maintain and keep a certain
22 location so that we could so we could talk with them as
23 soon as we arrived.

24 Q. Do you recall whether they were forthcoming with
25 information?

Brandon Brown - Direct

1 A. Most of them were very skeptical. They didn't
2 want to talk to us, didn't want to be seen talking to us,
3 were literally scared.

4 Q. Based on your conversations with those witnesses,
5 where did the investigation lead next?

6 A. While talking to several of the witnesses what we
7 were able to get out of some of them was that there had
8 been an altercation at another location and during that
9 altercation, them Folk Boys, as they kept referring to
10 them were involved. They further stated they were all
11 wearing black, they all showed up together, they were an
12 organized group and we continued to hear the name possibly
13 of Mikey.

14 Q. Did that have any significance to you?

15 A. At the current time, no, Mikey did not. It
16 didn't stand out that someone I dealt with on a regular
17 basis.

18 Q. So over the next few hours, how did the
19 investigation progress?

20 A. My partner Master Deputy Woodall also showed up
21 and due to multiple things going on as you can image he
22 went to a separate location at which time he had advised
23 me that an individual named Brandon Edwards had been shot
24 at a previous location.

25 Q. Did that name have any significance to you?

Brandon Brown - Direct

1 A. It absolutely did. I knew him to be involved
2 with several individuals specifically on the southern end
3 of Greenville County which lead me to possible names of
4 people that are typically involved with them.

5 Q. Specifically who came to mind when you heard that
6 Brandon Edwards was involved?

7 A. When I heard that name the very first name that
8 popped in my head was Raymond Young.

9 Q. Why?

10 A. The reason for that is is for one I knew that
11 they had associated close. In fact, they may even
12 possible be family.

13 Q. What did you do next to ---

14 MR. ABDALLA: Objection, Your Honor, to the
15 testimony involving this whole gang thing and throwing out
16 these names Mr. Edwards and Mr. Young.

17 THE COURT: I don't know what basis you have
18 for that objection, but objection is overruled.

19 MR. ABDALLA: The objection is that it's
20 prejudicial without a foundation as far as my client's
21 involvement with other people and appeared to be
22 associated with some gang.

23 THE COURT; it's overruled. Go ahead.

24 BY MS. SALISBURY:

25 Q. After what you did there on scene that night,

Brandon Brown - Direct

1 what happened next that night as you participated and
2 assisted in the investigation?

3 A. While on scene that night we kind of hit a dead
4 end. We had found out the victims that had been shot at
5 both locations, found up some more names, but a lot of
6 that night kind of came to a halt. So we turned to
7 electronic investigations is the best way to put it. We
8 began looking at Facebook and more specifically the
9 Facebook of Raymond Young.

10 Q. Were you able to learn any information of value
11 from what you saw on Facebook?

12 A. Yes, ma'am, I did. There was a conversation
13 which his Facebook was open, I didn't need any kind of
14 secret password or anything like that to get to it. It
15 was just open page so we could view without any kind of
16 issues basically and we started looking at -- there was a
17 conversation between him and a subject named Michael
18 Williams.

19 Q. At that point did that name have any kind of
20 significance for you?

21 A. The name still didn't, but however since the
22 conversation kind of lead that they were around that
23 incident or something happened that night at the club, it
24 lead me to maybe the name Mikey that we were hearing on
25 the scene could possibly be Michael Williams especially

Brandon Brown - Direct

1 given the fact that Brandon Edwards had been shot which
2 lead us to Raymond Young and now you had the two of them
3 conversating on Facebook.

4 Q. What was next for you in terms of substantive
5 investigation?

6 A. We continued to look at Facebook until the early
7 hours of the morning which lead us to a picture that was
8 labeled, "The Family."

9 MR. ABDALLA: Objection, Your Honor, to the
10 nature of going into a Facebook page because there is not
11 way to establish that, one, it's my client's Facebook page
12 and that nobody else could have tampered with it.

13 THE COURT: He's describing what he did in
14 his investigation subject to cross-examination, but he's
15 allowed to testify to what he did concerning his
16 investigation so overruled.

17 MR. ABDALLA: Thank you.

18 BY MS. SALISBURY:

19 Q. Investigator, I'm going to show you State's 4, do
20 you recognize that image?

21 A. Yes, ma'am, I do. That was the picture that we
22 located that was labeled, "The Family."

23 Q. Is that an accurate depiction of the image that
24 you saw posted there open to the public?

25 A. Yes, ma'am, it is.

Brandon Brown - Direct

1 MS. SALISBURY: Your Honor, State moves in
2 State's Exhibit 4.

3 MR. CHAMBERS: No objection from Mr. Booker.

4 MR. ROBINSON: No objection from
5 Mr. Williams, Your Honor.

6 MR. ABDALLA: No objection.

7 MR. QUINN: I object to the admissibility o
8 it because it does not contain my client.

9 THE COURT: Overruled. That's just
10 something you can argue to the jury.

11 (Photograph marked as State's Exhibit No. 4
12 for identification and admitted into evidence.)

13 BY MS. SALISBURY:

14 Q. How did that picture prove helpful in the
15 investigation?

16 A. Typically club pictures such as these help us a
17 lot especially identifying group members that are
18 associated together, similar like in dress, hanging out
19 together, so on an so forth helps us in our investigation
20 field as to who is associated together. In this specific
21 photo there were several that we did know, several that
22 did not know and later throughout the investigation that
23 was one of our main focus is not just necessarily involved
24 in the shooting but who everybody in the picture was
25 because it could (inaudible).

Brandon Brown - Direct

1 Q. Could you tell just from looking at this picture
2 who the suspects in the shooting case might be?

3 A. A couple of them. As far as who we previously
4 knew when we were looking at as far as them being involved
5 in the shooting, not necessarily.

6 Q. What do you remember doing next in terms of your
7 specific responsibilities and assistance in this
8 investigation?

9 A. The next portion in this investigation lead on
10 for very long hours and day after day with what we were
11 involved in between myself and my partner. But we were
12 able to sit in on an interview with another subject that
13 was quite forthcoming with both monikers or nicknames of
14 the subjects involved in the photo as well as legal names
15 of the people that were involved in the photo.

16 Q. Which interview was that?

17 A. That was with Larry Johnson.

18 Q. Do you remember what date you sat in on this
19 interview with Larry Johnson?

20 A. Without looking at my specific report, I wouldn't
21 be able to tell you what date or time that's listed in
22 there.

23 Q. Would it have been shortly after the actual
24 incident?

25 A. If I'm not mistaken it was possibly within hours

Brandon Brown - Direct

1 but it would have been the next day if I'm not mistaken.

2 Q. So as the week advanced and the days advanced and
3 you assist in these interviews, what happens next?

4 A. We continue to follow up on leads that we got.
5 Every day something new would come up and as it came up,
6 one, it was our job as gang investigators to be able to
7 determine if these individuals were involved together, if
8 they were associated together and furthermore were they in
9 the picture of the club that night. We were able to
10 identify certain people who were involved in the picture
11 and we continued our investigation focusing on people's
12 names that kept hearing that were possibly involved in the
13 shooting at Li'l Cricket.

14 Q. Did you ever learn of a young lady by the name of
15 Joseline Mack?

16 A. I did. I had heard at one piony that she was
17 possibly involved with Raymond. Whether it was an
18 intimate or a friendship based we weren't really sure but
19 we were told she was in some way involved with Raymond.d

20 Q. Did you have an opportunity to speak with her?

21 A. Yes, ma'am, I did. We were working in effort to
22 -- at this point several warrants had been signed on
23 people and so people who had identified as possibly being
24 involved and were just need to be questioned as to this
25 incident and what had happened at the nightclub that

Brandon Brown - Direct

1 night. I had been advised through this effort that some
2 one had made contact with her. So I left what I was doing
3 and personally went and spoke with her myself.

4 Q. Do you remember when that would have been?

5 A. It was late night, Friday or Saturday night, but
6 it was within three days of that original incident.

7 Q. Where did you go to actually speak with her?

8 A. I actually went to the location on the side of
9 the road where she was originally made contact at and then
10 if I'm not mistaken we responded back to the Law
11 Enforcement Center.

12 Q. Did you interview her there at the Law
13 Enforcement Center?

14 A. Yes, I did.

15 Q. What was her attitude during that interview?

16 A. She was initially shook up. She really appeared
17 as though she didn't really understand what was going on.
18 She didn't understand a lot of the aspect of some of the
19 things we were asking. But we tried to focus on her that
20 we needed certain information, certain names, vehicle
21 identification, so on and so forth which she ended up
22 being quite cooperative with.

23 Q. Did you tell her what you wanted her to say?

24 A. No. We went over specifically the investigation.
25 we were looking at and advised her that we needed the

Brandon Brown - Direct

1 correct and accurate information which she ended up giving
2 us.

3 Q. Who actually typed what she shared with you that
4 night?

5 A. I honest can't recall if it was myself or one of
6 the other investigators.

7 Q. Did you allow Ms. Mack an opportunity to review
8 the statement that she had?

9 A. Yes, ma'am. Everyone is given an opportunity to
10 any statement if anything that's asked to be removed we
11 remove it. We want to be as close as to their accurate
12 words.

13 Q. Do you recall her reading over the statement?

14 A. Yes, ma'am I do.

15 Q. Did she sign the statement?

16 A. Yes, ma'am.

17 Q. Did she ever indicate that she wanted to make any
18 changes to what was in that statement?

19 A. Yes, ma'am. She did later call me and advised me
20 of one of the names she had given me was inaccurate. It
21 was along the same lines at what it ended up being but she
22 did call and give me a correction on it.

23 Q. What correction was that.

24 A. If I'm not mistaken she had originally said Drek
25 Glover was one of the subjects involved, I believe she --

Brandon Brown - Direct

1 I'd have to look at my statement, but I believe she
2 pointed to another suspect that was involved in this.

3 Q. During your conversation with her, did you learn
4 any information that would help you locate any other
5 evidence in this case?

6 A. At that initial time, no. She contacted me later
7 on and advised that before she left her residence at work
8 with her roommate there that she had seen several guns
9 inside the residence and wanted to make sure that I knew
10 about them and she was concerned that they were possibly
11 involved in the shootings.

12 Q. So she was aware the shootings had happened?

13 A. At this point, yes, ma'am, because we had already
14 interviewed her on initial incident and she knew that
15 everything at the Li'l Cricket had gone on based on our
16 conversation if nothing else.

17 Q. Was she specific with you about the particular
18 firearms that she had seen in her apartment?

19 A. Yes, ma'am, she said there was a shotgun and a
20 pistol.

21 Q. Did she indicate to you where they were located?

22 A. She did. She stated that they were under her
23 roommate -- almost beside the box spring in her roommate's
24 bed kind of next to the rails, if you will, where kind of
25 the like the bed holds the box spring.

Brandon Brown - Direct

1 Q. Now, based on your conversations with her that
2 night when you interviewed her, did you learn anything
3 that might help the investigation to collect evidence with
4 respect to what she was able to tell you?

5 A. We did learn that original night that she was in
6 fact involved with Raymond Young and that her roommate was
7 involved with Esaiveus Booker known as Trez, Trez, that's
8 what we kept hearing which we were able to positively
9 identify as Esaiveus Booker. Which now lead us to an
10 additional name that we could start looking at as being
11 involved in these shootings. During that incident also
12 she advised that they both ended up back at their location
13 after several hours had gone by from when she had
14 originally met Raymond at another location at which point
15 she gave him the keys to her car and was asked to drive
16 his car away.

17 Q. Did she ever mention to you anything about this
18 black duffel bag?

19 A. She did. She stated that the guns were brought
20 in by Esaiveus Booker and they were in a black canvas
21 duffel bag with carry handles. They were brought into the
22 apartment that way and then stowed inside the apartment.

23 Q. What did you do with that information?

24 A. At that initial time we were kind of unable to do
25 anything. We didn't know if it was still there, time

Brandon Brown - Direct

1 frame between when she had originally seen the duffel bag
2 inside of her house had been too great of a time period
3 for us to be able to get a search warrant based accurate
4 evidence. However, at the same time my partner was
5 involved in locating Michael Williams at a location [REDACTED]
6 Davis Road. Inside that trailer upon protective sweep of
7 locating Michael Williams I was advised at time Deputy
8 Mike Moore who is now Mr. Mike Moore that he had seen a
9 black ---

10 MR. ROBINSON: Objection, hearsay.

11 THE COURT: Don't testify to what he said but
12 you can testify to what you did as a result of the
13 conversation you had with him.

14 BY MS. SALISBURY:

15 Q. After you spoke with Deputy Moore at the time,
16 what did you do?

17 A. Based on the information that i was provided
18 along with the information that was provided originally by
19 the description of the black canvass duffel bag, I
20 obtained a search warrant for [REDACTED] Davis road.

21 Q. Did you assist in the execution of that search
22 warrant?

23 A. Yes, I did.

24 Q. What do you remember locating inside that trailer
25 that was helpful for the investigation?

Brandon Brown - Direct

1 A. There was, if I'm not mistaken, .40 caliber
2 pistol rounds that were located in the bedroom. There was
3 personal paperwork of Raymond Young that was inside the
4 trailer as well as two canvass gun holsters.

5 Q. And to whom did you turn over the ammunition and
6 holsters?

7 A. Every thing was processed and put into property
8 and evidence.

9 Q. Do you remember who took it to property and
10 evidence?

11 A. If I'm not mistaken Master Deputy Woodall did.

12 Q. After executing that search warrant what happened
13 next that was specifically related to this investigation?

14 A. This investigation, we got several issues that
15 are coming up aside from our regular daily duties as gang
16 investigators. Our primary concern is getting the
17 firearms off the street. They've already caused one time.
18 That was our main focus as trying to find some of these
19 firearms along with still assisting Investigator Wayne
20 Campbell in his leads that were coming up, we began
21 focusing a lot on where are the firearms, where are the
22 people that are involved in this, how can we get this
23 stuff off the street.

24 Q. And I suppose as it relates to the conversation
25 that you had with Ms. Mack in the days after her original

Brandon Brown - Direct

1 statement ,what did you do?

2 A. Based on the fact that the duffel bag was
3 originally not found at [REDACTED] Davis Road, however, the
4 ammunition and holsters were, we knew that the guns were
5 still on the street so as soon as she provided first hand
6 information of within moments of us being able to act on
7 it that there were firearms inside of her apartment, I
8 then drew a search warrant for her apartment.

9 Q. And did you assist to execute that search
10 warrant?

11 A. I was in on the original execution. Deputy David
12 Whitlock was also assisting us in this investigation and I
13 asked him based on myself and Master Deputy Woodall being
14 previously kind of business with some of the other
15 interviews and so and so forth that I asked him to serve
16 the search warrant.

17 Q. Did you ultimately arrive on the scene?

18 A. I did. Once the location was secured and I
19 finished up what I was doing, Deputy Whitlock called me
20 and advised they were safely inside the residence and I
21 might want to respond.

22 Q. Is it your understanding there was any evidence
23 collected from the apartment?

24 A. Not from the actual apartment, no.

25 Q. What happened when you arrived?

Brandon Brown - Direct

1 A. When I arrived Kiara Kerns which was Joseline
2 Mack's roommate was in there. She was very not
3 cooperative with us finding firearms even though we knew
4 that they had been in there at that location at least once
5 and now we're being told two occasions. She was not
6 cooperative at all with the furtherance of this
7 investigation as well as helping us find anything. So my
8 initial arriving on location was to advised her of the
9 seriousness of the nature and how important for us to get
10 the firearms off the street. At which time she did say
11 that, yes ---

12 MR. CHAMBERS: Objection, Your Honor,
13 hearsay.

14 MR. ROBINSON: Yes.

15 BY MS. SALISBURY:

16 Q. Based on your conversation with Ms. Kerns what
17 did you do?

18 A. I was then able to talk with her and have her
19 basically deliver the weapons back to us.

20 Q. And how did that actually happen?

21 A. Her mom arrived on location and her mom was very
22 helpful to us in convincing her that she needed to do the
23 right thing. Her mom cooperated with us in getting with
24 her son who at the time was in possession of the firearms
25 and convinced him to bring them back.

Brandon Brown - Cross

1 Q. Which guns did you receive there on the scene
2 that day?

3 A. We took possession of the shotgun and pistol.

4 Q. Investigator, I'm going to show you State's 42,
5 do you recognize that?

6 A. Yes, I do.

7 Q. How do you recognize it?

8 A. That is the weapon, magazine and ammunition that
9 was retrieved from that location.

10 Q. How do you know?

11 A. One it's listed as DW which is for Dustin Woodall
12 which is my partner. I know he took possession of those
13 items, and two it's the items that we recovered from the
14 back of her mother's vehicle.

15 Q. Just to be clear, I don't know that we've heard
16 any testimony that Deputy Woodall was on the scene that
17 day. Did he ultimately arrive and collect these items?

18 A. I believe he did if I'm not mistaken.

19 Q. Is it possible that DW is instead David Whitlock?

20 A. Actually, yes, it could be.

21 Q. What happened when that gun arrived back on
22 scene?

23 A. We were very careful in processing the evidence.
24 We wanted to make sure we could fingerprint every item so
25 every item that arrived on scene we made sure to hand

Brandon Brown - Cross

1 with care wearing latex gloves so that we could not
2 contaminate evidence any further than it already had been.

3 Q. Once you collected this evidence and assisted in
4 the arrest or investigation of the suspects in this case,
5 did you have any other role in the investigation of the
6 case?

7 A. We continued to help through out the entire
8 investigation as information led to possible suspects
9 involved, we were involved in every aspect of locating
10 them ,taking them into custody.

11 Q. Alright. If you would answer any questions that
12 these attorneys may have for you.

13 A. Yes, ma'am.

CROSS-EXAMINATION

14
15 BY MR. CHAMBERS:

16 Q. Deputy, you were the one after you arrived on
17 scene that started to provide names to Investigator
18 Campbell; is that correct?

19 A. Which scene, sir?

20 Q. Well, both incidents. We had the thing that
21 happened at the Red Planet and you indicated that a name
22 surfaced from the Red Planet and based on that in helping
23 in the investigation over at the Li'l Cricket you started
24 to name people that you thought to be associated with
25 Raymond Young?

Brandon Brown - Cross

1 A. Yes, sir, I did.

2 Q. At that point is when the investigation started
3 focusing on these people whose names you gave?

4 A. No, sir, it was not.

5 Q. You just gave the names?

6 A. I gave names and it gave us aspects to start
7 looking at, however, that wasn't what made us focus on.
8 The Facebook pages is what made us focus on.

9 Q. Specifically it had pictures in it and you
10 recognized elements in this picture that was labeled the
11 family which is a group of young men and young women
12 together at this club, correct?

13 A. Yes, sir.

14 Q. Are you familiar with the group that refers to
15 themselves as the Hardliners?

16 A. Yes, sir, I am.

17 Q. And it would be fair to say that they are a
18 fairly organized group as well, isn't it?

19 A. That hasn't been in our investigation at all, no,
20 sir.

21 Q. Have you seen them at the club where they were
22 altogether and they appeared to be flashing gang signs?

23 A. I have seen pictures, yes, sir.

24 Q. Did you see the HL sign that they all threw up?

25 A. I did, sir.

Brandon Brown - Cross

1 Q. And that's something that's common among gang
2 members, isn't it?

3 A. It can be, yes, sir.

4 Q. And typical when they were taking pictures like
5 that it would not be unusual for them all display their
6 gang signs to show pride, correct?

7 A. Hand signs in themselves we don't declare as gang
8 signs, so, no, sir.

9 Q. And you're aware from talking to these
10 individuals including your investigation and these young
11 men, these Hardliners, who you referred to as being
12 scared, most of them were themselves carrying weapons?

13 A. Carrying, no, sir, we did not find that.

14 Q. So they didn't have them on their persons but you
15 were aware of the fact that they had weapons in them in
16 their cars accessible to them, correct?

17 A. There were weapons inside of the vehicles.

18 Q. You were aware that they came to the Red Planet
19 with guns available to them, correct?

20 A. Later on we did find that, yes, sir.

21 Q. And there were other people who were there at
22 that club besides the young men who you said were Folk
23 Nation or whatever you call them and these Hardliners,
24 there were lots of other people there as well?

25 A. Yes, sir, there were.

Brandon Brown - Cross

1 Q. And it's not at all unusual at these clubs for
2 people to go as a group together wit ha group of friends
3 a group of girls and they meet there and they hang out
4 together?

5 A. Yes, sir.

6 Q. And it's not unusual for these groups to come in
7 conflict with one another once they get to these clubs, is
8 it?

9 A. That's correct.

10 Q. You indicated that you went to that trailer based
11 on what Officer Moore had said and executed the search
12 warrant but all you found was a bag and some holster,
13 correct?

14 A. And some ammunition.

15 Q. Those were in plain view, the holsters and the
16 ammunition, correct?

17 A. The holster was, the ammunition was not.

18 Q. And then later on you went to an apartment where
19 you said Kera Kerns lived?

20 A. Yes, sir.

21 Q. Now, Esaiveus Booker did not live at that
22 apartment, did he?

23 A. Not to my knowledge.

24 Q. So that was not his residence and you went there
25 looking for these guns?

Brandon Brown - Cross

1 A. Yes, sir, we did.

2 Q. And you said eventually with the help of her
3 mother that you obtained from her brother two weapons, the
4 one that was here in court today and a shotgun?

5 A. Yes, sir.

6 Q. Now, there was never any indication that a
7 shotgun was part of any of these incidents that you
8 investigated, correct?

9 A. Any of which incidents

10 Q. Let's be specific to the one that we're here for
11 now and that is the one at the Li'l Cricket. Nobody ever
12 said anything about a shotgun being used.

13 A. No, sir.

14 Q. Forensics went out there and they got all these
15 projectiles and these shell casings and they didn't get
16 any buck shot, they didn't get any plastic shell casings
17 from a shot gun shell, they didn't find anything like
18 that, did they?

19 A. No, sir, they did not.

20 Q. And you said you dusted these weapons for
21 fingerprints?

22 A. I didn't personally. I submitted them.

23 Q. To your knowledge, you never got any fingerprints
24 from Esaiveus Booker from any of these weapons, did you?

25 A. Not to my knowledge, no, sir.

Brandon Brown - Redirect

1 Q. That's all the questions I have for you.

2 MR. ROBINSON: To follow up. Scott Robinson
3 for Mr. Williams.

4 BY MR. ROBINSON:

5 Q. You did not get any fingerprints for anything off
6 the weapons tying it to Mr. Williams, correct?

7 A. Not to my knowledge.

8 MR. ROBINSON: Thank you.

9 MR. ABDALLA: On behalf of Mr. Young, I have
10 no questions.

11 MR. QUINN: No questions on behalf of
12 Mr. Sadler.

13 MS. SALISBURY: Briefly redirect.

14 REDIRECT EXAMINATION

15 BY MS. SALISBURY.

16 Q. Investigator, I'm going to show you some
17 photographs labeled State's 51, 52, 53 and 54. I'd like
18 you to take a look at those photographs. Do you recognize
19 those photographs as anything you've seen before today?

20 A. Yes, ma'am, I have seen those photographs.

21 Q. Did you receive those during the course of the
22 investigation in this case?

23 A. Several days after the initial incident occurred.

24 Q. Do you recognize the individuals in these
25 photographs?

Brandon Brown - Redirect

1 A. Yes, ma'am. Several of them at least.

2 Q. There's been a little bit of discussion about
3 hand signs and what they may or may not mean, do you
4 recognize the hand signs that are being exhibited in those
5 photographs?

6 A. Yes, ma'am, many of them.

7 Q. How did you recognize the hand signs?

8 A. As part of our job as gang investigators, we have
9 to have a basic knowledge and try to get as much advance
10 investigation tools as we can. One of the most popular
11 ways of identifying a gang member is very specific hand
12 signs that are universal across the board. Several of
13 these are them.

14 Q. Specifically as it relates to this particular
15 group, what hand signs are of significance to you based on
16 your education?

17 A. Given the fact that we were currently already
18 involved in working at Folk Nation or specifically
19 Gangster Disciples, there are several hand signs that are
20 very very significant. Along with hand signs are numbers
21 such as six and three. There is a six pointed crown and a
22 three pointed crown as well as pitch forks, pitch forks
23 facing up as well as a simple that looks like a
24 (inaudible) that stands from one of their six knowledges
25 as one love and some other acronyms.

Brandon Brown - Redirect

1 Q. And do you recognize the individuals in that
2 photographs that are exhibiting those hand signs?

3 A. Defendants or everyone?

4 Q. Let's start with State's Exhibit 51, do you
5 recognize the individuals in that photograph?

6 A. Yes, ma'am, there is one subject that we know as
7 Shequille Hogan.

8 Q. Before we get into that just generally do you
9 recognize those individuals in that photograph?

10 A. All but two off the top of my head out of the
11 five.

12 MS. SALISBURY: I'd offer State's Exhibit 51.

13 THE COURT: Subject to the objection.

14 (Photograph marked as State's Exhibit No. 51
15 was marked for identification and admitted into evidence.)

16 BY MS. SALISBURY:

17 Q. Investigator, I'm going to put it up on the wall
18 here and maybe you can help explain to the jury what it is
19 exactly that we're seeing in this photograph. What does
20 the photograph depict?

21 A. First of all looking at the picture one of the
22 things that stood out was they were standing in front of
23 "Spill the Beans," which is a restaurant downtown. It's a
24 great picture that's very common with subjects that are
25 associated with each specifically gang members throwing

Brandon Brown - Redirect

1 gang hand signs. In this instance, all they were throwing
2 was known as a three point crown and that was very
3 specifically to the Folk Nation.

4 Q. Can you identify for the jury the ones that you
5 recognize from the photographs?

6 A. Starting from the left in the red is Shaquille
7 Hogan aka Lipz and Esaiveus Booker aka Trez and then
8 Michael Williams aka Mikey. The other two I do recognize
9 but I don't know their names off the top of my head.

10 Q. Is it possible that this fourth gentleman is
11 Mr. Sadler?

12 A. It's very possible.

13 Q. But your not sure?

14 A. No, ma'am.

15 Q. Let's move on to the other photograph, do you
16 recognize individuals in State's Exhibit 52.

17 A. This is another photograph that's much the club
18 photos with multiple individuals. This one is a little
19 harder to identify just because it's a dark taken
20 photograph. You can't really make a whole lot of people
21 in it.

22 Q. Let's move on State's Exhibit 53. Do you
23 recognize whose in that photograph?

24 A. This is again a dark photograph, there is at
25 least one you can make out for sure. This one also

Brandon Brown - Recross

1 contains several females that are projecting hand signs.

2 Q. Let's talk about State's Exhibit 54. Do you
3 recognize the individuals in that photograph?

4 A. Yes, ma'am, I do, some. Again, this is a large
5 group photo.

6 Q. And are those individuals demonstrating what in
7 your experience appear to be specific hand signs?

8 A. Yes, ma'am, we have a couple of the three point
9 crowns again and a couple of the others and we've know as
10 the "L" symbol.

11 MS. SALISBURY: I'd offer State's Exhibit 54.

12 THE COURT: Same ruling.

13 (Photograph marked as State's Exhibit No. 54
14 for identification and admitted into evidence.)

15 BY MS. SALISBURY:

16 Q. Investigator, I'd put State's Exhibit 54 up on
17 the scene. As best you can, it appears to be a dark
18 photograph, can you tell the jury who it is that you
19 recognize in that photograph?

20 A. On the wall it's a little harder to depict as the
21 picture is -- if I can take a look at the picture. The
22 picture is a little bit lighter than when on the wall.
23 There are at least two that are definitely identifiable in
24 that one.

25 Q. There's a pointer laying right there. If you

Brandon Brown - Recross

1 could use that pointer to indicate who it is that you
2 recognize from those photos?

3 A. In the center right here, given almost the exact
4 same facial look as he did in the previous photograph at
5 the nightclub is Randy Young. This looks like possibly
6 Tavarious Holmes and possible Esaiveus Booker right there.
7 As far as positive identification these are a little more
8 difficult.

9 MS. SALISBURY: I don't have any additional
10 questions.

11 RECROSS EXAMINATION

12 BY MR. CHAMBERS:

13 Q. The picture that you saw from just a few minutes
14 ago from all these folks were at the club that night
15 people you say are member of the Folk Nation none of the
16 so-called signs that night, right?

17 A. Yes, sir.

18 Q. When you're talking about the Hardliners and
19 they're throwing up their signs, that's not a gang because
20 they're and the victims in this case.

21 A. No, sir, that's not true. Initially that's what
22 we looked due to the hand signs, later we did learn that
23 Hardliners were a rap association and just like anything
24 else you can have a hand sign on anything, that doesn't
25 make it traditionally a definite gang just because of hand

Brandon Brown - Recross

1 signs.

2 Q. In fact, lots of people throw up hand signs?

3 A. Yes.

4 Q. It's become a part of popular culture?

5 A. Yes, sir.

6 Q. Most of the hip hop artists have some sort of
7 sign they're associated with. Do you know that?

8 A. Yes, sir. There are a lot of hip hop artists
9 that are affiliated with national associated gangs that do
10 throw up hand signs.

11 Q. JayZ and how he throws up the rock as he calls
12 it?

13 A. I'm not much of a JayZ fan but I do know what
14 you're talking about.

15 Q. I figure since you worked in gangs you might be
16 familiar with the hip hop culture?

17 A. To an extent, sir.

18 MR. CHAMBERS: I have no further questions.

19 MR. ROBINSON: Nothing.

20 MR. ABDALLA: No questions.

21 MR. QUINN: No questions.

22 THE COURT: We're going to take a short
23 break. Don't talk about the case.

24 (Jury exits the courtroom.)

25 (Short break.)

Brandon Brown - Recross

1 We had a bench conference to discuss the
2 photographs that were introduced, two, and defense counsel
3 had an objection and I told them that I would allow them
4 to put their objection on the record at the break.

5 MR. CHAMBERS: The objection was that the
6 pictures that were offered up first of all there'd been no
7 foundation laid for them at all. It was not established
8 when they were taken, where they were taken, and so there
9 is an objection as far as not laying the proper foundation
10 for them. And secondly, they're just not relevant to
11 anything that's at issue in this case.

12 THE COURT: Everybody joins in that?

13 MR. ABDALLA: Yes and I want to add that I'm
14 restoring my objection to the prejudicial nature of the
15 gang information.

16 THE COURT: I overruled the objection. I was
17 told they came off of Raymond Young's cell phone.

18 MS. SALISBURY: And I'm prepared to offer
19 testimony hopefully later today about exactly how those
20 photographs -- the phone for which they were taken.

21 THE COURT: Let me see the lawyers up here
22 for just one second.

23 (Bench conference.)

24 MS. SALISBURY: Judge before we get rolling
25 again, I just wanted to settle up the issue of one of the

William Whitlock - Direct

1 next witnesses that I'm call which is Mr. Adrian Kerns.
2 Mr. Kerns is in custody of the Department of Corrections.
3 He's been transported here and it's my understanding that
4 he has a conviction in 2007, it is a juvenile conviction
5 but it for assault and battery of a high and aggravated
6 and nature and then a 2010 conviction for burglary in the
7 third degree. I'm also showing a 2011 conviction for
8 unlawful carrying of a pistol but it's the State's
9 position that that is not a crime whose punishment exceeds
10 one year.

11 So I just wanted to settle that out before we
12 call him. I believe that's the only witness I anticipate
13 having a criminal record until we get to the
14 co-defendants.

15 THE COURT: Y'all agree with that, I guess.

16 MR. ABDALLA: My position about the gun since
17 guns are at play here and since he's not on trial, it's
18 not going to affect him (inaudible).

19 (Jury re-enters the courtroom.)

20 THE COURT: Call your next witness.

21 MS. SALISBURY: The State calls Deputy
22 Whitlock.

23 THE CLERK: Place your hand on the Bible and
24 raise your right hand.

25 WILLIAM WHITLOCK, having been duly sworn,

William Whitlock - Direct

1 testified as follows:

2 Thank you. Please state your name.

3 THE WITNESS: William Whitlock.

4 DIRECT EXAMINATION

5 BY MS. SALISBURY:

6 Q. Deputy Whitlock, where do you work?

7 A. The Greenville County Sheriff's Office.

8 Q. And how long have you been with them?

9 A. Three and a half years.

10 Q. What's your current capacity?

11 A. Work with vice and narcotics as a liaison to the
12 ATF.

13 Q. Alright. Were you working in that capacity in
14 July of 2011?

15 A. I was not.

16 Q. What was your capacity in July of 2011?

17 A. I was with vice and narcotics assisting in gang
18 investigations.

19 Q. Do you remember becoming involved in the
20 investigation which is the subject of this case?

21 A. I do.

22 Q. What exactly did you do to become involved?

23 A. On July 26, 2011, Investigator Brandon Brown
24 stated he had a search warrant ---

25 MR. ROBINSON: Objection, hearsay.

William Whitlock - Direct

1 THE COURT: You can just state what you did
2 as a result of the conversation you had.

3 BY MS. SALISBURY:

4 Q. After speaking with Investigator Brown, what did
5 you do?

6 A. He gave me a signed search warrant for [REDACTED]
7 Webster Road, Apartment [REDACTED] that was ready to be executed.

8 Q. Did you have any information at that point about
9 who lived at that apartment?

10 A. It stated that it was Keara Kerns and a roommate.

11 Q. Did those names mean anything to you at that
12 point?

13 A. No.

14 Q. What was your understanding of what you were
15 supposed to do to help out this investigation?

16 A. Obviously in this type of investigation, everyone
17 was aware of the type of investigation and stated there
18 was a possibility of their being firearms used in the
19 shooting at that location and it was time sensitive due to
20 the fact that people had already been picked up and the
21 guns had possibly been moved around.

22 Q. So did you attempt to execute that search
23 warrant?

24 A. I did.

25 Q. Do you remember what time of day you would have

William Whitlock - Direct

1 gone to that residence?

2 A. Not exactly. It would be roughly approximately 1
3 or 2 p.m.

4 Q. What happened when you got on scene?

5 A. When we got on scene I went to the apartment, we
6 knocked multiple times, we got no answer, we announced
7 ourselves as the Sheriff's Office, got no answer. We
8 breached the door at apartment 408 and then we conducted
9 the search there of.

10 Q. Was anybody home?

11 A. No.

12 Q. Did you find any evidence inside?

13 A. No.

14 Q. So what happened next?

15 A. During the course of that search who came to be
16 known as Keara Kerns mother Amanda Bell arrived. At that
17 point in time I did not continue to speak with her about
18 the investigation only that if she knew where to find
19 Keara give her a call and have her come to the scene.

