

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions
Daniel D. Hall, Circuit Court Judge

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Appellate Case No. 2016-002233

S.C. SUPREME COURT

Korey Lamar Love,.....Petitioner,

v.

State of South Carolina,.....Respondent.

APPENDIX – VOLUME I OF II

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2 COUNTY OF GREENVILLE) IN THE COURT OF GENERAL SESSIONS

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4 -vs-) TRANSCRIPT OF RECORD
5 Korey Lamar Love,) 2010-GS-23-4508, -4509, -4510
6 Defendant.) November 5, 6, 7 and 8, 2012
7 Greenville, South Carolina

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9
10 B E F O R E:

11 HONORABLE EDWARD W. MILLER, JUDGE; and a jury
12

13
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16 HOWARD L. STEINBERG, ESQUIRE
17 Attorneys for the State

18 FLETCHER N. SMITH, JR., ESQUIRE
19 Attorney for the Defendant
20
21
22

23 ORIGINAL
24

Margaret A. Woods
Circuit Court Reporter

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Appendix 10

MOTIONS AND MATTERS

1 (Proceedings November 5, 2012)

2 THE COURT: We don't have a clerk yet but give me some
3 idea about what we're lookin' at.

4 MS. SEAY: May it please the Court, Your Honor.

5 THE COURT: Yes, ma'am.

6 MS. SEAY: Um, this is a murder, attempted armed robbery,
7 possession of a weapon during the commission of a violent
8 crime and possession of a pistol by a person under the age of
9 18 trial. The defendant is Korey Love represented by
10 Mr. Smith. The State expects to call somewhere in the
11 neighborhood of about 25 witnesses, we may not have to call
12 some a those, you know, give or take a few but that's that's
13 our projection at this point. We do have a few pretrial
14 motions as well.

15 THE COURT: Okay, let me just inform you I'm supposed to
16 be in Columbia on Wednesday so how how many days is this
17 supposed to take?

18 MR. SMITH: Your Honor, I I'd expect it'll probly take
19 the rest of the balance of the week. This case we have about
20 15 witnesses on our side. The State has no physical evidence
21 with regard to my client and I learned this morning that at
22 least one of their witnesses has been tryin' to contact us
23 because she's being felt, she's being coerced to testify
24 against my client against her will and also, Your Honor, ---

25 THE COURT: What she get a subpoena?

MOTIONS AND MATTERS

1 MR. SMITH: Well I I don't know. I think she's thinkin'
2 they want her to testify to somethin' that she doesn't believe
3 in ---

4 THE COURT: Well I suspect, Mr. Smith, that whoever comes
5 up here to testify is gonna tell the truth and if they don't
6 then they'll answer to me.

7 MR. SMITH: Yes, sir.

8 THE COURT: Okay.

9 MR. SMITH: The other thing too, Your Honor, is that we
10 had a situation where Judge Verdin issued an order for the
11 Court to look in camera at some material from the Department
12 of Social Services, that material was submitted to the clerk
13 of court, Judge Verdin was off last week, so we would have to
14 renew our motion from a Brady standpoint to have this court
15 look at it in camera as well.

16 MS. SEAY: Your Honor, I've maintained the entire time
17 that DSS records are totally irrelevant in this situation. I
18 can't s -- foresee what they would have to do with this murder
19 case whatsoever. He's asked for records on several of the
20 witnesses, I don't know what's there, if anything's there, or
21 the relevance of it.

22 MR. SMITH: Well see that's the logic that she's got.
23 The logic is if she doesn't know what's in it, she can't say
24 what's relevant or not so the quie -- key component is that's
25 why the Court in the first place wanted to look at it in

MOTIONS AND MATTERS

1 camera and give us both an opportunity to understand the
2 Court's ruling as to whether or not there was anything that
3 was relevant with regard to a guy who's they're star witness
4 named Eric Jarod Ranson [sic] where there was allegations that
5 he sexually assaulted some people when he was a teenager
6 durin' the course a time when this case was going on or before
7 it.

8 MS. SEAY: I have no knowledge of any such incident. He
9 certainly doesn't have any criminal conviction for that
10 juvenile ---

11 MR. SMITH: But it's a bad act.

12 MS. SEAY: --- or otherwise.

13 THE COURT: Well I'll -- so Judge Verdin has not looked
14 at the records.

15 MR. SMITH: No, sir, I think she was off last week and
16 it's in the clerk's office. The the DSS, Department of Social
17 Services, called us and said what to do with 'em, we said turn
18 'em to the clerk, we can't look at 'em.

19 THE COURT: Yeah, well I I haven't seen 'em. Who is it?
20 DSS records? Alright.

21 MR. SMITH: Yes, sir.

22 (Whereupon, a discussion was held off the record.)

23 THE COURT: What's the guy's name?

24 MR. SMITH: Guy's Eric Jarod Ranson, Jalesa Neal, it's in
25 the court order, it's all in that same record, Corliss Love's

MOTIONS AND MATTERS

1 file, it's the Corliss Love file.

2 THE COURT: Corliss Love file.

3 MR. SMITH: And I think her her her last name may have
4 been Neal or Smith, she's changed it several times.

5 THE COURT: Alright, just go see if there's a -- some DSS
6 material. See if you can get some order from Judge Verdin.

7 LAW CLERK: Okay.

8 MR. SMITH: And they may be in Judge Verdin's office too,
9 Your Honor, they just simply may have delivered it to her
10 office.

11 THE COURT: Helena, ---

12 LAW CLERK: I heard.

13 (Whereupon, a discussion was held off the record.)

14 THE COURT: What are the motions in front of us? I don't
15 have a witness list from you, Mr. Smith.

16 MR. SMITH: Yes, sir, I gave it to my -- the court
17 reporter, Your Honor. The only other issue is the ---

18 THE COURT: So she's got a witness list but I don't.

19 MR. SMITH: Yes, sir. The polygraph, the polygraph test,
20 Ms. Rashida Peters gave a polygraph test ---

21 THE COURT: Okay.

22 MR. SMITH: --- and the, we ask that the polygraph test
23 be redacted. Well a course they sent us a few seconds where
24 they wanted the information and about but there's Brady
25 material on the audiotape itself. We've had it transcribed by

MOTIONS AND MATTERS

1 a court, a regular court reporter here in Greenville which the
2 lady changes position, and it's the same lady who feels like
3 she's bein' coerced this mornin' to testify, where she's given
4 two statements that my client wasn't involved in this and she
5 had no knowledge of it and we can prove through the transcript
6 that she was pressured to change and say well my client told
7 her and then during the course when the polygraph operator
8 asked her some more she said no she didn't say it, so I'm left
9 with a situation under 16-9-10. I believe that the Court has
10 to protect the integrity of the judicial process by not
11 allowing perjured testimony to come from the witness stand. I
12 believe that this lady is gonna be jeopardized if she gets up
13 there and gives two stories in the same interviews that she
14 gave to the police that day.

15 MR. STEINBERG: Thank Your Honor. We're not trying to
16 issue -- introduce any polygraph. Mentions a post-polygraph
17 interview done by the polygraph examiner after the polygraph
18 was over and she does make a statement that is very
19 incriminating, no one's tried to coerce her or tried to do
20 anything, she simply doesn't wanna show up for her duty as a
21 citizen to testify. I don't think she's gonna testify to the
22 truth. I'm gonna ask her questions hoping she testifies to
23 the truth, if she doesn't, I'm gonna start impeachin' her with
24 some evidence to include the audiotape. We have given
25 opposing counsel copy of the audiotape, it is specifically

MOTIONS AND MATTERS

1 limited so as not to include the word "lie detector" or
2 "polygraph", it's only the one relevant piece of
3 information, ---

4 THE COURT: Okay.

5 MR. STEINBERG: --- no irrelevant information, we
6 provided it to opposing counsel. I'd also point out that they
7 are transcripts, we shoulda be given a copy of it. It's gonna
8 be used as evidence, the State shoulda been given co -- a copy
9 of the transcripts.

10 MR. SMITH: Well we only got 'em just recently when they
11 refused to redact the audio. The other thing too is ---

12 THE COURT: He just said they redacted the audio.

13 MR. SMITH: No, he he only took a slip of it, Your Honor,
14 a very small, probly a five to six second to get the the
15 information they waned in that they think is positive to their
16 case. They haven't redacted it to the extent to give us the
17 information we need in our case to show the positives aspects
18 of our case where she denies that my client had any
19 involvement even after she gave that statement.

20 MR. STEINBERG: Your your Honor, I may be rude but I
21 cannot read his his mind or read the transcripts we don't
22 have. We have been very careful and very cautious to make
23 sure there's no extraneous or improper ---

24 THE COURT: Well let ---

25 MR. STEINBERG: --- material.

MOTIONS AND MATTERS

- 1 THE COURT: --- let -- okay, let me get this straight.
2 You say that what the State intends to use for impeachment
3 purposes with this witness is not complete, is that what your
4 position is?
- 5 MR. SMITH: Okay, my position at first, Your Honor, was I
6 thought they were puttin' her up in their case in chief to
7 prove that my client confessed to her of a murder. They got
8 two statements in her possession where she's denied it, two
9 written statements, and then on the polygraph when they get
10 one statement and during the polygraph the polygraph guy
11 starts askin' her questions, tellin' her ---
- 12 THE COURT: So wha -- so what what are you askin' me to
13 do?
- 14 MR. SMITH: I think she needs to be instructed of her
15 Fifth Amendment right of jeopardy because we're gonna impeach
16 her if that's parta his case in chief.
- 17 THE COURT: Well I'm operating in a vacuum here.
- 18 MR. SMITH: Yes, sir, ---
- 19 THE COURT: I don't, ---
- 20 MR. SMITH: --- I understand.
- 21 THE COURT: --- I don't know exactly what you're talkin'
22 about. Have you provided the whole thing to him?
- 23 MR. STEINBERG: Yes, sir.
- 24 THE COURT: Okay, ---
- 25 MR. SMITH: Alright,

MOTIONS AND MATTERS

1 THE COURT: --- ya'll just -- it wouldn't be the first
2 time that somebody changed their story in the courtroom, we
3 all know that.