20 Q. Did Ms. Keara Kerns eventually come to the scene?

21 A. She did.

22 Q. Did you speak with her?

23 A. I did.

24 Q. After speaking with her, what did you do next?

25 A. At that point in time I realized she may have

Adrian Kerns - Direct

1 more information concerning the investigation and I had
2 limited details about the investigation so I had contacted
3 Investigator Brandon Brown.

4 Q. And did he come out to the scene?

5 A. He did.

6 Q. Did you participate in any further interview of
7 Ms. Kerns?

8 A. No.

9 Q. Do you remember whether you eventually took
10 custody of a firearm in this case?

11 A. Yes.

12 Q. Do you remember what kind of firearm it was?

13 A. It was a .380 handgun and a shot gun.

14 Q. I'm showing you State's Exhibit 42. Take a look
15 inside that box and tell me whether you recognize what's
16 inside.

17 A. Yes.

18 Q. How do you recognize it?

19 A. Both by the markings on the outside of the box.
20 Once I place it into P&E I would have taped everyone on
21 the box, initial inside to make sure no one else had it
22 and be sure the serial numbers was consistent with my
23 records.

24 Q. Is the firearm that's inside that box be the
25 firearm that you received from Ms. Amanda Bell on the

Adrian Kerns - Direct

1 scene that day?

2 A. Yes.

3 Q. Outside of this particular search warrant, did
4 you have any other role in the assisting the investigation
5 in this case?

6 A. No.

7 MS. SALISBURY: No further questions.

8 MR. CHAMBERS: No questions.

9 MR. ROBINSON: No questions.

10 MR. QUINN: No questions.

11 THE COURT: Thank you, sir, you may step
12 down.

13 Let's take a short recess.

14 (Jury exits the courtroom.)

15 (Whereupon, there was a brief recess.)

16 THE BAILIFF: All rise.

17 THE COURT: Please be seated. Let me see the
18 lawyers, please.

19 (Whereupon, there was a bench conference.)

20 I have never seen such continued unrestrained
21 misconduct by people in a gallery, not ever, and I've been
22 doing this for going on 35 years. I will tell you this,
23 anybody who has any involvement in this case has any kind
24 of contact with a juror again, I will put them in jail.
25 You see somebody with a badge on their lapel, you turn and

Adrian Kerns - Direct

1 go the other way. We are not playing a game. Anything
2 else?

3 MS. SALISBURY: A housekeeping matter, Your
4 Honor. I am preparing in the next few witnesses to
5 introduce some forensic examination report of cell phones
6 that were seized in this case. After I reviewed the
7 material retrieved from the phones, there is a substantial
8 amount of extremely explicit material some in the phone of
9 text messages, some in the form of photographs. I'm
10 asking the Court for guidance of how you want me to deal
11 with that issue. I can redact them if that's what you'd
12 like. I can try to eliminate the photographic components
13 of the report, but with regard to Mr. Johnson's phone in
14 particular some of the text message are explicit.

15 THE COURT: Any motions from the defense
16 counsel?

17 MR. CHAMBERS: No, Your Honor.

18 MR. ROBINSON: None, Your Honor.

19 MR. ABDALLA: For Mr. Johnson, I'd obviously
20 want all that redacted.

21 MS. SALISBURY: This is from Larry Johnson's
22 cell phone.

23 MR. ABDALLA: I apologize, no motions.

24 MR. QUINN: No, Your Honor.

25 THE COURT: That's just the way it is. You

Adrian Kerns - Direct

1 make a bed you lie in it. Okay.

2 Bring the jury in.

3 (Jury enters the courtroom.)

4 MS. SALISBURY: The State calls Mr. Adrian
5 Kerns.

6 THE CLERK: Mr. Kerns, please come around.
7 Please place your left hand on the Bible and raise your
8 right hand as best you can.

9 ADRIAN KERNS, having been duly sworn,
10 testified as follows:

11 DIRECT EXAMINATION

12 BY MS. SALISBURY:

13 Q. Mr. Kerns, what is your sister's name?

14 A. Simone Kerns.

15 Q. It's apparent to everyone that you're in custody.
16 Are you in the Detention Center for any charges related to
17 this case?

18 A. No, ma'am.

19 Q. Do you remember taking some guns from your sister
20 back in July of 2011?

21 A. Not that I recall.

22 Q. At no point during the summer of 2011 did you
23 take a shot gun and a handgun from your sister and return
24 them to her?

25 A. I can't remember.

Amanda Bell - Direct

1 Q. Alright. You spoke with your mother about
2 returning some guns to the police?

3 A. Not that I remember.

4 Q. If you would answer any questions these lawyers
5 have for you.

6 MR. CHAMBERS: I have no questions on behalf
7 of Mr. Booker.

8 MR. ROBINSON: No questions.

9 MR. ABDALLA: No questions.

10 MR. QUINN: No questions on behalf of
11 Mr. Sadler.

12 THE COURT: Alright, step down.

13 MS. SALISBURY: The State calls Ms. Amanda
14 Bell.

15 THE CLERK: Place your left hand on the Bible
16 and raise your right.

17 AMANDA BELL, having been duly sworn,
18 testified as follows:

19 MR. CHAMBERS: Before Ms. Bell testified and
20 I'm just acting on information that's been given to me but
21 apparently Ms. Bell has been sitting in the courtroom and
22 not sequestered.

23 THE WITNESS: I was asked to come here, sir.

24 MS. SALISBURY: It's my understanding
25 Mr. Bannister didn't have Ms. Kerns or Ms. Bell come until

Amanda Bell - Direct

1 1 or 2:00. I don't believe that I've seen her in the
2 courtroom.

3 THE WITNESS: I've been in the waiting area.

4 THE COURT: Alright.

5 DIRECT EXAMINATION

6 BY MS. SALISBURY:

7 Q. Are you Ms. Simone Kerns's and Mr. Adrian Kerns's
8 mother?

9 A. I am.

10 Q. Do you remember back in July of 2011 retrieving
11 some guns and giving them to police?

12 A. I do.

13 Q. Would you describe for the jury what it is that
14 exactly happened how you came into possession of these
15 guns?

16 A. I went and picked them up to my son and bought it
17 back to the police office and gave it back to them.

18 Q. Where did you go to retrieve them from your son?

19 A. In Roosevelt.

20 Q. Do you remember which guns you go from your son?

21 A. It was shotgun and a handgun.

22 Q. And what did you do with them?

23 A. Gave them to the police officer.

24 Q. Did you do anything else with those guns?

25 A. No, ma'am.

Devon Hoover - Direct

1 Q. Did you ever talk with the police again?

2 A. No, ma'am.

3 Q. Thank you, ma'am.

4 MR. CHAMBERS: On behalf of Mr. Booker no
5 questions for this witness.

6 MR. ROBINSON: On behalf of Mr. Williams no
7 questions.

8 MR. ABDALLA: On behalf of Mr. Young no
9 questions.

10 MR. QUINN: No questions, Your Honor.

11 THE COURT: Thank you, ma'am, you may step
12 down.

13 MS. SALISBURY: The State calls Investigator
14 Devon Hoover. Investigator Hoover, would you please come
15 up and be sworn.

16 THE CLERK: Investigator, would you please
17 place your left hand on the Bible and raise your right
18 hand.

19 DEVON HOOVER, having been duly sworn,
20 testified as follows:

21 State your name for the record.

22 THE WITNESS: Devon Hoover.

23 DIRECT EXAMINATION

24 BY MS. SALISBURY:

25 Q. Investigator Hoover, where do you work?

Devon Hoover - Cross

1 A. Greenville County Sheriff's Office.

2 Q. And in what capacity?

3 A. Armed robbery investigator.

4 Q. How long have you been with the Sheriff's Office?

5 A. About seven years.

6 Q. Do you recall whether you were assisting in the
7 investigation that's the subject of this trial?

8 A. Yes, ma'am, I was.

9 Q. Do you recall participating in the arrest of the
10 defendant, Mr. Raymond Young?

11 A. Yes, ma'am, I do.

12 Q. Where did that arrest take place?

13 A. County Square.

14 Q. Did you retrieve any items from Mr. Young at the
15 time of his arrest?

16 A. Yes, ma'am, there were two cell phones.

17 Q. Were both of them Mr. Young's cell phones?

18 A. No, ma'am, one was somebody else's.

19 Q. What did you do with the cell phone you collected
20 that day?

21 A. I took the cell phones, did a search warrant for
22 each one of them and turned them over to Investigator
23 Wear.

24 Q. How does that process work? What do you mean you
25 turned them over to a different person?

David Weiner - Direct

1 A. For a forensic search, the investigator or
2 officer per say isn't necessarily the one who goes through
3 the phone. We have them forensically searched.

4 Q. Are you the investigator that made the request
5 that the forensics be searched?

6 A. Yes, ma'am.

7 Q. And where did you put the phones after you took
8 it into custody and request that this analysis be done?

9 A. It would have been put into property and
10 evidence.

11 Q. Sir, if you would answer any questions this
12 lawyer has for you.

13 MR. CHAMBERS: Mr. Booker has no questions.

14 MR. ROBINSON: Mr. Williams has no questions.

15 CROSS-EXAMINATION

16 BY MR. ABDALLA:

17 Q. Isn't it true you recovered these phones from
18 Ms. Dawkins?

19 A. They would have been in the car with her, yes,
20 sir.

21 MR. ABDALLA: No further questions.

22 MR. QUINN: No questions.

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

25 MS.SALISBURY: The State calls Investigator

David Weiner - Cross

1 David Weiner.

2 THE CLERK: Sir, please place your left hand
3 on the Bible and raise your right hand.

4 DAVID WEINER, having been duly sworn,
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MS. SALISBURY:

8 Q. Currently where do you work?

9 A. Greenville County Sheriff's Office.

10 Q. In what capacity?

11 A. Currently I'm a supervisor in the crimes against
12 children unit.

13 Q. Where were you working in July of 2011?

14 A. I was employed as an armed robbery investigator.

15 Q. So you remember in July of 2011 assisting in this
16 investigation?

17 A. Yes, ma'am.

18 Q. Specifically do you recall participating in the
19 arrest of Larry Johnson?

20 A. Yes, ma'am.

21 Q. At the time of his arrest, did you collect any
22 items from Mr. Johnson?

23 A. Whatever personal property he had prior to his
24 arrest I had obtained a cell phone that was in his
25 property a little bit earlier in the day.

James Perry - Direct

1 Q. What did you do with that cell phone?

2 A. He consented to a search of it with a form that
3 he signed and I took it down to the investigator at the
4 Sheriff's Office by the name of Jim Perry and he's one of
5 the two investigators that handles computer forensics cell
6 phones.

7 Q. And after you turned over the cell phone, did you
8 have any other involvement with at piece of evidence?

9 A. No, ma'am.

10 CROSS-EXAMINATION

11 BY MR. CHAMBERS:

12 Q. And your reason for arresting Mr. Johnson didn't
13 have anything to do with the case we're here on today,
14 correct?

15 A. Yes, sir.

16 Q. Completely separate case?

17 A. Yes, sir.

18 MR. ROBINSON: No questions.

19 MR. ABDALLA: No questions.

20 MR. QUINN: No questions.

21 THE COURT: Thank you, sir, you can step
22 down.

23 MS. SALISBURY: The state calls Investigator
24 Jim Perry.

25 THE CLERK: Place your left hand on the Bible

James Perry - Direct

1 and raise your right hand.

2 JAMES PERRY, having been duly sworn,
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MS. SALISBURY:

6 Q. Where do you work?

7 A. Greenville County Sheriff's Office.

8 Q. And how long have you been with the Sheriff's
9 Office?

10 A. Law enforcement about 30 years, some with
11 Greenville City, some with Greer but Greenville County
12 since '95.

13 Q. What is your capacity at the Sheriff's Office?

14 A. I work in the data recovery unit. We do computer
15 forensics, cell phone forensics, GPS, anything that has to
16 do with digital media pretty much comes through our
17 office.

18 Q. Do you recall whether you were asked to examine
19 some cell phones related to the defendants in this case?

20 A. I was.

21 Q. I'd like to show you State's 55. Do you
22 recognize that document?

23 A. I do.

24 Q. What is it?

25 A. It's a print out of the forensic report dealing

James Perry - Direct

1 with LG670 cell phone.

2 Q. And can you tell from whom the request to analyze
3 that phone came?

4 A. I am.

5 Q. Who requested that that phone be analyzed?

6 A. The LG670 was requested by Investigator Dave
7 Weiner.

8 Q. Alright. And how does that process work? What
9 do you do to forensically analyze that phone?

10 A. Well, we take the phones and cells phone
11 forensics is a lot different than computer forensics.
12 Computer forensics you take the hard drive out and you
13 connect it to a forensic machine. We have forensic
14 software and it pretty much all works the same. With cell
15 phones because it's such a changing environment all the
16 time different phones can give you different data when you
17 conduct forensic examination.

18 We take the phones, we find out which cord
19 through a process from a device and then we start the
20 analysis using Cell Bright. It's the forensic machine and
21 software that we use.

22 Q. And what happens after that software has
23 completed its magic?

24 A. After we've done an examination, downloaded the
25 information, the machine actually generates this report,

James Perry - Direct

1 puts it on to a thumb drive and then we transfer down to a
2 CD.

3 Q. It's State's Exhibit 55 the report that was
4 generate after the software finished its analysis of the
5 phone?

6 A. Yes, print out of it.

7 MS. SALISBURY: State offers 55.

8 MR. CHAMBERS: No objection.

9 MR. ROBINSON: No objection.

10 MR. ABDALLA: Subject to my earlier
11 objection.

12 MR. QUINN: No objection.

13 (Printout marked as State's Exhibit No. 55
14 for identification and admitted into evidence.)

15 BY MS. SALISBURY:

16 Q. When the phone generates its report, is it able
17 to retrieve any information that is not stored locally on
18 the phone?

19 A. Like deleted information?

20 Q. Sure. What information can it collect?

21 A. It all comes down to the type phone it is. If
22 you give me an Iphone 4s I can give you deleted text. I
23 can give you location you've been, I can give you the
24 whole ball game. The less advanced the phone is, the less
25 we're able to actually get off of it.

James Perry - Direct

1 Q. Specifically it relates to this phone was the
2 software able to get any deleted information from the
3 phone?

4 A. No.

5 Q. After reviewing that report, did you determine
6 that there were any text messages during the times of
7 midnight and July 17, 2011 until 5:00 a.m., July 17 of
8 2011?

9 A. No, there were not any.

10 Q. If there had been phone calls made, received or
11 missed that are not of record on the phone, is that report
12 going to note when those calls happened?

13 A. No. You can delete phone calls randomly. You
14 don't have to clear the whole phone. You can go in and
15 specifically say this phone number delete it and the one
16 before it and the one after it still show up. The report
17 is not going to show it.

18 Q. State's 56, do you recognize what that document
19 is?

20 A. This is another Cell Bright Forensic report.

21 Q. And what type of phone were you analyzing?

22 A. LS670 LG phone.

23 Q. Are you able to determine who asked you to
24 analyze that particular report?

25 A. Investigator Devon Hoover.

James Perry - Cross

1 Q. State's 56 was the report you generated after the
2 forensic analysis?

3 A. That is correct.

4 MS. SALISBURY: State moved in 56.

5 MR. CHAMBERS: No objection.

6 MR. ROBINSON: No objection.

7 MR. QUINN: No objection.

8 THE COURT: Same ruling.

9 (Report marked as State's Exhibit 56 for
10 identification and admitted into evidence.)

11 BY MS. SALISBURY:

12 Q. Were you able to determine that there was any
13 data on the phone in the way of text messages, made calls,
14 received calls or missed calls before the date of July 18,
15 2011?

16 A. No.

17 Q. There is no data on that phone before July 18th?

18 A. I do not believe so. There were some phone calls
19 before July 18th.

20 Q. What's the earliest phone call that was recorded
21 on that?

22 A. July 15, 2011.

23 Q. Answer any questions these attorneys have for
24 you.

25 MR. CHAMBERS: On behalf of Mr. Booker, I

James Armstrong - Direct

1 have no questions.

2 CROSS-EXAMINATION

3 BY MR. ROBINSON:

4 Q. There are towers out there that kind of get their
5 3G or 4G from?

6 A. Yes, but these are not.

7 Q. And isn't there a way to find out the location of
8 people by pinging these phones?

9 A. It's possible.

10 Q. In this case, that was not done?

11 A. I have no idea. That's not an area that I would
12 be involved in.

13 Q. Thank you.

14 MR. ABDALLA: No questions.

15 MR. QUINN: No questions.

16 MS. SALISBURY: No redirect.

17 THE COURT: You can step down.

18 Ladies and gentlemen, this is a good time to
19 break.

20 (Jury exits the courtroom.)

21 (Whereupon, there was a brief break.)

22 MS. SALISBURY: The State calls James
23 Armstrong. Ms. Armstrong, please come up to be sworn.

24 THE CLERK: Place your left hand on the Bible
25 and raise your right hand.

James Armstrong - Direct

1 JAMES WILLIAM ARMSTRONG, having been duly
2 sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. SALISBURY:

5 Q. Mr. Armstrong, where do you work?

6 A. Greenville County Department of Public Safety,
7 forensics division, crime laboratory.

8 Q. And what is your -- how long have you been
9 working in that capacity?

10 A. Almost 17 years.

11 Q. What are some of your responsibilities at the
12 crime lab?

13 A. Split into two different fields, forensic drug
14 chemist and a firearm's examiner.

15 Q. Let's talk specifically about the firearms, do
16 you have any special training to help you perform the
17 duties that your asked to do a a firearm examiner?

18 A. Yes, ma'am, I have a bachelor of science degree
19 in chemistry. I trained in an apprenticeship and I
20 trained in that training process with a retired firearm's
21 examiner from the Philadelphia Police Department. I've
22 toured 13 different firearm manufacturing facilities where
23 I could watch the making of the firearm from raw material
24 to finished product. I did four different ammunition
25 manufacturing facilities to see how they process their

James Armstrong - Direct

1 ammunition. I've had five different armor course. I've
2 had over 224 hours of training on the microscope and
3 attended numerous courses sponsored by the Bureau of
4 Alcohol, Tobacco and Firearms. I'm a member of the
5 Association of Armor and Tool Marker Examiners and I've
6 testified in the area of firearm identification as an
7 expert 32 times.

8 Q. What are you looking for what you examine any
9 particular firearm?

10 A. I'm looking at the firearm and just the firearm
11 itself. I'm looking for manufacturer, make, model, serial
12 numbers. We also look down the barrel to look at the
13 riffling and then we make sure the firearm is actually
14 function or operable. We then go test fire the firearm
15 and the generate reports. If there is any comparison to
16 be done from the test fires, we then compare those by way
17 of using a comparison microscope or question the evidence
18 to the test fires.

19 Q. So in conducting your examinations, are you able
20 to tell if a particular bullet casing comes from a
21 particular firearm?

22 A. Yes, ma'am.

23 Q. Could you describe for the jury the difference
24 between how a semi-automatic firearm works as compared to
25 a revolver?

James Armstrong - Direct

1 A. In a revolver, it basically has the name of the
2 revolver. The magazine so the speak is a revolver, it
3 revolves in a circle around the frame with the projectiles
4 in line with the barrel. So when you pull the trigger,
5 the cylinder revolves, rotates, for the next line in the
6 fire.

7 A semi-automatic weapon is actually loaded
8 with a magazine. It's inserted in a magazine well and
9 then the slide is pulled back on a charging handle, and
10 when the firearm is fired, the trigger is pulled and the
11 projectile actually fire. And then the casings, the fire
12 cartridge casing is ejected from the firearm as with a
13 revolver it stays with the gun and does not come up unless
14 it is manually unloaded.

15 Q. What is your general process when you are asked
16 to examine any particular piece of evidence as it relates
17 to firearms, a gun, a casing, a projectile or any of those
18 items?

19 A. When I first receive an item, I make sure that
20 item is as labeled on the property and evidence sheet. I
21 then I do an inventory of the bags or whatever I may have,
22 I make my notes, identify each item individually, and as
23 working with the item if it has a serial number I record
24 that as a identifier. If it's a fire cartridge case or
25 projectile, I then engrave my initials and item number on

James Armstrong - Direct

1 those items so I can identify them later and then generate
2 my notes from my findings and then do comparisons.

3 Q. How is the comparison process actually work?

4 A. It actually taking each individual item such as
5 fire cartridge casings place one item on the left hand
6 side of the comparison microscope and another item on the
7 right hand side and it has a view changer; so to speak
8 that you can actually move and look at both items at the
9 same time and overlap them and then make a comparison that
10 way.

11 Q. How were you able to make that comparison, what
12 are you looking for?

13 A. We're looking for microscopic imperfections that
14 have been transferred to the fire cartridge case and
15 projectiles. Projectiles when they go down the barrel,
16 they pick up striations from the barrel. The fire
17 cartridge casings when it is actually fired it expands in
18 all directions and then it actually impresses the, what's
19 called a breech face region of the firearm and it is
20 impressed onto the fire cartridge case and it is unique to
21 that firearm.

22 Q. Does every firearm impress a unique imprint on a
23 casing that it ignites?

24 A. For the most part everyone that can be tested,
25 they are unique. Not all of them are identifiable at the

James Armstrong - Direct

1 time, but they are unique to that firearm.

2 Q. I want to know a little bit more about what you
3 mean by striations and I forget the other word that you
4 used, but what does that mean in terms of what you
5 actually see under the microscope?

6 A. When looking at a fire cartridge case, we're
7 looking at striations or impressions. The striations are
8 a movement is when a projectile is moving down the barrel
9 it leaves marks behind like a scratch. And impression is
10 basically an impression. The fire cartridge case is
11 sitting flat. The breech face of the firearm is say here
12 and when it's fired it's pressed against it, and those
13 marks impressed into the back side of the cartridge
14 casings.

15 MS. SALISBURY: Your Honor, I'd offer
16 Mr. Armstrong as an expert in ballistics analysis.

17 THE COURT: Any voir dire?

18 MR. CHAMBERS: None from Mr. Booker, Your
19 Honor.

20 MR. ROBINSON: None from Mr. Williams, Your
21 Honor.

22 MR. ABDALLA: None from Mr. Young, Your
23 Honor.

24 MR. QUINN: Mr. Sadler has no voir dire.

25 THE COURT: He's so qualified.

James Armstrong - Direct

1 BY MS. SALISBURY:

2 Q. Do you recall being asked to examine some items
3 in this investigation?

4 A. Yes, ma'am.

5 Q. When did you undertake that examination?

6 A. I received the bulk of the items on July 26,
7 2011.

8 Q. How do those items come to you? What's that
9 actual physical process?

10 A. First an officer must fill out a request form
11 which gives me permission to touch his evidence to go and
12 do the testing. They place it down in the property and
13 evidence room. It's in the basement of the Law
14 Enforcement Center. The property clerk actually pulls the
15 evidence, place it in a box for me to go and sign out.
16 Then I would go down to the property room, ask for any
17 firearm related cases and they would bring them to me at a
18 desk and then I would actually sign the items out.

19 Q. Did you examine, receive, touch, do anything with
20 any items in this case before July 26th?

21 A. No, ma'am.

22 Q. Now, once you've received those items that have
23 been delivered to you from property and evidence that have
24 been delivered to you from property and evidence and you
25 sign for them, what is the first thing you do?

James Armstrong - Direct

1 A. The first thing I do is actually notes of the
2 items of the inventory of what I have and then generate my
3 notes.

4 Q. Generally what did you find when you inventoried
5 this set of evidence?

6 A. I had a variety of different fire cartridge
7 casings and the projectiles and fragments.

8 Q. Let's talk about the projectile and fragments,
9 first. What do you do with that kind of evidence?

10 A. First with the projectile, I actually clean it to
11 make sure it doesn't have any biohazard material on it and
12 then I weigh the item, record that, identify it by its
13 caliber by it taking measurements. Then I look at the
14 lands and grooves and count the number of lands and
15 grooves it has on the projectile and record that. And
16 then actually engrave the item number and my initials on
17 the item as well and then set it aside and wait for
18 further comparison purposes.

19 Q. Could you describe what you mean by lands and
20 grooves?

21 A. In the barrel of the firearm we have what's
22 called lands and grooves, the raised and lower portions.
23 They are actually in a spiral shape. If you ever seen the
24 beginnings of a James Bond movie where it's coming on,
25 you're looking down the barrel of a firearm, raised

James Armstrong - Direct

1 portions, lower portions.

2 Q. I'm going to hand you Item 42. What is Item 42,
3 what is Item 42?

4 A. A .45 caliber bullet specimen.

5 Q. A .45 caliber bullet specimen.

6 A. Yes, ma'am. IRO 44 is a metal fragment which was
7 not suitable for comparison purposes, IRO 59 was a fire
8 bullet specimen caliber .40 or 10 millimeter.

9 Q. Now, is that the same as you described with the
10 .38 and the .9 millimeter?

11 A. Not exactly. The .40 and the .10 millimeter
12 actually have the exact same size projectile. You just
13 determine which cartridge casing came from.

14 Q. What are fragments or bullets?

15 A. RO 61 is a fire bullet jacket fragment, IRO 63 is
16 a fire bullet specimen caliber .45, and IRO 64 is a fire
17 bullet specimen caliber .45.

18 Q. Other than determining what caliber these
19 fragments are consistent with, are you able to determine
20 anything else about the firearm from which they came?

21 A. Yes, ma'am, by taking measurements of the lands
22 and grooves, I can get a rough ballpark idea of what type
23 of firearm it may have come from.

24 Q. If you do not have a firearm to compare to those
25 actual projectiles, is there anyway for you to determine

James Armstrong - Direct

1 definitely where they came from?

2 A. No, ma'am.

3 Q. Let's move on to the actual casings in this case,
4 looking at State's Exhibit 25, do you recognize the items
5 that are contained in State's Exhibit 25?

6 A. Yes, ma'am, I do.

7 Q. How do you recognize them?

8 A. My initials and the date that I've sealed along
9 with the red stamp.

10 Q. How is your analysis of a casing different than
11 an actual bullet or fragment?

12 A. It's similar in some nature, but the casing
13 actually tells the caliber of which the cartridge made or
14 manufactured for. From there I can actually tell the
15 manufacturing of the casing as well as the caliber. The
16 only thing I don't do is I don't have anything to measure
17 or weight. From there we do this comparison to see if the
18 like calibers were fired from the same firearm if we have
19 a firearm to compare it to.

20 Q. Can you describe exactly what you did to analyze
21 all of those casings that are contained within State's
22 Exhibit 25?

23 A. Each casing that came to me I cut open the
24 envelope, inventoried what I had in my notes, engrave the
25 item number and my initials in the mouth of the case so I

James Armstrong - Direct

1 can identify it later then compared like calibers with
2 each other and then write my report.

3 Q. Can you tell the jury what it is you determined
4 about those particular items?

5 A. Items R07, 12, 13, 14, 19, 20, 25 and 45 are
6 caliber .45 auto fire cartridge casings and they were
7 fired in the same gun but not the same as the other fire
8 cartridge cases submitted in this case.

9 Q. Did you have any other .45 caliber ammunition
10 that you examined?

11 A. No. Not that I recall.

12 Q. How is it that you can be sure that all of those
13 .45 caliber casings came from the same gun?

14 A. By doing an individual microscopic comparison
15 with each other.

16 Q. State's 26, did you perform any analysis with
17 respect to State's 26?

18 A. Yes, ma'am, I did.

19 Q. What did you determine about it?

20 A. Item No. IRO 6 I found it to be ,40 Smith and
21 Wesson fire cartridge case.

22 Q. Were there any other .40 caliber casings that you
23 analyzed or received in this case?

24 A. Not that I recall.

25 Q. Alright. State's No. 27, do you recognize the

James Armstrong - Direct

1 items that are inside that envelope?

2 A. Yes, ma'am, I do.

3 Q. How do you recognize them?

4 A. Date and initials.

5 Q. Could you describe to the jury what your findings
6 were with respect to those particular items?

7 A. The items are IRO 10, 16, 17, 22, 23 and 26, 27,
8 they are caliber .9 millimeter Lugger fire cartridge
9 casings and they were fired in the same firearm, but not
10 as the same firearm as any of the fire cartridge cases
11 submitted.

12 Q. Did you examine any other .9 millimeter casings
13 in this particular case?

14 A. Yes, ma'am, I did.

15 Q. Were you able to determine that this series of .9
16 millimeter casings was fired from a separate firearm as
17 the other .9 millimeter casings?

18 A. That's correct.

19 Q. And I'll show you 28, tell me if you recognize
20 what's inside that envelope.

21 A. Yes, ma'am, I do.

22 Q. How do you recognize those items?

23 A. My initials and the date.

24 Q. Could you describe for the jury your findings
25 with respect to those particular items?

James Armstrong - Direct

1 A. IRO 1, 2, 3, 4, 5, 8, and 9, I found them to be
2 caliber .380 auto fire cartridge casings that bare similar
3 but insufficient microscopic marks to the identification
4 to each other but they were not fired from any of the
5 other firearms as the other fire cartridge casings
6 submitted.

7 Q. So you had more than one set of .380 casings that
8 you examined?

9 A. Yes, ma'am, I did.

10 Q. Were you able to determine that this series of
11 .380 automatic casings were not fired from any of -- or
12 fired from the same gun as any of the .380 casings that
13 you examined?

14 A. Correct.

15 Q. Exhibit 29, could you take a look at that
16 envelope and tell me whether you recognize those items?

17 A. Yes, ma'am, I do.

18 Q. How do you recognize them?

19 A. I have the initials and the date on the red stamp
20 seal.

21 Q. Could you describe for the jury your findings as
22 it relates to that series of items?

23 A. Items RO 18, 21, 24, 29 and 31, they are also
24 caliber .380 auto fire cartridge cases. They were fired
25 in the same firearm, but not the same as the other fire

James Armstrong - Direct

1 cartridge cases submitted in the case.

2 Q. So were you able to determine that this series of
3 .380 automatic casings were fired from the same handgun as
4 those that we just talked about with State's Exhibit 28?

5 A. Yes, ma'am.

6 Q. With respect to State's 30, do you recognize the
7 items in that envelope?

8 A. Yes, ma'am, I do.

9 Q. How do you recognize it?

10 A. My initials and date on the red.

11 Q. What did you determine after analyzing those
12 particular items?

13 A. They are items IRO 11, 15, 28 and 30, they are
14 caliber .9 millimeter Luger fire cartridge casings. They
15 were fired in the same firearm but not the same as the
16 others submitted fire cartridge casings.

17 Q. So were you able to determine that this series of
18 .9 millimeter casings was fired from a distinct firearm as
19 the .9 millimeter in State's Exhibit No. 27?

20 A. That's correct.

21 Q. With respect to State's Exhibit 31, do you
22 recognize those items?

23 A. Yes, ma'am, I do.

24 Q. How do you recognize those?

25 A. My initials and date under the seal.

James Armstrong - Direct

1 Q. And would you describe for the jury your findings
2 with respect to those particular items?

3 A. Items IRO 66, 67, 68, 69, 70, 71, I found these
4 to be caliber .380 auto fire cartridge cases and they were
5 fired in the same firearm, but not the same as the other
6 submitted casings.

7 Q. Just so I'm clear, were you able to determine
8 that this series of .380 automatic casings were fired from
9 a now third and distinct .380 firearm from the other two
10 we've already heard?

11 A. Yes, ma'am.

12 Q. So based on your analysis of this series of
13 casings from how many firearms did you determine that you
14 had ejected shell casings?

15 A. Seven.

16 Q. Okay. Now, I want to talk a little bit about the
17 .9 millimeter handgun that's been labeled State's Exhibit
18 33. Can you tell me whether you recognize that item?

19 A. Yes, ma'am, I do.

20 Q. How do you recognize that?

21 A. I had my initials on the date on the box where I
22 actually open the box in the office. Also the serial
23 number on the firearm is DUS 4186 and recorded on my
24 report.

25 Q. What did you do with that firearm?

James Armstrong - Direct

1 A. Identify the make, model, serial number, caliber
2 and then test fired the firearm, collected the test
3 specimens and then compared to any of the .9 millimeters,
4 fire cartridge casings, and projectiles in the case.

5 Q. Did you determine whether any of the .9
6 millimeter casings that were collected in this case were
7 fired from that .9 millimeter firearm?

8 A. The JFH 6 pistol did not fire any of the fire
9 cartridge casings submitted in this case.

10 Q. So did any of the .9 millimeter casings come from
11 that firearm?

12 A. No, ma'am.

13 Q. I want to talk to you about the magazine that's
14 inside that particular box. Do their remain any
15 projectiles or cartridges inside that magazine?

16 A. No, ma'am.

17 Q. Specifically how this .9 millimeter would work
18 how is a projectile fed to be fired? How does the gun get
19 ready to fire a bullet?

20 A. Once you place a cartridge in a magazine, it is
21 held in by the lips of the magazine. And then you place
22 the magazine in the magazine well of the firearm. If the
23 slide is locked to the rear such as this one here, you can
24 hit the slide stop or pull the slide back and then release
25 it and then it would actually automatically feed or push

James Armstrong - Direct

1 the cartridge up into the chamber of the firearm and then
2 it's ready to fire.

3 Q. What happens when the trigger is pulled on that
4 .9 millimeter and the cartridge is fired?

5 A. When the trigger is pulled, the fire
6 administrates the primer, the primer ignites a little
7 spark into the powder charge of the case. That case
8 starts burning, pressure builds, projectile goes down the
9 barrel, casing swells and pushes a slide to the rear. As
10 it pushes to the rear, it has an extractor and injector
11 which then kick the cartridge case out to the side. And
12 then once that is kicked away, the slide goes forward,
13 picking up another cartridge going into the chamber if it
14 has a round in the magazine.

15 Q. Is the next round automatically fed into the
16 chamber?

17 A. Provided there is not a malfunction.

18 Q. When is it that you generated the report that
19 documents all of these findings

20 A. The bulk was created on July 28, 2011.

21 Q. Now, fast forward a little bit, did you have the
22 opportunity to compare any other firearms as part of this
23 investigation?

24 A. Yes, ma'am, I did.

25 Q. With respect to Item No. RLR 1, do you know what

James Armstrong - Direct

1 item to which I am referring?

2 A. Yes, ma'am.

3 Q. What is RLR 1?

4 A. The European American Arms the model EA 380 semi-
5 automatic pistol caliber .380 auto with serial number AE
6 20175. It was made in Italy and imported by EAA
7 Corporation located in Florida and it was submitted with 7
8 caliber .380 auto cartridges.

9 Q. Did you test fire that weapon?

10 A. Yes, ma'am, I did.

11 Q. Did you find it to be operable?

12 A. Yes, ma'am, I did.

13 Q. Did you compare the casings that you developed
14 from that test fire to a .380 casings that were seized as
15 evidence in this case?

16 A. Yes, ma'am, I did.

17 Q. Did you determine whether that .380 handgun fired
18 any of these projectiles?

19 A. The RLR1 pistol was cross checked against the
20 fire cartridge casings from two different case numbers
21 including this one. There was one fire cartridge case
22 from Case No. County 2011-104-691 that was fired in the
23 RL1 but not from this case.

24 Q. Now, did you compare another firearm in this case
25 WTC1?

James Armstrong - Direct

1 A. Yes, ma'am, I did.

2 Q. What was Item WTC1?

3 A. It was a High Point Model CF .380 semi-automatic
4 pistol with serial number of P797784 caliber .380 auto and
5 it was submitted with four caliber .380 auto cartridges.

6 Q. Did you test fire that .380 handgun?

7 A. Yes, ma'am, I did.

8 Q. Did you find it to be operable?

9 A. Yes, ma'am, I did.

10 Q. Did you compare that casing that you developed to
11 the .380 casings in this case?

12 A. Yes, ma'am, I did.

13 Q. Were you able to determine whether that .380
14 firearm fired any of the casings in this case?

15 A. It did not.

16 Q. Now, let's talk about State's Exhibit 42. I'd
17 like you to open that box and tell me whether you
18 recognize that firearm?

19 A. Yes, ma'am, I do.

20 Q. How do you recognize it?

21 A. On the box it has my initials and the date when I
22 opened it, and I record serial number of the firearm in my
23 notes and it's the same as in my report.

24 Q. Did you test fire that handgun?

25 A. Yes, ma'am, I did.

James Armstrong - Direct

1 Q. And just to be clear, what caliber is that
2 particular handgun?

3 A. It's a .380 auto.

4 Q. Did you determine whether it was operable?

5 A. Yes, ma'am, it is.

6 Q. Did you compare the casing that you developed
7 from that firearm to the casings in this particular case?

8 A. The pistol was cross checked as well as some
9 bullet specimens and I was able to determine items IRO 18,
10 21, 24, 29 and 31 fire cartridge casings were fired in
11 this pistol.

12 Q. So the casings from State's Exhibit 29 were fired
13 from the handgun that is State's Exhibit 42?

14 A. That's correct.

15 Q. Now, generally speaking you described the process
16 of how an automatic weapon or semi-automatic weapon
17 functions, the process, when the casing is ejected from
18 the firearm at what speed, at what rate? How far would
19 you expect a casing to travel?

20 A. That depends on if there's anything in the way
21 and the ejector and the extractor or designed and the
22 firearm itself.

23 Q. After you completed your examination, the
24 casings, the comparison of these firearms, what did you do
25 with each of these items of evidence?

James Armstrong - Cross

1 A. All the items were sealed and taken back to
2 property and evidence for storage.

3 MS. SALISBURY: The State offers Exhibits 25
4 - 33 and Exhibit 42.

5 MR. CHAMBERS: No objection from Mr. Booker,
6 Your Honor.

7 MR. ROBINSON: No objection from
8 Mr. Williams.

9 MR. ABDALLA: No objection from Mr. Young.

10 MR. QUINN: No objection from Mr. Sadler.

11 THE COURT: Admitted.

12 (Bullet casings marked as State's Exhibit No.
13 25 for identification and admitted into evidence.)

14 (Cartridge casings marked as State's Exhibit
15 No. 26 for identification and admitted into evidence.)

16 (.9 millimeter casings marked for
17 identification as State's Exhibit No. 27 and admitted into
18 evidence.)

19 (Cartridge casings marked for identification
20 as State's Exhibit No. 28 for identification and admitted
21 into evidence.)

22 (Cartridge casings marked for identification
23 as State's Exhibit No. 29 and admitted into evidence.)

24 (Lugger cartridge casings marked as State's
25 Exhibit No. 30 for identification and admitted into

James Armstrong - Cross

1 evidence.)

2 (.380 cartridge casings marked as State's
3 Exhibit No. 31 for identification and admitted into
4 evidence.)

5 (Cartridge casings marked as State's Exhibit
6 No. 32 for identification and admitted into evidence.)

7 (.9 millimeter handgun marked s State's
8 Exhibit No. 33 for identification and admitted into
9 evidence.)

10 (.380 firearm marked as State's Exhibit No.
11 42 for identification and admitted into evidence.)

12 MS. SALISBURY: I have no further questions.

13 MR. CHAMBERS: No questions.

14 MR. ROBINSON: Mr. Williams has no questions,
15 Your Honor.

16 MR. ABDALLA: No questions from Mr. Young.

17 CROSS-EXAMINATION

18 BY MR. QUINN:

19 Q. I'm showing you State's Exhibit 25. Is it fair
20 all those cartridges came from one gun?

21 A. Yes, sir, all those were fired in the same
22 firearm.

23 Q. And was that a .45 caliber automatic?

24 A. It was a .45 auto, yes.

25 Q. So this is one gun and these cartridges are

James Armstrong - Cross

1 different from any other of the cartridges you examined?

2 A. Correct.

3 Q. So this is one gun?

4 A. Yes, one firearm.

5 Q. Rather than going through each of these State's
6 Exhibit 26 are the cartridges from one particular gun?

7 A. Yes, sir.

8 Q. The cartridges from each State's Exhibit come
9 from one gun; is that correct?

10 A. There was one that I could not determine in the
11 same firearm. They were definitely not fired from any of
12 those other ones.

13 Q. In 26 and 27 at least those are each one distinct
14 gun, is that fair?

15 A. Yes, sir.

16 Q. And none of these guns match. Each of the
17 cartridges were fired by a different gun than these
18 cartridges?

19 A. That's correct.

20 Q. So 26 and 27 are different guns?

21 A. Correct.

22 Q. Is the same true as to State's Exhibits 29, 30,
23 31 and 32?

24 A. Yes, sir.

25 Q. And one exhibit IRO 6 is a .40 caliber also --

James Armstrong - Cross

1 one of these has bullets from two different guns?

2 A. No, sir, one of them has a .40 caliber.

3 Q. I'm sorry, I've got the numbers wrong. So there
4 are at least eight different guns fired at the Li'l
5 Cricket based on the cartridges that you found; is that
6 correct?

7 A. There were seven different firearms by cartridge
8 casings. Some of those were projectiles.

9 Q. Let's do them together and I'm going to use the
10 first number. IRO 1 is a .380 auto; is that correct?

11 A. That's correct.

12 Q. IRO 7 is a .45?

13 A. Correct.

14 Q. IRO 10 is a .9 millimeter?

15 A. Correct.

16 Q. IRO 11 is a .9 millimeter but a separate gun from
17 the one before?

18 A. That's correct.

19 Q. IRO 18 is a .380 auto?

20 A. Correct.

21 Q. IRO 66 is a .380 auto; is that correct?

22 A. Correct.

23 Q. IRO 35 is a .380 auto; is that correct?

24 A. Those are fire bullet specimens.

25 Q. But they're different from the other fired bullet

James Armstrong - Cross

1 specimens, so that a separate gun?

2 A. They were fired in the same firearm but not the
3 same as any other fired bullet specimens.

4 Q. So those came from a separate gun?

5 A. I'm not positive those came from a separate gun.
6 I just know that the projectiles were not fired from the
7 same firearm as any of the other projectiles. Casings I
8 can inner compare, projectiles I can not compare against
9 fire cartridge casings. Projectiles and casings are two
10 different animals, so to speak.

11 Q. So the projectiles may have been part of the
12 casings in one of these other exhibits?

13 A. They may have been.

14 Q. Then I'll strike that one, I'm sorry. And you
15 have a .40 caliber IRO 6.

16 A. Correct.

17 Q. So that's 8 guns?

18 A. I know for certain seven. The IRO .35 and 33 may
19 or may not come from one of the other .380s. I'm not
20 positive on that.

21 Q. And then if you'll go down further in your
22 report, please, you talk about items JD2 a fired bullet
23 specimen and JD13 a fired bullet jacket fragment were not
24 fired from any other firearms as the other fired bullet
25 specimens submitted

James Armstrong - Redirect

1 A. Correct.

2 Q. So there was another weapon that fired JD2 and
3 JD13.

4 A. I'm not positive on the fire cartridge casing
5 part, only with the projectiles.

6 Q. So that's a possibility but you're not certain?

7 A. Correct.

8 Q. So you're certain there were seven weapons and
9 there may have been two in addition to that?

10 A. There's a possibility.

11 Q. And you mentioned examining RLR1, a .380 semi-
12 automatic pistol.

13 A. Yes, sir.

14 Q. Do you know that that pistol came from the Red
15 Planet that that's where it was located or do you even get
16 into any of that?

17 A. I have no idea.

18 Q. So you don't know what it was collected or how?

19 A. No.

20 MR. QUINN: I don't have any other questions.

21 REDIRECT EXAMINATION

22 BY MS. SALISBURY:

23 Q. How was your analysis different as it relates to
24 a casing as opposed to a fragment, a bullet, or a
25 projectile?

James Armstrong - Redirect

1 A. The casing tells me what the actual caliber is.
2 When I have projectiles and fragments, I may or may not
3 know the exact caliber. We actually are weighing
4 projectiles and fragments where casings we just have to
5 actually have the case which is the only identifier we
6 have which is the head stamp, the caliber and my initials.

7 Q. If you had only the actual bullet, can you make
8 any definitive determinations about the firearm from which
9 it came?

10 A. If I had a firearm, yes, ma'am.

11 Q. If you don't have a firearm, can you tell
12 anything about the actual bullet projectile definitely
13 from which firearm it came?

14 A. No.

15 Q. Why not?

16 A. Because every firearm is unique to itself and if
17 I had a firearm to make a comparison with it, without
18 having a firearm, there's nothing to compare and identify.

19 Q. When you compare a casing to a projectile, are
20 you able to definitely determine whether a projectile is
21 associated with a particular casing?

22 A. No, ma'am.

23 Q. Why?

24 A. They are completely different. The cartridge
25 casings do not leave any markings behind to actually make

Larry Johnson - Direct

1 an identification on a projectile and the same way with a
2 projectile with the casing.

3 Q. So outside of determining possible the caliber of
4 a bullet or a fragment, without the handgun, can you tell
5 anything about bullets and fragments and projectiles?

6 A. Without a firearm actually counting the lands and
7 grooves and measuring them and giving them an idea of what
8 type of firearm may have been used and that is it.

9 MS. SALISBURY: I don't have any additional
10 questions.

11 THE COURT: Thank you, sir, you may step
12 down.

13 MS. SALISBURY: This may be a lengthier
14 witness, do y'all want to take a short break or keep
15 going?

16 THE COURT: Let's take a short break.

17 (Jury exits the courtroom.)

18 (Whereupon, there was a brief recess.)

19 (Jury re-enters the courtroom.)

20 Are you ready?

21 MS. SALISBURY: Yes, sir. Your Honor, the
22 State calls Mr. Larry Johnson, please come up to be sworn.

23 THE CLERK: Place your left hand on the Bible
24 and raise your right hand.

25 LARRY JOHNSON, having been duly sworn,

Larry Johnson - Direct

1 testified as follows:

2 Please be seated. Please state your name for
3 the record.

4 THE WITNESS: Larry Johnson.

5 DIRECT EXAMINATION

6 BY MS. SALISBURY:

7 Q. Mr. Johnson, let's get right to it, were you
8 charged that's part of this incident that's the subject of
9 this trial?

10 A. Yes, I am.

11 Q. And do you know exactly what you're charged with?

12 A. Conspiracy to attempted murder and second degree
13 assault by mob.

14 Q. Did you plead guilty to both of those offenses
15 earlier this week?

16 A. Yes, ma'am.

17 Q. And have you been sentenced on those offenses?

18 A. No, ma'am.

19 Q. Has anyone made any promises to you about what
20 your sentence is going to be?

21 A. No, ma'am.

22 Q. What is your understanding of what you're here to
23 do today to assist in the prosecution of this case?

24 A. Tell my part and what part I had in the incident.

25 Q. Has anybody told you what you need to say?

Larry Johnson - Direct

1 A. No, ma'am.

2 Q. What do you remember about the Saturday night
3 immediately proceeding the Sunday morning incidents? What
4 do you remember about July 16, 2011?

5 A. Starting from?

6 Q. The Red Planet. How did you get there?

7 A. I drove.

8 Q. What kind of car did you drive?

9 A. 1982 Cutlas Supreme.

10 Q. What color is it?

11 A. Black.

12 Q. Was anyone with you?

13 A. Yes, ma'am.

14 Q. Who?

15 A. Daquan Bruster.

16 Q. Had you picked him up from somewhere?

17 A. Raymond's house.

18 Q. What time did you get to the club?

19 A. I can't remember that.

20 Q. Was it already dark outside?

21 A. Yes, ma'am.

22 Q. What happened once y'all were inside?

23 A. We had went in. I was approached by a security
24 guard named Steven and he was basically telling me there
25 wasn't for any violence or fighting and stuff like that

Larry Johnson - Direct

1 and I agreed and I would try my best to keep everything
2 and that was all he asked.

3 Q. Do you remember whether there was any violence
4 inside the club that night?

5 A. Not that I recall.

6 Q. With whom were you socializing at the club?

7 A. My co-defendants.

8 Q. Who are those?

9 A. Raymond Young, Daquan Bruster, Tavarus Holmes,
10 Kinjta Sadler, Esaiveus Booker.

11 Q. Do you see some of those gentlemen in the
12 courtroom?

13 A. Yes, ma'am.

14 Q. Would you mind identifying them for the jury.
15 Let's start with Mr. Booker, do you recognize Mr. Booker?

16 A. Yes, ma'am.

17 Q. How do you know him?

18 A. I been knowing him for a while and my dad has a
19 child by his mother.

20 Q. What's your relationship like with him?

21 A. We're very close.

22 Q. What do you call him?

23 A. My brother -- oh, Trez.

24 Q. Would you identify for the jury exactly who it is
25 you know to be Trez?

Larry Johnson - Direct

1 A. With the blue sweater vest.

2 Q. In addition to him, do you see anybody else in
3 the courtroom that you were with at the club that night.

4 A. Yes, ma'am, Michael Williams.

5 Q. How do you know Michael Williams?

6 A. Been knowing him for a while too and that's
7 basically through Esaiveus.

8 Q. What's your relationship like with him?

9 A. We were close.

10 Q. How long have you known him?

11 A. A couple of years.

12 Q. Do you see him in the courtroom?

13 A. Yes.

14 Q. What's he wearing?

15 A. The white and blue stripped shirt and navy blue
16 tie.

17 Q. Who else do you recognize that was with you in
18 the club that night?

19 A. Raymond Young.

20 Q. How long have you known Raymond?

21 A. Not that long.

22 Q. How do you know him?

23 A. Through Michael Williams and like from a long
24 time ago.

25 Q. What's your relationship with him?

Larry Johnson - Direct

1 A. Not really just friends like that, I associate
2 with him.

3 Q. How?

4 A. When I see him, we speak. It's like if I see him
5 hey, how you doing, type basis like that.

6 Q. Are you part of an organization called Growth and
7 Development?

8 A. Yes, ma'am.

9 Q. How long have you been a part of that?

10 A. Probably 17 months.

11 Q. And what's your understanding of what the purpose
12 of that group is?

13 A. It's supposed to be all positive like giving back
14 to the community, helping the community, doing things for
15 children that like parents can't afford like stuff like
16 school supplies, go buy school supplies and do stuff for
17 the kids and stuff like that, community service.

18 Q. Do you have a rank?

19 A. No, ma'am.

20 Q. Do you know if anybody else has any rank?

21 A. Not that I know of.

22 Q. I got off track a little bit. You mentioned you
23 were with Raymond as well as the others in the club that
24 night, could you identify him for the jury?

25 A. White shirt, colored tie.

Larry Johnson - Direct

1 Q. Do you recognize anybody else that you were in
2 the club with that night?

3 A. Kinjta Sadler.

4 Q. Okay. How do you know Mr. Sadler?

5 A. I've been knowing Ken for a while, very close.

6 Q. How long have you known him?

7 A. I'd say like 10 years.

8 Q. What's your relationship like?

9 A. Very close.

10 Q. What do you call him?

11 A. Ken.

12 Q. In addition to these gentlemen, who else was at
13 the club with you that night?

14 A. Tavarus Holmes, Daquan Bruster, Shaquille Hogan,
15 it was a lot of people.

16 Q. What do you call Shaquille?

17 A. Lipz.

18 Q. Do you know if Tavarus Holmes has a nickname?

19 A. Just Varus.

20 Q. What about Daquan Bruster?

21 A. Buddah.

22 Q. Do you remember at some point in the night at the
23 club posing for a picture?

24 A. Yes, ma'am.

25 Q. Take a look at Exhibits 3 and 4, do you recognize

Larry Johnson - Direct

1 those photographs?

2 A. Yes, ma'am.

3 Q. Are those the photographs that y'all took there
4 at the club that night?

5 A. Yes, ma'am.

6 MS. SALISBURY: At this time I'll offer 3
7 into evidence.

8 MR. CHAMBERS: No objection.

9 MR. ROBINSON: No objection.

10 MR. ABDALLA: No objection.

11 MR. QUINN: No objection.

12 (Photograph marked as State's Exhibit No. 3
13 for identification was admitted into evidence.)

14 BY MS. SALISBURY:

15 Q. Mr. Johnson, I'm going to broadcast this up on
16 the wall. As best you can, there's a little red pointer
17 there on the table, but can you start by telling us if you
18 see Trez, Mr. Esaiveus Booker in this photograph?

19 A. Yes, ma'am.

20 Q. Mr. Shaquille Hogan who you call Lipz, do you see
21 him in this photograph?

22 Alright. What about Daquan Bruster, Tavarus
23 Holmes, Raymond Young, Michael Williams? Do you see
24 yourself? How about Mr. Sadler? That's him in the back?

25 A. Yes, ma'am.

Larry Johnson - Direct

1 Q. Alright, sir, you can have a seat. You mentioned
2 that you don't remember there being any conflict inside of
3 the club. What do you remember happening as the evening
4 progressed?

5 A. Like later on in the club something did happen,
6 but it wasn't like a fight or anything.

7 Q. What was it?

8 A. Some words were exchanged.

9 Q. Between who?

10 A. At first it was between me and my cousin,
11 Quamaine.

12 Q. What was that confrontation about?

13 A. He had said something about me hanging out ---

14 MR. ROBINSON: Objection, hearsay.

15 MS. SALISBURY: I'm asking him to explain why
16 he felt there was a confrontation.

17 THE COURT: I'm going to allow it. Go ahead.

18 THE WITNESS: He was asking me who I was
19 hanging with, the guys I was with, and he had said
20 something to me and my sister and she was basically
21 telling him to leave it alone and go ahead and leave it
22 alone and stuff like that.

23 BY MS. SALISBURY:

24 Q. After that incident, were there any other
25 incidents that you witnessed inside the club?

Larry Johnson - Direct

1 A. Just besides Black coming in and walking in and
2 gave the guys like some kind of look and they all followed
3 him to the back, then they came back towards the front and
4 then they had gone outside and then like a fight started
5 breaking out outside.

6 Q. Who is Black?

7 A. I think his name is Brandon.

8 Q. Do you know his last name?

9 A. No, ma'am.

10 Q. To whom did he give this look?

11 A. Raymond and like a couple more guys.

12 Q. When they all went to the back at that point, did
13 you go with them?

14 A. No, ma'am.

15 Q. What did you do while all that was going on?

16 A. I stayed with my sister and the rest of the
17 females.

18 Q. What happened next?

19 A. They had walked back towards the front of the
20 club and then we all exited and then we got outside little
21 fights started breaking out everywhere and then I heard
22 gunshots.

23 Q. Did you see who was participating in any of these
24 fights?

25 A. Black and Mikey was fighting with somebody. I

Larry Johnson - Direct

1 don't know who he was fighting with but he was fighting
2 with someone.

3 Q. Are you talking about Michael Williams?

4 A. Yes, ma'am.

5 Q. You saw a fight with Mikey and someone and you
6 say Black. Was he fighting someone else?

7 A. Yes, ma'am. He was trying to fight this guy
8 named Nitchie.

9 Q. You say you remember hearing gunshots, did you
10 ever see anybody shoot any guns?

11 A. No, ma'am, not at the time.

12 Q. After the shooting, what do you remember seeing?

13 A. After the shooting, we all was trying to make our
14 way to the cars and stuff like that.

15 Q. What happened after all of the shooting and the
16 fighting, what did you do next?

17 A. We had got in the car. Raymond got in his car, I
18 got in my car.

19 Q. What car was Raymond driving at that time?

20 A. A green Crown Victoria.

21 Q. Do you know whether he was alone?

22 A. He and Michael Williams was in the car together.

23 Q. You got into you car, was anyone with you?

24 A. Not at the time.

25 Q. Where did you go?

Larry Johnson - Direct

1 A. We had waited until the gunshots stopped and
2 Raymond had told me to pull out and then we had pulled out
3 to certain neighborhoods. We stopped in the middle of the
4 road and he asked me if I was okay and I was like yeah.
5 And he told me to follow him and we had went through some
6 back roads and we came up beside the Walmart on Whitehorse
7 Road and made a left and then we went down some and made a
8 right into the little shopping center where 864 at.

9 Q. Did you go inside 864?

10 A. Yes, ma'am.

11 Q. How long were you inside?

12 A. Not long.

13 Q. Who was with you when you went inside?

14 A. Me and Raymond.

15 Q. When you came back out, what was happening?

16 A. It was a lot of commotion about Bram-bram being
17 shot and they was trying to find Black because he had been
18 shot.

19 Q. How long do you think he stayed out there in the
20 parking lot?

21 A. Probably 20 minutes.

22 Q. What did you do next?

23 A. We basically gathered and waited on Black's
24 mother to come and pick him up and take him to the
25 hospital.

Larry Johnson - Direct

1 Q. After he left, where did you go?

2 A. We all had got in our cars. I don't know what
3 the name of the road is but I know we had went to the red
4 light and went onto White Horse Road towards the Li'l
5 Cricket.

6 Q. How far away is the Li'l Cricket from that
7 parking lot?

8 A. Not even a minute.

9 Q. How many cars were leaving the parking lot with
10 you?

11 A. The Crown Vic, the Camary, I think it was a
12 Suzuki, a mini-van and my car.

13 Q. You said you turned on to White Horse Road, did
14 everyone go in the same direction?

15 A. Most of us.

16 Q. Which ones didn't?

17 A. It was another Camary that went down 257.

18 Q. So what happened?

19 A. We were driving up White Horse Road and we get
20 like in front of the Li'l Cricket and some guys parked at
21 the Li'l Cricket and some guys sitting on the cars and so
22 we made a U-turn in the middle of the road and Raymond
23 said that look like the guys that shot Bram-bram or
24 whatever. So then we all turned around and went back
25 towards 864.

Larry Johnson - Direct

1 Q. You testified you were driving your car and
2 Raymond was driving the Crown Vic.

3 A. Yes, ma'am.

4 Q. How did that message get communicated to you?

5 A. It was like a U-turn and a pause in the middle of
6 the road.

7 Q. Did they yell out the window?

8 A. Yes, ma'am.

9 Q. So where did you go?

10 A. We went back to 864 and Raymond had told the
11 females to get in the van with Queen and he had traded
12 cars with Joseline.

13 Q. What did he tell you?

14 A. He asked everyone whoever was going need to come
15 on and if you wasn't going head to the Waffle House.

16 Q. Which Waffle House?

17 A. The one is at Augusta Road.

18 Q. Where were you headed the first time you left the
19 parking lot of 864? Where were you planning to go?

20 A. The Waffle House on White Horse Road.

21 Q. So why now instead of going to that original
22 Waffle House were you going to the one by Fleetwood?

23 A. I have no clue. We were just told to go to the
24 one on Fleetwood.

25 Q. Who told you to go to the one by Fleetwood?

Larry Johnson - Direct

1 A. Raymond.

2 Q. What had you been wearing that night, do you
3 remember?

4 A. Yes, ma'am, I had on a black tee-shirt and some
5 blue jeans.

6 Q. Before you left the parking lot of 864 the second
7 time, did you make any efforts to cover your face?

8 A. Not me.

9 Q. Who made efforts to cover their face?

10 A. Raymond Young, Michael Williams, Kinjta Sadler.

11 Q. Mr. Booker?

12 A. Yes, ma'am.

13 Q. Do you remember with what they covered their
14 face?

15 A. Black tee-shirts.

16 Q. Black tee-shirts they had been wearing?

17 A. Yes, ma'am.

18 Q. Do you remember what they were wearing underneath
19 those black tee-shirts?

20 A. No, ma'am.

21 Q. Do you remember if they were shirtless?

22 A. No, they wasn't shirtless.

23 Q. Did you watch all of them take off their black
24 tee-shirts and cover their faces?

25 A. Yes, ma'am.

Larry Johnson - Direct

1 Q. Who left the 864 parking lot and headed to the
2 Li'l Cricket?

3 A. Me, Daquan Bruster.

4 Q. Was anybody else in your car?

5 A. No, just Daquan Bruster.

6 Q. Who else?

7 A. Michael Williams, Tavarus Holmes, Raymond Young.

8 Q. In what car?

9 A. In Joseline's burgundy Suzuki, I think that's
10 what kind of car it was.

11 Q. Did you see where Joseline went?

12 A. She had got in Raymond car.

13 Q. Alright. Just to be clear, what kind of car was
14 that?

15 A. Green Crown Victoria.

16 Q. Any other cars go with you towards Li'l Cricket?

17 A. Green Toyota Camary.

18 Q. Who was in that car?

19 A. Kinjta Sadler, Esaiveus Booker and Shaquille
20 Hogan.

21 Q. What did you do? After you left the parking lot,
22 what did you do?

23 A. We went the same route on the same road and then
24 we made a right onto White Horse Road, then it's like a
25 road across the street from the Li'l Cricket. We turned

Larry Johnson - Direct

1 down the road and everybody turn around to face the Li'l
2 Cricket and then we went behind like we crossed over White
3 Horse Road and then we went down and it was the first
4 street on the left when you go around that curve.
5 Everybody started turning around right there and came back
6 up and made a left behind the Li'l Cricket. I had to go
7 further down the street to turn my car around.

8 Q. I'm going to put State's 8 up on the wall here
9 and see if this helps you explain what it is that you were
10 describing. Are you able to tell from this picture where
11 it is that you turned and turned around and then
12 ultimately parked?

13 A. Not really.

14 Q. Well, there's been some testimony that this is
15 the Li'l Cricket gas station.

16 A. Okay.

17 MR. QUINN: Objection to the leading nature
18 of the question.

19 THE COURT: Yeah.

20 BY MS. SALISBURY:

21 Q. Well, describe it as best you can if you don't
22 recognize the map. You say you turned right off of White
23 Horse Road?

24 A. Yes, ma'am.

25 Q. And then what did you do?

Larry Johnson - Direct

1 A. It's a street right across from Li'l Cricket and
2 we all turned around the face the Li'l Cricket crossed
3 over White Horse Road.

4 Q. Did you drive right pass the Li'l Cricket?

5 A. Yes.

6 Q. Were you worried the people you were looking for
7 were going to see you?

8 A. I guess not.

9 Q. Where did you go after that?

10 A. We went around the curve a little bit and made a
11 left on the street back there and turned around and then
12 came back out and made a right and went around the curve.

13 Q. At this point which way were you traveling. You
14 say you drove pass the Li'l Cricket, was it on your right?

15 A. On my right.

16 Q. And then you say you turned around and came back.

17 A. The Li'l Cricket would have been on the left.

18 It's a street behind the Li'l Cricket. The other cars
19 were small enough to turn around in the middle of the
20 road. I had to go down further down because my car was
21 bigger to turn around and Buddah jumped out the car and I
22 just pulled -- it's like a garage or something back and I
23 parked in front of the garage and I stayed in the car.

24 Q. State's 47 does that look familiar to you?

25 A. Yes, ma'am.

Larry Johnson - Direct

1 Q. Is that the garage in front of which you parked?

2 A. Yes, ma'am.

3 Q. You said you stayed in the car and Daquan

4 Bruster, Buddah, jumped out of the car?

5 A. Yes, ma'am.

6 Q. Why didn't you go with them?

7 A. They told me to stay in the car.

8 Q. Did you see anybody else go the direction that

9 Mr. Bruster went?

10 A. Yes.

11 Q. Who?

12 A. I seen Michael Williams, Raymond Young, Kinjta

13 Saddler, Scarious Booker and Tavarus Holmes.

14 Q. Where did you see those six people go?

15 A. Run up the side of the Li'l Cricket.

16 Q. Could you see them from where you stayed in your

17 car?

18 A. Yes, ma'am.

19 Q. What did you see them do?

20 A. They all got out of the car, ran up the hill,

21 then I heard gunshots, they ran back down the hill and I

22 started shooting in the air because I didn't know if they

23 were being chased. But then Buddah had hopped in the car

24 and was like go, go, and he had the gun in his hand and

25 you could tell he had shot all the bullets out because it

Larry Johnson - Direct

1 was the slide was back and he was trying to get it to go
2 back like he never shot it.

3 Q. Do you know what kind of gun he was carrying?

4 A. A .38.

5 Q. And what kind of gun did you have?

6 A. A .38.

7 Q. Now, you started shooting, were you shooting at
8 your friends?

9 A. No, ma'am.

10 Q. Then why were you shooting?

11 A. Because I didn't know if it was then coming back
12 or if they were being chased by the guys from the Li'l
13 Cricket.

14 Q. Where were you shooting?

15 A. In the air like in front -- like where I was
16 parked in front the garage I had stuck my arm out of the
17 car and started shooting and the bullets. I have T-top so
18 I could hear the shells bouncing off of the T-top.

19 Q. Do you know how many shots you fired?

20 A. I want to say six.

21 Q. Do you know how many shots you heard?

22 A. A lot.

23 Q. Where did you go next?

24 A. We had came out behind the Li'l Cricket made a
25 right, drove all the way down to where the Tucker's Soda

Larry Johnson - Direct

1 Shop used to be at, made a right and went under the
2 bridge, came up at the light, made a left, went up
3 Pendleton Street. And then when we got to the Spinx, a
4 county SUV came and stopped in the middle of the road like
5 in front of us and then he cut on the lights and he took
6 off and then we just went across and went up towards
7 Greenville High School made a right onto Augusta Road and
8 then drove all the way down to the Waffle House.

9 Q. How long did it take you to get from the gas
10 station to the Fleetwood Waffle House?

11 A. Like 15 to 25 minutes.

12 Q. Could you tell from where you were who got back
13 into which cars?

14 A. Yes, ma'am.

15 Q. Let's start with the burgundy car, who got back
16 into the car?

17 A. Tavarus Holmes, Michael Williams and Raymond
18 Young.

19 Q. Who was driving?

20 A. Raymond Young.

21 Q. The green Camary?

22 A. Esaiveus Booker and Kinjta Sadler. Shaquille was
23 in the car but he never got out of the car.

24 Q. What was Shaquille doing?

25 A. He was driving.

Larry Johnson - Direct

1 Q. So you and Shaquille ended up staying in the car?

2 A. Yes, ma'am.

3 Q. What happened once you got to the Waffle House?

4 A. We pulled in, Raymond had got out of the car and
5 everybody started getting at the car. Raymond had the
6 ones that was at the Li'l Cricket situation and sit
7 outside because he wanted to talk to us about what had
8 happened.

9 Q. Why?

10 A. He was basically saying he swore on his kids that
11 he wouldn't tell. We didn't have to worry about him
12 telling, nobody would ever know, just don't tell.

13 Q. How long did that little conference last?

14 A. Like five minutes because the security guard came
15 outside and told us either we would have to come in and
16 eat or leave.

17 Q. So what did you do?

18 A. Went in and ate.

19 Q. How long do you think you stayed there?

20 A. Not long because I had got into it with the
21 waitress because I had asked for an orange juice.

22 Q. Where did you go when you left?

23 A. I went home.

24 Q. Did you have anybody with you?

25 A. No, ma'am.

Larry Johnson - Direct

1 Q. You were driving Mr. Bruster around, do you know
2 anything about what happened to him?

3 A. He got in the car with someone else.

4 Q. I'd like to show you State's Exhibit 40, do you
5 recognize what's on the screen?

6 A. Inside the Waffle House.

7 Q. Which Waffle House?

8 A. Fleetwood.

9 Q. Now, can you tell me as best as you can tell from
10 where you are whether you recognize anyone in this video
11 as it moves forward here?

12 A. That's Raymond with the white tee-shirt, that's
13 Tavarus with the blue on, that's Tee with the black
14 tee-shirt, that's Rashawn with the black tee-shirt that
15 just sat down, that's Esaiveus with the camouflage shorts
16 on.

17 Q. What about this gentlemen right here?

18 A. That's Daquan with the black tee-shirt. That's
19 Art sitting the chair, Miesha in front of her, that's me.
20 That's Quan with the white shorts on. That's Kadrile with
21 the blond hair.

22 Q. Do you know who this person is walking down the
23 middle?

24 A. That's Vareo.

25 Q. Can you tell who is that sitting down?

Larry Johnson - Direct

1 A. Not really.

2 Q. What about in this hat right here?

3 A. That's Shaquille Hogan. That's Michael Williams

4 that just walked in. That's Denita.

5 Q. In the white?

6 A. Yes, ma'am. That looks like Kinjta sitting at

7 the bar. That was Quinn on the cell phone.

8 Q. Let's me see if I can speed it up a little bit.

9 A. That's my sister.

10 Q. What's her name?

11 A. Shameka Johnson.

12 Q. Now, I'm going to show you the outside cameras.

13 Do you recognize that car that's pulling into that space

14 right there?

15 A. No, ma'am.

16 Q. Can you tell based on what you remember from that

17 night who you see getting out of that car?

18 A. It looks like Raymond.

19 Q. Do you know whether that's Joseline?

20 A. Yes, ma'am. And that's Mikey. That's Joseline.

21 Q. Let's move to another camera. Is that your car?

22 A. Yes, ma'am.

23 Q. If you could tell me if you're able to recognize

24 anybody who gets out of this car.