4 (Whereupon, a discussion was held off the record.)

5 MS. SEAY: Your Honor, did you want me to proceed with
6 any pretrial motions at this ---

7 THE COURT: Well ---

8 MS. SEAY: --- time?

9 THE COURT: --- just a minute.

10 MS. SEAY: Okay.

11 THE COURT: We do not have a defense witness list.

12 (Whereupon, a discussion was held off the record.)

13 THE COURT: Well before we do that I would like to get,
14 this jury picked so we don't hold 'em, hold as few of 'em as
15 we have to. Judge Verdin's gonna be goin' through the DSS
16 files and she'll let us know what is relevant.

17 MR. SMITH: Thank Your Honor.

18 THE COURT: Do ya'll have any voir dire?

19 MS. SEAY: Nothing from the State, Your Honor.

20 THE COURT: Okay.

21 MR. SMITH: Standard, Your Honor. Thank you very much.

22 THE COURT: Okay.

23 (Whereupon, a discussion was held off the record.)

24 THE COURT: We gotta have -- we got 40 on the list?

25 THE CLERK: Yes, sir.

MOTIONS AND MATTERS

1 THE COURT: I hate to do it but I don't -- I'm not sure
2 we're gonna have enough room to have everybody sit in here
3 when the jury gets here when we qualify 'em so this
4 (indicating) whole side will be taken up by jurors and probly
5 a pretty good portion a this side too so let me ask all these
6 spectators, potential witnesses, I don't know who they are,
7 step outside when the jury's comin' up. You don't have to go
8 just yet, they're they're on the way but we'll have to ask
9 ya'll to come out and then whatever seats are available that's
10 fine. Alright.

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

12 THE COURT: Alright, while we're waiting on the jury to
13 get here why don't ya'll tell me what the motions are.

14 MS. SEAY: On behalf of the State, Your Honor, we have
15 several motions that should be fairly brief, one relates to
16 the victim in this case. The victim was an employee of
17 Wendy's who was working, um, the night shift, he left out the
18 back door at approximately 1:25, 1:30 a.m. on the morning of
19 January 27th 2007 and he was shot and killed outside the
20 restaurant. There is no evidence whatsoever suggesting that
21 the victim knew his assailant and there has been a reference
22 in one witness's statement I believe that the victim may have
23 smoked marijuana and additionally in his car there was found a
24 brochure for Narcotics Anonymous. We would submit that any
25 any reference to the victim's alleged drug use would be

MOTIONS AND MATTERS

1 improper in this case as it is not relevant whatsoever to this
2 murder and we would ask the Court to rule on that at this
3 time.

4 MR. SMITH: We're not here to try the victim and make the
5 victim look like he deserved to be murdered so I have no
6 problem with that.

7 THE COURT: Okay.

8 MS. SEAY: Okay, thank you, Mr. Smith. Your Honor, the
9 DSS records are being handled. If there are any other prior
10 bad acts of witnesses, we would ask that the Court rule on
11 those at this time. The defendant in one witness's statement
12 is accused of robbing other people. We have redacted that
13 statement in the event that it should become admissible so we
14 would not intend to introduce anything related to that. In
15 addition, he has another pending armed robbery. We would not
16 seek to introduce that unless of course the door is somehow
17 opened to that issue but I don't know if the defense has any
18 prior bad acts of witnesses that they intend to introduce and
19 I would ask that you rule on those at this time if there are.

20 The defense has obtained school records on several of the
21 witnesses for the State in this case and the school district
22 provided copies to to the State as well. I don't see the
23 relevance of any school records as far as these witnesses are
24 concerned, they don't really have any information contained
25 within them that would be relevant in my opinion, they're --

MOTIONS AND MATTERS

1 you're welcome to review them yourself if you'd like, I don't
2 know how Mr. Smith intends to use them so I guess my question
3 is how does he intend to use them and is it proper?

4 MR. SMITH: Your Honor, I have no problem not -- if he
5 tells a lie that he was at school at the time, we could
6 impeach him with it but other than that no.

7 THE COURT: Okay, well you get into any kinda
8 objectionable or questionable, questionably objectionable lie
9 of material from either side, just alert the Court before ya
10 do it and we'll straighten it out.

11 MS. SEAY: Yes, sir.

12 THE COURT: Okay.

13 MS. SEAY: Your Honor, I don't know that Mr. Smith would
14 do this but I just want to handle it before we get before the
15 jury: Obviously, the penalty in this case is 30 years to life
16 on the murder charge and I would take the position that the
17 defense should not be able to refer to this case as being the
18 defendant's life or his life is on the line or anything like
19 that because I believe that it implies or suggests that this
20 is a potential death penalty case which is misleading to the
21 jury.

22 MR. SMITH: Your Honor, the, ya know, she can try her
23 case whatever way she wants to but but the fact is she's given
24 a deal to the trigger man in this case we believe so, I mean,
25 he didn't get life and he di -- he's not gonna get 30 so it's

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1 gonna come up that way when we start askin' him about his
2 deal.

3 THE COURT: Well we just have to cross that bridge when
4 we come to it ---

5 MR. SMITH: Yes, sir.

6 THE COURT: --- and I I don't, you know, don't talk about
7 the sentence of your client.

8 MR. SMITH: Right.

9 THE COURT: Okay. He can -- but I limit -- I'm not
10 limiting, I mean, how can I limit him from talking about the
11 impact on his client's life?

12 MS. SEAY: Right, I I just am ---

13 THE COURT: Yeah, I just ---

14 MS. SEAY: --- speaking in terms of ---

15 THE COURT: He's not gonna talk about the sentence in
16 this case.

17 MS. SEAY: Comment on the sentence, yes.

18 THE COURT: Okay.

19 MS. SEAY: Okay. Your Honor, would you be willing to
20 instruct the jury that it is not a death penalty case?

21 THE COURT: No, ---

22 MS. SEAY: Okay.

23 THE COURT: I would instruct them that it was if it was
24 one ---

25 MS. SEAY: Yes, sir.

MOTIONS AND MATTERS

1 THE COURT: --- but here ---

2 MS. SEAY: Okay. Your Honor, another issue in this case
3 is going to be third-party guilt. We believe that the defense
4 strategy is going to be somewhere along the lines of
5 implicating or trying to implicate a couple of the State's
6 witnesses, namely the testifying co-defendant Jarod Ransom as
7 well as two of the other witnesses by the names of Ricky
8 Simmons and Rashad Simmons and aside from those people we
9 believe that third-party guilt should be excluded in this
10 case. This was a case that was -- that did occur in 2007, it
11 was investigated at that time but was not solved until 2010
12 and so as you can imagine Greenville Police Department had a
13 lot of information and a lot of potential leads that they
14 followed in this case. We would submit that for Mr. Smith to
15 go into all of that information, and I don't know whether he
16 intends to or not, I just wanna bring this to the Court's
17 attention, that that would be mere speculation, it would be
18 improper under *State v. Gregory* and the latest case of *State*
19 *v. Burgess* as improper third-party guilt in this case, it
20 would be conjectural and and completely inconsistent with the
21 defendant's innocence in the case. We don't believe that
22 there's anything like that in the file. Would you like those
23 case cites, Your Honor, or I have a copy of the case?

24 MR. SMITH: Your Honor, maybe they can ---

25 THE COURT: Pass 'em up.

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1 MR. SMITH: --- make it simpler for her. We think she's
2 got all the guilty people, they're testifying for her, they've
3 already admitted they're accomplices in it so I think, ya
4 know, her problem is she has no physical evidence tying
5 anybody to anything, that's what her problem is and the --
6 we're going, we're intending to demonstrate my client's
7 innocence and we believe that the prior records with regard
8 when they first conducted their investigation with regard to
9 some witnesses they have like Strepapo [sic] and Neal and all
10 those folks who actually saw people runnin' down the street,
11 we actually have a right to go in that so she's askin' me to
12 give up a due process right.

13 THE COURT: And I don't -- I -- this is a bridge we
14 haven't come to and I'm not gonna cross it till we get
15 there, ---

16 MS. SEAY: Okay, ---

17 THE COURT: --- okay?

18 MS. SEAY: --- I'll ---

19 THE COURT: I appreciate you alerting me to that. If you
20 wanna hand up the cases you're referring to ---

21 MS. SEAY: I will.

22 THE COURT: --- so we'll ---

23 MR. SMITH: And, Your Honor, on the -- on -- are you
24 finished, Ms. Seay, with your motions?

25 MS. SEAY: I don't think so. Could you give me just ---

MOTIONS AND MATTERS

1 MR. SMITH: Okay.

2 MS. SEAY: --- a minute. Your Honor, the first one is
3 *State v. Burgess*, it's 391 South Carolina 15, 703 South East
4 second 512, it's a court of appeals case decided December 15th
5 2010 and the other case of course that I'm sure you know is
6 *State v. Gregory* which is the leading case on third-party
7 guilt and it is 198 South Carolina ninety-ei -- 98, 16 South
8 East second 532, it is a Supreme Court of South Carolina case
9 decided in 1941 and I'll hand up a copy to the Court.

10 THE COURT: Alright.

11 (Whereupon, counsel handed the documents to the Court.)

12 THE COURT: Thank you.

13 MR. SMITH: Your Honor, uh, I ---

14 THE COURT: Well wait a minute, she's not done yet.

15 MR. SMITH: Oh, I'm sorry. I was just gonna say
16 somethin', I read those cases cur' -- cursorily.

17 THE COURT: Speed reader.

18 MR. SMITH: Yes, sir.

19 (Laughter.)

20 THE COURT: Okay.

21 MS. SEAY: Your Honor, we will have a brief *Jackson v.*
22 *Denno* hearing in which we will present one witness so whenever
23 you'd like to do that we could handle that.