25 A. It looks like Shaquille, Kinjta.

Larry Johnson - Direct

1 Q. Now, is this is where everyone was going to the
2 back of the parking lot as you described?

3 A. Yes, ma'am. And that's the security guard.

4 Q. Now, who exactly was a party to this parking lot
5 conference?

6 A. Me, Shaquille Hogan, Michael Williams, Esaiveus
7 Booker, Daquan Bruster, Kinjta Sadler, Raymond Young.

8 Q. Was it just the folks that were at the scene at
9 the gas station?

10 A. No, it was one other person, it was Vareo.

11 Q. Why was Vareo a part of that conference?

12 A. That's Raymond's little brother.

13 Q. Do you remember talking to the police a couple of
14 days after this happened?

15 A. Yes, ma'am.

16 Q. Did you tell them everything you knew?

17 A. No, ma'am.

18 Q. Why not?

19 A. Because I didn't want to incriminate myself and I
20 heard about hand of one hand of all so.

21 Q. So what part did you leave out?

22 A. About me being there.

23 Q. Do you remember meeting with investigators again
24 the next day?

25 A. Yes, ma'am.

Larry Johnson - Direct

1 Q. Did you give them another statement?

2 A. Yes, ma'am. I think the statement was clarifying
3 like some of the stuff I had said happened at the Red
4 Planet and 864 and stuff like that.

5 Q. So during that second interview did the
6 investigators ask you any questions about this incident?

7 A. The Li'l Cricket?

8 Q. Yes.

9 A. All of it was the same conversation.

10 Q. And do you remember meeting with the
11 investigators again on the 22nd?

12 A. Yes, ma'am.

13 Q. Which would have been the next day?

14 A. Yes, ma'am.

15 Q. Which would have been three days in a row?

16 A. Yes, ma'am.

17 Q. And is it in that statement that you ---

18 A. Tell the truth.

19 Q. Incriminate yourself?

20 A. Yes, ma'am.

21 Q. Why did you finally decide that it was time to be
22 honest?

23 A. I had heard that Raheem Adams had been shot and
24 he was at the Li'l Cricket and he was my best friend and I
25 was like it was the wrong people and I felt some type of

Larry Johnson - Cross

1 way and I had told the investigators about what happened.

2 Q. What do you mean it was the wrong people?

3 A. Because I didn't see him in any altercation with
4 anyone.

5 Q. Did you know who was actually at the Li'l Cricket
6 before you joined in with the plan?

7 A. No, ma'am.

8 Q. Thank you, sir. Please answer any questions
9 these attorneys may have.

10 MR. CHAMBERS: Randy Chambers for Mr. Booker,
11 Your Honor.

12 CROSS-EXAMINATION

13 BY MR. CHAMBERS:

14 Q. Mr. Johnson, have you been employed at any point
15 in the recent past?

16 A. Yes, sir.

17 Q. Where?

18 A. McAllister Deli.

19 Q. How recently was it that you worked there?

20 A. I lost my job July 20, 2011.

21 Q. So that was where you were working when all this
22 mess came up.

23 A. Yes, sir.

24 Q. What did you make working there?

25 A. \$8.00 an hour.

Larry Johnson - Cross

1 Q. Are you a gun owner?

2 A. No.

3 Q. Were you a gun owner in the past?

4 A. Not legally.

5 Q. What do you mean by that?

6 A. I didn't have a license for it but I also was
7 able to -- I didn't have any charges at that time when I
8 had the gun.

9 Q. You like guns, would that be fair to say?

10 A. Yes, sir.

11 Q. What kind of guns did you have, do you remember?

12 A. I owned a .380 that was chrome black.

13 Q. These pictures, are these pictures of you with
14 your guns?

15 A. The Larson is mine but the black one wasn't mine.

16 Q. These are pictures that were taken off your cell
17 phone; is that correct?

18 A. Yes, sir.

19 Q. You like these guns enough that you took pictures
20 of them laying there I guess on the bed?

21 A. No, I was on the floor.

22 Q. On the floor and that's you pointing the gun at
23 the camera?

24 A. Yes, sir.

25 Q. And is that you with another pose pointing a gun

Larry Johnson - Cross

1 at the camera?

2 A. Yes, sir.

3 Q. And that's you with two other guns.

4 A. That's the same guns.

5 Q. And then with both guns?

6 A. Yes, sir.

7 Q. You were talking about working making \$8 an hour
8 at McAllister's?

9 A. Yes, sir.

10 Q. How did you come about all this cash that you got
11 right here?

12 A. Tax money.

13 Q. So you went and got your tax money all in hundred
14 dollar bills; is that right?

15 A. It kind of look 20's.

16 Q. And this money there.

17 A. Yes, sir. I got that money back from when I had
18 to return a car because they didn't have a title loan.

19 Q. Now, you said you were in this group that
20 included among other people these young money that are
21 here at the table; is that correct?

22 A. Yes, sir.

23 Q. Were you ever part of a group called the Bloods?

24 A. No, a detective asked me take that picture and
25 show it to him because it was a guy in the picture was

Larry Johnson - Cross

1 under investigation for a stabbing at Cleveland Park.

2 Q. Would it be fair to say that that's a group of
3 Bloods?

4 A. Yes, sir.

5 Q. So at some point you would have had an
6 association with the Bloods?

7 A. No, sir.

8 Q. And this is the car that we saw in the video just
9 a minute ago, isn't it?

10 A. No, sir, that's my cousin Christopher's car.

11 Q. You already discussed with the solicitor, you met
12 with the police and gave statements three consecutive
13 days; is that correct?

14 A. Yes, sir.

15 Q. 20th, 21st, 22nd.

16 A. Yes, sir.

17 Q. When you went to talk to investigators on the
18 20th, you were actually already in custody; isn't
19 that correct?

20 A. No, I wasn't in custody.

21 Q. You weren't being investigated by Weiner?

22 A. I agreed to answer questions.

23 Q. So you weren't under investigation by
24 Investigator Weiner?

25 A. No, he just told me to come answer questions and

Larry Johnson - Cross

1 take a polygraph test.

2 Q. But Weiner was the one who asked you to come in?

3 A. Yes, sir.

4 Q. And it was about an armed robbery case that he
5 was working on?

6 A. Yes, sir.

7 Q. And when you came in he introduced you to
8 Investigator Campbell seated right over there, correct?

9 A. No, sir.

10 Q. Well, at some point did you not talk to
11 Investigator Campbell?

12 A. No, it was a guy that said he was from the FBI
13 and he had came and questioned me he said because the site
14 of the armed robbery an officer had informed him that they
15 overheard me talking to someone else about the Li'l
16 Cricket shootings.

17 Q. So you say that in regard to these Li'l Cricket
18 shootings someone from the FBI talked to you?

19 A. He stated he was from the FBI.

20 Q. Do you remember this man's name?

21 A. No, sir. I just know he said something about the
22 30 years (haulback).

23 Q. But he definitely said he was with the FBI and he
24 mentioned something called the 30 year (haulback)?

25 A. Yes, sir.

Larry Johnson - Cross

1 Q. What did he tell you about that?

2 A. It was day for day.

3 Q. So in other words they were letting you know what
4 would happen to you?

5 A. If you want to say so.

6 Q. Well, I mean that's why they brought it up,
7 wouldn't that be fair to say?

8 A. He said if it come to find out if it was gang
9 related or anything like that.

10 Q. And how many officers were there or anything when
11 they talked to you that first day?

12 A. That first day it was to this or the armed
13 robbery?

14 Q. I'm talking about the statement that you gave on
15 the 20th that the solicitor asked you about, how many
16 officers were present? You already said the FBI guy was
17 there.

18 A. He was downstairs after I had been questioned by
19 Weiner for the armed robbery and he started questioning me
20 about the Li'l Cricket shootings and he said he was going
21 to introduce me to the detective that was investigating
22 the Li'l Cricket shootings.

23 Q. So the FBI then after he talked to you about the
24 30 year (haulback) took you upstairs and talked to the
25 investigators. Was it then Investigator Campbell?

Larry Johnson - Cross

1 A. Yes, sir.

2 Q. Was there anybody else with Investigator
3 Campbell?

4 A. Brandon. I don't know ---

5 Q. Was there an Investigator Bailey?

6 A. Yes, sir.

7 Q. And do you remember anybody else being there?

8 A. There was a couple other officers sitting around.

9 Q. So by the time you went up there to talk to
10 Investigator Campbell, you had already talked to Weiner,
11 the FBI guy who told you could get 30 years, you went
12 upstairs and there were at least two officers Campbell and
13 Bailey and you said there were a couple of others there?

14 A. Yes, sir.

15 Q. Did they also indicate to you that they were
16 investigating this, they thought you were involved and how
17 much trouble you could get in?

18 A. No, Detective Weiner just asked me about the
19 information that I had about the shootings.

20 Q. This first statement that you gave as you've
21 already indicated to the solicitor from the 864 you just
22 drove on home?

23 A. Yes, sir.

24 Q. You don't mention in this first statement, you
25 don't mention Esaiveus Booker at all, do you? You can

Larry Johnson - Cross

1 look at it if you need to.

2 A. And I also didn't mention Shaquille Hogan and
3 Kinjta Sadler.

4 Q. You didn't mention a lot of people.

5 A. Yes, sir.

6 Q. So that's the first statement you gave. The
7 second day you came back and you talked to the same people
8 again.

9 A. Yes, sir.

10 Q. And you offered up some more stuff that day?

11 A. Yes, sir.

12 Q. You didn't change the fact that you had driven
13 home or driven over to the Waffle House, had not gone
14 anywhere from the 864 but to Waffle House.

15 A. Yes.

16 Q. And again you didn't mention Esaiveus Booker in
17 that statement, did you?

18 A. This one has nothing to do with the Li'l Cricket
19 shooting.

20 Q. You said when you talked to the solicitor a few
21 minutes ago that y'all talked about everything. I mean
22 that's what's in that statement, but you said on that
23 second day and every time that y'all talked that you
24 talked about everything, is that right?

25 A. That's the shootings at the Red Planet and --

Larry Johnson - Cross

1 yeah.

2 Q. And then you come back on the third day and this
3 time was there an Investigator Audrey there?

4 A. I can't remember exactly, it was 17 months ago.

5 Q. Is that the statement that you gave?

6 A. Yes, sir.

7 Q. Does that indicate that there was an Investigator
8 Audrey that was there to help him take your statement?

9 A. Yes, sir.

10 Q. And it indicates that Investigator Campbell was
11 there again?

12 A. Yes, sir.

13 Q. Also was there an Investigator Peoples who was
14 there, do you remember her?

15 A. Yes, sir.

16 Q. And then it also indicates there was somebody
17 named Armstrong that was there; is that right?

18 A. I don't remember all their names.

19 Q. These were people that signed as witnesses which
20 indicated they were there.

21 A. Yeah, like I said there was a couple more
22 officers around.

23 Q. And in this statement is the first time that you
24 mention Esaiveus Booker being involved in any way mention
25 that you're involved in any way?

Larry Johnson - Cross

1 A. That's the first day I mentioned that anyone was
2 involved in any way.

3 Q. And that was after having met with the police,
4 all these different investigators, the guy from the FBI on
5 three separate occasions on the third day, despite what
6 you'd said in those previous statements, you'd changed
7 your story on that third day and started to implicate
8 these other people.

9 A. Including myself.

10 Q. I understand that. You said a few minutes ago
11 when you were talking about the facts because this is not
12 clear from your statement that when y'all left the 864
13 that Shaquille Hogan was driving one of the cars. Do you
14 remember that?

15 A. No, I did not say that.

16 Q. Well, at any rate you identified at the Waffle
17 House getting out of the passenger seat of one of the
18 cars.

19 A. Yes, sir.

20 Q. You did, in fact, at some point give a fourth
21 statement, did you not?

22 A. No, sir.

23 Q. Not a statement to the police, but a statement?

24 A. Recant?

25 Q. Yes.

Larry Johnson - Cross

1 A. Yes.

2 Q. So you're familiar with it, you know what I'm
3 talking about?

4 A. Yes, sir.

5 Q. Is this that recantation?

6 A. Yes, sir.

7 Q. Is that your signature on the bottom?

8 A. Yes, sir.

9 Q. Did you say in this statement -- by the way, what
10 was the date you did this recantation? Was that November
11 10, 2012?

12 A. Yes, sir.

13 Q. Did you say that on the dates ---

14 MS. SALISBURY: Your Honor, may we approach
15 briefly.

16 THE COURT: Alright.

17 (Discussion off the record.)

18 BY MR. CHAMBERS:

19 Q. So on the date of this recantation that you
20 executed and signed, did you say that, "On the dates of or
21 between July 20th and 22nd, 2011, I, Larry Terrell
22 Johnson, was made promises and even threatened by
23 Greenville County Detectives to make false accusations
24 against Michael Williams, Raymond Lewis Young, Tavarus
25 Dean Holmes, Esaiveus Frantez Booker, Daquan Bruster,

Larry Johnson - Cross

1 Kinjta Sadler and myself, Larry Terrell Johnson, and
2 Shaquille Hogan."

3 A. Yes, sir.

4 Q. And did you further say, "I was under stress due
5 to my recent arrest, misunderstood what the detectives was
6 asking me. I was coerced to write and sign a false
7 statement." Did you say that?

8 A. Yes, sir.

9 Q. "The investigator typed a false statement and
10 told me to sign it and claim they would help me get out of
11 jail. I now wish to recant those false accusations and
12 state the fact that on the date of July 17, 2011, I, Larry
13 Terrell Johnson, did not participate or conspire nor
14 witness any illegal actions or activity of any kind with
15 the names listed above or anyone of that matter." Is that
16 right?

17 A. Yes, sir, but just after I been re-arrested.

18 Q. And you signed that; is that correct?

19 A. Twice.

20 Q. And then you had it notarized?

21 A. Yes, sir.

22 Q. And that was November 10, 2012, right?

23 A. Yes, sir.

24 Q. And that was after the three statements that you
25 gave to the police?

Larry Johnson - Cross

1 A. That was after I had been re-arrested.

2 Q. Okay. Thank you very much. That's all the
3 questions I have.

4 MR. ROBINSON: I have no questions, Your
5 Honor.

6 BY MR. ABDALLA:

7 Q. Do you remember a conversation you had with Tony
8 Jeter? Do you know who Tony Jeter is?

9 A. I don't know him at all.

10 Q. You don't remember talking to him about the fact
11 that similar to your recantation statement wherein you
12 told him that the officers promised to get you a low bond
13 if you told them certain information?

14 A. No, sir.

15 Q. You never said that?

16 A. No, sir, not at all. And the only reason that I
17 recant because they had somebody write me and tell me to
18 do it.

19 Q. You wrote the recant, didn't you?

20 A. Not freely.

21 Q. So you said you were coerced to make the
22 statement that said you were coerced?

23 A. I have a statement in the county jail from one of
24 my co-defendants telling me to do it, write it three times
25 and get it notarized and then on the same day I got that

Larry Johnson - Cross

1 coming out of holding either I was with them or against
2 them.

3 Q. Do you know Tony Jeter from the jail?

4 A. No, I don't know him at all.

5 Q. And you don't remember making statements to him?

6 A. No, sir.

7 Q. Did you ever get bonded out?

8 A. Yes, sir.

9 Q. How much as your bond?

10 A. \$50,000 plus home incarceration.

11 Q. Was this after your cooperation?

12 A. No, I sat in jail for three-and-a-half months
13 without a bond.

14 Q. After you cooperated what did you get?

15 A. Nothing because that means I would have had a
16 bond when they arrested me.

17 Q. What about the plea deal you got?

18 A. I didn't get a plea deal.

19 Q. You didn't get a plea deal?

20 A. No. All of my pleas are from zero to max.

21 Q. So you're getting no benefit from coming in here
22 to testify?

23 A. No.

24 Q. What about your prior record?

25 A. My record I just have an assault and battery in

Larry Johnson - Cross

1 2009.

2 Q. You were talking about other charges you got
3 arrested on, what were you referring to?

4 A. The accessory charge that he kept referring to
5 that I was under investigation for.

6 Q. So you gave three different statements. Was
7 Brandon Brown one of the officers in the room?

8 A. Yes.

9 Q. Was he the one the FBI?

10 A. No, he had his hat turned backwards and he had
11 his gun on his back and he had like short blonde hair.

12 Q. On July 20, 2011 you gave a statement to
13 Investigator Campbell, correct?

14 A. Yes.

15 Q. And Investigator Bailey was there?

16 A. Yes.

17 Q. And that was the truth you said?

18 A. Yes.

19 Q. On July 21, you gave another statement, right?

20 A. To clarify some things.

21 Q. That was then the whole truth, right?

22 A. No, I still didn't want to incriminate myself.

23 Q. Then finally the last statement you gave was
24 nothing but the truth, right?

25 A. Yes.

Larry Johnson - Cross

1 Q. And then, of course, you gave the statement of
2 2012 saying that you never freely gave those other
3 statements and they were coerced, right?

4 A. No, that was November 10th.

5 Q. November 10th, 2012?

6 A. I was forced to do it.

7 MR. ABDALLA: I have no further questions.

8 BY MR. QUINN:

9 Q. When you went to the Red Planet that night, a
10 security guard approached you and asked you to make sure
11 there's be no trouble?

12 A. Yes, sir.

13 Q. A security guard knows you well enough to come up
14 to you and say, look, don't cause any trouble tonight?

15 A. It was a situation that happened the weekend
16 before, a big fight had broke out, and I was kind of, you
17 know, trying to help keep -- solve the problem or
18 whatever. He know me because his girlfriend Jane used to
19 work at McAllister with me, he used to come up there and
20 eat all the time. And he used to work at 864 too.

21 Q. So you were the peace keeper?

22 A. Yes, sir.

23 Q. And at the Waffle House you got thrown out
24 because you got in a fight with a waitress?

25 A. No, I didn't get in a fight with the waitress.

Larry Johnson - Cross

1 We just got in a confrontation about she just gave me the
2 wrong thing and tried to charged me for a refill for
3 something I didn't ask for.

4 Q. Whether it was orange juice or orange soda?

5 A. Yes, sir.

6 Q. And you were not the peace keeper then in Waffle
7 House?

8 A. Actually I was. I had told my sister to leave
9 the situation alone because she tried to add fuel to the
10 fire.

11 Q. And this picture of you with Bloods, you did that
12 because some police office asked you to help solve some
13 other crime?

14 A. Yes, my friend had got stabbed up at Cleveland
15 Park and I wasn't in the picture.

16 Q. I'm sorry the way this works is you have to let
17 me finish and I'll let you finish.

18 A. Okay.

19 Q. So the way this works is you went and found
20 Bloods, don't know nothing about them and found them, had
21 a picture taken of them with them to help the police, is
22 that your testimony?

23 A. I got a picture from a guy named Pat that take
24 pictures at the club.

25 Q. To help the police?

Larry Johnson - Cross

1 A. Yes, sir.

2 Q. What was that police officer's name?

3 A. I don't know. That was a while ago.

4 Q. And the gun that you used that night, when did
5 you provide that to the police?

6 A. It wasn't my gun.

7 Q. When did you help them find the gun so they could
8 do ballistics?

9 A. I didn't help them find the gun. I didn't have a
10 gun for them to find.

11 Q. I thought you told this jury you shot the gun
12 outside of the ---

13 A. I did, but I returned the gun back to its
14 rightful owner.

15 Q. So you provided that information to the police?

16 A. That I returned the gun to the rightful owner?

17 Q. Yes.

18 A. No, not that I can remember.

19 Q. But I thought your last statement was everything
20 you know about this case. I thought you told the jury the
21 reason it took you three times to get it right was the
22 third time you got it all in there. So you didn't help
23 them recover the gun?

24 A. I didn't know where it was.

25 Q. Did the gang investigators they were worried

Larry Johnson - Cross

1 about getting the guns off the street more than anything
2 else?

3 A. I didn't know I was talking to the gang
4 investigators. I said I was talking to a guy from the
5 feds and he was talking about a 30 year if it was gang
6 related. I thought he was a detective because he was in
7 regular clothes.

8 Q. Brandon Brown.

9 A. I don't know his last name.

10 Q. And your testimony is you were shooting this gun
11 out the window because there were people coming up and you
12 couldn't tell who they were?

13 A. Yes, sir.

14 Q. But you tell this jury you could see everybody
15 else get out of the car and go around the side of the Li'l
16 Cricket?

17 A. Yes. The way they came back towards me after the
18 gunshots, it was like it was just running so it wasn't in
19 an orderly fashion as they went up the hill to the side of
20 the Li'l Cricket.

21 Q. So they were orderly going up the hill?

22 A. Yes.

23 Q. Disorderly coming back?

24 A. Yes, after the shots started.

25 Q. That's why you had to shoot the gun in the air?

Larry Johnson - Redirect

1 A. Yes. I didn't know if they were being chased by
2 the guys they were firing at or anything.

3 Q. You didn't think that people might run back to a
4 car or anything?

5 A. I know that, but if you shoot at the wrong person
6 and they have guns and retaliate and they had guns and
7 could be chasing.

8 Q. You say you parked in front of the garage?

9 A. Yes.

10 Q. And you drove the entire time?

11 A. My car.

12 Q. And it took 15 to 25 minutes to get to the Waffle
13 House?

14 A. Yes.

15 Q. And that was the Waffle House that everybody
16 keeps referring to as Fleetwood?

17 A. Yes, by Fleetwood.

18 Q. And you say you were out in the parking lot about
19 five minutes before the security guard broke y'all up?

20 A. About five minutes.

21 MR. QUINN: I don't have any other questions.

22 MS. SALISBURY: Very briefly.

23 REDIRECT EXAMINATION

24 BY MS. SALISBURY:

25 Q. Why did you draft this letter from jail about

Larry Johnson - Redirect

1 everything you told the police was a lie?

2 A. After I had went to court for the accessory
3 charge, I had went and talked to Corporal Whitman and she
4 told me I had been terminated from the House Arrest
5 program and asked me to turn myself in. So I had turned
6 myself and then like a couple guys had kept saying Raymond
7 said are you going to do that are you going to recant your
8 statement, are you going to recant your statement, and
9 then it became like me talk to my lawyer and is it okay
10 and how should I go about doing this. And it's like, no,
11 you don't need to tell me, he's working with the
12 solicitor, you need to do it, you need to get it done. So
13 as time went on as I sat in the dorm more of a threat came
14 to me, like more people from the ---

15 MR. ROBINSON: Objection, hearsay.

16 THE COURT: Overruled. Go ahead.

17 THE WITNESS: More of the people from the
18 gang was in the dorm with me. So then I had got up a
19 paper and I showed it to chase and it basically said what
20 my recant said and told me to do it three times, get it
21 notarized and give it to this guy named Boy-boy and he
22 would give it to Raymond.

23 Raymond told me he would hold it until trial
24 that way it could be a surprise and they just saying do
25 it, get it down. And he would be on the rec yard which I

Larry Johnson - Recross

1 could see out of the window, oh, you did it, you need to
2 get it down, you either with us or against us.

3 BY MS. SALISBURY:

4 Q. Did anyone ever actually threaten you?

5 A. If I didn't get it done, I would be "x" out.

6 Q. What does that mean to you?

7 A. Well, somebody that knows more than I know about
8 being "x" out meaning me being murdered and they know that
9 I have to go to prison.

10 Q. Did you fear for your safety?

11 A. Yes, ma'am.

12 RECROSS-EXAMINATION

13 BY MR. CHAMBERS:

14 Q. I believe that you told co-counsel over hear a
15 few minutes ago when he asked you if you had spoken to
16 Tony Jeter, you told him no.

17 A. That is correct.

18 Q. Isn't Boy-boy Tony Jeter?

19 A. I don't know his real name.

20 Q. If Boy-boy is Tony Jeter, told to him?

21 A. Yeah. We was never in the same dorm, he just was
22 passing me papers from Raymond.

23 Q. So if you don't know Tony Jeter, why wasn't your
24 answer I don't know Tony Jeter as opposed to I never
25 talked to Tony Jeter?

Larry Johnson - Recross

1 A. If he never introduced himself to me as Tony
2 Jeter, then I wouldn't know his name. He told me his name
3 was Boy-boy.

4 Q. But you would know that you didn't know who that
5 was the logical response would be I don't know Tony Jeter?

6 A. Like I said, I don't know him.

7 Q. Now, you said you hadn't talked to him. You
8 don't remember that?

9 A. I don't know him either.

10 MS. SALISBURY: Your Honor.

11 THE COURT: Asked and answered, let's move
12 on.

13 BY MR. CHAMBERS:

14 Q. As far as your sentence goes, you indicated there
15 were no deals. You didn't have to plead guilty to seven
16 attempted murders, did you?

17 MS. SALISBURY: Objection, this is outside
18 the scope of cross-examination ---

19 THE COURT: That's alright, go ahead, answer
20 it.

21 BY MR. CHAMBERS:

22 Q. You didn't have to plead to seven attempted
23 murders, did you?

24 A. I wasn't charged with seven attempted murders.

25 Q. And you're sentencing is deferred, in other words

Larry Johnson - Recross

1 they want to wait and see how you do today before you get
2 sentenced, right?

3 A. No, sir. I'm still waiting to get sentenced on
4 my other charge.

5 Q. So you were sentenced on Monday when you pled
6 guilty, is that what you're saying?

7 A. No.

8 Q. So as you sit here today, you have not been
9 sentenced?

10 A. No.

11 Q. So the sentencing is to occur after you testify
12 today?

13 A. I'm still waiting to be sentenced on his
14 accessory too that I went to court for a couple of months
15 ago.

16 Q. So another charge that you had pending against
17 you you're waiting to be sentenced on?

18 A. Yes, because I was waiting on this to get all
19 wrapped so I wouldn't have to come back up.

20 Q. So they wanted to get this trial over before they
21 sentenced you?

22 A. I just wanted to get it all done at one time.

23 Q. Okay. Thank you.

24 A. You're welcomed.

25 BY MR. ABDALLA:

Shaquille Hogan - Direct

1 Q. One last thing, you mentioned earlier when the
2 solicitor was questioning you about at polygraph. You
3 didn't pass that polygraph, did you?

4 A. That's not on ---

5 THE COURT: Wait a minute. No. Anything
6 else?

7 MS. SALISBURY: Nothing.

8 THE COURT: You may stand down.

9 (Witness leaves the witness stand.)

10 Let me talk to the lawyers for a second.

11 (Discussion off the record.)

12 Ladies and gentlemen of the jury, we're
13 trying to get this trial finished so you all object to
14 keep working. Keep working. Do you need to take a short
15 break or you good? Good. Call you next witness.

16 MS. SALISBURY: The State calls Shaquille
17 Hogan. Mr. Hogan, please come up to be sworn.

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

20 SHAQUILLE HOGAN, having been duly sworn,
21 testified as follows:

22 Thank you. Please be seated. State your
23 name for the record.

24 THE WITNESS: Shaquille Hogan.

25 DIRECT EXAMINATION

Shaquille Hogan - Direct

1 BY MS. SALISBURY:

2 Q. Mr. Hogan, what do your friends call you?

3 A. Lipz.

4 Q. Do you know the gentlemen in the courtroom here?

5 A. Yes.

6 Q. How do you know them?

7 A. Friends.

8 Q. Let's do them one by one. Who do you recognize
9 in the courtroom?

10 A. All of them.

11 Q. One at a time.

12 A. Trez, Mikey, Raymond, and Ken.

13 Q. Let's start with Trez, do you know Trez's real
14 name?

15 A. Esaiveus.

16 Q. What is he wearing for the jury?

17 A. Navy blue vest.

18 Q. How long have you known Trez?

19 A. About a year.

20 Q. What's your relationship like with him?

21 A. Kind of close.

22 Q. What about Mikey, do you know his real name?

23 A. Yes, ma'am, Michael.

24 Q. What is he wearing?

25 A. Light blue stripes.

Shaquille Hogan - Direct

1 Q. How do you know him?
2 A. A while back.
3 Q. How long have you known him?
4 A. About a year.
5 Q. What is your relationship like with him?
6 A. Pretty close.
7 Q. Who else?
8 A. Raymond.
9 Q. What's wearing?
10 A. I don't know what color that is but it's like
11 white.
12 Q. How long have you known Raymond?
13 A. Not long.
14 Q. What's your relationship like with him?
15 A. Kind of close.
16 Q. And who else?
17 A. Ken.
18 Q. What's Ken wearing?
19 A. Red, white, blue.
20 Q. How long have you known Ken?
21 A. About a year.
22 Q. What's your relationship like with him?
23 A. Pretty close.
24 Q. It seems like you've known everybody for about a
25 year and you're pretty close with them. Did you meet them

Shaquille Hogan - Direct

1 all at the same time?

2 A. No.

3 Q. Nonetheless, were you friends with them last
4 summer July of 2011?

5 A. Yes.

6 Q. Do you remember the night that is the subject of
7 this trial, July 16 and into July 17 of 2011?

8 A. Yes.

9 Q. As earliest as you can remember, what do you
10 remember?

11 A. We had went to the club.

12 Q. Which club?

13 A. Red Planet.

14 Q. How did you get there?

15 A. My brother, another home boy.

16 Q. What happened when you got there?

17 A. We went in and get in there and when we got in
18 there we was just chillin', got into it with some other
19 guy and one of my home boys ran up and hit him. When he
20 hit him, he escorted him out of the club. When I went out
21 the club, I stood around and looked around and I heard
22 gunshots and I ran to the car. I ran to the car to get my
23 gun, but the door was locked and by the door got unlocked,
24 it was all over with.

25 Q. Let's stop there and see if we can't get through

Shaquille Hogan - Direct

1 that slowly. Who do you remember being with you at the
2 club that night of your friends?

3 A. Me, Trez, Ken, Mikey, Ray, Larry, Tavarus.

4 Q. Do you remember posing for a picture?

5 A. Yes.

6 Q. Take a look at State's 3 and 4, do you see
7 yourself in those photographs?

8 A. Yeah.

9 Q. Now, you said that you went out into the parking
10 lot and heard shots, what did you do in response to that?

11 A. I ran.

12 Q. Where were you running to?

13 A. Car.

14 Q. Which car?

15 A. The car I came there with.

16 Q. What car did you come in?

17 A. A green Toyota Camary.

18 Q. Do you know whose car that is?

19 A. I don't know the rightful owner.

20 Q. Who was driving it that night?

21 A. Trez.

22 Q. The same Trez that's in the courtroom?

23 A. Yes.

24 Q. So he's the person that came and picked you up
25 from your home?

Shaquille Hogan - Direct

1 MR. QUINN: Object to the leading nature of
2 the question.

3 THE COURT: Don't lead.

4 BY MS. SALISBURY:

5 Q. You mentioned that you're home boy had come to
6 pick you up from your house, are you talking about the
7 same person?

8 A. I never said from my house.

9 Q. I apologize. From where did you get picked up?

10 A. I was at a friend's house that was across town.

11 Q. Who came to pick you up from that house?

12 A. Trez.

13 Q. In what car?

14 A. Same car.

15 Q. Did you put your gun in that car when you got
16 into it right then?

17 A. No, I left it in there.

18 Q. See if I can't clarify, when did you put the gun
19 in the car?

20 A. I had it on me the whole time so I left it when I
21 went in the club.

22 Q. Did you have it with you that you were at your
23 friend's house?

24 A. Yes.

25 Q. So when Trez came to pick you up, did you have it

Shaquille Hogan - Direct

1 with you to take it into the car then?

2 A. Yes.

3 Q. Okay. And what kind of gun was it?

4 A. It was a .380.

5 Q. Getting back to the club, you said you ran to the
6 car and what happened?

7 A. By the time the door was unlocked, everything was
8 over with so we left.

9 Q. Who did you leave with?

10 A. Me, Ken, Trez.

11 Q. Where did you go?

12 A. We left there and went to 864 and tried to get in
13 but they wouldn't let us in.

14 Q. What did you do?

15 A. We left -- I didn't know where we was headed to.
16 We was going somewhere until somebody called and told us
17 to turn around and go back to 864. So we went back and
18 ended up there.

19 Q. So were you driving at this point?

20 A. Nah.

21 Q. Who was driving?

22 A. Trez.

23 Q. So at some point, you turn around and come back
24 to 864 why?

25 A. To meet up with everybody from the club.

Shaquille Hogan - Direct

1 Q. Did you ever learn why you turned around and come
2 back to 864?

3 A. Yeah.

4 Q. What was your understanding of what was going on?

5 A. Well ---

6 MR. ROBINSON: Objection, hearsay.

7 THE COURT: What was his understanding?

8 MS. SALISBURY: Yes.

9 THE COURT: Overruled.

10 BY MS. SALISBURY:

11 Q. What was your understanding?

12 A. Well, Tavarus had came to the car, he was like
13 could he see my pistol, we fixing to get the guys at the
14 Li'l Cricket.

15 Q. Did you give him your gun?

16 A. Yes.

17 Q. Why?

18 A. Because he asked me to and that's what you do,
19 you got to do what he say.

20 Q. Why do you have to do what he says?

21 A. Because that's the power he got.

22 Q. What do you mean by that?

23 A. That's what I mean.

24 Q. Why does he have the ability to tell you what to
25 do?

Shaquille Hogan - Direct

1 A. Because I guess he's been doing it longer than
2 me.

3 Q. Did you give him the gun?

4 A. Yes, ma'am.

5 Q. What happened next?

6 A. We proceeded to get in the car and proceeded to
7 do what Tavarus said he was going to do.

8 Q. Were you still in the green Camary?

9 A. Yes, ma'am.

10 Q. Who was driving this time?

11 A. Same person.

12 Q. Now, you say we left to go do what we're going to
13 do. Who is we?

14 A. Me, Trez, Ken, Larry, Buddah, Tavarus, Mikey, and
15 Raymond.

16 Q. Do you remember what kind of cars they were in?

17 A. Yes.

18 Q. What kind of car was Larry in?

19 A. Brown Altima car.

20 Q. Was anyone with him?

21 A. Buddah.

22 Q. What kind of car was Tavarus in?

23 A. The red car.

24 Q. And who was in the car with him?

25 A. Mikey and Raymond.

Shaquille Hogan - Direct

1 Q. Who was driving that car?

2 A. I'm not sure. I can't remember.e

3 Q. Before y'all left the parking lot, do you
4 remember if anyone you were with covered their faces?

5 A. No.

6 Q. Do you remember if anyone changed into white
7 tee-shirts?

8 A. No.

9 Q. Do you remember?

10 A. I don't remember. All I can remember is Larry
11 had a ski mask, that's all I can really just tell and hats
12 on and stuff like that.

13 Q. Where did you go after you left the parking lot
14 of 864 the second time?

15 A. We left there, went down White Horse Road, took a
16 right, took a left, and went past the Li'l Cricket and we
17 came back around, parked behind them and we parked behind
18 them and that's when everybody got out of the car.