24 THE COURT: Okay.

25 MS. SEAY: And the only other issue that you may want to

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1 handle ahead a time is the criminal records of some of the
2 witnesses and what offenses would be impeachable offenses and
3 would not be impeachable offenses and I have some of the
4 defense rap sheets but I'm gonna need more identifying
5 information from Mr. Smith on some of his witnesses in order
6 to get their criminal records so that we can make that
7 determination at the appropriate time.

8 THE COURT: You mean to determine whether or not they
9 have a criminal record?

10 MS. SEAY: Yes, sir.

11 THE COURT: Okay. They out there, Kat?

12 THE BAILIFF: Yes, sir.

13 THE COURT: Okay, let's go head and get this jury thing
14 done and then...

15 (The following takes place in the presence of the jury.)

16 THE COURT: Okay, ladies and gentlemen, welcome up to
17 Courtroom Number 4 and I got wound up down there on my soap
18 box and forgot to sort of explain the procedure. Maybe ya'll
19 understand what's -- we, ya know, we qualify ya downstairs to
20 serve generally as jurors this week and now it's what we need
21 to do is, now what we need to do is to serve, qualify you to
22 serve for this particular case, okay, so let me introduce --
23 well before we do that let me ask the attorneys to stand and
24 introduce themselves and who their clients are and their
25 offices are, okay?

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1 MS. SEAY: Thank Your Honor. My name is Bryna Seay, I'm
2 an assistant solicitor for the Thirteenth Circuit and my
3 co-counsel in this case is Howard Steinberg, also an assistant
4 solicitor for the Thirteenth Circuit.

5 THE COURT: Alright, thank you.

6 MR. SMITH: Your Honor, may it please ---

7 THE COURT: Mr. Smith.

8 MR. SMITH: --- the Court. My name is Fletcher Smith,
9 I'm here on defense side the hour. Thank you.

10 THE COURT: If you would introduce your client as well so
11 they ---

12 MR. SMITH: Your Honor, -- please stand.

13 (Whereupon, the defendant stood.)

14 MR. SMITH: This (indicating) is Mr. Korey Love who I
15 represent in this case.

16 THE COURT: Alright, thank you very much. Alright,
17 ladies and gentlemen, let me introduce this -- the case to
18 you. This is a case with three indictments. The first
19 indictment is 2010-4510 the State vs. Korey Lamar Love, this
20 is an indictment for murder. This indictment alleges that
21 Korey Lamar Love did in Greenville County on or about the 27th
22 day of January of 2007 unlawfully and with malice aforethought
23 kill Marvelin Isaac Bass by means of shooting him and that
24 Marvelin Isaac Bass died as a proximate result thereof.
25 Second indictment is a two count indictment and it is Number

JURY QUALIFICATION

1 2010-4509, it's an indictment for attempted armed robbery and
2 possession of a weapon during the commission of a violent
3 crime. Count one of this indictment alleges that Korey Lamar
4 Love did in Greenville County on or about January 27 of 2007
5 while armed with a deadly weapon or while alleging either by
6 action or words he was armed while using a representation of a
7 deadly weapon or any object which a person present during the
8 commission of the robbery would reasonably believe to be a
9 deadly weapon, take, attempt to take by means of force or
10 intimidation goods or money from the person or presence of
11 Marvelin Isaac Bass. Count two is possession of a weapon
12 during the commission of a violent crime and this alleges that
13 Korey Lamar Love did in Greenville County on or about January
14 27, 2007 possess or visibly display a handgun during the
15 commission or attempted commission of a violent crime, that
16 is, attempted armed robbery. And, finally, the third
17 indictment in this case is Indictment Number 2010-4508 and
18 this indictment alleges that Korey Lamar Love did in
19 Greenville County January 27, 2007 while at 943 North
20 Pleasantburg Drive, Wendy's, Greenville, South Carolina
21 unlawfully and wilfully have in his possession and under his
22 control a pistol and the said Korey Lamar Love was under the
23 age of 18, all of these are in violation of the statutes and
24 laws of the State of South Carolina.

25 Now, ladies and gentlemen, let me just tell you to to

JURY QUALIFICATION

1 these indictments Mr. Love has pled not guilty and as such
2 certain rights attach to every person in this country and in
3 this courthouse charged with a crime and that is that every
4 person charged with a crime is presumed to be innocent unless
5 and until the charging body, in this case the State of South
6 Carolina, can prove to a jury beyond a reasonable doubt each
7 and every element of each offense that is charged, please keep
8 that in mind throughout the course of these proceedings. I
9 would also tell you, ladies and gentlemen, that these
10 documents are exactly what they appear to be, they are pieces
11 of paper and they -- so I would instruct you that you are to
12 make no presumption or take any inference from the fact that
13 these documents have issued, they are just pieces of paper
14 that allow this case to wind its way through our justice
15 system to arrive here in court for a resolution of these
16 charges based on the evidence presented in this courtroom and
17 in this courtroom alone and the law as you would hear it in
18 this courtroom so please keep that in mind throughout the
19 course of these proceedings.

20 Now I would ask you is there any member of the jury panel
21 who is related by blood or marriage or who has a business,
22 personal or social relationship with any of the attorneys
23 involved in this matter or any member of the Thirteenth
24 Circuit Solicitor's office, if so please stand? Yes, ma'am,
25 you're name and number for us if you would.

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1 JUROR NUMBER 46: I'm Caitlin Buckingham Number 46. I
2 previously was employed at the Julie Valentine Center and have
3 worked with Bryna on on several cases against ---

4 THE COURT: Okay.

5 JUROR NUMBER 46: --- crimes against children.

6 THE COURT: Okay. Alright, would the fact that you have
7 done that and have that experience would it impair your
8 ability to be fair and impartial in this case to either the
9 State or the defense?

10 JUROR NUMBER 46: No, sir.

11 THE COURT: And could you follow the law as I will give
12 it to ya under your oath?

13 JUROR NUMBER 46: Yes, sir.

14 THE COURT: Alright, thank you very much. Alright. Now
15 is there any member of the jury panel related by blood or
16 marriage or who has a or had a business, personal, or social
17 relationship with either Mr. Korey Lamar Love or Marvelin
18 Isaac Bass, if so please stand?

19 (No response.)

20 THE COURT: Okay. I'm gonna read list of potential
21 witnesses in this case and I'll need to know the same about
22 these folks so please pay attention: Barry Jackson, Jackson,
23 Shauntiqua Glenn, Gloria Shelton, Sebastian Restrepo, Brian
24 Rueda, Jeremiah Motz, Keith Cothran, Sara Brunson, April
25 Deitz, James Armstrong, Dr. Michael Ward, Dan Fuller, Collis

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1 Flavell, Corliss Orlena Love, Jalesa Neal, Rashida Peters,
2 Nate Brooks, Theresa Thompson, Sandra Ancrum, Ilya Salters,
3 Ricky Simmons, Rashad Simmons, Kelly Riggs, Eric Jarod Ransom,
4 Joel Shaw, Kara Bennick, Leslie Jackson, Demetrius Jackson,
5 Kristina Lockwood, Original Mustafa, Richard Parker, Ronald
6 Chapman, Dontavius Sullivan, Ava or Eva Mills, Danielle Mills,
7 Jerome Love, D.C. Fuller, the records-keeper at the Bonefish
8 Grill, Di -- Dianetha Turner, alright. Is there any member of
9 the jury panel related by blood or marriage or who has a
10 business, personal, or social relationship with any of those
11 potential witnesses whose names I have just read, if so please
12 stand?

13 (No response.)

14 THE COURT: Okay. Is there any member of the jury panel
15 who has any knowledge about the events that are alleged in
16 these indictments, if so please stand?

17 (No response.)

18 THE COURT: Is there any member of the jury panel who's
19 aware of any bias or prejudice towards either the State or the
20 defense, if so please stand?

21 (No response.)

22 THE COURT: Is there any member of the jury panel who's a
23 member of or a contributor to a group whose primary concern is
24 the promotion of law enforcement or victim's rights, examples
25 would be MADD, SADD or CAVC, if so please stand?

JURY QUALIFICATION

1 (No response.)

2 THE COURT: Is is there any juror who knows of any reason
3 whatsoever why you should not serve in this case with
4 particular emphasis on your ability to be fair and impartial
5 to both the State and the defense and to judge this case
6 solely on the merits of the evidence presented in this
7 courtroom while applying the the law as I will give it to you,
8 if you cannot do that please stand?

9 (No response.)

10 THE COURT: Alright, anything further from the State?

11 MR. SMITH: Your Honor, may ---

12 MS. SEAY: No, sir.

13 MR. SMITH: --- may we approach for one second?

14 THE COURT: Yeah, alright.

15 (Whereupon, a bench conference was held off the record.)

16 THE COURT: Alright, I neglected to mention one other
17 potential witness so I need to know the same does anyone have
18 any business, personal, or social relationship with Mr. Kendel
19 Love, if so please stand?

20 (No response.)

21 THE COURT: Alright. Okay, ten and five and we will get
22 two alternates so...

23 (Whereupon, a discussion was held off the record.)

24 THE CLERK: When I call your name, if you'll please stand
25 in place and wait for further instructions. Juror 167, Leisha

JURY QUALIFICATION

1 Olson.

2 (Leisha Olson, a female came forward.)

3 THE CLERK: What says the State?

4 MS. SEAY: Please present the juror.

5 THE CLERK: What says the defendant?

6 MR. SMITH: Swear the juror.

7 THE CLERK: Ms. Olson, please bring your things, come
8 have a seat in the jury box. Juror No. 5, Mark Attwood.

9 (Mark Attwood, a male came forward.)

10 THE CLERK: What says the State?

11 MS. SEAY: Please present him.

12 THE CLERK: What says the defendant?

13 MR. SMITH: Excuse the gentleman for this case.

14 THE CLERK: Alright, you maybe seated, you have been
15 excused from this case. Juror 78, Charles Fuller.

16 (Charles Fuller, a male came forward.)

17 THE CLERK: What says the State?

18 MS. SEAY: Please present him.

19 THE CLERK: What says the defendant?

20 MR. SMITH: Excuse the gentleman, please.

21 THE COURT: Alright, sir, please be seated, you have been
22 excused from this case.

23 THE CLERK: Juror 211, Beth Smith.

24 (Beth Smith, a female came forward.)

25 THE COURT: No, wait a minute. Let me talk to the

JURY QUALIFICATION

1 lawyers up here for a second, please.

2 (Whereupon, a bench conference was held off the record.)

3 THE CLERK: Yes, sir. Yes, sir. Alright, Ms. Smith you
4 may be seated. Juror 190, Angelle Reichert.

5 (Angelle Reichert, a female came forward.)

6 THE CLERK: What says the State?

7 MS. SEAY: Please present her.

8 MR. SMITH: Excuse the lady for this case, please.

9 THE CLERK: Alright, ma'am, you may be seated, you have
10 been excused from this case. Juror 27, Kim Burdette.

11 (Kim Burdette, a female came forward.)

12 THE CLERK: What says the State?

13 MS. SEAY: Please present the juror.

14 THE CLERK: What says the defendant?

15 MR. SMITH: Swear the lady.

16 THE CLERK: Ma'am, please bring your things, have a seat
17 in the jury box. Juror 257, Richard Young.

18 (Richard Young, a male came forward.)

19 THE CLERK: What says the State?

20 MS. SEAY: Please present the juror.

21 MR. SMITH: Swear Mr. Young.

22 THE CLERK: Alright, Mr. Young, please have a seat in the
23 jury box. Juror 104, Sean Holland.

24 (Sean Holland, a male came forward.)

25 THE CLERK: What says the State?

JURY QUALIFICATION

1 MS. SEAY: Please present the juror.

2 THE CLERK: What says the defendant?

3 MR. SMITH: Swear the gentleman.

4 THE CLERK: Mr. Holland, please come have a seat in the
5 jury box. Juror 68, Christopher Dyches.

6 (Christopher Dyches, a male came forward.)

7 THE CLERK: What says the State?

8 MS. SEAY: Please present this juror.

9 THE CLERK: What says the defendant?

10 MR. SMITH: Swear Mr. Dyches.

11 THE CLERK: Mr. Dyches, please bring your things, have a
12 seat in the jury box. Juror 28, Eva Burgess.

13 (Eva Burgess, a female came forward.)

14 THE CLERK: What says the State?

15 MS. SEAY: Please present the juror.

16 THE CLERK: What says the defendant?

17 MR. SMITH: Excuse the lady for this case.

18 THE CLERK: Alright, ma'am, you may be seated, you have
19 been excused from this case. Juror 212, John Smith.

20 (John Smith, a male came forward.)

21 THE CLERK: What says the State?

22 MS. SEAY: Please present the juror.

23 THE CLERK: What says the defendant?

24 MR. SMITH: Swear Mr. Smith.

25 THE CLERK: Mr. Smith, please come have a seat in the

JURY QUALIFICATION

1 jury box. Juror 43, Gregory Cornwell.

2 (Gregory Cornwell, a man came forward.)

3 THE CLERK: What says the State?

4 MS. SEAY: Please present the juror.

5 THE CLERK: What says the defendant?

6 MR. SMITH: Excuse the gentleman for this case, please.

7 THE CLERK: Alright, you may be seated, sir, you have
8 been excused from this case. Juror 16, Cheri Benedetti.

9 (Cheri Benedetti, a female came forward.)

10 THE CLERK: What says the State?

11 MS. SEAY: (Coughed.) Excuse me. Please present the
12 juror.

13 THE CLERK: What says the defendant?

14 MR. SMITH: Swear the lady.

15 THE CLERK: Ma'am, please bring your things, come have a
16 seat in the jury box. Juror 163, Deborah Neal.

17 (Deborah Neal, a female came forward.)

18 THE CLERK: What says the State?

19 MS. SEAY: Please present the juror.

20 THE CLERK: What says the defendant?

21 MR. SMITH: Excuse the lady for this case, please.

22 THE CLERK: You may be seated. Juror 103, Janet Hill.

23 (Janet Hill, a female came forward.)

24 THE CLERK: What says the State?

25 MS. SEAY: Please present this juror.

JURY QUALIFICATION

1 THE CLERK: What says the defendant?

2 MR. SMITH: Excuse the lady for this case, please.

3 THE CLERK: Ma'am, you may be seated. Juror 181, Brenda
4 Price.

5 (Brenda Price, a female came forward.)

6 THE CLERK: What says the State?

7 MS. SEAY: Please present the juror.

8 MR. SMITH: Swear the lady.

9 THE CLERK: Alright, Ms. Price, please come have a seat
10 in the jury box. Juror 85, Myles Golden.

11 (Myles Golden, a male came forward.)

12 THE CLERK: What says the State?

13 MS. SEAY: Please present him.

14 THE CLERK: What says the defendant?

15 MR. SMITH: Swear the gentleman.

16 THE CLERK: Mr. Mar -- Golden, please come have a seat in
17 the jury box. Juror 125, Ronald King.

18 (Ronald King, a male came forward.)

19 THE CLERK: What says the State?

20 MS. SEAY: Please present the juror.

21 THE CLERK: What says the defendant?

22 MR. SMITH: Swear the gentleman.

23 THE CLERK: Mr. King, please have a seat in the jury box.
24 Juror 172, Michael Pegues.

25 (Michael Pegues, a male came forward.)

JURY QUALIFICATION

1 THE CLERK: What says the State?

2 MS. SEAY: Please present the juror.

3 THE CLERK: What says the defendant?

4 MR. SMITH: Swear the gentleman.

5 THE CLERK: Sir, please bring your things, come have a
6 seat in the jury box. Juror 107, Sam Howard.

7 (Sam Howard, a male came forward.)

8 THE CLERK: What says the State?

9 MS. SEAY: Please present him.

10 THE CLERK: What says the defendant?

11 MR. SMITH: Excuse the gentleman for this case, please.

12 THE CLERK: Alright, sir, please be seated, you have been
13 excused from this case. Juror 206, Irean Shaker.

14 (Irean Shaker, a female came forward.)

15 THE CLERK: What says the State?

16 MS. SEAY: Please excuse her from this case.

17 THE CLERK: Alright, ma'am, you may be seated. Juror 121
18 Brian Karcher.

19 (Brian Karcher, a male came forward.)

20 THE CLERK: What says the State?

21 MS. SEAY: Please present him.

22 THE CLERK: What says the defendant?

23 MR. SMITH: Excuse the gentleman for this case.

24 THE CLERK: Alright, sir, please be seated. Juror 12,
25 Dorothy Baumwart.

JURY QUALIFICATION

1 (Dorothy Baumwart, a female came forward.)

2 THE CLERK: What says the State?

3 MS. SEAY: Please present her.

4 THE CLERK: What says the defendant?

5 MR. SMITH: Excuse the lady for this case, please.

6 THE CLERK: Alright, ma'am, please be seated. Juror 55,

7 Chad Davis.

8 (Chad Davis, a male came forward.)

9 THE CLERK: What says the State?

10 MS. SEAY: Please excuse him from this case.

11 THE CLERK: Alright, sir, please be seated. Juror 36,

12 Keith Carson.

13 (Keith Carson, a male came forward.)

14 THE CLERK: What says the State?

15 MS. SEAY: Please present the juror.

16 THE CLERK: What says the defense?

17 MR. SMITH: Swear the juror.

18 THE CLERK: Alright, Mr. Carson, please have a seat in
19 the jury box.

20 THE COURT: Two alternates, 1 and 2.

21 THE CLERK: Juror Number 9, Romelia Barrera.

22 (Romelia Barrera, a female came forward.)

23 THE CLERK: What says the State?

24 MS. SEAY: Please present her.

25 THE CLERK: What says the defendant?

JURY QUALIFICATION

1 MR. SMITH: Swear the lady.

2 THE CLERK: Ma'am, please come have a seat in the jury
3 box. Juror Number 7, Susan Ballinger.

4 (Susan Ballinger, a female came forward.)

5 THE CLERK: What says the State?

6 MS. SEAY: Please present her.

7 THE CLERK: What says the defendant?

8 MR. SMITH: Swear the lady.

9 THE CLERK: Alright, Ms. Ballinger, please a seat in the
10 jury box.

11 THE COURT: Alright, any exception or objection to the
12 jury's impanel pursuant Batson or J.E.B.?

13 MS. SEAY: Nothing from the State.

14 MR. SMITH: Nothing from the defense, Your Honor.

15 THE COURT: Alright, thank you very much. Alright, got
16 two groups in the courtroom and I apologize to all court
17 personnel same joke I use every time but one group thinks they
18 won the lottery and one group thinks they lost and I wanna
19 tell ya I think I know which way each group feels but I
20 believe the group that's been selected has one the lottery
21 because they -- this is an opportunity that is rarely visited
22 upon our citizenry to serve up here on a jury, it's rare to
23 get selected into the big pool, rare to get called to the
24 courtroom and then the rarest moment is selection to a jury
25 but it's a great service and I hope that you all will get an

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1 opportunity to serve this week, if not this week then at some
2 point in the future. I wish I could tell you you were done
3 for the week but I can't, I have to ask you go back
4 downstairs. Thank you very much.

5 (Whereupon, the remaining members of the jury venire
6 exited the courtroom.)

7 (The following takes place in the presence of the jury.)