19 Q. Did you get out of the car?

20 A. No.

21 Q. Why not?

22 A. Because I ain't have no reason to, I ain't have
23 not gun.

24 Q. What did you do?

25 A. I got in the driver's seat.

Shaquille Hogan - Direct

1 Q. Why?

2 A. Because I felt like I needed to drive.

3 Q. Who do you remember seeing running from the cars
4 towards the gas station?

5 A. Everybody else.

6 Q. Did Larry run out there with them?

7 A. Yes.

8 Q. Were you the only one waiting with the cars?

9 A. Yeah.

10 Q. What do you remember happening next?

11 A. I was in the car and I heard some gunshots.

12 Q. Do you remember how many you heard?

13 A. Nah. I just heard some gunshots and I seen Larry
14 shooting and everybody else came back to the car.

15 Q. What do you mean you saw Larry shooting?

16 A. It was on the way back he was still shooting. I
17 don't know why but he was still shooting on the way back
18 so, that's the only thing I actually saw. I heard
19 gunshots.

20 Q. Was he shooting at somebody?

21 A. I couldn't see around the building but where he
22 was shooting at so I don't know.

23 Q. When you said you saw him shooting on the
24 backside?

25 A. Like I said where I'm at you can see him shooting

Shaquille Hogan - Direct

1 but you can't see what he was shooting at.

2 Q. Do you know what kind of gun everybody had?

3 A. Some of them.

4 Q. Do you know what kind of gun Mikey was carrying?

5 A. I'm not sure. He's always talking about 8

6 millimeter.

7 Q. Do you know what kind of gun Raymond was

8 carrying?

9 A. I think it was a .357, I think. It's been so
10 long ago.

11 Q. Trez was carrying?

12 A. A 9.

13 Q. Do you know what kind of gun Ken was carrying?

14 A. He had the .382.

15 Q. What about Daquan Bruster, Buddah?

16 A. He had a .9.

17 Q. And Tavarus?

18 A. .380.

19 Q. Your .380?

20 A. Yeah.

21 Q. Now, when everybody returned back to the car,
22 what do you remember happening next?

23 A. Everybody ran and we got in the car and we drove
24 off. I drove off and got to the red light and me and Trez
25 switched driver's seats.

Shaquille Hogan - Direct

1 Q. Why?

2 A. Because I was nervous.

3 Q. Why were you nervous?

4 A. Because of all the gunshots.

5 Q. So you switched seats, which seat did you get
6 into?

7 A. I really can't remember to be honest with you.

8 Q. Where did you go?

9 A. We left there and went to the Waffle House?

10 Q. Which one?

11 A. Augusta, I think.

12 Q. Near Fleetwood?

13 A. Yeah.

14 Q. How long do you think it took y'all to get there?

15 A. I can't even tell you, I don't know. My mind
16 wasn't on it.

17 Q. What happened when you arrived at the Waffle
18 House?

19 A. Everybody was talking and we walked in and ate.

20 Q. What do you mean talking?

21 A. People just talking, there was groups over here,
22 and groups over there. They were just talking and I was
23 smoking a cigarette.

24 Q. Do you remember speaking with Raymond in the
25 parking lot that night?

Shaquille Hogan - Direct

1 A. I might have said something to him but it wasn't
2 nothing serious because I don't remember.

3 Q. Did you ever get your gun back?

4 A. Yes.

5 Q. From who?

6 A. From Tavarus.

7 Q. Do you remember where he gave it back to you?

8 A. It was like over on the other side away from the
9 door. It was like on the side.

10 Q. It was right there at the Waffle House?

11 A. Yeah.

12 Q. Do you remember how he gave it back to you?

13 A. I can't remember.

14 Q. Do you remember talking to police back in July of
15 this year?

16 A. Yes.

17 Q. Do you remember giving them a statement about
18 what you remember happening that night?

19 A. Yeah.

20 Q. Did you have a chance to look over that statement
21 and make any corrections?

22 A. No.

23 Q. You didn't get to read it?

24 A. No.

25 Q. Did you sign your name on it?

Shaquille Hogan - Direct

1 A. You talking about what they had written?

2 Q. Yes, sir.

3 A. Yes.

4 Q. Take a moment to look at it and read it over to
5 yourself there. Is that the statement that you gave to
6 the police?

7 A. Yeah.

8 Q. Do you remember telling the police that Michael
9 Williams was carrying a .40 caliber?

10 MR. QUINN: Object to the leading nature of
11 the question.

12 THE COURT: I'm going to let him answer. He
13 was just asking what he remembers. Go ahead.

14 THE WITNESS: I didn't say it in my
15 statement, though.

16 BY MS. SALISBURY:

17 Q. After you review you statement, do you remember
18 telling the police what kind of caliber firearm Trez was
19 carrying that night?

20 A. Yes, ma'am.

21 Q. What caliber?

22 A. .9 millimeter.

23 Q. Do you remember telling the police Ken was
24 carrying that night?

25 A. Yes, it says right there.

Shaquille Hogan - Direct

1 Q. What caliber?

2 A. A .9 millimeter.

3 Q. Do you remember telling police about a meeting
4 that night in the parking lot of the Waffle House?

5 A. Yes, ma'am.

6 Q. Do you remember whether that meeting happened?

7 A. You said a meeting? No. I was smoking a
8 cigarette.

9 Q. Read the last line of that statement to yourself?

10 A. "We had a meeting at," (inaudible) "car and then
11 went into the Waffle House and ate.e

12 Q. Did you not tell the police that?

13 A. Not a meeting like a meeting meeting.

14 Q. What do you mean?

15 A. It really wasn't nothing. I couldn't even
16 remember what the conversation about that's why I said it
17 couldn't even have been that important.

18 Q. Do you remember drafting a statement in June of
19 2012?

20 A. Yes, ma'am.

21 Q. Did you write that statement?

22 A. Yes, ma'am.

23 Q. Under what circumstances and for what purpose did
24 you write that statement?

25 A. I just said we didn't have nothing to do with

Shaquille Hogan - Direct

1 this thing.

2 Q. What do you mean?

3 A. I didn't have nothing to do with it so I was
4 trying to get my case over with and I didn't have nothing
5 to do with this case. I didn't have nothing to do with
6 it.

7 Q. Did you say in that statement what you told the
8 investigators is not true?

9 A. Yes, ma'am.

10 Q. Well, what is the truth?

11 A. What I just told you, the testimony I just gave
12 you.

13 Q. Now, were you charged as part of your involvement
14 in this incident?

15 A. Now but at the time, no.

16 Q. What is your understanding of what you were
17 charged with?

18 A. When?

19 Q. In this case, were you charged with assault and
20 battery by mob in the second degree and conspiracy as part
21 of your involvement in this case?

22 A. Yes, ma'am.

23 Q. And earlier this week, did you plead guilty to
24 both of those offense?

25 A. Yes, ma'am.

Shaquille Hogan - Cross

1 Q. Has anybody made you any promises about what your
2 sentence is going to be for those offenses?

3 A. No, ma'am.

4 Q. What is your understanding of what you need to do
5 here today to assist the prosecution of this case?

6 A. Testify and my part of the story.

7 Q. Has anyone told you what to say?

8 A. No, ma'am, I admitted the truth.

9 Q. Has anyone told you how to testify?

10 A. No, ma'am. I haven't been in contact with nobody
11 since the shooting.

12 Q. Have you told the truth here today?

13 A. Yes, ma'am.

14 Q. Sir, answer any questions these attorneys may
15 have.

16 MR. CHAMBERS: Randy Chambers for Mr. Booker.

17 CROSS-EXAMINATION

18 BY MR. CHAMBERS:

19 Q. Shaquille, you've already talked to the solicitor
20 about the statement that you gave. When you testified a
21 few minutes ago a home boy of yours had driven you from
22 your home to some other place and I don't think you
23 remember where that place was; is that correct?

24 A. Yes.

25 Q. From where ever that place was you said that Trez

Shaquille Hogan - Cross

1 picked you up and took you to the Red Planet, was that
2 your testimony a few minutes ago.

3 A. Yes, sir.

4 Q. Was anybody else in the car with Trez when he
5 picked you up and drove you to the Red Planet?

6 A. Ken.

7 Q. Now, you talked about that statement that you
8 gave to the solicitor, do you recall that in that
9 statement that you made back on July 22nd which was five
10 days after these alleged events occurred, do you recall
11 telling the police I met up with Trez and Ken at the club?

12 A. I don't recall. I need to see the statement.

13 Q. Okay. Let's look at it together. First of all,
14 is this your statement?

15 A. Yes, sir.

16 Q. Read that sentence for me.

17 A. "I met up with Trez and Ken at the club.

18 Q. So that would indicate that Trez never picked you
19 up and you saw Trez at the club?

20 A. Yeah.

21 Q. And then you said later that after y'all had met
22 up at the Red Planet, gone to 864, went back to the 864
23 and then gone over the Li'l Cricket, you said that the car
24 that Trez was driving, you said you got in the driver's
25 seat?

Shaquille Hogan - Cross

1 A. Yes.

2 Q. Nobody told you to do that, you just did that
3 because you thought that would be the thing to do?

4 A. Yes.

5 Q. And you said as you sat there you saw all these
6 folks go off around to the front of the store, right, and
7 then you saw them coming back?

8 A. Yes, sir.

9 Q. And you said that you even recall that as they
10 were coming back, Larry Johnson was coming back with him
11 and he was still shooting his guns as he came around the
12 store?

13 A. Yes, sir.

14 Q. And you remembered that distinctly that he was
15 shooting his gun as he was coming around the store?

16 A. Yes, that's what I seen.

17 Q. You said that you started driving and you got
18 nervous, do you remember saying that when Trez got back he
19 tried to open the driver door, saw that you were in there
20 and that he got in the seat directly behind you?

21 A. Yes, sir.

22 Q. Who else was in the car with you?

23 A. Ken.

24 Q. So Ken was in the passenger's seat, the right
25 hand passenger's seat?

Shaquille Hogan - Cross

1 A. Yes.

2 Q. And Trez was in that back seat right behind you?

3 A. Yes.

4 Q. So then you drove a distance and your testimony
5 was that you and Trez switched seats, right?

6 A. Yes.

7 Q. So that means Trez got in the driver's seat and
8 you got in seat directly behind the driver's seat?

9 A. I guess so.

10 Q. That's consistent with what you said in this
11 statement, isn't it?

12 A. Yes.

13 Q. Well, there were a few things that you went
14 through there that apparently you left out and the
15 solicitor handed you the statement and asking you did you
16 remember those, do you remember her doing that?

17 A. Yes, sir.

18 Q. And it seemed to me like you read the statement
19 and then said you remember it, is that what happened?

20 A. Yes, sir.

21 Q. So it really what happened is you were just
22 reading it off the page and looking at it, well, I must
23 have said that because it's written on the page?

24 A. It's been so long ago.

25 Q. You don't really remember it, you just know it

Shaquille Hogan - Cross

1 was written on that page an you just know that it was
2 written on that page and you read it back to her when she
3 asked her?

4 A. Basically.

5 Q. And she dropped this in front of you and she
6 asked you about this statement that you gave on June 10,
7 2012, it's on an incident report from the Greenville
8 County Detention Center, correct?

9 A. Yes, sir.

10 Q. And it's witnesses by an Officer Cole, is that
11 one of the detention officers?

12 A. Yes, sir.

13 Q. And then also it is notarized by Brenda Gayle
14 Alexander also somebody from the detention center?

15 A. Yes, sir.

16 Q. And what you say in there is that basically
17 everything that you said in this statement that you
18 discussed that you gave on the 22nd that the police told
19 you what to say and you went along with it?

20 A. Yes, sir.

21 Q. Those were false accusations you were making
22 about yourself and about these other folks.

23 A. Yes, sir.

24 Q. Do you remember that you also had a handwritten
25 statement that you signed on September 6, 2011?

Shaquille Hogan - Cross

1 A. Yes, sir, I remember.

2 Q. Is that your statement?

3 A. Yes, sir.

4 Q. And in that statement on September 6, 2011 that
5 was notarized too, wasn't it?

6 A. Yes, sir.

7 Q. And this statement was made before you got
8 charged in this case, wasn't it because it was made on
9 September 6, 2011?

10 A. Yes, sir.

11 Q. And in that time you said, "Investigators told me
12 what to say and claim if I went along with it, they would
13 help me with my charges. I was manipulated and used and
14 wish to recant those false accusations," right?

15 A. Yes, sir.

16 Q. So you made not one but two statement that you
17 were coerced and manipulated by police officers to make
18 false accusations?

19 A. Yes, sir.

20 Q. And the fact of the matter is that even though
21 you hadn't been charged in this case, you had in fact been
22 charged with an armed robbery and those cases were pending
23 against you, correct?

24 A. Yes, sir.

25 Q. And you eventually pled guilty to the armed

Shaquille Hogan - Cross

1 robbery?

2 A. Yes, sir.

3 Q. And that carries a sentence of 10 to 30 years?

4 A. Yes, sir.

5 Q. But they deferred the sentence on that?

6 A. Yes, sir.

7 Q. Because they wanted to wait and see how you
8 testified here today, right?

9 A. No one said it.

10 Q. That was the clear indication, wouldn't that be
11 fair to say?

12 A. If that's how you want to put it.

13 Q. And you came in on Monday after having already
14 pleaded guilty to an armed robbery and came in here to
15 plead guilty to assault and battery by a mob and a
16 conspiracy, right?

17 A. Yes, sir.

18 Q. And the charges of attempted murder, those were
19 dismissed against you, you didn't have to plead guilty to
20 those?

21 MS. SALISBURY: I object to that. That's not
22 accurate.

23 BY MR. CHAMBERS:

24 Q. You pled guilty to those two lesser offenses,
25 right?

Shaquille Hogan - Cross

1 A. Yes, sir.

2 Q. And they deferred sentence on that as well,
3 correct?

4 A. Yes, sir.

5 Q. When you came in here on Monday you first said you
6 didn't want to plead guilty, didn't you?

7 A. Yes, sir.

8 Q. You said you didn't want to forward and you
9 weren't going to, you were adamant about that, isn't that
10 right?

11 A. Yes, sir.

12 Q. And they took you back into that holding cell,
13 didn't they?

14 A. No, sir.

15 Q. Where did you go?

16 A. They turned me around and said they were going to
17 sentence for my other cases.

18 Q. They were going to sentence you on the other
19 charges, right?

20 A. Yes, sir.

21 Q. Go ahead because you were going to plead guilty,
22 they were going to sentence you on that armed robbery
23 charges?

24 A. Yes, sir.

25 Q. After that, you went and talked to some folks,

Shaquille Hogan - Cross

1 didn't you? Some people talked to you after that? You
2 didn't go ahead and get sentenced, right?

3 A. Yes, sir.

4 Q. You weren't sentenced on that armed robbery that
5 day, were you?

6 A. No, sir.

7 Q. You talked to some folks after that, right?

8 A. Yes, sir.

9 Q. Did somebody at that point tell you need to
10 follow through with what you said you were going to do or
11 you ---

12 THE COURT: Hand on a second. Lawyers, come
13 up here.

14 (Discussion off the record.)

15 BY MR. CHAMBERS:

16 Q. So at any rate, after being taken away for a
17 while, you came back and at that point decided you were
18 going to go ahead and plead guilty for the charges from
19 the Li'l Cricket, right?

20 A. Yes, sir.

21 Q. And you started -- I was in the courtroom and you
22 can correct me if I'm wrong, you got to the part where
23 they were talking about -- you had trouble getting through
24 the plea, didn't you? You stumbled a little bit and they
25 were going to take you out again, do you remember that?

Shaquille Hogan - Cross

1 A. Yeah.

2 Q. You finally made it through that plea despite
3 your reluctance, you made it through, correct?

4 A. Yes, sir.

5 Q. And you were not sentenced, were you?

6 A. No, sir.

7 Q. So as you sit here today testifying, you have not
8 been sentenced on the armed robbery, you have not been
9 sentenced on the assault battery by mob, you have not been
10 sentenced on the conspiracy charge, right?

11 A. No, sir.

12 Q. At some point after they see how this trial goes,
13 then you'll be sentenced.

14 A. Yes, sir.

15 Q. As we've already discussed prior to your
16 reluctance on Monday and going forward and pleading
17 guilty, you made not one but two statements that were
18 signed and notarized that you had made false accusations
19 about yourself and about these other individuals that were
20 seated over here because you were forced and coerced and
21 manipulated into doing so.

22 A. Yes, sir.

23 Q. Thank you.

24 MR. ROBINSON: I have no questions, Your
25 Honor.

Shaquille Hogan - Cross

1 BY MR. ABDALLA?

2 Q. Mr. Hogan, I don't want to beat a dead horse, but
3 isn't it a fact that you actually have a series of charges
4 one is possession of a weapon during the commission of a
5 violent crime?

6 A. Yes, sir.

7 Q. And assault and battery in the first degree, two
8 counts?

9 A. Yes, sir.

10 Q. And two counts of kidnapping?

11 A. Yes, sir.

12 Q. In addition to the armed robbery so you pled to
13 all six of these charges prior to pleading to these
14 charges in this case on Monday; is that correct?

15 A. Yes, sir.

16 Q. And you haven't been sentenced on any of those?

17 A. No, sir.

18 Q. And you're aware that those kidnappings carry up
19 to 30 years, correct?

20 A. Yes, sir.

21 Q. You said something about going to the club 864
22 and the reason they didn't let you guys in is because it
23 was closed; is that right?

24 A. They didn't let us in.

25 Q. So you weren't able to go in at all?

Shaquille Hogan - Redirect

1 A. No.

2 Q. Do you know Brandon Edwards?

3 A. No.

4 Q. Do you know Joseline Mack?

5 A. I don't know her. I've seen her before.

6 Q. You were testifying earlier and you said
7 something about everybody was running and you kept hearing
8 shots being fired and it turns out it was Larry that was
9 firing and everybody else had stopped shooting; is that
10 correct?

11 A. Yes, sir.

12 Q. And I know you said you didn't know he was
13 shooting at, correct?

14 A. Yes.

15 Q. But Larry was the only one left shooting as far
16 as you know, is that correct?

17 A. Yes, he was the last one.

18 Q. Do you remember also telling Mr. Young,
19 apologizing to him about the things that you said about
20 making a statement?

21 A. My first statement?

22 Q. Yes. Do you remember telling him that Larry was
23 in your ear and promising you that the police would help
24 you if you told them these things?

25 A. At one point in time, yes.

Shaquille Hogan - Redirect

1 Q. And he told you what you were supposed to say; is
2 that correct?

3 A. Yes, sir.

4 MR. ABDALLA: I have no further questions.

5 MR. QUINN: No questions on behalf of
6 Mr. Sadler.

REDIRECT EXAMINATION

7
8 BY MS. SALISBURY:

9 Q. What's the truth? We've heard a lot about you
10 giving this first statement, being talked to and all this
11 stuff, what's the truth?

12 MR. QUINN: Objection, it's really not proper
13 redirect.

14 THE COURT: It's in response to the
15 impeachment. Go ahead.

16 THE WITNESS: My first statement.

17 BY MS. SALISBURY:

18 Q. Were you in the green Toyota Camary behind the
19 Li'l Cricket during the morning of July 17?

20 MR. QUINN: Objection to the leading nature
21 of the question.

22 THE COURT: Go ahead, answer the question.

23 THE WITNESS: Yes, ma'am.

24 BY MS. SALISBURY:

25 Q. Did the investigators in this case, any of the

Shaquille Hogan - Redirect

1 ones that you talked to tell you what to say?

2 A. No, not really.

3 Q. What do you mean by that?

4 A. It was like certain parts, but at the same time
5 they was telling me -- I didn't have no bond when I came
6 in on my charges and they told me they would give me a
7 bond and that's how I found out what a youth offender act
8 was and they told they would try to get me a youth
9 offender, but they didn't what to say though and it was
10 like in my ear about it and making me promises and stuff.

11 Q. As it relates to what happened that night, did
12 any of the police tell you what to put in your statement
13 about what happened or who was there?

14 A. No, ma'am.

15 Q. Now, you mentioned a few times that this was a
16 long time and you have a hard time remembering.

17 A. Yes, ma'am.

18 Q. Do you remember where you were in the car after
19 you had finished driver or after you had traded seats?

20 A. Like I said I can't even -- I guess I was in the
21 back seat if Ken was the passenger and that's about as
22 close and accurate as I can give you.

23 Q. But do you remember that? Is that something you
24 remember or is that an assumption that you're making?

25 A. I mean I can make that assumption off the fact

Shaquille Hogan - Recross

1 that they just said he was in the right passenger seat so
2 there couldn't be too many other places.

3 Q. And with respect to this statement or both of
4 them that we've heard a lot about where you say that the
5 police promised you things, threatened you, whose idea was
6 it to draft those statements, the ones from the jail?

7 A. Really it came about I was actually talking to
8 somebody ---

9 MR. QUINN: I object. This is still not
10 proper redirect. She went into it on direct. She's had
11 the opportunity to examine him on this.

12 THE COURT: Well, somebody brought another
13 statement, so I'm going to let her pursue it.

14 THE WITNESS: Actually I came about like a
15 couple weeks after I got incarcerated, I happened to be
16 talking to someone, it wasn't about the case, I happened
17 to be talking to someone and said what if I wanted to
18 write a statement saying what I said wasn't true, he told
19 me -- he was in there for a murder charge so he knew a lot
20 -- so he told me I could write a recant and he told me
21 what it was and he told me what it was and that's when I
22 wrote it. I learned what it was from an inmate that was
23 in for some other charges.

24 BY MS. SALISBURY:

25 Q. Now, just to clarify you mentioned that one of

Shaquille Hogan - Recross

1 the individuals that was out there that night was Buddah?

2 A. Yes, ma'am.

3 Q. Do you know Buddah's real name?

4 A. Yes.

5 Q. What is it?

6 A. Daquan.

7 Q. Do you know somebody that goes by the name Black

8 A. I know a lot of Blacks so I can't say.

9 MS. SALISBURY: Nothing additional.

10 RECROSS-EXAMINATION

11 BY MR. CHAMBERS:

12 Q. I want to make sure we're real clear about this,
13 this again is the statement that you gave just five days
14 later to Investigator Campbell; is that right?

15 A. Yes, sir.

16 Q. This is the one you looked over and after reading
17 able to talk to the solicitor about it but read that
18 statement for me right there. Well, let me ask you this,
19 and you can correct me, "Trez then tried to open my driver
20 door and saw that I was in the seat so he got in the back
21 seat behind me." Did you say that?

22 A. Yes, sir.

23 Q. And did you later say, "We pulled over at a stop
24 sign, took a right, and we drove to a red light where me
25 and Trez switched spots because I can't drive when I'm

Wayne Campbell - (recall)

1 nervous," correct?

2 A. Yes, sir.

3 Q. So when you say that you got in the back seat,
4 it's consistent with this statement that you gave, right?

5 A. Yes, sir.

6 Q. So if this statement is an accurate statement,
7 that's where you would have been seated in the car?

8 A. Yes, sir.

9 Q. I just want to make sure I'm clear, that
10 recantation in September and one later in June, nobody
11 over here asked you to do that, you talked to some other
12 person that was unrelated that was in there on murder
13 charges about it, told you how to do it, and you did it on
14 your own?

15 A. Yes, sir.

16 Q. Thank you.

17 THE COURT: You can step down.

18 (Witness leaves the stand.)

19 How many more witnesses?

20 MS. SALISBURY: Two or three, Your Honor.

21 THE COURT: We'll take a short break.

22 (Jury exits the courtroom.)

23 (Whereupon, there was a brief recess.)

24 Okay. Go ahead and get them lined up and you
25 can put on the record.

Wayne Campbell - (recall)

1 MS. SALISBURY: I previously marked and
2 admitted State's 56. After reviewing what appeared to be
3 identical documents, I marked 56 as the incorrect item.
4 State's Exhibit 56 is actually an unrelated forensic
5 report. The correct forensic report I can replace with a
6 new number or substitute 56.

7 THE COURT: Substitute 56. It's a clerical
8 area. I don't believe there's any objection from the
9 defendants.

10 (Forensic report marked as State's Exhibit
11 No. 56 for identification and admitted into evidence.)

12 Call your next witness.

13 MS. SALISBURY: The State would like to
14 recall Investigator Wayne Campbell.

15 THE COURT: Come around, you're still under
16 oath.

17 DIRECT EXAMINATION (Recall)

18 BY MS. SALISBURY.

19 Q. You testified earlier that you interviewed
20 Shaquille Hogan?

21 A. Yes, I did.

22 Q. During that interview with him, do you remember
23 discussing the precise weapons that he and his
24 co-defendants carried that night.

25 A. I did.

Wayne Campbell - (recall)

1 Q. Did you learn from him the precise caliber
2 firearms that he and his co-defendants was armed with that
3 night?

4 A. I did.

5 Q. What did he share with you during that interview
6 about which defendant was carrying which firearm?

7 A. I had him write it on a piece of paper. He
8 wrote, "Michael Williams, .40; Raymond Young, .45;
9 Esaiveus Booker, .9 millimeter Smith and Wesson," got Trez
10 to the side; Kinjta Sadler, .9 millimeter High Point;
11 Larry Johnson .380 Baby; Various .380," and he's got
12 beside it "Tavarus Deon Holmes," Boogaman question mark.

13 Q. Did you include that information for Mr. Hogan's
14 statement for him to review?

15 A. No, I did not.

16 Q. Why?

17 A. I started talking his statement. During his
18 statement he told me to stop, it was incorrect. Basically
19 what he told me to do was just stop typing and he needed
20 to tell me the truth. Once he did that, I got Jennings
21 Audrey which is a much faster typist than I am to type his
22 statement and this got left out.

23 Q. Do you independently remember discussing this
24 subject with Mr. Hogan?

25 A. Yes, and I put it in my supplemental report.

Daquan Bruster - Direct

1 Q. Thank you, sir. If you would answer any
2 questions these attorneys may have for you.

3 MR. CHAMBERS: No questions.

4 MR. ROBINSON: No questions.

5 MR. ABDALLA: No questions.

6 CROSS-EXAMINATION

7 BY MR. QUINN:

8 Q. Did you ever recover a .9 millimeter High Point
9 that you can attribute to Mr. Sadler?

10 A. No, there was only one gun that was recovered.

11 MR. QUINN: I have no further questions.

12 MS. SALISBURY: The State calls Mr. Daquan
13 Bruster.

14 THE CLERK: Come around and place your left
15 hand on the Bible and raise your right hand.

16 DAQUAN BRUSTER, having been duly sworn,
17 testified as follows:

18 Thank you. Please be seated.

19 THE WITNESS: Daquan Bruster.

20 DIRECT EXAMINATION

21 BY MS. SALISBURY:

22 Q. Mr. Bruster, what do your friends call you?

23 A. Buddah.

24 Q. Were you charged as part of your involvement as
25 part of this incident?

Daquan Bruster - Direct

1 A. Yes, ma'am.

2 Q. Did you plead guilty on Monday to seven counts of
3 attempted murder, possession of a weapon during the
4 commission of a violent crime, conspiracy and assault and
5 battery by mob in the second degree?

6 A. Yes, ma'am.

7 Q. Do you remember the events of that night?

8 A. No, ma'am.

9 Q. Nonetheless, did you plead guilty to having
10 attempted to kill these seven victims?

11 A. Yes, ma'am.

12 Q. So it's your testimony that you pled guilty yet
13 you don't remember why?

14 A. Plead the 5th.

15 MS. SALISBURY: Judge.

16 THE COURT: You don't have a 5th Amendment.
17 You have pled guilty and that right does not belong to you
18 any more.

19 MS. SALISBURY: Your Honor, with the Court's
20 permission, I'd like to treat this witness as hostile.

21 THE COURT: Alright.

22 BY MS. SALISBURY:

23 Q. Mr. Bruster, when you pled guilty on Monday
24 morning, you acknowledged that you were riding the car
25 with Larry Johnson, isn't that correct?

Daquan Bruster - Direct

1 A. When I took that plea, I wasn't asked any
2 questions, you just stated what you had.

3 Q. And when I shared with the Judge that you were in
4 the car with Larry Johnson, you agreed that that was
5 accurate, did you not?

6 A. Yes, ma'am.

7 Q. And you also agreed that you were a shooter at
8 the gas station that night, isn't that correct?

9 A. Yes, ma'am.

10 Q. Did you also not plead guilty to conspiring with
11 these four defendants, Mr. Sadler, Mr. Young, Mr. Williams
12 and Mr. Booker, in addition to Mr. Johnson and Mr. Hogan,
13 to commit this defense, did you not plead guilty to that
14 conspiracy?

15 A. Yes, but that was on my behalf.

16 Q. What does that mean?

17 A. That was for me.

18 Q. Did you conspire with them? Did you agree to
19 commit this crime?

20 A. I admitted after committing the crime.

21 Q. You pled guilty to conspiracy, correct?

22 A. (No response).

23 Q. Did you plead guilty to then joining with these
24 defendants to commit this shooting?

25 A. I didn't say that.

Daquan Bruster - Cross

1 Q. You pled guilty to assault and battery by mob in
2 the second degree, right?

3 A. Yes, because they was charges I was giving and
4 those were my plea but my plea wasn't even to testify from
5 my understanding.

6 Q. The State has not made any offers to you in
7 exchange for you to testify; is that correct?

8 A. No, ma'am.

9 Q. In fact, you don't want to testify, do you?

10 A. No.

11 Q. You pled guilty to assault and battery by mob in
12 the second degree, correct?

13 A. Yes, ma'am.

14 Q. You pled guilty to joining with Mr. Sadler,
15 Mr. Young, Mr. Williams, and Mr. Booker to shoot the
16 victims in this case as a joint mob with the same effort
17 with the same goal, the same objection, did you not plead
18 guilty to that?

19 A. On my end.

20 MS. SALISBURY: Your Honor, I don't have any
21 further questions.

22 CROSS EXAMINATION

23 BY MR. CHAMBERS:

24 Q. The truth of the matter is the only reason you
25 pled guilty is they threatened you with life without

Daquan Bruster - Cross

1 parole if you didn't plead?

2 A. Yes, sir.

3 Q. In fact, part of it the plea arrangement was, it
4 was put on the record on Monday was that they were
5 removing that life without parole in order for you to
6 plead guilty, right?

7 A. Yes, sir.

8 Q. And I believe that your mother even came to you
9 and pled with you to do what they wanted you to do because
10 if you didn't they were going to lock you up for the rest
11 of your life.

12 A. Something like that.

13 Q. And that's why you did that?

14 A. Yes, sir.

15 Q. And, in fact, you even tried to let people know
16 that you hadn't done anything, that these people hadn't
17 done anything because you did a notarized statement with
18 Jimmy Thompson over at the jail back on July 25, 2012
19 saying I didn't do anything and none of these other people
20 they're trying to get me to talk about did anything,
21 didn't you?

22 A. Yes, sir.

23 Q. And they didn't sentence you on Monday. They
24 deferred your sentence so they could wait to see how
25 things went today, didn't they?

Daquan Bruster - Cross

1 A. That's what it looked like. From my
2 understanding, I didn't know I had to testify.

3 MR. CHAMBERS: No further questions.

4 MR. ROBINSON: No questions.

5 MR. ABDALLA: No questions on behalf of
6 Mr. Young.

7 MR. QUINN: No questions.

8 MS. SALISBURY: No redirect.

9 THE COURT: Alright. You can step down.

10 Ladies and gentlemen of the jury, I
11 understand the State has one more witness but it will be a
12 lengthy witness and I think we'll just hold off until the
13 morning, so I'd ask y'all to be back at 9:15. Here we are
14 deep into the case. I know that human nature that you all
15 want to talk about and soon enough y'all will have to
16 opportunity, but don't be premature. Don't do any
17 research and don't go to the scene. We'll see you in the
18 morning at 9:15.

19 (Jury exits the courtroom.)

20 Who is Mr. Bruster's attorney?

21 MS. SALISBURY: Michael Johnson, Your Honor.

22 THE COURT: I certainly want to give him a
23 chance to withdraw his guilty plea if he is now denying
24 that he remembers, I'm afraid that's an invalid plea. Can
25 you talk to Michael Johnson about being up here in the

Daquan Bruster - Cross

1 morning?

2 MS. SALISBURY: Yes, sir.

3 THE COURT: We'll just have to try him
4 separately. If he goes to trial, that gives other people
5 an opportunity to testify. I understand there are some
6 offers that have made and I will honor those until the
7 first witness hits the witness stand tomorrow. After
8 that, no.

9 MS. SALISBURY: Thank you, Judge.

10 ---END OF TRANSCRIPT RECORD, Day 4 ---

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Daquan Bruster - Cross

1 I, the undersigned, Caroline Hiskell, the Official
2 Court Reporter for the Thirteenth Judicial Circuit of the
3 state of South Carolina, do hereby certify that the
4 foregoing is a true, accurate, and complete transcript of
5 record of all the proceedings had
6 and evidence introduced in the trial of the captioned
7 case, relative to appeal, in the General Sessions Court,
8 South Carolina.

9 I do further certify that I am neither of
10 kin, counsel, nor interest to any party hereto.

11
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14

15 Caroline Hiskell
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Daquan Bruster - Cross

1 STATE OF SOUTH CAROLINA)
2) COURT OF GENERAL SESSIONS
3 COUNTY OF GREENVILLE) 2011-GS-23-8010-8018
4) 2012-GS-23-3838
5) 2011-GS-23-9239-9245
6) 2012-gs-23-3041,7491-79417
7 STATE OF SOUTH CAROLINA) TRANSCRIPT OF RECORD
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Day - 5 January 11, 2013
Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, Judge.

A P P E A R A N C E S

Katrina Salisbury, Esquire
Assistant Solicitor
Attorney for the State

Scott Robinson, Esquire
Attorney for Michael Williams

Randy Chambers, Esquire
Attorney for Esaiveus Booker

Thomas Quinn, Esquire
Attorney for Kinjta Sadler

John Abdalla, Esquire
Attorney for Raymond Young

CAROLINE HISKELL
Thirteenth Circuit Court Reporter

Daquan Bruster - Cross

I N D E X

WITNESSES	DR	CR	RED	REC
Tavarus Holmes	742			
Daquan Bruster (recall)	752	757		

E X H I B I T S

IDENTIFICATION	ID	IN EVD
35 Fragments	747	747
36 Bullets	747	747
37 Holster	747	747

Tavarus Holmes - Direct

P R O C E E D I N G S

THE BAILIFF: All rise. Court is now in session, the Honorable Edward Miller presiding.

THE COURT: Everybody ready? Bring them in.
(Jury re-enters the courtroom.)

Good morning, ladies and gentlemen, I hope you had a pleasant evening and we are ready to begin again. Please all your next witness.

MS. SALISBURY: The State calls Mr. Tavarus Holmes.

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

TAVARUS HOLMES, having been duly sworn, testified as follows:

Please state your name for the record.

THE WITNESS: Tavarus Leon Holmes.