8 THE COURT: Alright, ladies and gentlemen, I I'm again
9 sincere in my comments that I've made to you about selection
10 to serve as members of the jury, it's a great privilege, it's
11 a, it's a true honor and it's a great responsibility and I
12 wanna thank you for your service and all the sacrifices that
13 you you're making this week. I wanna tell you that we have a
14 dispute about the facts in the case which cannot be resolved
15 in any fashion other than to, well hang on a second, other
16 than to ask a jury to come up and listen to the evidence and
17 the facts presented in this courtroom and the law as I will
18 give it to you and return a a verdict which will resolve this
19 dispute and that's what your job is in this case and we'll
20 talk more about it as we go along but I wanna remind you that
21 three foundational parts of our justice system which ensure
22 that we have the finest justice system in the world are that
23 every person who is charged with a crime is presumed to be
24 innocent unless and until the charging body, which in this
25 case is the State, can prove to each of you beyond any

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1 reasonable doubt each and every element of each offense that
2 that person is charged with, please keep that in mind
3 throughout the course of these proceedings, they're vital to
4 maintaining the integrity of our justice system so protect
5 them in this case and it will protect them in the future
6 cases. I would also remind you that the indictment, the fact
7 that an arrest warrant or an indictment has issued is not
8 evidence of guilt and you should take no presumption or make
9 an inference from the fact that these documents have issued
10 with respect to guilt or innocence, they're only the pieces of
11 paper which allow the case to wind its way through our system
12 for resolution up here. The decision that you make will be
13 based on evidence presented in this courtroom and that will
14 generally come to you in one of three ways: The most common
15 way that we all think about is the, is oral testimony, second
16 most common type of evidence would be the introduction of
17 physical objects or documents and then the third common way
18 that evidence comes in is through a stipulation of the parties
19 or a finding by the Court that some fact is so far beyond
20 dispute that you should accept it as true. Now I don't know
21 what combination the evidence in this case will be presented
22 in but those are generally how it is brought to court.

23 I wanna tell you that I break a case down into five parts
24 for for you all, sort of a procedural road map. This is --
25 we're we're gonna be engaged in the first part shortly, it'll

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1 be the opening statements to you by the attorneys and the
2 opening statement to you is a brief, non-argumentative
3 statement by the attorneys as to what the case is about,
4 second part of each and every trial and of this trial is the
5 meat and potatoes and that is the presentation of the
6 testimony and the evidence, the third part of the trial is at
7 the close of all of the evidence the lawyers will return and
8 make their closing arguments to you where they advocate their
9 position and urge you to resolve the dispute in their favor,
10 the fourth part of the trial will be when I give you the
11 charge on the law, tell you what the law is as it applies to
12 this case and then the fifth part of the trial will be when
13 you all retire to your jury room to deliberate the case and
14 resolve this dispute. They're not of equal length those five
15 parts but you'll know what's comin' next based on where you
16 are in the trial.

17 Now I'll ask you to do a number of things in this case
18 and the first one is to keep an open mind. We go through all
19 these questions to ensure that we have a fair and impartial
20 jury that will decide this case on the merits of the evidence
21 presented in the courtroom, that's vitally important in this
22 case, don't have a predispe -- predisposed notion of how the
23 case oughta be resolved, it is resolved on the evidence
24 presented and the law as it applies to that evidence. Second
25 thing I ask you to do is sort of elementary but it is also

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1 important and that is to pay attention. I understand this
2 case may be a little bit lengthy and you heard a long list of
3 of wi -- potential witnesses in the case so it's gonna be
4 important to pay attention to to what is testified to and what
5 evidence is presented; if you fail to do that, then you'll be
6 at a disadvantage when you're deliberating the case at the end
7 of the case so please pay attention. The third thing I I ask
8 you to do and then will instruct you to do is not to discuss
9 this case until the end a the case when you are free to
10 deliberate, that means you can't talk about it with the
11 bailiffs, you can't talk about it with your fellow jurors and
12 when, I think what we'll do is probly get ya'll sworn in and
13 break for lunch and start the case after lunch, so when you're
14 out at lunch you can't talk about it with someone who you
15 might see and if the case goes through till tomorrow you're
16 gonna home and may see someone who you trust and love and ya
17 can't talk about it with them and you all might think well
18 that's crazy, I don't make a big decision in my life without
19 talkin' about it with these trusted people, but ya can't do it
20 in this case, here's why: Those people are not sitting in
21 this courtroom, they are not looking at and listening to the
22 evidence that's presented, they're not hearing the law and for
23 them to have any input in this, the outcome a this case would
24 not be fair to these parties, it would not be fair to your
25 fellow jurors and it would not be fair to each of you to allow

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1 someone who's not making the sacrifices that each of you are
2 making to have any input in the outcome so I instruct you not
3 to do it and I hope you understand why it's so important that
4 you don't do it.

5 I will tell you that a jury in this and every case is the
6 sole judge of the facts and that means you all determine what
7 to believe and what not to believe, who to believe and who not
8 to believe and the law does not allow a trial judge to have an
9 opinion about the facts of the case so don't think anything by
10 anything I say or do throughout the course of a trial that I
11 have an opinion, I don't and you all are the sole judges of
12 the facts, that same law makes me the sole judge of the law in
13 the case so if you have any opinion or idea as to what you
14 think the law is or what the law ought to be and it disagrees
15 with what I tell you the law is throughout the course of the
16 trial and at the end of the trial, you're gonna swear an oath
17 in just a second to set aside your own view and apply the law
18 precisely as I state it to you and I hope you can understand
19 that that will ensure that each person who is in court
20 receives treatment under the law by the same law, that's the
21 purpose behind that.

22 Now I'm gonna excuse ya in just a second and we'll ask
23 ya'll to go to lunch, we have some things we have to do. I
24 will tell you that from time to time I talk to the lawyers
25 outside a your presence and I have to ask you to retire to the

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1 jury room so we can discuss some issue. We are not trying to
2 deceive you all in any way but we may be trying to keep
3 something from you. We may be talking about something that
4 should not be admitted into evidence so you can understand
5 that if it's something that's not constitutionally proper, you
6 shouldn't hear it, that's what we do so but when you all
7 ret -- return from lunch, and I'll ask you to be back at two
8 o'clock, I'm gonna ask you to see if you all can elect a
9 foreperson from among the first twelve, unfortunately the
10 alternates don't get to or have to serve as a foreperson.
11 Foreperson is the jury's spokesperson in the courtroom and the
12 moderator of the discussions at the end of the case so if
13 ya'll can do that when you ret -- when you return from lunch,
14 that would be great, if not I I have a scientific method to
15 select someone: I cover my eyes and poke my finger down on
16 the paper and I'm just kidding of course but I'll help you if
17 all, if you all can't decide, I like to give juries a chance
18 to decide if they can select their own foreperson so with that
19 I will ask ya'll to stand, take the oath and then we'll excuse
20 you for lunch.

21 THE CLERK: The proper response is I will. Please raise
22 your right hand, thank you. You shall well and truly try the
23 case 2010-GS-23-4510 the State vs. Korey Lamar Love indicted
24 for murder, 4509 for attempted armed robbery and possession of
25 a weapon during the commission of a violent crime and 4508 for

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1 possession of a pistol by a person under 18 years of age and a
2 true verdict render according to the law and the evidence so
3 held you God, I will?

4 (Whereupon, the jury was sworn.)

5 THE CLERK: Thank you.

6 THE COURT: Alright, thank ya'll very much. If you will,
7 we'll show you the back way in and out now.

8 (The following takes place outside the presence of the
9 jury.)

10 THE COURT: Alright, what can we do before we break?
11 Got a *Jackson v. Denno* you wanna do?

12 MS. SEAY: We can do that yes, sir.

13 THE COURT: Okay, let's get that outta the way. Do you
14 have any motions, Mr. Smith?

15 MR. SMITH: None, Your Honor.

16 THE COURT: Okay. Alright.

17 MS. SEAY: State calls Detective Collis Flavell.

18 (Whereupon, the witness came forward.)

19 THE CLERK: Sir, please place your left hand on the Bible
20 and raise your right hand.

21 COLLIS FLAVELL, having been
22 first duly sworn; testified as follows:

23 THE CLERK: Thank you, please be seated. Please state
24 your name for the record.

25 THE WITNESS: Collis Flavell.

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 DIRECT EXAMINATION BY MS. SEAY:

2 Q. Detective Flavell, where are you employed?

3 A. The Greenville City Police Department.

4 Q. How long have you been employed there?

5 A. A little over 20 years.

6 Q. What kind of cases do you currently handle?

7 A. I'm currently assigned to the Violent Crimes Unit, crimes
8 against persons.

9 Q. Okay, and how long you been assigned to that unit?

10 A. Approximately 15 years.

11 Q. What's your training and education to perform your
12 duties?

13 A. I went to the Police Academy Greenville Tech, I've had
14 training throughout the years in homicide investigation and
15 crime scene investigation.

16 Q. Okay, were you working in your current capacity in
17 2007?

18 A. Yes.

19 Q. In 2007 did you have occasion to conduct an interview
20 with the defendant in this case Korey Love?

21 A. Not in 2007, no.

22 Q. I'm sorry in 2010, please forgive me.

23 A. Yes.

24 Q. Where were you when you conducted this interview?

25 A. At the Law Enforcement Center in the detective division

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 interview room.

2 Q. Alright, and Mr. Love was present?

3 A. Yes.

4 Q. How had he gotten to that location?

5 A. I'm not sure if he drove himself, um, him, Rashida Peters
6 and Rashida Peters' mother came to the Law Enforcement
7 Center.

8 Q. Alright, and did you then take him to the Detective
9 Division?

10 A. I did.

11 Q. Okay, what was the purpose of doing so?

12 A. To talk with him about the Wendy's case.

13 Q. Alright. Let me get this document marked for
14 identification purposes for this hearing.

15 (Waiver of Rights form marked State's Exhibit No. 1 for
16 identification..).

17 Q. This is State's Exhibit 1 for identification purposes.
18 Do you recognize this (indicating)?

19 A. I do.

20 Q. Okay, what is that?

21 A. It's a Greenville City Police Department Rights Waiver.

22 Q. Alright, and would you please tell the Court what you did
23 in this case, if anything, with that Rights Waiver.

24 A. The first thing I did was obtain once we got in in a
25 interview room I explained to Korey why we were there, what I

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 wanted to talk to him about, I then obtained some personal
2 educational history from him which is indicated at the top of
3 the form, I then had him read the first line out loud which he
4 did, asked him if he understood what he was reading to initial
5 that line which he did, I asked him if he understood what he
6 was he was read and he stated he did. He completed the top
7 portion of the form, he read each line, initialed each line
8 without question. I then asked him to read the waiver portion
9 of the form. I circled the word "coercion" and I asked him if
10 he understood the meaning of coe -- word "coercion", he stated
11 he did not and I explained to him that the dictionary
12 definition of the word was force and I further explained that
13 there were two types of coercion which could be mental or
14 physical, he stated he understood. He read the waiver,
15 initialed it and he signed the form indicating he was willin'
16 to talk.

17 Q. And during this process was the defendant under arrest?

18 A. No.

19 Q. Okay. And so he did sign that form and indicated that he
20 was willing to talk to you.

21 A. He did.

22 Q. And what had you told him you wanted to talk to him
23 about?

24 A. About the murder at Wendy's.

25 Q. Okay. Let me get this document marked for identification

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 purposes and show it to you.

2 (Korey Love's statement marked State's Exhibit No. 2 for
3 identification.)

4 Q. Thank you. Alright, this is State's Exhibit 2 for
5 identification purposes, do you recognize it?

6 A. I do.

7 Q. What is it?

8 A. It's a statement from Korey Love.

9 Q. Okay, and on what date did you take that statement?

10 A. March the 16th 2010.

11 Q. Okay, and what did you do in preparation for taking the
12 statement? Did you talk with him any further?

13 A. I did.

14 Q. What did you talk with him about?

15 A. I inquired about the murder at Wendy's.

16 Q. Okay. And did he indicate that he wanted to tell you
17 anything about that?

18 A. Uh, stated he didn't know anything about the murder.

19 Q. Okay, and did you transfer that to a statement form?

20 A. I did.

21 Q. Okay, would you please describe the process that you used
22 to take a statement.

23 A. I was in the interview room, I spoke with him about it,
24 basically from he stated he didn't know anything about the
25 murder at Wendy's. Back in my office I typed up a statement

COLLIS FLAVELL -- CROSS-EXAMINATION BY MR. SMITH

1 basically stating he didn't know anything about the murder at
2 Wendy's, returned to the room and had him sign it.

3 Q. Okay, and did you provide him with a copy of that
4 statement?

5 A. I did.

6 Q. Did he sign for a copy of the statement?

7 A. We don't sign for -- he signed the statement.

8 Q. Okay. Did you pressure or coerce him any way to give you
9 that statement?

10 A. I did not.

11 Q. Did you make any threats or promises?

12 A. No.

13 Q. Did anyone in your presence do any of those things?

14 A. No.

15 Q. Okay, those are all the questions I have. Thank you.

16 THE COURT: Cross?

17 MR. SMITH: Yes, sir, just ---

18 THE COURT: Okay.

19 MR. SMITH: --- briefly.

20 CROSS-EXAMINATION BY MR. SMITH:

21 A. Officer, you weren't out at real time at the scene of the
22 crime that it happened, is that correct?

23 A. No, sir, I was not.

24 Q. So you had no personal knowledge of the crime at that ---

25 A. I was ---

COLLIS FLAVELL - CROSS-EXAMINATION BY MR. SMITH

1 Q. --- point. You went out scene crime scene after the the
2 murder and the robbery had happened, is that ---

3 A. I was working in their Violent Crimes Unit when the
4 murder happened, yes, ---

5 Q. Right, but you weren't out ---

6 A. --- I was.

7 Q. --- there when it actually happened.

8 A. No.

9 Q. Okay, and as I take it then from the statement you didn't
10 put a gun up to his head or a knife in his head, he just went
11 on signed the statement after you told him pursuant to your
12 p -- police work, is that correct?

13 A. He did sign the statement.

14 Q. Thank you, Officer.

15 THE COURT: Anything else?

16 MS. SEAY: Nothing further from the State.

17 THE COURT: Alright. Thank you.

18 (Whereupon, the witness left the stand.)

19 THE COURT: Any motions?

20 MR. SMITH: None from the defense, Your Honor.

21 THE COURT: Okay.

22 MS. SEAY: Nothing further from the State.

23 THE COURT: Sounds like it's freely and voluntarily made.

24 Alright, anything else we can do before we break?

25 (No response.)

COLLIS FLAVELL - CROSS-EXAMINATION BY MR. SMITH

1 THE COURT: Alright, see ya'll back at two 'clock ---

2 MR. SMITH: Thank Your Honor.

3 THE COURT: --- for your brief, nar -- non-argumentative
4 opening statements.

5 MR. SMITH: Thank Your Honor.

6 (Whereupon, a recess was taken.)

7 THE COURT: Okay, ya'll ready?

8 MR. SMITH: Yes.

9 MS. SEAY: Yes, sir.

10 (Note from the jury marked Court's Exhibit No. 1 for
11 identification.)

12 (The following takes place in the presence of the jury.)

13 THE COURT: Alright, Mr. Smith, thank you for agreeing to
14 serve ---

15 JURY FOREMAN: Thank you.

16 THE COURT: --- and we're ready to proceed. Alright.

17 MR. SMITH: Your Honor, may it please the Court. I
18 understand ---

19 THE COURT: Okay.

20 MR. SMITH: --- anybody's gonna be a witness we ask them
21 be seque -- sequestered.

22 THE COURT: Will ya'll come up here for a sec.

23 (Whereupon, a bench conference was held off the record.)

24 THE COURT: Alright, before we start the actual first
25 parta the trial I'm gonna request that all of the witnesses in

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1 the case be sequestered and I ask you to step outta the
2 courtroom.

3 (Whereupon, the witnesses exited the courtroom.)

4 THE COURT: Thank you. Okay, Ms. Seay.

5 MS. SEAY: May it please the Court, Mr. Smith.

6 THE COURT: Yeah.

7 MS. SEAY: Mr. Foreman, ladies and gentlemen of the jury,
8 Isaac Bass was a young man who was only 22-years-old at the
9 time of his death. He was working at the Wendy's over on
10 North Pleasantburg Drive here in Greenville bein' a productive
11 citizen. In the early morning hours of January 27th of 2007
12 at approximately 1:30 in the morning, Isaac had finished his
13 shift and had done his cleanup work and headed out the back
14 door to go to his car to go home. As he was going down the
15 back ramp there at the restaurant, he was confronted by Korey
16 Love (indicating) who wanted to rob him and Korey Love
17 struggled with Mr. Bass as he tried to get away. Mr. Bass was
18 banging and screaming, banging on the back door screaming
19 trying to get back in and the employees were afraid,
20 employees inside were afraid. Korey Love eventually shot
21 Mr. Bass in the neck and Mr. Bass had an entrance and an exit
22 wound through his neck from a bullet hole. Mr. Bass fell to
23 the ground but was able to get back up. He stumbled around
24 the front of the restaurant and all the way around to the
25 drive-thru. Employees inside had already heard the gunshots

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1 and they had to dove into the office because one of the
2 gunshots actually went through the door of the restaurant.
3 They called 911 and they were waiting for help. Mr. Bass who
4 had been rendered unable to speak or yell for help because of
5 his neck i -- neck injury was banging on the drive-thru window
6 desperately trying to get help. The employees inside didn't
7 know who it was, they had heard gunshots and were scared to
8 death to go to the window. Mr. Bass then stumbled across 291
9 trying to get towards his home at Mallard Cove Apartments
10 waiving at passing cars trying to get someone to stop and help
11 him, holding his neck and waiving his arms. One car did stop
12 but it was too late for Mr. Bass. Isaac collapsed there on
13 the sidewalk and took his last breath.

14 How do we know what happened that night? The State's
15 gonna present evidence to you from Korey Love's stepbrother
16 and his good friend Eric Jarod Ransom who was with him that
17 night, he was hiding at the trash cans back behind the
18 restaurant when this happened. He's gonna testify from this
19 (indicating) witness stand and he's going to tell you what
20 happened. The State also intends to present some other
21 witnesses who have information about the events leading up to
22 the night of Isaac Bass's death and I wanna prepare you that a
23 lot of what you're gonna hear from some a these witnesses is
24 going to shock you and frankly, it may appall you because
25 these people had information about what happened and who was

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1 involved and they didn't come forward, they simply did not
2 come forward. So this happened in 2007 and in 2010 when a new
3 investigator, new detective took this case over and started
4 taking a fresh look at it and got some leads in this case, he
5 confronted some of these people and only then did they tell
6 what they knew about what happened but what you're gonna hear
7 about is some people who were frankly, they were up to no good
8 and some of 'em told lies, lies that were designed to protect
9 themselves and lies that were designed to protect Korey Love.
10 The State doesn't make evidence in a case, ladies and
11 gentlemen, the State presents the evidence that we are given
12 in a case and that is what we're going to do today but one
13 central thing should be clear to you after you listen to these
14 witnesses: Korey Love tried to rob and shot Isaac Bass, that
15 is the central thing that you're going to hear that you should
16 be certain of after you hear the State's evidence.

17 Mr. Steinberg and myself have the privilege of
18 representing the people of Greenville County in this case and
19 we appreciate your service to your country by sitting on this
20 jury. We know that it is an inconvenience to each of you in
21 some way but this is a very important situation, this is a
22 very important case, a very important case for both the victim
23 and the defendant in this case and without you here this
24 matter could not be resolved so we appreciate that. You are
25 the key to the final chapter of this senseless tragedy..

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1 You're gonna hear from Mr. Smith next who represents Mr. Love,
2 then the State will begin presenting its evidence and at the
3 conclusion of the case I'll look forward to speaking with you
4 again and asking you to hold Korey Love responsible for Isaac
5 Bass's untimely death. Thank you.

6 MR. SMITH: Your Honor, may it please the Court.

7 THE COURT: Yes, sir.

8 MR. SMITH: Let's see here. Mr. Foreman, ladies and
9 gentlemen of the jury, I wanna thank you for your service here
10 and the family on behalf of Mr. Korey Love offers its
11 condolences to the other family but, members of the jury, I
12 have the great deal of honor and respect to be able to
13 represent that man today in this courtroom because for
14 approximately two and a half years he was indicted with three
15 indictments in this case: for murder, attempted armed robbery
16 and for a weapons violation in this case, premeditated murder
17 with malice aforethought and, members of the jury, we're going
18 to prove to you in this case that each one of those charges
19 are false, they're based on deception and based on just
20 getting a little bitta evidence and then a whole lotta lies
21 together. We're gonna tell you, members of the jury, right
22 from the start that the reason why the prosecution has no case
23 beyond what she stated a few minutes ago is because they have
24 no, absolutely no physical evidence tying Mr. Love to this
25 case, nothing, zada (phonetic). They have no video, no gun,

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1 nothin'.