DIRECT EXAMINATION

BY MS. SALISBURY:

Q. Mr. Holmes, what do your friends call you?

A. Vares.

Q. Do you know the defendants in the courtroom?

A. Yes.

Q. Let's start with Mr. Esaiveus Booker. Do you know Mr. Booker?

A. Yes.

Tavarus Holmes - Direct

1 Q. How do you know him?

2 A. A friend of the neighborhood.

3 Q. How long have you known him?

4 A. All of my life.

5 Q. What name do you call him? What name do you call
6 him?

7 A. I have no testimony on him. My attorney isn't
8 present.

9 THE COURT: Ladies and gentlemen, we're going
10 to take a short break and we'll be right back with you.

11 (Jury exits the courtroom.)

12 Who is your lawyer?

13 THE WITNESS: Brian Beasley.

14 THE COURT: Somebody call Beasley and get him
15 over here now.

16 MS. SALISBURY: Your Honor, it's my
17 understanding that Mr. Beasley has a representative here
18 that's been working with Mr. Holmes. It's my
19 understanding that Mr. Beasley is out of the country and
20 made arrangements for someone to be with here today.

21 THE COURT: Would you like to consult with
22 your counsel?

23 THE WITNESS: No, sir.

24 THE COURT: Did he plead guilty?

25 MS. SALISBURY: Attempted murder and

Tavarus Holmes - Direct

1 conspiracy, Your Honor.

2 THE COURT: How many counts?

3 MS. SALISBURY: Just one.

4 THE COURT: Was there an agreement for the
5 plea?

6 MS. SALISBURY: Yes, sir.

7 THE COURT: And what was that?

8 MS. SALISBURY: That he would testify.

9 THE COURT: Okay. Is that your understanding
10 of your plea, Mr. Holmes?

11 THE WITNESS: I was told that if I go in an
12 say this I would get a deal on my plea.

13 THE COURT: You've already got your deal or
14 your deal is going to disappear and you and Mr. Bruster
15 will be tried separately because I'm going to vacate your
16 plea. And I'm telling you right now Bruster is looking at
17 life without parole, what's he looking at?

18 MS. SALISBURY: 35 if the offenses run
19 separate consecutive with Your Honor.

20 THE COURT: So he's only charged with one
21 count of attempted murder?

22 MS. SALISBURY: Yes, Your Honor.

23 THE COURT: That's fine. 35 years, how old
24 are you?

25 THE WITNESS: Twenty-one.

Tavarus Holmes - Direct

1 THE COURT: You haven't even been alive 35
2 years. That would make you 56. I can remember what it
3 was like to be 56. I have a hard time remember what it
4 was like to be 21. I'm going to suggest that you speak
5 with your counsel privately before you proceed any
6 further. There's a private space back in there.

7 (Witness leaves the witness stand.)

8 MR. ABDALLA: We'd like to approach?

9 THE COURT: About what?

10 MR. ABDALLA: About the trial our clients are
11 receiving. I am concerned for Mr. Young that the course
12 of nature are forcing a client to testify if he's already
13 to enter a plea and threatening to vacate his plea is
14 coercive and can effect my client's right to a fair trial,
15 Your Honor.

16 THE COURT: How does that impact your guy in
17 any sense? That man pled guilty in front of me under oath
18 and the deal was he was going to testify. He is backing
19 out of his deal so I'm backing out of my deal. It has
20 nothing to do with your client other than the fact that
21 his testimony may be very prejudicial. So we'll be at
22 ease for a few minutes.

23 (Whereupon, there was a brief break.)

24 (Discussion off the record.)

25 MS. SALISBURY: Your Honor, I just want to be

Tavarus Holmes - Direct

1 clear that Mr. Holmes was charged with the exact same
2 charges of these offense. He only pled to one count of
3 attempted murder but he was charged with seven as well as
4 the weapons and conspiracy charges.

5 THE COURT: So if I vacate the plea, you're
6 not just going to try him on one.

7 MS. SALISBURY: That's correct.

8 THE COURT: He'll be looking at 200 and
9 something years.

10 Stand right out front, Mr. Holmes, over here.

11 Your attorney has informed me that you were
12 coerced into your guilty plea; is that right?

13 DEFENDANT HOLMES: Yes, sir. I didn't have
14 no time to go through the evidence that they have against
15 me.

16 THE COURT: Okay. I'm going to vacate your
17 plea. Just so you know, you're not going to tried on one
18 attempted murder, you're going to tried on seven. All
19 your charges come back, do you understand that?

20 DEFENDANT HOLMES: Yes, sir.

21 THE COURT: That's fine with me. What's the
22 situation with respect to bond?

23 MS. SALISBURY: I'd ask it be revoked.

24 THE COURT: Take him into custody, you'll
25 have to come up with a new bond.

Tavarus Holmes - Direct

1 Alright. Have any more witnesses?

2 MS. SALISBURY: No, sir. There are a few
3 more pieces of evidence that I'd like to officially move
4 in on the record. My notes reflect that they were not
5 move in and then I'm prepared to rest.

6 THE COURT: Go ahead.

7 MS. SALISBURY: State's Exhibit 35 are the
8 fragments that Jonathan Derby retrieved from his
9 investigation of the cars. State's Exhibit 36 were the
10 bullets are the bullets from the Davis Road search warrant
11 and 50 are the holsters. At this time the State moves in
12 those three pieces of evidence.

13 THE COURT: Any objection.

14 (Collectively no objection.)

15 (Fragments marked as State's Exhibit 35 for
16 identification was admitted into evidence.)

17 (Bullets marked as State's Exhibit No. 36 for
18 identification was admitted into evidence.)

19 (Holster marked as State's Exhibit NO. 50 for
20 identification was admitted into evidence.)

21 THE COURT: Is the State going to rest?

22 MS. SALISBURY: Mr. Johnson is here in the
23 evident that there is some change with Mr. Bruster.

24 MR. ABDALLA: Just for the record and
25 Mr. Young, we would make the same objection about coercive

Tavarus Holmes - Direct

1 nature and being called back.

2 THE COURT: Being what?

3 MR. ABDALLA: The witness has already refused
4 to testify and left and we are objecting to the Court's
5 coercive nature of maybe forcing him to come back and
6 testify.

7 THE COURT: No, sir. The agreement that he
8 had to enter the plea and receive the benefits that he
9 received was that he testified and I believe he was under
10 oath when I spoke to him about his testimony and he
11 adopted the statement he made.

12 MS. SALISBURY: He didn't give a statement,
13 but he specifically allocated to the allegations that I
14 put on the record at the time of the plea.

15 THE COURT: He has violated his agreement.
16 I'm not being coercive. I'm vacating his plea and he's
17 going to go to trial on all of it and I presume he's
18 facing LYOP. Mr. Williams, have you talked to him?

19 MR. WILLIAMS: If it pleases the Court, I
20 have met with Mr. Bruster. He has indicated to me once
21 again his extent of the knowledge and his extent of the
22 involvement and that he is guilty on these particular
23 charges and he will cooperate as to what he knows, Your
24 Honor.

25 THE COURT: Okay, let's bring him up. Let's

Tavarus Holmes - Direct

1 find out.

2 MR. CHAMBERS: Your Honor, I would like to
3 add to the record we've talked about people not living up
4 to their deal and I believe the record is pretty clear at
5 this point that each one of these that have taken the
6 stand the solicitor has indicated there was no deal, that
7 no promises were made. And if that's the case, there's no
8 deal.

9 THE COURT: You are well aware that they were
10 not prosecuted on certain charges and a life without
11 parole notice was withdrawn. That's a deal. They are not
12 going to make a recommendation as to sentence as to what
13 prior to the plea, that's my understanding. It was all
14 laid out on the record. So there is no issue there.

15 MR. CHAMBERS: With all due respect to the
16 Court and certainly not trying to inflame anyone here, but
17 I want to make sure that this is on the record in case
18 this case has to go up on appeal. Our position is that
19 once someone has entered a plea, that they can not be
20 forced to withdraw that plea, that plea can not be
21 vacated, that he came in here to testify after pleading
22 guilty and just because he didn't say what they wanted him
23 to say doesn't mean that he can now be brought back out
24 here and essentially forced to testify.

25 THE COURT: That position would allow someone

Tavarus Holmes - Direct

1 to game the system and that's not going to happen. What
2 you're advocating then, okay, we'll leave his plea in
3 place and try him on the rest of the pending charges.
4 Yes, ma'am.

5 MS. SALISBURY: I don't know what Mr. Holmes
6 wants to do but I don't have any problem allowing him to
7 maintain his guilty and quite frankly examine him with
8 respect to these specific allegations that he admitted to.
9 The understanding that I had Mr. Holmes would be the range
10 would be up to 35 years and the extent to which he could
11 control just how high that number was, was exclusively his
12 depending on the extent to which he cooperated. I
13 interviewed him, I met with him, we went over these
14 videos. I was under the impression he was going to
15 cooperate. I guess it's his choice. If he wants to
16 resend the guilty plea, that's his choice. But for
17 purposes of ---

18 THE COURT: No. He told me that he didn't
19 remember and I'm not -- if he appeals that, then that gets
20 reversed. So, no.

21 Mr. Bruster, come on up. Come on around and
22 have a seat over here.

23 If you would place your left hand on the
24 Bible and raise your right hand.

25 DAQUAN BRUSTER, having been duly sworn,

Daquan Bruster - Direct (recall)

1 testified as follows:

2 Please have a seat. Yesterday you were up
3 here under oath on the witness stand and you said you
4 couldn't recall anything about what happened which would
5 significantly different than what you said on Monday when
6 you tendered your guilty plea.

7 Now, I'll give you another opportunity if you
8 want to see if you would come forward with the truth
9 without prevarications and testify, otherwise, if your
10 position remains that you can't remember what happened,
11 then I'm vacating the guilty plea because I'm not going to
12 allow you to testify to something that you have no idea at
13 this time?

14 DEFENDANT BRUSTER: I'll testify.

15 THE COURT: Let me just caution you that you
16 have previously testified under oath at your guilty plea,
17 so if you're going to change your testimony in some way,
18 I'll have to deal with that if that occurs. All we're
19 asking for is the truth.

20 Yes, sir, Mr. Quinn.

21 MR. QUINN: I object to him being recalled by
22 the State. The State has already called him as a witness,
23 had a full opportunity to examine him, the defense has
24 examined him, he was released as a witness. This is
25 exactly what the other counsel's arguments are about the

Daquan Bruster - Direct (recall)

1 coercive nature of the Court's ability to allow him to
2 withdraw his plea -- compelled to withdraw his plea and
3 face additional charges and additional time. So my
4 objection to this is him being recalled as a witness when
5 nothing was unavailable to the State at the time he was
6 previously called.

7 THE COURT: Okay. Your objection is noted
8 for the record. And I assume everyone is in agreement
9 with it. Of course, you are free to cross-examine him
10 about all that.

11 (Jury re-enters the courtroom.)

12 Ladies and gentlemen, recalled to the stand
13 is Mr. Daquan Bruster. It turn it over to the State.

14 DIRECT EXAMINATION (recalled)

15 BY MS. SALISBURY:

16 Q. Mr. Bruster, do you remember being in here
17 yesterday?

18 A. Yes, ma'am.

19 Q. Do you remember talking about the charges to
20 which you pled related to the incident that's the subject
21 of this trial?

22 A. Yes, ma'am.

23 Q. Now, at the time, it was your testimony that you
24 did not remember what had happened, do you recall that?

25 A. Yes, ma'am. I don't remember everything.

Daquan Bruster - Direct (recall)

1 Q. Can you tell the jury what you do remember
2 starting with being at the Red Planet that night, do you
3 remember being there?

4 A. Yes.

5 Q. Could you tell the jury what you remember at the
6 Red Planet on July 16th.

7 A. I left and I went to the hospital. Brandon Davis
8 got shot in the back. Then came and got in the car with
9 Larry Johnson.

10 Q. Where did you get in the car with Larry Johnson?

11 A. It was by McDonalds.

12 Q. Which McDonalds?

13 A. Off of White Horse Road.

14 Q. Is that anywhere near Club 864?

15 A. It's right there.

16 Q. What kind of car do you remember getting into?

17 A. Cutlas.

18 Q. What do you remember happening next?

19 A. I asked him to take me home and then he looked me
20 and it was like put the shirt on your face and where
21 you're gun. So I was looking at him like what's your
22 talking about and he said it was time, and I just shrugged
23 my shoulders and he turned by the Li'l Cricket.

24 Q. Did you have a gun with you already?

25 A. Yes.

Daquan Bruster - Direct (recall)

1 Q. Why?

2 A. For my protection.

3 Q. Do you routinely carry a gun?

4 A. When I go out.

5 Q. What kind of gun were you carrying on this
6 particular evening?

7 A. .380.

8 Q. What color shirt did you put on your face?

9 A. Black.

10 Q. Do you remember what color shirt you were wearing
11 underneath?

12 A. A black shirt.

13 Q. Do you remember whether there were other cars
14 aside from you and Larry in that Cutlas?

15 A. I can't recall the cars.

16 Q. Was there anyone else or just the two of you?

17 A. It was just me and him in his car.

18 Q. Was there anyone else in the parking lot at this
19 McDonald ---

20 A. That's where he picked me up.

21 Q. Do you remember anyone else being at that
22 particular location?

23 A. No, ma'am.

24 Q. After Larry told you to cover your face, what do
25 you remember happening?

Daquan Bruster - Direct (recall)

1 A. We pulled up and got out and I'd say it was 10 or
2 11 other people. I can't even say who they was because
3 everybody had something on their face and he started
4 shooting, I had started shooting and we went back and got
5 in the car.

6 Q. Do you not know who the other gunmen were?

7 A. I really can't say because it was 30 other people
8 at the club with us and I really can't say.

9 Q. Do you remember pleading guilty to conspiracy?

10 A. Yes.

11 Q. Do you remember pleading guilty and admitting
12 that you were guilty on Monday to conspire with Michael
13 Williams, Esaiveus Booker, Kinjta Sadler, Raymond Young,
14 Tavarus Holmes, Shaquille Hogan, and Larry Johnson for the
15 purpose of accomplishing this particular incident?

16 A. Yes, ma'am.

17 Q. So it's now your testimony that you have no idea
18 who you actually conspired with?

19 A. Yeah, because of the simple fact that I ain't see
20 who put masks on, all I know is who was in the car with
21 me.

22 Q. Do you remember pleading guilty to participating
23 in a mob that inflicted bodily injuries on these victims?
24 Do you remember pleading guilty to that?

25 A. Yes, ma'am, because that was the charge given to

Daquan Bruster - Cross

1 me.

2 Q. So it is now your testimony that you did not
3 participate in a group of two or more people to combine
4 for a common purpose?

5 A. I didn't say that but I don't know who the others
6 were because everybody had masks on their face. The only
7 people I see is me and Mr. Johnson. That's all I seen.

8 Q. How is it that you know that the people who were
9 with you shared your objective?

10 A. I don't know.

11 Q. After you finished shooting, what did you do
12 next?

13 A. Me and Mr. Johnson got in the car and we left and
14 went to Augusta Road.

15 Q. Where did you go?

16 A. To the Waffle House.

17 Q. Which one?

18 A. Off of 291.

19 Q. How long do you think it took you to get there?

20 A. I don't know.

21 Q. Why didn't you go to the Waffle House right there
22 on White Horse Road?

23 A. Because it was already passed us.

24 Q. What do you mean?

25 A. Because we'd be going in the opposite direction

Daquan Bruster - Cross

1 of where I was going to get dropped off. I wasn't going
2 in that direction to get dropped off.

3 Q. Just one last question just to be clear, did you
4 plead guilty to conspiring with these four defendants as
5 well as three others on the night of July 16, 2011 into
6 the morning of July 17th?

7 A. Yes, ma'am.

8 Q. I don't have any additional questions.

CROSS-EXAMINATION

10 BY MR. CHAMBERS:

11 Q. Mr. Bruster, when you had an opportunity to talk
12 yesterday, back in July of 2012 that you had actually on
13 your own over at the jail executed a document basically
14 saying that neither you or any of the co-defendants in
15 this case had any involvement in the shooting that
16 happened at the Li'l Cricket, correct?

17 A. Yes, sir.

18 Q. And if I remember correctly, your testimony was
19 yesterday you did that on your own and that was something
20 that you wanted to do?

21 A. Yes, sir.

22 Q. And after you came in here and testified
23 yesterday you were brought back over here this morning.

24 A. Yes, sir.

25 Q. And it was made clear to you that if you didn't

Daquan Bruster - Cross

1 testify consistent with what was said when you pled on
2 Monday that your plea was going to be vacated and that you
3 were going to be facing life without parole?

4 A. Yes, sir.

5 Q. And life without parole was taken off the table
6 in your situation if you were to agree to plea and
7 cooperate in this case, is that correct?

8 A. From what I understand Monday when I took my
9 plea, she told me -- I told my lawyer I would plea without
10 testimony and he said she agreed with that, but when I came
11 up here yesterday it was a different story.

12 Q. It was your agreement prior to entering the plea
13 that you were in a situation where if the State wanted to,
14 they could seek a life without parole against you if you
15 were to be convicted in this case, correct?

16 A. Yes, sir.

17 Q. Which means that you would spend the rest of your
18 life behind bars even at your young age if they were to
19 convict you in this case?

20 A. Yes, sir.

21 Q. So you pleaded guilty and they dismissed several
22 of those charges, correct?

23 MS. SALISBURY: That's not accurate, Your
24 Honor.

25 BY MR. CHAMBERS:

Daquan Bruster - Redirect

1 Q. You didn't plead guilty to all seven counts of
2 the attempted murder, did you?

3 A. Yes, I did.

4 Q. Your sentencing was deferred, you haven't been
5 sentenced yet?

6 A. No, sir.

7 Q. But it is clear when you came in here this
8 morning, he told you if you didn't get up here and testify
9 and live up to your deal that life without parole was back
10 on the table, correct?

11 A. Yes, sir.

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

14 MR. ROBINSON: No questions.

15 MR. ABDALLA: No questions.

16 BY MR. QUINN:

17 Q. You agreed that you and Larry Johnson did this
18 together, correct, you were in the car together and you
19 went to the Li'l Cricket together, you agree with that?

20 A. Yes, sir.

REDIRECT EXAMINATION

22 BY MS. SALISBURY:

23 Q. Do you remember who was with you at the Waffle
24 House by Fleetwood?

25 MR. ABDALLA: Objection, Your Honor, that's

Daquan Bruster - Redirect

1 not part of the cross-examination.

2 THE COURT: I'm going to allow it, go ahead.

3 THE WITNESS: Besides me and Larry and two
4 girls.

5 BY MS. SALISBURY:

6 Q. Do you remember whether Esaiveus Booker was at
7 the Waffle House by Fleetwood?

8 MR. QUINN: Objection, leading, and it's not
9 proper redirect.

10 THE COURT: Overruled.

11 THE WITNESS: Can't say I remember too much
12 about being at the Waffle House. I remember going there,
13 Mr. Johnson arguing about the mistaken and something wrong
14 on his order and everybody just left.

15 MS. SALISBURY: I don't have any additional
16 questions.

17 THE COURT: Anything else?

18 MR. CHAMBERS: No, Your Honor.

19 THE COURT: You can step down.

20 (Witness excused.)

21 MS. SALISBURY: The only remaining that I
22 have is the publication of State's Exhibit 41 the
23 surveillance footage from the White Horse Road Waffle
24 House. I can publish it for the jury or have them review
25 it.

State versus Booker, Williams, Young, Sadler

1 THE COURT: How long is it?

2 MS. SALISBURY: The relevant part based on
3 the State's presentation of the evidence is about 20 to 25
4 minutes.

5 THE COURT: I think you ought to go ahead and
6 publish it.

7 (Video played in open court.)

8 MS. SALISBURY: At this time, the State
9 rests.

10 THE COURT: Ladies and gentlemen of the jury,
11 at this time I need to take up some legal issues outside
12 your presence so if you would retire to your jury room,
13 I'll be right back with you.

14 (Jury exits the courtroom.)

15 Any motions?

16 MR. CHAMBERS: On behalf of Mr. Booker, I
17 would like to bring a motion for directed verdict as to
18 all indictments.

19 MR. ROBINSON: On behalf of Mr. Williams,
20 Your Honor, I would concur with that.

21 MR. ABDALLA: On behalf of Mr. Young, I would
22 make a motion to dismiss all of the indictments against my
23 client.

24 MR. QUINN: On behalf of Mr. Sadler I make a
25 motion for directed verdict based on the general

State versus Booker, Williams, Young, Sadler

1 insufficiency on the State's evidence.

2 THE COURT: Thank you. All those motions are
3 denied. Let me get all the defendants to stand and raise
4 your right hand.

5 Esaiveus BOOKER, MICHAEL WILLIAMS, RAYMOND
6 YOUNG, KINJTA SADLER, having been duly sworn, testified as
7 follows:

8 Each of you has an absolute constitutional
9 right to testify on your own defense. Each of you has an
10 equal absolute right to not testify in your own defense
11 and that can never be held against you. I give a strong
12 charge to a jury that they can not consider your failure
13 to testify in their deliberations with respect to guilt or
14 innocence. The decision about whether or not to testify
15 involves a lot of issues and concerns, many of them
16 strategic and those are things that you and your attorney
17 have already talked about and are familiar with. But the
18 end decision, the ultimate decision is entirely in your
19 hands.

20 Mr. Booker, have you made a decision about
21 what you want to do in this case?

22 DEFENDANT BOOKER: Yes, sir, I do not want to
23 testify.

24 THE COURT: Mr. Williams.

25 DEFENDANT WILLIAMS: I don't want to testify.

State versus Booker, Williams, Young, Sadler

1 THE COURT: Mr. Young.

2 DEFENDANT YOUNG: I don't want to testify.

3 THE COURT: Mr. Sadler.

4 DEFENDANT SADLER: No, I don't want to
5 testify.

6 THE COURT: Is that your free and voluntary
7 decision made with the advice of your counsel, Mr. Booker?

8 DEFENDANT BOOKER: Yes, sir.

9 THE COURT: Mr. Williams?

10 DEFENDANT WILLIAMS: Yes, sir.

11 THE COURT: Mr. Young?

12 DEFENDANT YOUNG: Yes, sir.

13 THE COURT: And Mr. Sadler?

14 DEFENDANT SADLER: Yes, sir.

15 THE COURT: Are y'all going to present
16 defense, any evidence?

17 MR. ABDALLA: May we have a few minutes to
18 talk about this?

19 THE COURT: Okay, y'all take a few minutes.

20 (Jury exits the courtroom.)

21 (Whereupon, there was a brief recess.)

22 Okay.

23 MS. SALISBURY: The State rests.

24 THE COURT: Okay.

25 MR. CHAMBERS: I have nothing else other than

State versus Booker, Williams, Young, Sadler

1 what was already stated?

2 MR. ROBINSON: Nothing from Mr. Williams.

3 MR. ABDALLA: Nothing from Mr. Young.

4 MR. QUINN: Nothing from Mr. Sadler.

5 THE COURT: Is identification an issue in
6 this case?

7 MR. CHAMBERS: Not from Mr. Booker, Your
8 Honor.

9 MR. QUINN: Not from Mr. Sadler.

10 THE COURT: Do you want a charge on these
11 people for failure to testify?

12 MS. SALISBURY: I think it's appropriate.

13 THE COURT: It's up to the defense counsel.
14 Here's how it reads. "I instruct you that the fact that
15 the defendant did not testify is not a factor to be
16 considered by you in any way in your deliberations on the
17 question of guilt or innocence. It must not be considered
18 by you in any manner what so ever. Every citizen has the
19 constitutional right to remain silent. Assertion of this
20 right must not be considered by you in your
21 deliberations."

22 MR. QUINN: I would ask for that charge, Your
23 Honor.

24 MR. ROBINSON: One thing I would ask as far
25 as the charge is a charge on the credibility of witnesses.

State versus Booker, Williams, Young, Sadler

1 THE COURT: I do that in every case. Does
2 anyone want an expert witness?

3 MR. CHAMBERS: No, Your Honor.

4 MR. ROBINSON: I agree.

5 MR. ABDALLA: No, Your Honor.

6 MR. QUINN: On behalf of Mr. Sadler, we do
7 not want that charge.

8 THE COURT: Before we bring the jury back in,
9 I would just want to comment that I recognize there are
10 tensions in this case and anyone who has been here all
11 week recognizes that we're going to expect good behavior.
12 So I'm going to tell you this before the arguments begin,
13 if there is anyone in here who is unable to maintain
14 proper decorum, anyone in here who can not contain their
15 emotions, anyone in here who expects to have some kind of
16 outburst of any kind during the course of these closing
17 arguments, are when the verdict comes back, if you can not
18 do that, leave now. And if there is an outburst of any
19 kind I'll tell you now that is an order of this court, and
20 if you violate it, you will be taken into custody and
21 sentenced as to contempt of court.

22 Is that clear to everyone? If you do not
23 understand it? Leave.

24 Are you ready?

25 MS. SALISBURY: Yes, Your Honor.

State versus Booker, Williams, Young, Sadler

1 (Jury re-enters the courtroom)

2 THE COURT: Alright, ladies and gentlemen of
3 the jury, if you remember on Monday when I made my opening
4 comments to you, I told you I divided the case in to five
5 parts. We are now down to the third part of this case.
6 We have concluded the first two parts of the trial and all
7 of the testimony and all of the evidence has been
8 presented to you.

9 As you know there are five attorneys involved
10 so I don't know how long it will run but I anticipate
11 we'll take a break between arguments of counsel but you
12 all have been a great jury and have paid close attention
13 throughout the course of this case, so I ask you to
14 continue to pay attention to the arguments of these fine
15 attorneys.

16 (DUE TO TECHNICAL DIFFICULTY, THIS PORTION OF
17 THE TRANSCRIPT CAN NOT BE PRODUCED.)

18 THE COURT: Ladies and gentlemen of the jury,
19 during this trial you and I have certain duties to perform
20 and as the trial judge it is my responsibility to provide
21 over the trial of the case and rule on the admissibility
22 of the evidence that's offered during the trial.

23 It is also my duty to charge you the law
24 applicable to the case. It is your duty as jurors to
25 accept and apply the law as I now state it to you. If you

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1 think I have any idea as to what the law is or what the
2 ought to be and it does not agree with what I tell you the
3 law is, you must set aside your own opinion because you've
4 sworn an oath to accept the law and apply the law
5 precisely as I state it to you.

6 I would remind you that in every case tried
7 in this court before a jury you the jurors are the sole
8 and exclusive judges of the facts and a trial judge can
9 not comment on or make any statement about the facts in a
10 case. So please don't think by anything I may have said
11 or done throughout the course of the trial that I have
12 such an opinion I do not and the law does not allow it.

13 I again instruct you that the fact that these
14 defendants have been arrested, charged and indicted in the
15 case is not evidence of guilt, nor does it create any
16 presumption or inference of guilt. These documents are
17 simply the formal written instruments which contain the
18 charges made against each defendant and they serve as the
19 formal document by which the case is processed and brought
20 into court for disposition.

21 Now, I charge you that there are four
22 defendants in this case each of whom is charged with seven
23 counts of attempted murder, conspiracy, possession of a
24 weapon during the commission of a violent crime and
25 assault and battery by a mob second degree. Each case of

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1 each defendant and the evidence and the law concerning
2 each defendant should be considered separately and
3 individually. Your verdict does not have to be the same
4 for all defendants and the fact that you may find one
5 defendant guilty or not guilty should not control your
6 verdict as to the other defendants.

7 Where more than one person is charged with a
8 crime, if the evidence warrants it, you may convict one
9 and acquit the other or you may acquit both or you may
10 convict both. It would depend upon your views of the
11 testimony and the evidence and you must take each
12 defendant and consider the evidence as to that defendant
13 on each charge and my instructions to you on the law and
14 then you will write a separate verdict of guilty or not
15 guilty for each charge for each individual defendant.

16 So I remind you that each indictment charges
17 a separate and distinct offense and you must decide each
18 indictment separately on the evidence and the law
19 applicable to it uninfluenced by your decision as to any
20 other indictment.

21 Now, necessarily you must determine the
22 credibility or believability of the witnesses who have
23 testified and it becomes your duty as jurors to evaluate
24 the evidence and determine which evidence convinces you it
25 is true. And in determining the believability of the

State versus Booker, Williams, Young, Sadler

1 witnesses, you may believe one witness over several or
2 several over one. You may believe a part of the testimony
3 of a witness and reject the remaining part. You may
4 believe the testimony of a witness in its entirety or
5 reject that same testimony in its entirety. You may
6 consider whether the witness has an interest in the result
7 of the trial, whether the witness is prejudice towards
8 either the State or the defendants, the opportunity for
9 the witness to have seen the matter and things to which
10 the witness has testified and the way the witness acts on
11 the witness stand or what we call a witness's demeanor.

12 I will also tell you that a witness who has a
13 past criminal record is competent to testify during a
14 trial and a past criminal record does not affect the
15 ability of that witness to testify. The past criminal
16 record may only be considered by you, if at all, in
17 determining the witness's believability or credibility.

18 Remember you are the sole judges of the facts
19 in the case and of the believability of any and all of the
20 witness and any and all of the evidence. I instruct you
21 and emphasis that the fact that defendants did not testify
22 is not a factor to be considered by you in any way in your
23 deliberations on the question of the guilt or innocence of
24 each defendant and it must not be considered by you in any
25 manner whatsoever. Every citizen has the constitutional

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1 right to remain silent and the assertion of this right
2 must not be considered by you in your deliberations.

3 Now, each defendant has pled not guilty to
4 each indictment and that plea puts the burden on the State
5 to prove the defendant guilty. A person charged with
6 committing a criminal offense in South Carolina is never
7 required to prove themselves innocent and I charge you
8 that it is an important and cardinal rule of the law that
9 a defendant in a criminal trial will always be presumed to
10 be innocent of the crime for which the indictment was
11 issued unless and until guilt has been proven by evidence
12 satisfying you of guilt beyond a reasonable doubt.

13 Now, reasonable doubt is the kind of doubt
14 which would cause a reasonable person to hesitate to act
15 and reasonable doubt may arise from the evidence which is
16 in the case or the lack or absence of evidence in this
17 case and you the jury must determine whether or not
18 reasonable doubt exists as to the guilt of each defendant.

19 The State has the burden of proving each and
20 every element of a crime beyond a reasonable doubt and any
21 reasonable doubt that you may have in your deliberations
22 should be resolved in favor of the defendant.

23 Now, there are two types of evidence which
24 are generally presented during a trial, that is direct
25 evidence and circumstantial evidence. Direct evidence is

State versus Booker, Williams, Young, Sadler

1 the testimony of a person who claims to have actual
2 knowledge of a fact such as an eyewitness. It is evidence
3 which immediately establishes the main fact to be proved.
4 Circumstantial evidence is prove of a chain of facts and
5 circumstances indicating the existence of a main fact. It
6 is evidence which immediately establishes collateral facts
7 from which the main fact may be inferred.

8 Circumstantial evidence is based on inference
9 and not on personal knowledge or observation and the law
10 makes absolutely no distinction between the weight or
11 value to be given to either direct or circumstantial
12 evidence nor a greater degree of certainty required of
13 circumstantial evidence than of direct evidence.

14 Now, if a crime is committed by two or more
15 people who are acting together in committing a crime, the
16 act of one is the act of all, and a person who joins with
17 another or others to accomplish an illegal purpose is
18 criminally responsible for everything done by the other
19 person or persons which occurs as a natural consequence of
20 the acts done for carrying out a common plan or purpose.

21 For example, two people can be guilty of
22 killing another person when only one of the two had a gun.
23 There was only one bullet and only one of the two fired
24 the shot that caused the death. If two or more people are
25 acting together assisting each other in committing the

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1 offense, the act of one or the act of all or as sometimes
2 said the hand of one is the hand of all.

3 Now, each defendant is charged with
4 conspiracy and the state must prove beyond a reasonable
5 doubt that each defendant combined with the purpose of
6 committing and unlawful act or unlawful act by lawful
7 means. There's must be a mutual understanding, agreement
8 or common intention and plan. Mere passive knowledge or
9 consent to the criminal conduct of another is not a person
10 to make a person a conspirator. There must be guilty
11 knowledge and participation.

12 Similarly the mere fact may have associated
13 with another person or met with another person and
14 discussed common aims and interests does not necessarily
15 establish proof of the existence of a conspiracy or that
16 the defendant was involved in a conspiracy. On the other
17 hand, it is not necessary that the agreement be a formal
18 one, that it be in writing, that the persons hold a
19 meeting and expressly state the terms of the common plan
20 or that the agreement be stated in words between them.
21 The agreement of a criminal conspiracy that come into
22 being through an implied mutual understanding. The
23 willful intentional and knowing adoption by two or more
24 persons by a common plan is sufficient. No overt acts
25 needs to be brought to establish a conspiracy.

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1 A conspiracy can be shown by circumstantial
2 evidence and the conduct of the parties. In order to
3 convict a defendant of conspiracy the state must prove
4 beyond a reasonable doubt not only that that defendant
5 knew of unlawful conduct, but that the defendant agreed to
6 combine with the other persons for purpose of
7 accomplishing that unlawful conduct.

8 Each defendant is also charged with assault
9 and battery by mob in the second degree. For the purposes
10 of the offense a mob is defined as the assemblage of two
11 or more persons without color or authority of law for the
12 premeditated purpose and with the premeditated intent of
13 committing an act of violence upon the person of another.
14 Any act of violence inflicted by the mob upon the body of
15 another person which results in series bodily injury to
16 that person shall constitute the crime of assault and
17 battery by mob in the second degree.

18 And serious bodily injury is defined as a
19 physical condition which creates a substantial risk of
20 death serious personal disfigurement or protracted loss
21 or impairment of the function of a bodily member or organ.

22 Each defendant is charged with seven counts
23 of attempted murder and in order to prove this crime, the
24 state must prove that each defendant attempted to kill
25 another person with malice aforethought either expressed

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1 or implied. Malice is hatred ill-will or hostility
2 towards another person. It is the intentional doing of a
3 wrongful act without just cause or excuse and with the
4 intent to inflict an injury or under circumstances that
5 the law will infer and evil intent.

6 Malice aforethought does not require that
7 malice exists for any particular length of time before the
8 act is committed, but malice must exist in the mind of the
9 defendant just before and at the time that the act is
10 committed. Therefore, there must be a combination of a
11 previous evil intent and the act. Malice aforethought may
12 be expressed or inferred and these terms expressed and
13 inferred do not mean different kinds of malice but merely
14 the manner in which the malice may be shown to exist that
15 is either by direct evidence or inference from the facts
16 and circumstances which are proven.