2 Now, ladies and gentlemen of the jury, he is presumed
3 innocent and His Honor has told you that and will tell you
4 that again throughout the course of this chile -- trial and
5 although Mr. Love does not have to prove anything in this
6 case, Mr. Love is not asking for those advantages in this
7 case. We're going to prove this case and that every inch of
8 that indictment is a lie and that he is not guilty of these
9 bogus charges and how are we gonna do it? We're gonna go
10 right to the prosecution's own file right here (indicating)
11 and prove this case, that's what we're gonna prove this case.
12 We'll prove to you that it was impossible, absolutely
13 impossible for Korey Lamar Love to have murdered Isaac Bass on
14 January the 27, 2007 at the hour of 1:30 a.m. in the morning.
15 We're going to bring into this courtroom people who this
16 (indicating) young man lived with at the time. We're going to
17 bring in a lady by the name of Leslie Jackson who had a curfew
18 on this young man because he, his dad and his other brother
19 had been homeless and he worked, his dad worked at Bonefish
20 with Leslie Jackson's husband. We're gonna bring those people
21 into this courtroom and they're gonna testify right from
22 that (indicating) witness stand. Leslie Jackson's gonna
23 testify to you that she was at home with her children that
24 night and that Korey Love had no key to get in the house, that
25 if he missed his curfew he would not even be able to get back

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1 in the house without some adult knowing it. We will bring his
2 dad in here Mr. Jerome Love and Mr. Jerome Love will testify
3 that when he got off a Bonefish at 12:00 that night, between
4 the hours of 12 and 12:30 he was at home and his son was in
5 the house at that time and we will bring in another man by the
6 name of Demetrius Jackson who the police interviewed in this
7 case and he told 'em that he got off at 3 a.m. this mornin'
8 when Korey was livin' in the house with this same family in
9 Taylors, we're gonna prove that to ya. We're also gonna prove
10 to ya in this case that not only that they enforced strict
11 rules but these kids had a curfew to be in at night.

12 Now how did Korey Love get tangled up in this mess?
13 Members of the jury, we're gonna prove to ya that this young
14 man had a brother by the name of Kendel Love who was first
15 accused of committing this crime and that when the police
16 began to investigate whether or not Kendel Love was involved
17 in the murder, a younger brother, they spoke to a woman by the
18 name of Jalesa Neal. Who is Jalesa Neal? She is the
19 half-sister of her star witness Eric Jarod Ransom. She's
20 gonna figure prominently in this case because what she stated
21 was that on the night of the murder she heard Korey Love
22 confess to his dad at Demetrius and Leslie Jacksons' house.
23 What's important about that? She did not live there, she
24 lived at a different address with Eric Jarod Ransom, the man
25 who actually murdered that family's son, and she has given a

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1 statement where she's concocted a lie that she heard on that
2 mornin' or any time else and when they bring her on, they got
3 her on a witness list, when she come up here, she's gonna have
4 to admit under oath that she's not been in those person's
5 house on that morning. As a matter of fact, their star
6 witness says that all his family was at home on the night of
7 the murder.

8 Now we'll also prove to ya, we don't have to prove it,
9 that after the murder three individuals: Eric Jarod Ranson, a
10 man by the name of Ricky Simmons, you heard that name when the
11 judge announced it, a man who was getting ready to go in a
12 street gang and a man who a week before then put another child
13 in a coma when he was fightin' him and a man who was being
14 ready to be initiated in a gang, these are the three people
15 who went to the scene that night. You're not gonna have to
16 take my word for it, when I cross-examine 'em, they gonna have
17 to admit it and not only that, when they were talking to the
18 police who had no physical evidence in this case, none
19 whatsoever, the police even told 'em they were lyin' so the
20 police didn't even believe what these people were telling.

21 Now after the murder they said they went to two female's
22 house, one by the name of Eva Mills and another one by the
23 name of Kristina Lockwood but we won't be able, members of the
24 jury, to bring Eva Mills into this courtroom or her sister
25 Danielle Mills because they live in the State a New York, we

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1 have no subpoena power there, but the police investigated it
2 and she did not confirm the story that anybody was over her
3 house, not alone Korey Love.

4 MS. SEAY: Objection.

5 THE COURT: You're gettin' pretty argumentative, ---

6 MR. SMITH: Okay, s ---

7 THE COURT: --- wrap it up.

8 MR. SMITH: Thank Your Honor. We also bring in a lady by
9 the name of Kristina Lockwood. We will put her testimony and
10 we will prove that none of their witnesses went over Kristina
11 Lockwood's house that night and she will testify to it that
12 they never went over to her house that night, a lady who works
13 at BMW. Before this case is over we're gonna prove to you
14 that every one of her lie -- clients, not clients but her
15 witnesses, had a reason to lie and they all said in their
16 statements to the police they have a reason to lie and it was
17 not about protecting Korey Love as the prosecutor said in her
18 opening, it was not about protecting Korey Love, it was to
19 protect their own skin. The Simmons boys moved out of
20 Greenville two weeks after it and that Eric Jarod Ranson went
21 into the Marines and in the Marines he gave two statements,
22 not one statement, but two statements saying that Korey Love
23 never had a gun and never committed this murder and was never
24 involved in this murder, that's what her witness has got to
25 say when he gets up there on that stand. Then when he gets to

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1 Greenville, Officer Flavell right there (indicating)
2 interviews him and he gives Officer Flavell the same statement
3 he gave to the United States Marines that Korey Love was not
4 involved in it and then when Officer Flavell tells him you
5 need to think about yourself, you need to think about nobody
6 but yourself, he changes his story and says it's Korey Love.
7 In the military he said it was a man named Tobarius Byrd who
8 was with him so all he did was just substitute a name.

9 Members of the jury, this was a brutal, horrible crime.
10 No family should have to suffer that sudden loss of a child
11 but this person Eric Jarod Ranson pointed that gun that night
12 at that young man himself, pointed it as he was stalking that
13 kid when he was coming outta there, aimed his gun, fired it,
14 bullet striking his neck killing that young man and we will
15 prove to you that they ran down the street together and tried
16 to get away..

17 So, members of the jury, let me just say this: When the
18 police talked to Mr. Love without a lawyer, he gave 'em a
19 statement. He gave the policeman a statement right here and
20 told him he wasn't involved in it and it's very easy, members
21 of the jury, we're gonna prove to ya to accuse somebody. You
22 can accuse Mitt Romney or George Bush or anybody of a crime,
23 just make up a name but that is not the way our system of
24 justice operates. When you have no physical evidence, you
25 need to admit it. There's nothing tying Korey Love whatsoever

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1 to the crime.

2 Now as I say and I'm gonna end with this: I will prove
3 to you in this case that it was impossible on January the 27,
4 2007 for that (indicating) young man, Korey Lamar Love, to
5 have murdered Isaac Bass in this state and that the
6 prosecution has cut a deal with the real murderers in this
7 case and that's her thing to do if she wants to but at the
8 conclusion if I don't prove what I said I'm gonna prove then
9 find him guilty but if I prove everything I say I'm gonna
10 prove, I'm gonna ask you to have the courage to come back and
11 say to the State a South Carolina and to everybody Korey Love
12 is not guilty as charged. Thank you very much.

13 THE COURT: Alright. Alright, call your first witness.

14 MS. SEAY: The State calls Barry Jackson.

15 THE CLERK: Mr. Jackson, please come forward.

16 (Whereupon, the witness came forward.)

17 THE COURT: If you'd please pause at the end of the
18 bench, place your left hand on the Bible ---

19 THE WITNESS: Okay.

20 THE COURT: --- and raise your right hand and if you'll
21 face this (indicating) way, please.

22 BARRY JACKSON, having been first
23 duly sworn, testified as follows:

24 THE CLERK: Thank you, please be seated. Please state
25 your name for the record.

BARRY JACKSON - DIRECT EXAMINATION BY MS. SEAY

- 1 THE WITNESS: It's Barry Jackson.
- 2 DIRECT EXAMINATION BY MS. SEAY:
- 3 Q. Mr. Jackson, good afternoon.
- 4 A. How ya doin'?
- 5 Q. How old are you?
- 6 A. I'm 30.
- 7 Q. And what's your educational level?
- 8 A. Some college.
- 9 Q. Okay, where are you currently employed?
- 10 A. At Wendy's on Pleasantburg Drive.
- 11 Q. Alright, and what's your current position at Wendy's?
- 12 A. I'm the assistant manager.
- 13 Q. How long have you been employed by Wendy's?
- 14 A. Fourteen years.
- 15 Q. Alright, did you work there in January of 2007?
- 16 A. Yes, ma'am.
- 17 Q. Do you know or did you know Isaac Bass?
- 18 A. I did.
- 19 Q. Was he an employee of yours?
- 20 A. Yes, ma'am.
- 21 Q. What was his position?
- 22 A. He was usually the drive-thru sandwich maker.
- 23 Q. The drive-thru sandwich maker?
- 24 A. Yes, ma'am.
- 25 Q. Okay, how long had he worked there?

BARRY JACKSON - DIRECT EXAMINATION BY MS. SEAY

1 A. He was, he was there when I got there so at least two
2 years.

3 Q. Okay, do you know where he lived?

4 A. He lived in the Mallard Cove Apartments.

5 Q. Okay, Mallard Cove?

6 A. Yes, ma'am.

7 Q. Was that nearby the Wendy's?

8 A. Yes, ma'am, it was down the street.

9 Q. Were you workin' the evening of January 27th, excuse me,
10 26th through the 27th of 2007?

11 A. Yes, ma'am.

12 Q. Was Isaac working that night?

13 A. He was.

14 Q. What time did your restaurant close that night?

15 A. The dining room closes at eleven and the drive-thru at
16 one.

17 Q. Okay, and can you tell us who who all was there at
18 closing time.

19 A. It woulda been, I don't remember last name, but Chiquita,
20 Ebony, Isaac, myself and Shauntiqua.

21 Q. Okay, and when it got to be later on into the morning,
22 you know, around 1 to 1:30, who was left in the restaurant?