17 Express malice is shown when a person speaks
18 words which express hatred or ill will for another or when
19 the person prepared before hand to do the act which was
20 later accomplished for example lying in wait for a person
21 or any other acts or preparation going to show that the
22 deed was within the defendant's mind would be expressed
23 malice. And malice may be inferred from conduct showing a
24 total disregard for human life and inferred malice may
25 also arise when the deed is done with a deadly weapon. A

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1 deadly weapon is any article, instrument or substance
2 which is likely to cause death or great bodily harm and
3 whether an instrument has been used as a deadly weapon
4 depends on the facts and circumstances of each case.

5 And if facts are proved beyond a reasonable
6 doubt in your mind sufficient to raise an inference of
7 malice to your salification, this inference would be
8 simply an evidentiary fact to be considered by you along
9 with all the other evidence in this case and you give it
10 the weight that you think it should receive.

11 A specific intent to kill is not an element
12 of attempted murder but there must be a general intent to
13 commit serious bodily injury and intent means intending
14 the result which actually occurs, not accidentally or
15 involuntarily.

16 Intent may be shown by acts and conduct of
17 the defendant and other circumstances from which you may
18 actually and reasonably infer intent and evidence of the
19 character of the act, the instrument that it was used, the
20 manner in which it was used, the purpose to be
21 accomplished and the resulting wounds and injuries may be
22 considered in determining the intent with which the act
23 was committed. Intent may also be inferred when it is
24 demonstrated when the defendant voluntarily and willfully
25 commits an act, the nature tendency of which is to destroy

State versus Booker, Williams, Young, Sadler

1 another's life.

2 Each defendant is also charged with the
3 possession of a weapon during the commission or attempt to
4 commit a violent crime and in order to prove this, the
5 State must prove beyond a reasonable doubt that each
6 defendant was in possession of a firearm or visibly
7 displayed what appeared to be a firearm during the
8 commission of a violent crime. A firearm means any
9 machine gun, automatic riffle, revolver, pistol or any
10 weapon which will is designed or readily converted to
11 expel a projectile.

12 In order to find a defendant guilty of
13 possession of a weapon during the commission of a violent
14 crime, you must find the defendant guilty of either
15 committing a violent crime or attempting to commit a
16 violent crime so you may not consider this offense unless
17 you first find that each particular defendant guilty of a
18 violent crime.

19 Under our law attempted murder is a violent
20 crime.

21 Now, ladies and gentlemen, we have prepared
22 verdict forms. There is one verdict form for each
23 individual defendant and each form lists each charge
24 against that particular person. I want to tell you that
25 as to each charge and as to each defendant there are two

State versus Booker, Williams, Young, Sadler

1 possible verdicts in which you may reach in this case and
2 there is no significant order in which I am stating them
3 to you and they are guilty or not guilty.

4 I will tell you that all 12 of you must agree
5 on your verdict. Your verdict must be unanimous and it
6 can not be based on sympathy, passion, prejudice, emotion
7 or any other consideration which is not in evidence in
8 this case. You have no friends to reward you have no
9 enemies to punish. Now, ladies and gentlemen, I'm going
10 to excuse you all to your jury room and ask you to eat
11 your lunch but don't begin your deliberations until the
12 bailiff comes with the evidence. I have to go over my
13 jury charge with the attorneys to make sure that I did not
14 state something or omit something. So when all of this
15 comes to you, you may begin your deliberations.

16 Sir, just hold on for a second. I would tell
17 you that the law unfortunately -- you have been every bit
18 as attentive as all the other juries and I would love to
19 let you go back there but the law won't allow it so you
20 are free to go. Your lunch is back there and you're free
21 to talk about the case with who ever you want to. If
22 someone approaches you and bothers you about the case and
23 you don't want to talk about it, get that person's name
24 and let me or the bailiffs know and we will take care of
25 it. Thank you.

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1 (Jury exits the courtroom.)
2 Any objection to the charge?
3 MS. SALISBURY: Nothing from the State.
4 MR. CHAMBERS: No, Your Honor.
5 MR. ABDALLA: No, Your Honor.
6 MR. QUINN: No, Your Honor.
7 (Jury began deliberations at 1:30.)
8 THE COURT: They have a question. They want a
9 copy of the explanation of the law so we're making four or
10 five copies and we're going to send that back into them.
11 MS. SALISBURY: No objection, Your Honor.
12 MR. CHAMBERS: No objection.
13 MR. ROBINSON: No objection.
14 MR. ABDALLA: No objection.
15 MR. QUINN: I'd object. I'd ask that we get
16 a further definition of what they mean in case they only
17 want one portion of it.
18 THE COURT: What the law requires for a
19 guilty verdict for each charge. I'm not sending in part,
20 I'm sending in the whole charge.
21 (Court in recess.)
22 Bring them in.
23 (Jury enters the courtroom.)
24 It's late and we are going to come back
25 tomorrow to continue deliberations. Please remember don't

State versus Booker, Williams, Young, Sadler

1 talk about the case. Thank you.

2 ---END OF TRANSCRIPT RECORD FOR DAY 5 ---

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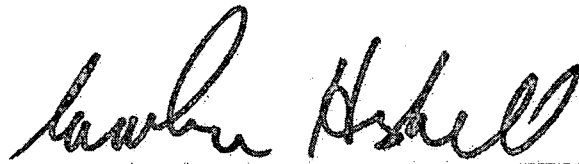
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State versus Booker, Williams, Young, Sadler

1 I, the undersigned, Caroline Hiskell, the Official
2 Court Reporter for the Thirteenth Judicial Circuit of the
3 state of South Carolina, do hereby certify that the
4 foregoing is a true, accurate, and complete transcript of
5 record of all the proceedings had and evidence introduced
6 in the trial of the captioned case, relative to appeal, in
7 the General Sessions Court, South Carolina.

8 I do further certify that I am neither of
9 kin, counsel, nor interest to any party hereto.

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14 Caroline Hiskell
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State versus Booker, Williams, Young, Sadler

1 STATE OF SOUTH CAROLINA)
2) COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE) 2011-GS-23-8010-8018
3) 2012-GS-23-3838
4) 2011-GS-23-9239-9245
5) 2012-GS-23-3041,7491-79417
STATE OF SOUTH CAROLINA) TRANSCRIPT OF RECORD
6)
-vs-)
7)
Raymond Lewis Young)
Esaiveus F. Booker)
8 Kinjta Kadeem Sadler)
Michael W. Williams)
9)

10 Day - 6 January 12, 2013
11 Greenville, South Carolina

12 B E F O R E:

13 THE HONORABLE EDWARD W. MILLER, Judge.

14 A P P E A R A N C E S

15 Katrina Salisbury, Esquire
16 Assistant Solicitor
Attorney for the State

17 Scott Robinson, Esquire
Attorney for Michael Williams

18 Randy Chambers, Esquire
Attorney for Esaiveus Booker

19 Thomas Quinn, Esquire
20 Attorney for Kinjta Sadler

21 John Abdalla, Esquire
22 Attorney for Raymond Young

23 CAROLINE HISKELL
Thirteenth Circuit Court Reporter
24
25

State versus Booker, Williams, Young, Sadler

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2

I N D E X

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No Witnesses or exhibits

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State versus Booker, Williams, Young, Sadler

P R O C E E D I N G S

1
2 THE COURT: I hope y'all had a good night and
3 good night. I just wanted to remind you and I guess I
4 should have said it in my closing instructions but I told
5 you earlier is that remember that one person's written's
6 notes are not better than another person's recollection.
7 Other than me telling you that, you all deliberate in the
8 fashion you see to be the most fruitful for you to come to
9 a resolution. With that, I ask you to return to your jury
10 room and continue deliberation.

11 (Deliberations continue.)

12 THE BAILIFF: Be seated. Court is now in
13 session.

14 THE COURT: We have a question from the jury.
15 "Judge Miller, we find ourselves in agreement on several
16 of the charges. We are still deliberating some of the
17 other charges. Can you tell us what would happen if we
18 are unable to come to an agreement on all of the charges
19 in the case." Signed fore lady. So there's our question.

20 I'm not going to Allen charge them yet but if
21 they send another note out, I think we do have to Allen
22 charge them. I'll write back to them to please continue
23 deliberating.

24 THE BAILIFF: Please remain seated.

25 (Verdict 2:30 p.m.)

State versus Booker, Williams, Young, Sadler

1 THE COURT: Okay. We have a verdict. I will
2 make it perfectly clear if you are unable to contain your
3 motions because we are not going to tolerate any outbursts
4 of any kind from anybody and if you can't do that, leave
5 now. There's no shame in leaving. If you violate, and
6 this is an order, you will be in contempt of court and
7 treated accordingly.

8 (Jury enters the courtroom.)

9 Madam Clerk would you publish the verdict,
10 please?

11 THE CLERK: Your Honor in Case No. 2011-GS-
12 23-8010, 8011, 3838a, 8012, 8013, 8014, 8015, 8016, 8017,
13 8018, the State versus Raymond Lewis Young, II. As to the
14 charge of conspiracy we the jury find the defendant
15 guilty. As to the charge of possession of a weapon during
16 the commission of a violent crime we the jury find the
17 defendant not guilty. As to the charge of assault and
18 battery by mob in the second degree, we the jury find the
19 defendant guilty. As to the charge of attempted murder
20 seven counts, we the jury find the defendant guilty.

21 2011-GS-23-7957, 7958, 7959 - 7965, 3839A,
22 the State of South Carolina versus Michael Antonio
23 Williams as to the charge of conspiracy, we the jury find
24 the defendant guilty. As to the charge of possession of a
25 weapon during the commission of a violent crime, we the

State versus Booker, Williams, Young, Sadler

1 jury find the defendant not guilty. As to the charge of
2 assault and battery by mob in the second degree, we the
3 jury find the defendant guilty. As each of the charges of
4 attempted murder, we find the defendant guilty.

5 2011-GS-23-7940, 7930, 3841a, 7941 - 7947,
6 the State of South Carolina versus Esaiveus Booker, as to
7 the charge of conspiracy we the jury find the defendant
8 not guilty. As to the charge of possession of a weapon
9 during the commission of a violent crime, we the jury find
10 the defendant not guilty. As to the charge of assault and
11 battery by mob second degree, we the jury find the
12 defendant guilty. As to the charge of attempted murder
13 times seven, we the jury find the defendant guilty.

14 2011-GS-23-9237, 9238, 3840a, 9239 - 9245,
15 the State of South Carolina versus Kinjta Kadeem Sadler,
16 as to the charge of conspiracy, we the defendant find the
17 defendant not guilty. As the charge of possession of a
18 weapon during the commission of a violent crime, we the
19 defendant find the defendant not guilty, as to the charge
20 of assault and battery by mob in the second degree, we
21 find he defendant not guilty, as to the charge of
22 attempted murder as to each charge we find the defendant
23 guilty.

24 Each of these verdicts has been signed by the
25 fore person, Christine Ferguson.

State versus Booker, Williams, Young, Sadler

1 THE COURT: This is the last page of that
2 entire sheet, I'm going to ask you all to retire to the
3 jury room. Give them the verdict form. We've
4 mispublished the verdict with respect to Mr. Williams.
5 The last page is blank so I'm going to ask y'all to review
6 that, make your decision, sign it and we'll accept you
7 back. Okay.

8 (Jury exits the courtroom.)

9 Okay, bring them back in.

10 (Jury re-enters the courtroom.)

11 My apologies. We had an extra verdict form
12 was given to the clerk to allow her to review so she could
13 prepare to publish and she put your finished form it got
14 misplaced in all of the paperwork. That was our mistake,
15 but for the record, I'm going to pass all verdict forms
16 back to you and ask you to review them and make sure those
17 are your forms.

18 The fore lady indicates they are her verdict
19 forms.

20 Is there anything further for the jury?

21 MR. CHAMBERS: No, Your Honor.

22 MR. ROBINSON: No, Your Honor.

23 MR. ABDALLA: No, Your Honor.

24 MR. QUINN: No, Your Honor.

25 Alright, ladies and gentlemen, believe it or

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1 not you are through for the week. Your service has been
2 invaluable and at this time I'd like to excuse you back to
3 the jury room because we have some forms we'd like to give
4 you.

5 (Jury exits the courtroom.)

6 Any motions?

7 MR. CHAMBERS: Your Honor, on behalf of
8 Mr. Booker I would like to make a motion for a new trial
9 and also a motion notwithstanding the verdict.

10 THE COURT: I'll denied.

11 MR. ROBINSON: I would make a motion as well
12 on behalf of my client the same as Mr. Chambers.

13 THE COURT: Denied.

14 MR. ABDALLA: For my client as well, Your
15 Honor.

16 THE COURT: Denied.

17 MR. QUINN: I would join in that motion as
18 well as well as the inconsistent verdict against my
19 client.

20 THE COURT: Be more specific.

21 MR. QUINN: The jury found he was not part of
22 the conspiracy or part of the mob that was involved but
23 yet found that he caused an injury so the verdicts are
24 inconsistent..

25 THE COURT: I would disagree with you and

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1 deny your motions. Are you ready for sentencing?

2 MR. CHAMBERS: Yes, sir.

3 THE COURT: How would you want to proceed?

4 MS. SALISBURY: I'll leave it to your
5 discretion, but if you want to handle them one at a time.

6 THE COURT: Tell me his background.

7 MS. SALISBURY: Mr. Sadler has no prior
8 record. I believe you heard the bulk of the information
9 during the course of this trial.

10 MR. QUINN: Seventeen years of age when the
11 incident occurred. He is the youngest person involved in
12 the matter probably the most easiest influenced. How he
13 ever got in this club is a mystery to start with because
14 it serves alcohol and he should have been stopped at the
15 door. He was attending JL Mann and has been in jail since
16 his arrest which was July of 2011.

17 You've had the opportunity to see his
18 demeanor in the courtroom, the manner in which he has
19 conducted himself. I think it is fair to say that he has
20 not caused any outbursts in the courtroom. He has been
21 pleasant and respectful to the authorities in the
22 courtroom including the court.

23 As the Court knows each of these charges
24 carries a sentence of up to 30 years. If Your Honor gives
25 him a jail sentence, he would have to serve 85 percent of

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1 it. Because of his age, he is eligible for a youthful
2 offender sentence. Considering he has done approximately
3 a year and a half in the county jail, I would ask the
4 Court to consider a youthful offender sentence in this
5 matter.

6 THE COURT: Anything you want to tell me?

7 DEFENDANT SADLER: No, sir.

8 THE COURT: There's a code of silence in
9 these groups but you are a young man. Everyone of us will
10 stand naked in front of the pearly gates and now you are
11 standing naked up here along on your own and you have
12 nothing to tell me.

13 DEFENDANT SADLER: No, sir.

14 THE COURT: Anything the victims want to tell
15 me?

16 (No response.)

17 MS. SALISBURY: I don't have any indication
18 the victims have any input.

19 THE COURT: Okay, twenty years on each count,
20 credit for any time you're entitled to.

21 Mr. Booker.

22 MS. SALISBURY: Mr. Booker has a 2011
23 conviction for shoplifting. It's my understanding he was
24 in PTI for an auto breaking at the time of his arrest on
25 this incident and has another pending and would have been

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1 out on bond on an assault and battery by mob in the second
2 degree at the time these were committed.

3 MR. CHAMBERS: Your Honor, I would tell you
4 on behalf of Mr. Booker he's 21 years old. I think he was
5 19 at the time these incident occurred. His mother
6 Patricia Hill is standing here with him. I think I've
7 been representing him I think shortly after he was
8 arrested which was back in July of 2011. She has been
9 stoic in his defense. He's probably met with me more than
10 any other parent. She has told me lots of good things
11 about this young man. I know when this occurred he has
12 two small children and he was trying his best to support
13 them. He was going through training to become a certified
14 forklift operator to become certified.

15 I will tell the Court and this is not
16 persuasive in any way because the verdict has been
17 rendered by the jury and they have spoken, this young man
18 has told me from day one and has told me again as we sit
19 here today, and he was in tears, he wasn't involved, and
20 he has maintained that. I talked to him various times
21 about possible pleas at one point to try to mitigate
22 damages. He was willing to plea but he couldn't give
23 testimony because he didn't know anything about it, he
24 hadn't been involved.

25 I asked him before we came up here is there

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1 anything you want to say and he said, you know, I didn't
2 do it. So, Your Honor, I would ask you to take everything
3 into consideration, be as lenient with this young man as
4 you can possibly be.

5 THE COURT: Anything you want to tell me?
6 This is your reckoning day. You're going to meet your
7 maker one day like I told Mr. Sadler that this is your
8 judgment day with respect to your conduct that's occurred
9 in this case. Anything you want to tell me?

10 MR. BOOKER: I'd like to say, Your Honor,
11 like I been saying day one I had nothing to do with it.
12 That's all I can say.

13 THE COURT: On each of the attempted murder
14 cases, the sentence is 20 years. On the conspiracy, the
15 sentence is five years, all run concurrent and you're
16 entitled to any credit that you earned.

17 MR. CHAMBERS: I thought that my client was
18 found not guilty on the first two charges, conspiracy
19 being one of the charges.

20 THE COURT: Check the verdict sheet. Was he
21 found guilty on conspiracy? He was found not guilty.
22 Okay. Twenty years on each of the attempted murders and
23 there is no conviction on each of the conspiracies. Is
24 there an assault and battery by mob? Yes. So we need to
25 sentence him on that. Twenty years to run concurrent with

State versus Booker, Williams, Young, Sadler

1 the other cases. Best of luck to you.

2 Mr. Williams.

3 MS. SALISBURY: Mr. Williams has no prior
4 record and any input the State would offer is that
5 received during trial.

6 MR. ROBINSON: May it please the Court, this
7 was a very hard fought trial and we appreciate the efforts
8 of the jury in this case. It's a very complicated case
9 and obviously they put a lot of thought into this.

10 Your Honor, he is 22 and he has three
11 children. He's been in jail for 18 months now and he's
12 very sorry and apologetic and I think he wants to express
13 that the Court.

14 DEFENDANT WILLIAMS: I want to apologize for
15 anything that happened to the victims. I'm sorry that it
16 every happened to them that they had to go through all
17 that pain and suffering.

18 THE COURT: Why don't you explain to me why
19 this happened?

20 DEFENDANT WILLIAMS: I can't explain to you
21 why it happened. They say people that -- you see I didn't
22 get found guilty of the pistol charge. They say people
23 that were with them did it so, the hand of one and hand of
24 all, but I'm sorry them dudes had to go through what they
25 had to go through.

State versus Booker, Williams, Young, Sadler

1 MR. ROBINSON: Thank you, Judge.

2 THE COURT: On each of the attempted murder
3 cases, the sentence is 25 years, assault by mob 20 years,
4 conspiracy five years, all concurrent and credit for any
5 time he's entitled to.

6 Mr. Young.

7 MS. SALISBURY: Your Honor, he has a criminal
8 record beginning in 2002 criminal domestic violence,
9 carrying a concealed weapon, 2003 assault and battery of a
10 high and aggravated nature, possession of stolen good,
11 2004 auto breaking, interfering with police, 2005 strong
12 armed robbery and 2006 three counts of a high and
13 aggravated nature. It would be the State's contention
14 that Mr. Young organized this effort. It's my information
15 that he is of at least a superior position with respect to
16 the other defendants and I would note for the Court that
17 Mr. Young was released from the Department of Corrections
18 in 2010 seven months before this happened.

19 Should there been an opportunity to pursue a
20 recidivist enhancement, we should have.

21 THE COURT: Alright.

22 MR. ABDALLA: Your Honor, I would just like
23 to say that thank God nobody got killed and generally in
24 manslaughter cases, customary sentences are around the 15
25 to 20 year range. I'd ask the Court to keep that in

State versus Booker, Williams, Young, Sadler

1 consideration since nobody was killed.

2 THE COURT: This isn't a manslaughter case,
3 this was a cold blood ambush. I don't care what the prior
4 conduct in the evening was, these people had no idea this
5 was coming. If there had been incident people there
6 pumping gas, they would have been subject to hellish reign
7 of bullets that was unleashed.

8 What do you want to tell me, Mr. Young?

9 DEFENDANT YOUNG: I want to tell you I had
10 nothing to do with this. I'm sorry for what happened to
11 the victims. I wasn't responsible for this. I had
12 nothing to do with this. I'm innocent of these charges.
13 I've been prejudiced by this via this trial and my
14 co-defendants this whole trial. Everything -- you got all
15 these crooked officers lying, telling lies, getting people
16 to tell lies and putting stuff in their statement. I have
17 not received a fair trial.

18 I was not responsible for these acts. I had
19 nothing to do with this. I even proved I ain't hand
20 nothing to do with this. Even the testimony showed the
21 people that was in the car with me is all. I can not
22 believe that this Court found me guilty of these charges.
23 I had nothing to do with these charges, none whatsoever.
24 I feel sorry for the victims, and I'm sorry that we're
25 here today. I had nothing to do with this at all, at all.

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1 THE COURT: With respect to each of the
2 attempted murder cases, the sentence is 30 years.
3 Conspiracy, five, those are all concurrent. Assault and
4 battery by mob in the second degree, 10 years, consecutive
5 suspended with five years probation. And when you get out
6 of prison, you report to probation.

7 DEFENDANT YOUNG: Thank you, sir.

8 MR. ABDALLA: The assault by mob was --

9 THE COURT: Consecutive suspended with five
10 years probation. Court adjourned.

11 ---END OF TRANSCRIPT RECORD---

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State versus Booker, Williams, Young, Sadler

1 I, the undersigned, Caroline Hiskell, the Official
2 Court Reporter for the Thirteenth Judicial Circuit of the
3 state of South Carolina, do hereby certify that the
4 foregoing is a true, accurate, and complete transcript of
5 record of all the proceedings had and evidence introduced
6 in the trial of the captioned case, relative to appeal, in
7 the General Sessions Court, South Carolina.

8 I do further certify that I am neither of
9 kin, counsel, nor interest to any party hereto.

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14 Caroline Hiskell
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FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF Greenville)Kineta Kadeem Sadler 353966
Full name and prison number (if any) of Applicant:)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2015-CP-23- 02831

APPLICATION FOR

POST-CONVICTION RELIEF

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2015 APR 9 PM 3 13**INSTRUCTIONS - READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention ~~Greenville County Jail~~ McCorick 386 ^{Redemption} Way 298
2. Name and location of Court which imposed sentence Greenville County
3. Name(s) of co-defendant(s) (if any) Raymond Lewis Young, Esauveus F. Barker, Michael W. Williams
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 009239, 009240, 009241, 009242, 009243, 009244,
 - (b) 009245, ~~009246~~
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) (7 counts Attempted murder) 20 years (2013 January)
 - (b) 7)

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty XXXXXX
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. Appeal From Greenville County
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Dismissed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. Submitted November 1, 2014 filed and Dismiss on January
- ii. 14, 2015
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Michael Langford intimidate witness and perjury
- ii. 5/69-10(A)(2) State V. Alexander 303 S.C. 377, 401 S.E.2d 146 (1991)
- iii. State V. Amerson 244 S.C. 371 137 S.E.2d 284 (1964)
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Illegal incarceration ~~that was not necessary~~
- (b) Ineffective Assistance of Counsel
- (c) ~~that was not necessary~~

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) Counsel was ineffective for failing to Present the time and Date of
- (b) my true bill indictments. State v. Evans 611SE2d510/ counsel was ineffectd for
- (c) failing to investigate this case by failing to interview Potential witness. See Ard v. catoe

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? Yes
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(b) the name and location of the Court in which each was filed:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. N/A
- ii. _____
- iii. _____

- iv. N/A
- (d) the date of each such disposition:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
- NO
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. N/A
- ii. _____
- iii. _____
- (b) the proceedings in which each ground was raised:
- i. N/A
- ii. _____
- iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) ~~XXXX~~ This is the first opportunity the Applicant
- (b) has to present these issues
- (c) _____
17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? _____
- (b) your trial, if any? ~~Yes~~ Thomas Quinn Yes
- (c) your sentencing? Thomas Quinn Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Robert M. Pachak Yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Thomas Quinn trial attorney Greenville County
- ii. Robert M. Pachak Columbia SC 29211-1589 PO Box 11589
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Thomas Quinn trial attorney
- ii. Robert M. Pachak Appellate Defense Attorney
- iii. _____
19. State clearly the relief you seek in filing this application:
To Be Liberated from this illegal incarceration
20. Are you now under sentence from any other court that you have not challenged?
No

STATE OF SOUTH CAROLINA)

County of)

VERIFICATION

I, KKS, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

~~K. Sadler~~ Kinjta Kadeem Sadler #353966

SWORN to and subscribed before me this 13th
day of March, 2015.

 (L.S.)
Notary Public

My Commission Expires: 8/5/24

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, KKS, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

K. S. S. S.

Applicant

SWORN or affirmed to and subscribed before me this
13th day of March, 2015.

[Signature]
Notary Public

My Commission Expires: 8/5/24

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2015-CP-23-2831
COUNTY OF GREENVILLE	)	
	)	
Kinjta Kadeem Sadler,	)	
S.C.D.C. No. 353966,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to the post-conviction relief application filed April 29, 2015, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the May 2012 term of General Sessions for seven counts of attempted murder (2011-GS-23-9239, -9240, -9241, -9242, -9243, -9244, -9245). Thomas Quinn, Esquire represented the Applicant.

After the State called the case to trial, the Applicant was found guilty. On January 12, 2013, the Honorable Edward W. Miller sentenced the Applicant to concurrent sentences of 20 years on each count.

A notice of appeal was filed at the South Carolina Court of Appeals. Robert M. Pachak, Esquire of the South Carolina Commission on Indigent Defense, Division of Appellate Defense

perfected the appeal in the form of an Anders¹ brief. The Court of Appeals dismissed the appeal. State v. Sadler, Op. No. 2015-UP-013 (S.C. Ct. App. filed January 14, 2015). The Remittitur was sent on February 4, 2015.

Attached herewith and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the trial transcript, and the appellate records.

II.

In his application for post-conviction relief, the Applicant alleges he is being held in custody unlawfully for the following reason:

1. Illegal incarceration.
2. Ineffective assistance of counsel.
 - a. Failed to present the time and date of the true bill indictments.
 - b. Failed to investigate by failing to interview potential witnesses.

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

¹ Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel “rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under prevailing professional norms.” Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel’s deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. “A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial.” Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Respondent denies each allegation not expressly admitted, qualified or explained.

V.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Deputy Attorney General

f

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By:


Attorneys for Respondent

Nov. 30, 2015

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

2015-CP-23-2831

KINJTA KADEEM SADLER, 353966)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA,)

Respondent.)

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Kinjta Kadeem Sadler, 353966
McCormick Correctional Institution
386 Redemption Way
McCormick SC 29899

DATED this 30th day of November, 2015.


 Judy A. C. Carey, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	Case No(s) : 2015CP2302831
	)	
Kinjta Kadeem Sadler,	)	
	)	
Plaintiff,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	
State of South Carolina,	)	
	)	
Defendant.	)	
	)	

April 22, 2016
Greenville, South Carolina

B E F O R E:

HONORABLE R. KNOX McMAHON, Judge.

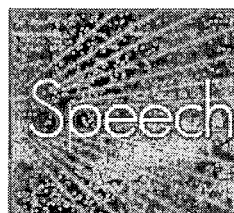
A P P E A R A N C E S:

MILLS ARIAIL, Esquire
Attorney for the Applicant

PATRICK SCHMECKPEPER, Esquire
Attorney for the Respondent

Teresa B. Johnson, CVR-M, CM
Certified Court Reporter
P.O. Box 2812
Greenville, S.C. 29602

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I N D E XDIRECT CROSS REDIRECT RECROSS

Kinjta Sadler

by Mr. Ariail 5

by Mr. Schmeckpeper 17

Thomas Quinn

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by Mr. Schmeckpeper 23

Certificate of Reporter 27

EXHIBITS PAGE

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>

PLAINTIFF EXHIBITS

P-1	Letters (3)	15	15

DEFENSE EXHIBITS

(No exhibits offered.)

COURT EXHIBITS

(No exhibits offered.)

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P R O C E E D I N G S

(WHEREUPON, the proceedings begin on the 22nd day of April, 2016 at approximately 9:37 a.m.)

THE COURT: All right. Yes, sir.

MR. SCHMECKPEPER: Your Honor, may it please the Court. This is Kinjta Sadler versus the State of South Carolina, 2015-CP-23-2831. The applicant was indicted in May of 2012 for seven counts of attempted murder. He was represented by Thomas Quinn. He proceeded to trial and was found guilty on all counts on January 12th, 2013 in front of Judge Miller. He was sentenced to concurrent terms of 20 years imprisonment on each count.

A timely notice of appeal was filed and perfected pursuant to Austin versus the State. After that appeal was denied, a remittitur was returned on February 4th, 2015. This application was filed on April 29th, 2015. At this point, I'll turn it over to counsel.

THE COURT: All right. Thank you.

Mr. Ariail?

MR. ARIAIL: Yes, Your Honor. We're ready to proceed.

THE COURT: All right. Yes, sir, you may

1 call your first witness.

2 **MR. ARIAIL:** I call Mr. Sadler to the
3 stand.

4 **THE COURT:** All right. If you would, come
5 around for me please, Mr. Sadler, and be sworn.

6 **THE CLERK:** Mr. Sadler, please place your
7 left hand on the Bible and raise your right
8 hand.

9 **KINJTA SADLER**

10 having first been duly sworn, testifies as follows:

11 **THE CLERK:** Thank you. You may be seated.
12 Please state your full name for the record.

13 **THE WITNESS:** Kinjta Kadeem Sadler.

14 **DIRECT EXAMINATION**

15 **BY MR. ARIAIL:**

16 **Q** Mr. Sadler, how are you doing today?

17 **A** I'm good.

18 **Q** Good. We talked in regards to this case. I
19 want to go back to a little bit of the background
20 about your representation. You were represented by
21 Mr. Quinn in this case, correct?

22 **A** Yes, sir.

23 **Q** I guess all the charges that the Attorney
24 General put on the record are the ones that he went
25 to trial on your behalf, correct?

1 **A** Yes, sir.

2 **Q** Now, during your representation, was he
3 retained or appointed for you?

4 **A** I guess he was appointed.

5 **Q** Okay. So I mean, basically, you didn't pay
6 him any money. He was court-appointed; is that
7 correct?

8 **A** Yes, sir.

9 **Q** Okay. So when you went and got -- he was
10 appointed as your attorney, did you meet with him?

11 **A** Yeah.

12 **Q** Okay. Tell me, were you out on bond or in
13 the --

14 **A** No, sir. I was in the county.

15 **Q** In the county, in the LEC down there.

16 **A** Uh-huh.

17 **Q** And did he come down and meet with you down
18 there?

19 **A** Yes, sir.

20 **Q** Okay. Did y'all discuss the evidence in the
21 case?

22 **A** Plenty of times.

23 **Q** What's that?

24 **A** Plenty of times.

25 **Q** Okay. Now, I want to go through. This case

1 was -- basically, there was an attempted murder
2 charge. There was a shooting that allegedly occurred
3 at a, I guess, a Little Cricket gas station; is that
4 correct?

5 A Yes, sir.

6 Q And they said you were one of the ones that
7 did the shooting. Is that the facts pretty much?

8 A Yes, sir.

9 Q Okay. Now, when you talked to him, what did
10 y'all talk about in regards to what the State had to
11 prove to convict you of these? Do you remember that?

12 A Basically, he was really saying I got a
13 good -- like, that they ain't got no evidence, you
14 straight.

15 Q Okay. Let me go through a little bit about
16 that. What he's saying in regards to that was that, I
17 guess, there were two -- there were four people who
18 testified during trial about what happened that
19 night, correct?

20 A No, it was a whole lot of people.

21 Q What I'm saying is there were two people I
22 think that were driving the vehicles and two others;
23 is that correct?

24 A Yes, sir.

25 Q And none of those during that testimony

1 said that they saw you shoot or do anything like
2 that, correct?

3 **A** Yes, sir.

4 **Q** Okay. And the only testimony, I guess, that
5 was there that you being connected was them saying
6 that you were in the vehicles; is that correct?

7 **A** Yeah, in the vehicle and on the video at
8 the Waffle House eating.

9 **Q** Okay. We're going to go through that a
10 little bit here in a second. So your discussions with
11 him, he didn't think or believed that there was
12 limited evidence in regards to you, correct?

13 **A** Yes, sir.

14 **Q** Did he tell you that, you know, anything
15 about what he thought your chances were or tell you
16 what he was going to do during the trial?

17 **A** Not really. We was discussing about another
18 case. But basically, with this case right here, he
19 was just like it's no way we're going to trial.
20 There's not even enough evidence for you to go to
21 trial. You're not going to trial.

22 **Q** Okay. So you went to trial, we know that.
23 So at some point in time, did y'all talk about, hey,
24 this is on the trial docket, we're going to have to
25 try this?

1 A Yes, sir.

2 Q What was y'all's discussion in regards to
3 that?

4 A Basically, he told me he was going to
5 testify and, you know, how can we, you know,
6 loopholes and stuff like that and asked did I want to
7 testify and do I have witnesses. I told him, yeah, I
8 had witnesses and all that. But he told me, uh, not
9 to put them up.

10 Q Okay.

11 A He told me not to testify.

12 Q Give me -- your discussion with him, you
13 said you had witnesses. What were those witnesses --
14 what did you tell him they were going to be able to
15 say?

16 A I was going tell them that -- they was
17 going to identify that I wasn't even there. I
18 couldn't even get in the club that night.

19 Q So you didn't even go to the club where the
20 fight started?

21 A No, I went to the club, but I couldn't get
22 in. I was 17.

23 Q So you weren't able to get in the club?

24 A Uh-huh.

25 Q But then were these witnesses going to

1 testify you were somewhere else?

2 **A** Yes, sir.

3 **Q** At the time of the shooting?

4 **A** Yes, sir.

5 **Q** Where were they going to say you were?

6 **A** I was at the Waffle House. But before you
7 get to the Waffle House, it's like when you go across
8 the street, it's a Burger King and a store built --
9 like built into together. We was over there before we
10 even got to the Waffle House.

11 **Q** Okay. Now, who are these people?

12 **A** You know, some friends and a couple of
13 people I know from school.

14 **Q** All right. I asked you -- we talked about
15 this a couple of times in regards to getting him to
16 come. Are they here today to be able to testify on
17 your behalf?

18 **A** No, sir.

19 **Q** Okay. You got there names, addresses,
20 anything that can --

21 **A** That was three years ago. I don't really
22 know their number or their addresses anymore.

23 **Q** Okay. And you are saying they were alibi
24 witnesses that were going to testify you were
25 somewhere else?

1 A Yes, sir.

2 Q Did you tell him that?

3 A Yeah..

4 Q Tell Mr. Quinn that?

5 A He probably should have a copy. I had the
6 name on his list.

7 Q To your knowledge, did he talk to them,
8 interview them, anything of that nature?

9 A Yeah, he did.

10 Q Okay.

11 A Before trial.

12 Q Did he tell you what they said and why he
13 didn't want to use them at trial?

14 A No, he just told me don't put them up. He
15 wanted the last argument of the case and be ready to
16 go home.

17 Q Okay. So did y'all have any discussion as
18 to why not putting them up was something he wanted to
19 do during trial?

20 A No.

21 Q Did you tell him specifically I want to
22 call these witnesses?

23 A Yeah, but he told me not to put them up.
24 Like he said, he wanted the Solicitor to go first and
25 then he could go last, so don't put up potential

1 witnesses, so don't put them up.

2 Q Okay. Now, you've raised a couple of things
3 with me. I want to make sure this is your time to be
4 able to tell the court in regards to what you believe
5 how he was ineffective. Another thing, I'm trying to
6 understand this a little bit better. You think that
7 you were not indicted on the day that the Grand Jury
8 met; is that correct?

9 A Yes, sir.

10 Q What evidence do you have of that?

11 A I have quite a few evidence. As you know, I
12 had wrote the Clerk of Court about my true bill
13 indictments. I had talked to him about my true bill
14 indictments. He had brung me a copy of the true bill
15 indictments. But as you know --

16 Q You were saying you were indicted, correct?

17 A Uh-huh.

18 Q You are saying that you were not -- you are
19 saying there is a document that says you were
20 indicted, you're just saying that it couldn't happen
21 because the Grand Jury didn't meet on the day --

22 A The Grand Jury never even convened.
23 Convened, like, means, like, come together.

24 Q Okay.

25 A They never even convened.

1 Q Did you talk to Mr. Quinn about this?

2 A Yes, sir.

3 Q What did he say in regards to that?

4 A He sent me another copy of my true bill
5 indictments.

6 Q Okay. Did he say that -- did he give you
7 any idea as to, hey, they met on this day or they
8 didn't meet on this day or were there any issues with
9 that?

10 A No, he just gave me another copy.

11 Q Okay. So you think that's an issue and they
12 shouldn't have gone forward with it because you
13 weren't indicted?

14 A If he would have presented my true bill
15 indictments, I would have never -- I would have never
16 -- we'd never been satting here -- we would have
17 never been here.

18 Q What do you mean by that? If they would
19 have presented you with your true bill indictments?

20 A No, if he would have told the judge about
21 my indictments, he would have seen the time and date.

22 Q Okay. I think I've gone through the
23 witnesses. Your alibi was that you were eating
24 somewhere else at the time. Was it the Waffle House?

25 A Yeah, I was at the Waffle House, but before

1 we even got to the Waffle House, we was at -- it's
2 like a Burger King and store built in. It's like
3 right across the street. We went to the Waffle House.
4 There's where they seen me on the camera eating.

5 Q Okay. So did y'all get the camera or the
6 video or anything like that?

7 A Yeah, they had the camera.

8 Q Okay. Did Mr. Quinn have a copy of that?

9 A Yeah, we all watched it on the screen.

10 Q Okay. Did y'all discuss the time, the same
11 time? What was the issue with it? What are you
12 saying?

13 A They didn't have a time. They just seen me
14 pulling up at the Waffle House with my co-defendants.

15 Q Okay. We've talked about the issues that
16 you have raised to me. Are there other things that
17 you want this judge, Judge McMahon, to hear? Because
18 this is your time to be able to put it on the record.

19 A Yes, like I said, I wrote the Clerk of
20 Court for my true bill indictments.

21 Q Right. Do you have a copy of that letter or
22 anything that you could submit?

23 A Yeah.

24 MR. ARIAIL: Your Honor, if I can submit
25 these as Applicant's Number 1.

1 **THE COURT:** All right. Any objections, Mr.
2 Schmeckpeper?

3 **MR. SCHMECKPEPER:** No objection, Your
4 Honor.

5 **THE COURT:** All right. Applicant's 1 is in
6 evidence without objection.

7 **(WHEREUPON, Plaintiff's Exhibit 1 is marked for**
8 **identification and admitted into the record.)**

9 **MR. ARIAIL:** Your Honor, if there is no
10 problem, I did not have a copy of this
11 beforehand. I know he probably wants one back. I
12 don't know if Jan can make a copy for him if
13 that's possible.

14 **THE COURT:** All right.

15 **BY MR. ARIAIL:**

16 **Q** All right. Let's go through it real quick
17 so I can submit it on your half -- behalf. This is a
18 letter that was written to you by the Clerk of Court,
19 correct?

20 **A** Yes, sir. I had requested that.

21 **Q** Okay. And the document, that's the first
22 page.

23 **A** That's the document.

24 **Q** And then the document behind it shows there
25 was a true bill.

1 **A** In 2011.

2 **Q** Okay. That's the 2011-09-237.

3 **A** Uh-huh.

4 **Q** That's the ---

5 **A** That's the indictment number.

6 **Q** --- indictment number.

7 **A** Uh-huh.

8 **Q** Then we've got a form that says the Grand
9 Jury makes the following finding. This was on
10 6/4/2012?

11 **A** Uh-huh.

12 **Q** Okay. So what you're basically saying is
13 that shows that you weren't indicted on the day that
14 they said you were?

15 **A** As you see, it says 2011.

16 **Q** Uh-huh.

17 **A** On my warrant, it says May 29th, 2012. It
18 say 2011, but it's got it slat out 2012. The reason
19 why it's slatted out is because I never got indicted
20 in 2012, I mean, 2011.

21 **Q** Okay.

22 **A** I didn't even commit this crime. So they
23 true billed me before I even did the crime.

24 **Q** Okay. Are there other things that you want
25 to put in or anything else you want to tell the

1 judge?

2 **A** Yes, sir. They true billed me before I even
3 did the crime. I had to write the Clerk of Court
4 again and ask for some more documents. That's what
5 they gave me right there, 2011. I never even
6 committed a crime in May of 2011 or May 29, 2011. I
7 never even committed a crime. My crime happened in
8 2012 in July.

9 **MR. ARIAIL:** Okay. Your Honor, I have no
10 further questions.

11 **THE COURT:** Thank you, Mr. Ariail.
12 Mr. Schmeckpeper.

13 **MR. SCHMECKPEPER:** Briefly, Your Honor.

14 **CROSS-EXAMINATION**

15 **BY MR. SCHMECKPEPER:**

16 **Q** Just to summarize, Mr. Sadler. You told
17 your attorney that you had alibi witnesses and that
18 those witnesses didn't appear at trial?

19 **A** No, sir.

20 **Q** What are you alleging now?

21 **A** I said no, sir. They came to trial, but he
22 told me not to put them up.

23 **Q** And that's your allegation? And the other
24 allegation has to do with the indictment issue?

25 **A** Uh-huh.

1 **MR. SCHMECKPEPER:** I have no further
2 questions, Your Honor.

3 **THE COURT:** Redirect?

4 **MR. ARIAIL:** No, Your Honor.

5 **THE COURT:** All right. Thank you,
6 Mr. Sadler. You may step down.

7 All right. Mr. Ariail, you may call your
8 next witness.

9 **MR. ARIAIL:** Yes, Your Honor. I call Mr.
10 Quinn to the stand.

11 **THE CLERK:** Mr. Quinn, please raise your
12 right hand.

13 **THOMAS QUINN**

14 having first been duly sworn, testifies as follows:

15 **THE CLERK:** Thank you. Please state your
16 full name for the record.

17 **THE WITNESS:** Thomas Joseph Quinn.

18 **THE CLERK:** Thank you.

19 **DIRECT EXAMINATION**

20 **BY MR. ARIAIL:**

21 **Q** Mr. Quinn, how are you doing today?

22 **A** Good.

23 **Q** Good. Uh, you represented Mr. Sadler and, I
24 guess, were appointed to represent him; is that
25 correct?

1 **A** I was.

2 **Q** Did you have him on all the charges and
3 went to trial on those?

4 **A** We did.

5 **Q** Okay. And I want to go through a little bit
6 about your discussion with him. How many times do you
7 recall meeting with him and discussing this case?

8 **A** I'm sorry. I don't remember exactly how
9 many. He had another case that he alluded to on the
10 stand. We had been in another trial. So I don't know
11 exactly how many times I met with him on just this
12 case.

13 **Q** Okay. The number of times might be
14 difficult. Do you believe you had the appropriate
15 time to discuss with him the facts of the case and
16 the elements of each of these charges?

17 **A** I do.

18 **Q** And I know you took it to trial and he was
19 found guilty on these. He's raised, I guess, the
20 first issue was more of a procedural issue is that he
21 believes that he was not indicted on the day --
22 actually, I think he says now it looks like he was
23 indicted prior to him being charged, which is not
24 possible. But do you have -- did you see anything
25 which shows that he was not indicted correctly or on

1 the date they said he was?

2 **A** I'm not aware of anything that would
3 indicate he was not indicted on the day reflected on
4 the true bill.

5 **Q** Did you discuss that with him or know that
6 was an issue beforehand?

7 **A** I'm sorry. I don't remember if it was an
8 issue or not.

9 **Q** Okay. And if you believed there was
10 something there, you would have raised that issue at
11 trial, correct?

12 **A** I would have. The indictments put us on
13 notice of what we had to defend. We knew what the
14 allegations were.

15 **Q** Okay. And there was nothing you saw that
16 showed it was a falsified indictment or anything that
17 didn't -- that wasn't correct, I guess?

18 **A** Not that I'm aware of.

19 **Q** Okay.

20 **A** My belief is he was arrested in 2011.
21 Perhaps I got it wrong, but that was my belief.

22 **Q** Now, I guess the background of this case is
23 it was a shooting at a Little Cricket and he was
24 alleged to be one of the shooters or the group of
25 people that were there. Is that pretty much the

1 synopsis of the case?

2 A It is.

3 Q Okay. And going through -- there was
4 limited information in regards to him through this
5 trial, correct?

6 A Yes.

7 Q Okay. What was your, I guess, basis of
8 defense for him? How did you handle it during trial?

9 A That there was not sufficient evidence that
10 placed him at the scene.

11 Q Okay. And I think one of the things you
12 raised was nobody could ever tie him into shooting;
13 is that correct?

14 A That's right.

15 Q Okay. Now, he's raised the side issue that
16 is that he was at a different location, potentially
17 had alibi witnesses that you spoke with. Do you
18 remember that?

19 A I do. I reviewed my notes and found in my
20 notes our conversations about that.

21 Q Tell me a little bit what y'all discussed
22 in regards to that.

23 A He provided to me, I believe through his
24 mother, but through a member of his family, five
25 names for potential alibi witnesses. Then he and I

1 met on October 5th, 2012 at the detention center and
2 discussed the possibility of putting up an alibi. My
3 notes indicate that the defendant said he doesn't
4 know anything about the alibi, did not notify the
5 state of the alibi, that we were not going to put the
6 alibi up.

7 Q Okay. So did you ever talk to these
8 witnesses? I guess you didn't after you had a
9 conversation with him?

10 A I believe I talked to one of them, because
11 it was either his girlfriend or a close member, close
12 friend of the family. But no, I did not speak with
13 the witnesses about an alibi.

14 Q I guess there was an allegation or there
15 was a theory that he was at the Waffle House at a
16 different time or at the same time the shooting was
17 going on. Do you remember anything about that?

18 A I do.

19 Q Okay. Did you look into that?

20 A I did not. That came up late in the case.
21 As I remember, we either spoke with Mr. Sadler or
22 perhaps we spoke with a witness or two and the times
23 didn't match.

24 Q Okay. So you didn't believe that that was
25 appropriate to probably raise in front of the jury. I

1 guess it wouldn't have helped him.

2 **A** The concern during trial was we thought the
3 trial had gone well for us. He, in fact, was found
4 not guilty on several charges.

5 **Q** Yeah.

6 **A** And we thought putting up an alibi would be
7 putting all our eggs in one basket. If they didn't
8 believe the alibi, they were going to convict him of
9 everything. So at that point, for strategic purposes,
10 we did not put the alibi up.

11 **Q** Okay. And the other -- you talked with him
12 in regards to his testimony, he didn't want to
13 testify; is that correct?

14 **A** Did not.

15 **Q** Okay. Bear with me one second. (Pause.)
16 No further questions, Your Honor.

17 **THE COURT:** Thank you, Mr. Ariail.
18 Mr. Schmeckpeper.

19 **MR. SCHMECKPEPER:** Briefly, Your Honor.

20 **CROSS-EXAMINATION**

21 **BY MR. SCHMECKPEPER:**

22 **Q** Mr. Quinn, I've just got a couple of
23 questions. You spoke a minute ago about you thought
24 the trial was going really well. I've got a couple of
25 questions about that. First of all, did the State

1 have any physical or forensic evidence putting the
2 applicant at the scene?

3 **A** They did not.

4 **Q** And were there issues with the credibility
5 of the witnesses who put the applicant at the scene?

6 **A** The only evidence the government had was
7 witnesses -- I don't remember if every witness had a
8 prior criminal record, but some of them did, and
9 there were four attorneys in the case. They were
10 attacked on cross-examination fairly successfully.

11 **Q** And you were getting -- they were each
12 getting -- it's fair to say there was testimony that
13 many of these people were cooperating in exchange for
14 favorable recommendations from the State?

15 **A** Well, again, I don't think every one of
16 them had pending criminal charges, but several of
17 them did.

18 **Q** And this was all brought out during cross-
19 examination?

20 **A** It was.

21 **Q** Did you argue this to the jury?

22 **A** We did.

23 **Q** It's your testimony today that because of
24 the way the trial was going, you didn't think it
25 would be a good idea to present an alibi witness that

1 may not have had that much impact; is that correct?

2 **A** That's correct. The alibi, as I remember,
3 the times didn't match. We couldn't put him at Waffle
4 House at the exact time the shooting was alleged to
5 have occurred.

6 **MR. SCHMECKPEPER:** Thank you. I have no
7 further questions.

8 **THE COURT:** Redirect, Mr. Ariail?

9 **MR. ARIAIL:** No, Your Honor.

10 **THE COURT:** Thank you.

11 Thank you very much, Mr. Quinn.

12 **MR. ARIAIL:** Your Honor, that is our --
13 I'm sorry. That is our case, Your Honor.

14 **THE COURT:** All right. Thank you,
15 Mr. Ariail.

16 Mr. Attorney General?

17 **MR. SCHMECKPEPER:** Your Honor, the State
18 rests.

19 **THE COURT:** All right. Thank you. Thank
20 you very much. Thirty days for proposed orders?

21 **MR. SCHMECKPEPER:** Your Honor, that's fine.

22 **THE COURT:** To each other and my law
23 clerk. Thank you. Thank you very much.

24 Good luck to you, Mr. Sadler. I'm taking it
25 under advisement.

1
2
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4
5
6
7

(WHEREUPON, the proceedings conclude at
approximately 9:59 a.m.)

836

STATE OF SOUTH CAROLINA

IN THE CP COURT

COUNTY OF GREENVILLE

CASE NO(s). 15-2831

EXHIBITS RECEIPT

PLAINTIFF	<u>Kinija Sadler</u>	PLAINTIFFS ATTORNEY	
DEFENDANT	<u>State</u>	DEFENDANT'S ATTORNEY	
JUDGE	<u>McMahon</u>	DATE OF HEARING	<u>04/22/16</u>

The following exhibits were received by me from Teresa B. Johnson, Court Reporter for the Thirteenth Judicial Circuit, on the 22 day of April, 2016.

They are, as follows:

Plaintiff / Petitioner / State Exhibits	Defendant / Respondent Exhibits	Court Exhibits
1 <u>Letters (3)</u> ID / EV	1 ID / EV	1
2 ID / EV	2 ID / EV	2
3 ID / EV	3 ID / EV	3
4 ID / EV	4 ID / EV	4
5 ID / EV	5 ID / EV	5
6 ID / EV	6 ID / EV	6
7 ID / EV	7 ID / EV	7
8 ID / EV	8 ID / EV	8
9 ID / EV	9 ID / EV	9
10 ID / EV	10 ID / EV	10
11 ID / EV	11 ID / EV	
12 ID / EV	12 ID / EV	
13 ID / EV	13 ID / EV	
14 ID / EV	14 ID / EV	
15 ID / EV	15 ID / EV	
16 ID / EV	16 ID / EV	
17 ID / EV	17 ID / EV	
18 ID / EV	18 ID / EV	
19 ID / EV	19 ID / EV	
20 ID / EV	20 ID / EV	
21 ID / EV	21 ID / EV	
22 ID / EV	22 ID / EV	
23 ID / EV	23 ID / EV	
24 ID / EV	24 ID / EV	
25 ID / EV	25 ID / EV	

Jan White
Clerk of Court

4-22-16
Date Received



Office of the Clerk of Court

Greenville, South Carolina

Paul B. Wickensimer
Clerk of Court

Circuit Court Division
Greenville County Courthouse
305 East North Street
Greenville, South Carolina 29601
(864) 467-8551 FAX (864) 467-8540

March 24, 2016

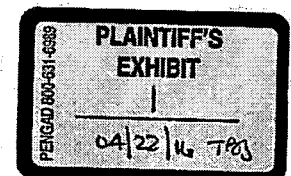
Kinjta Sadler #353966
McCormick C.I.
386 Redemption Way
McCormick, SC 29899

In Re: Request for Grand Jury Information

Dear Mr. Sadler:

Your letter dated 3/8/2016 was received 3/15/2016. We have addressed your requests below as listed in your letter.

1. You have requested the names of all the grand jurors who convened on 5-29-2012. Pursuant to information from S. C. Court Administration, the Court of Appeals ruled in Anderson vs. State (2000) that a defendant has no specific legal right to a list of the grand jurors that considered the indictment. Therefore, the clerk has no duty to provide it.
2. You have requested to know "how many people voted for me to be true billed". At least twelve jurors reviewed the indictments and have rendered a true bill on each.
3. You have requested to know if the Grand Jury recessed that day and what time, as well as what time the session was finished. This information is not recorded nor is it public record.
4. You have requested a copy of the attendance sheet. This information is not public record.
5. You have requested a list of cases true billed and no billed for the 5-29-2012 Grand Jury session. Enclosed please find a copy of the Grand Jury Report for 5-29-2012.



STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

GRAND JURY SESSION

May 29, 2012

IN THE COURT OF GENERAL SESSIONS

REPORT

TO: THE HONORABLE JUDGE LETITIA VERDIN
 PRESIDING JUDGE, THIRTEENTH JUDICIAL CIRCUIT

The Grand Jury makes the following report: We do hereby certify that at least twelve jurors have reviewed the indictments listed on the attached sheet and have rendered a true bill on each with the following exceptions:

INDICTMENT NUMBER**ACTION TAKEN**

No Exceptions

Respectfully Submitted,

Joseph P. [Signature]
 GRAND JURY FOREPERSON

I do hereby accept the Grand Jury's Report.

[Signature]
 THE HONORABLE LETITIA VERDIN
 PRESIDING JUDGE
 THIRTEENTH JUDICIAL CIRCUIT

Greenville, South Carolina

6/4, 2012

2011-09022	Dennis Quinton Rose II	TB
2011-09108	Douglas Olandus Johnson	TB
2011-09109	Douglas Olandus Johnson	TB
2011-09110	Michael Edward Spencer	TB
2011-09157	Jamal Justice	TB
- 2011-09237	Kinjta Kadeem Sadler	TB
- 2011-09238	Kinjta Kadeem Sadler	TB
- 2011-09239	Kinjta Kadeem Sadler	TB
- 2011-09240	Kinjta Kadeem Sadler	TB
- 2011-09241	Kinjta Kadeem Sadler	TB
- 2011-09242	Kinjta Kadeem Sadler	TB
- 2011-09243	Kinjta Kadeem Sadler	TB
- 2011-09244	Kinjta Kadeem Sadler	TB
- 2011-09245	Kinjta Kadeem Sadler	TB
2011-09295	Jacqueline Lynette Smith	TB
2011-09394	Anthony Bernard Allen	TB
2011-09400	Anthony Bernard Allen	TB
2011-09401	Anthony Bernard Allen	TB
2011-09405	James C. Griffin	TB
2011-09428	Marcus Leon Meredith, Jr.	TB
2011-09443	Bertrand Alexander Hawkins	TB
2011-09488	Courtney Garner Urich a.k.a. Su	TB
2011-09576	James Ervin Williams, Jr.	TB
2011-09577	James Ervin Williams, Jr.	TB
2011-09603	Thomas Darren Jones	TB
2011-09611	Randie Kelley Conquest	TB
2011-09719	Rocky Shannon Pennington	TB
2011-09720	Rocky Shannon Pennington	TB
2011-09734	Baxter Tisdale, Jr.	TB
2011-09735	Baxter Tisdale, Jr.	TB
2011-09834	Georgette Hawthorne	TB
2011-09846	Veronica Belita Gray	TB
2011-09915	Jimmy Reese Thompson Jr.	TB
2011-09938	Donald Marquice Anderson	TB
2011-09939	Donald Marquice Anderson	TB
2011-10022	Harold Jarome Kelly	TB
2011-10140	Jackie Randall Lefler	TB
2011-10141	Jackie Randall Lefler	TB
2011-10142	Jackie Randall Lefler	TB
2011-10143	Jackie Randall Lefler	TB
2012-00034	Gary Daniel Williams	TB
2012-00204	Donnie Chad Cantrell	TB
2012-00219	Roger Lee Sims	TB
2012-00220	Roger Lee Sims	TB
2012-00230	Sammy Taylor	TB
2012-00239	Saul I. Carranza	TB
2012-00403	Anthony Michael Epps	TB
2012-00514	Jerry Allen Lark	TB
2012-00515	Jerry Allen Lark	TB
2012-00558	Eric Darian Mosley	TB
2012-00561	Eric Darian Mosley	TB

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NO: 2015CP2302831

Kinjta Kadeem Sadler vs. South Carolina State Of

CHECK ONE:

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; ☐ Statement of Judgment by the Court.
Dated at Greenville, South Carolina, this: _____

Court Reporter:

PRESIDING JUDGE - R Knox McMahon

This judgment was entered on the _____ and a copy mailed first class this _____ to attorneys of record or to parties (when appearing pro se) as follows:

R. Mills Ariail Jr. 11 North Irvine Street, Suite 11
Greenville, SC 29601

Patrick Lowell Schmeckpeper PO Box 11549
Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court
- Clerk of Court

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Kinjta Kadeem Sadler,
S.C.D.C. No. 353966

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS

) THIRTEENTH JUDICIAL CIRCUIT

) C.A. No. 2015-CP-23-2831

) ENTERED COMPUTER

) ORDER OF DISMISSAL
(with prejudice)

2016 AUG 9 PM 2 21

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL C. HICKERY, JR.

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on April 29, 2015. Respondent filed its Return on December 4, 2015. An evidentiary hearing into the matter was convened on April 22, 2016, at the Greenville County Courthouse. Applicant was present and testified at the hearing. Also present and testifying was Applicant's trial counsel, Thomas Quinn, Esquire. Applicant was represented by Mills Ariail, Jr., Esquire. Respondent was represented by Patrick Schneckpeper, Esquire, of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the May 2012 term of General Sessions for seven counts of attempted murder (2011-GS-23-9239, -9240, -9241, -9242, -9243, -9244, -9245).

Thomas Quinn, Esquire represented the Applicant.

After the State called the case to trial, the Applicant was found guilty. On January 12, 2013, the Honorable Edward W. Miller sentenced the Applicant to concurrent sentences of 20

years on each count.

A notice of appeal was filed at the South Carolina Court of Appeals. Robert M. Pachak, Esquire, of the South Carolina Commission on Indigent Defense, Division of Appellate Defense, perfected the appeal in the form of an Anders¹ brief. The Court of Appeals dismissed the appeal. State v. Sadler, Op. No. 2015-UP-013 (S.C. Ct. App. filed January 14, 2015). The Remittitur was sent on February 4, 2015.

Allegations

In his application for post-conviction relief, Applicant alleged he was being held in custody unlawfully for the following reasons:

1. Illegal Incarceration.
2. Ineffective assistance of counsel.
 - a. Counsel was ineffective for failing to present the time and date of my true bill indictments.
 - b. Counsel was ineffective for failing to investigate this case by failing to interview potential witnesses.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court reviewed the Clerk of Court records regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, the transcripts and documents from the prior proceedings, and the legal arguments of counsel. Pursuant to S.C. Code Ann. §17-27-80 (2015), this Court makes the following findings of fact and conclusions of law based upon all of the probative evidence presented.

¹ Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).

Ineffective Assistance of Counsel

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

Failure to Call Witnesses

This Court finds Applicant has failed to meet his burden. Counsel's testimony on the subject is credible, and demonstrates that he decided not to call alibi witnesses a part of a valid

trial strategy. Counsel testified that his theory was that there was not sufficient evidence to place Applicant at the scene. Counsel also said there were credibility problems with the witnesses who implicated Applicant, and the record reflects that those issues were brought out on cross-examination. Counsel explained that he believed the case was going well at trial, and his concern was that by presenting an alibi defense, he would be putting all of their eggs in one basket, to the point where the jury would either believe the alibi or convict Applicant. Counsel also said the time for Applicant's alibi did not match. This Court finds that counsel's reasoning and performance with respect to an alibi defense was objectively reasonable, and pursuant to a valid trial strategy. Accordingly, Applicant has failed to meet his burden to show deficiency. Regardless, Applicant has failed to show prejudice. In order to support a claim that counsel was ineffective for failing to interview or call potential alibi witnesses, a PCR applicant must produce the witnesses at the PCR hearing or otherwise introduce the witnesses' testimony in a manner consistent with the rules of evidence. See Glover v. State, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). Applicant has failed to do either, and has therefore failed to meet his burden. This allegation is denied and dismissed with prejudice.

Deficiency in Indictment

Applicant further alleges that the Grand Jury did not convene to indict him. He said that he talked to counsel about it, but counsel just gave him another copy of his true bill indictment. This Court finds Applicant has failed to meet his burden. Applicant has not presented any credible evidence that his indictment was invalid, or that counsel was ineffective in failing to object to his indictments. Applicant's assertion, standing alone, is not sufficient to overcome the presumption of regularity and legality attending the proceedings before the Grand Jury, and simply based on that assertion, this Court cannot assume the State abused the grand jury process.

in order to obtain a finding of probable cause to prosecute. See State v. James, 321 S.C. 75, 472 S.E.2d 38, 40 (Ct. App. 1996) (*certiorari denied* Dec. 19, 1996). Moreover, counsel testified that the indictments adequately put them on notice of what they needed to defend against, and that had there been any issues he would have raised them. This allegation is therefore denied and dismissed with prejudice.

ALL OTHER ALLEGATIONS

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

[Signature follows]

CONCLUSION

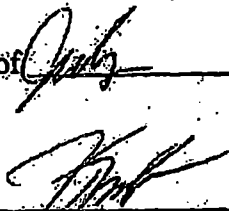
Based on the foregoing, this Court finds that the Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of intent to appeal within thirty (30) days from receipt of this Order to secure the appropriate appellate review. See Rule 203, SCACR, Rule 71.1(g), SCRCP; Bray v. State, 336 S.C. 137, 620 S.E.2d 743 (2005), for the obligation of Applicant's counsel to file and serve notice of appeal. The Applicant's attention is also directed to South Carolina Appellate Court Rule 243 for appropriate procedures after notice has been timely filed.

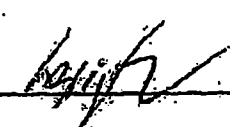
IT IS THEREFORE ORDERED

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 29 day of July, 2016.



R. KNOX MCMAHON
Presiding Judge
Thirteenth Judicial Circuit


_____, South Carolina

WITNESSES

W.T. Campbell

Greenville County Sheriffs Office

7/24/2011

ARREST WARRANT NUMBER

J992363

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date: COPY

DOCKET NO. 2011-GS-23-

KBS

009239

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

May

2012
TERM 2011

THE STATE

vs.

KINJTA KADEEM SADLER

Indictment for

3410

ATTEMPTED MURDER

VIOLATION § 16-03-0029

RECEIVED

DEC - 2 2011

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR ATTEMPTED MURDER

At a Court of General Sessions, convened on _____ the Grand Jurors of Greenville
County present upon their oath:

That KINJTA KADEEM SADLER did in Greenville County, on or about the 17th day of July 2011, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Anthony Callaham. This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

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

SOLICITOR

COPY

WITNESSES

W.T. Campbell

Greenville County Sheriffs Office

7/24/2011

ARREST WARRANT NUMBER

J992364

ACTION OF GRAND JURY

TRUE BILL

Jonathan P. Davis
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date **COPY**

DOCKET NO. 2011-GS-23-

KBS

009240

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

May

2012
TERM 2011

THE STATE

vs.

KINJTA KADEEM SADLER

Indictment for

3410

ATTEMPTED MURDER

VIOLATION § 16-03-0029

RECEIVED

DEC - 2 2011

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

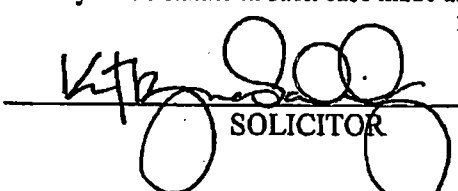
INDICTMENT FOR
ATTEMPTED MURDER

At a Court of General Sessions, convened on MAY 29 2011 the Grand Jurors of Greenville
County present upon their oath:

That KINJTA KADEEM SADLER did in Greenville County, on or about the 17th day of July 2011,
unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Dontavious Sullivan.

This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

COPY

WITNESSES

W.T. Campbell

Greenville County Sheriffs Office

7/24/2011

ARREST WARRANT NUMBER
J992366

ACTION OF GRAND JURY

TRUE BILL

Jonathan P. [Signature]
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date: **COPY**

DOCKET NO. 2011-GS-23-

KBS

009291

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

May

TERM 2011

THE STATE

vs.

KINJTA KADEEM SADLER

Indictment for

3410

ATTEMPTED MURDER

VIOLATION § 16-03-0029

RECEIVED

DEC - 2 2011

**Clerk of Court
Greenville County**

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ATTEMPTED MURDER

At a Court of General Sessions, convened on _____, the Grand Jurors of Greenville
County present upon their oath:

That KINJTA KADEEM SADLER did in Greenville County, on or about the 17th day of July 2011,
unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Thomas Walker. This is
in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

COPY

WITNESSES

W.T. Campbell

Greenville County Sheriffs Office

7/24/2011

ARREST WARRANT NUMBER

J992367

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date. COPY

DOCKET NO. 2011-GS-23-

KBS

009242

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

May

2012
TERM 2011

THE STATE

vs.

KINJTA KADEEM SADLER

Indictment for

3410

ATTEMPTED MURDER

VIOLATION § 16-03-0029

RECEIVED

DEC - 2 2011

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ATTEMPTED MURDER

MAY 29

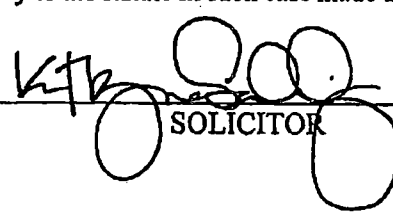
At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That KINJTA KADEEM SADLER did in Greenville County, on or about the 17th day of July 2011, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Trevis Thompson. This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

COPY

WITNESSES

W.T. Campbell (S)

Greenville County Sheriffs Office

7/24/2011

ARREST WARRANT NUMBER

J992368

ACTION OF GRAND JURY

TRUE BILL

Jonathan P. Davis
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date: **COPY**

DOCKET NO. 2011-GS-23-

KBS

009243

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

May

2012
TERM 2011

THE STATE

vs.

KINJTA KADEEM SADLER

Indictment for

3410

ATTEMPTED MURDER

VIOLATION § 16-03-0029

RECEIVED

DEC 2 2011

Clerk of Court
Greenville County

855

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ATTEMPTED MURDER

At a Court of General Sessions, convened on

MAY 29

the Grand Jurors of Greenville

County present upon their oath:

That KINJTA KADEEM SADLER did in Greenville County, on or about the 17th day of July 2011, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Raheem Adams. This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

COPY

WITNESSES

W.T. Campbell

Greenville County Sheriffs Office

7/24/2011

ARREST WARRANT NUMBER

J992369

ACTION OF GRAND JURY

TRUE BILL

Jonathan P. [Signature]
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date: **COPY**

DOCKET NO. 2011-GS-23-

KBS

009244

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

May

2012
TERM 2011

THE STATE

vs.

KINJTA KADEEM SADLER

Indictment for

3410

ATTEMPTED MURDER

VIOLATION § 16-03-0029

RECEIVED

DEC - 2 2011

Clerk of Court
Greenville County

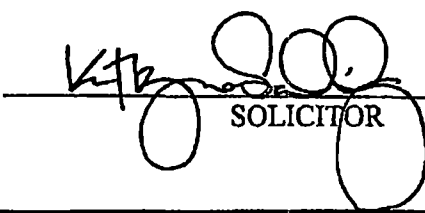
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ATTEMPTED MURDER

At a Court of General Sessions, convened on MAY 29 .. the Grand Jurors of Greenville
County present upon their oath:

That KINJTA KADEEM SADLER did in Greenville County, on or about the 17th day of July 2011,
unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Jamal Williams. This is
in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

COPY

WITNESSES

W.T. Campbell

Greenville County Sheriffs Office

7/24/2011

ARREST WARRANT NUMBER

J992365

ACTION OF GRAND JURY

TRUE BILL

Jonathan P. Davis
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date: **COPY**

DOCKET NO. 2011-GS-23-

KBS

009245

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

May

TERM 2011 ²⁰¹²

THE STATE

vs.

KINJTA KADEEM SADLER

Indictment for

3410

ATTEMPTED MURDER

VIOLATION § 16-03-0029

RECEIVED

DEC - 2 2011

Clerk of Court
Greenville County

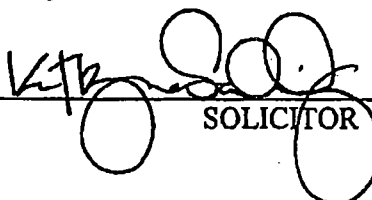
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ATTEMPTED MURDER

At a Court of General Sessions, convened on MAY 9 the Grand Jurors of Greenville
County present upon their oath:

That KINJTA KADEEM SADLER did in Greenville County, on or about the 17th day of July 2011,
unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Russell Moore-Patterson.
This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

COPY