23 A. It a been Chiquita, Chiquita, Ebony, myself, Isaac and
24 Shauntiqua.

25 Q. Okay, who were the first ones to leave?

BARRY JACKSON - DIRECT EXAMINATION BY MS. SEAY

1 A. Uh, Ebony and Chiquita.

2 Q. Okay, and so that only left you and Shauntiqua and
3 Isaac, ---

4 A. Yes, ma'am.

5 Q. --- is that correct? Okay, how many doors are there into
6 the restaurant?

7 A. There four doors.

8 Q. Okay, can you please describe where they're located.

9 A. Yeah, the the main entrances was like, was on the side of
10 the building. We have a front entrance that it faces
11 Pleasantburg, we have a side entrance near the drive-thru
12 which is like the emergency exit, like a fire exit and then we
13 have the side back door which leads to like the backside a the
14 parking lot like behind the drive-thru menu board.

15 Q. Okay. Which door do your employees use to come and go
16 from the restaurant?

17 A. You're supposed to go through the main entrance ---

18 Q. The one ---

19 A. --- but all ---

20 Q. --- that customers ---

21 A. --- the customers, most customers use at least the side
22 parking lot.

23 Q. Okay, and do employees use the back door?

24 A. Only, you're supposed to only in the morning times.

25 Q. Okay, why is that?

BARRY JACKSON - DIRECT EXAMINATION BY MS. SEAY

1 A. It's for security reasons.

2 Q. Okay. Who was in charge of money at the end of the
3 evening that ---

4 A. I woulda ---

5 Q. --- night?

6 A. --- been.

7 Q. Do you know what door Isaac left on the evening of
8 January 26th through 27th?

9 A. Yeah, he went out the backside, the back door.

10 Q. Okay, and approximately what time was it when he left?

11 A. It it usually about twenty -- I'd say about 1:20-ish.

12 Q. Okay. What happens to the lock when that back door
13 closes?

14 A. It it it locks by itself. It's a push bar so when the
15 door closes it locks. There's nothing on the other side of
16 that door, it just a flat.

17 Q. Alright, so once a person goes out are they able to get
18 back in?

19 A. No, ma'am.

20 Q. Did you hear anything after Isaac left?

21 A. I heard like a a yell, I I I believe it was like a yell
22 and then gunshot.

23 Q. Okay, could you tell who was yelling?

24 A. It sounded like Isaac.

25 Q. Alright. And then you heard gunshots?

BARRY JACKSON - DIRECT EXAMINATION BY MS. SEAY

1 A. Yes, ma'am.

2 Q. Okay. What did you do?

3 A. Well when I heard the yell, I I went towards the back
4 door thinkin' it was Isaac maybe forgot sumtin' tryin' to get
5 my attention and then when the the gunshot went off, the
6 paint, everything disappeared from the back door and I heard
7 like a ping, ping and after I realized somebody shootin'
8 that's when I grabbed my phone and ran towards the front to
9 call 911.

10 Q. Okay, did you hear anything at the drive-thru window?

11 A. Yeah, I heard like a a smack and that's when I I stopped
12 the first time I was goin' towards it, I stopped and I fell
13 'cause the floor was kinda wet and I dropped my cell phone and
14 I just I was talkin' to 911 but then I pick it up and call 'em
15 back, it was like somebody cut the glass.

16 Q. Did you know who was out there at the drive-thru?

17 A. I didn't, I didn't look.

18 Q. How were you feeling about things during this time?

19 A. I I was scared, I was scared to death. I thought people
20 was tryin' to get in.

21 Q. And after you called 911 did the police arrive there?

22 A. Um, yes, ma'am, they they -- I I was talkin' to the
23 operator and she said that somebody was injured and they were
24 helpin' that person first and then they came so it -- they was
25 gettin' here in five minutes or so.

BARRY JACKSON - DIRECT EXAMINATION BY MS. SEAY

1 Q. Okay, did you speak with officers that night?

2 A. Um, yes, ma'am.

3 Q. Did you give them an initial statement that night?

4 A. I did.

5 Q. Alright, and then did you later give a more detailed
6 statement?

7 A. I did.

8 Q. Did you later come into contact with any items?

9 A. Yeah, well we got what we thought was like a a bullet but
10 I'm not exactly sure what it was, it was found in the
11 threshold of the back door.

12 (Copper jacket marked State's Exhibit No. 25 for
13 identification.)

14 Q. I wanna show you an item. Gonna show you what's been
15 marked as State's Exhibit 25 and manipulate this over here a
16 little bit. Does that look like what you, ---

17 A. Yes, ma'am.

18 Q. --- what you saw that night?

19 A. Yes, ma'am.

20 Q. Okay, where did you get it?

21 A. Uh, I got it from, uh, the shift supervisor, she found
22 it.

23 Q. Okay, where -- do you know where it was found?

24 A. It was down in the the threshold of the, of the back
25 door.

BARRY JACKSON - DIRECT EXAMINATION BY MS. SEAY

- 1 Q. Okay, and was that the same door that Isaac ---
2 A. Yes, ma'am.
3 Q. --- left from? And who did you give the -- this fragment
4 to?
5 A. Uh, I, well I put it in the safe and then they -- we
6 called authorities.
7 Q. Okay. Let me ask you about somebody else, Rashida
8 Peters, was she one of your employees?
9 A. Yes, ma'am.
10 Q. Was she working the night of the murder?
11 A. No, ma'am.
12 Q. Did she ever have any visitors at the store?
13 A. Yeah, you know, friends, that's like everybody, yes
14 ma'am.
15 Q. Okay, do you recall if she had male or female visitors?
16 A. Both.
17 Q. Okay. At the time of Isaac's murder did Wendy's have any
18 security cameras inside or outside?
19 A. No, ma'am.
20 Q. And where did you usually park your car?
21 A. I would usually park near the front door.
22 Q. Okay, did you ever park near the back?
23 A. Uh, I parked it in the back only when I first get there,
24 then I move my car.
25 Q. Okay, so you would park there in the daytime?

BARRY JACKSON - CROSS-EXAMINATION BY MR. SMITH

1 A. Right, in the daytime, then when we get close to dark we
2 move our car up.

3 Q. Okay. Thank you, Mr. Jackson, please answer any
4 questions that Mr. Smith might have for you.

5 A. Yes, ma'am.

6 CROSS-EXAMINATION BY MR. SMITH:

7 Q. Mr. Jackson, I'm not gonna keep you long, okay?

8 A. No problem, sir.

9 Q. Alright. My question though Mr. Pi -- Mr. Jackson, is
10 the money bag. You had access to the money bag?

11 A. Well it -- I have access to the the safe money and the
12 money that we make through the night.

13 Q. Okay, and you have a safe already in the buildin'?

14 A. Yes, sir.

15 Q. And when do you deposit that money?

16 A. That that gets deposited in the mornin' time.

17 Q. Okay, so you never have to take the money out at night?

18 A. Take money out at night? No, only money it is is our
19 money.

20 Q. Right, so wouldn't be any money drop at night that's what
21 I'm trying to establish.

22 A. No, just the money that -- I think money that was in from
23 earlier it gets taken to the bank by the mornin' by ---

24 Q. In in the mornin'.

25 A. Well, the the mornin', the money that's made in the

BARRY JACKSON - REDIRECT EXAMINATION BY MS. SEAY

1 mornin' is taken by that manager that afternoon ---

2 Q. Right.

3 A. --- and then my deposit is taken in the morning.

4 Q. Right.

5 A. Yes, sir.

6 Q. Okay. And that wouldn't be at 1:30 in the night?

7 A. That that goes to bank?

8 Q. Yeah.

9 A. Definitely not.

10 Q. Okay, now the other thing too is ya had no cameras out
11 there that night, ---

12 A. No, sir.

13 Q. --- correct? And now and you as a manager was parkin' at
14 the fronta the store, ---

15 A. Yes, sir.

16 Q. --- correct? Thank you.

17 A. Thank you, sir.

18 REDIRECT EXAMINATION BY MS. SEAY:

19 Q. Mr. Jackson, just wanna clarify something, at the end of
20 the night do you count the money?

21 A. I do.

22 Q. Okay, so at the end a the night you ha -- do you have
23 money out?

24 A. I have the money from the the registers that we ran
25 durin' the night yes, ma'am.

BARRY JACKSON - RECROSS-EXAMINATION BY MR. SMITH

1 Q. Okay, and where where do you keep that money out'while
2 you're counting it?

3 A. It -- well I count it on the desk and then I I drop it in
4 the safe after I'm done counting it.

5 Q. Okay, did you have the money out that night?

6 A. Well I was still countin', uh-uh.

7 Q. When this happened?

8 A. Well I brought -- I had the deposit ready to go but I
9 hadn't dropped it yet.

10 Q. Okay, so you had not dropped it into the safe yet ---

11 A. No.

12 Q. --- when this happened. Okay, thank you, ---

13 A. You welcome.

14 Q. --- those are all the questions I have.

15 A. Thank you.

16 MR. SMITH: One redirect, Your Honor. I I won't b ---

17 THE COURT: Okay.

18 RECROSS-EXAMINATION BY MR. SMITH:

19 Q. Nobody came in the store and tried to rob you of that
20 money that you had on the -- at -- in the, in the store that
21 night, correct?

22 A. Nobody came into the store, no.

23 Q. Thank you.

24 THE COURT: Alright, thank you, sir, you can step down.

25 THE WITNESS: Thank you.

SHAUNTIQUA GLENN - DIRECT EXAMINATION BY MS. SEAY

1 THE COURT: Thank you very much.

2 (Whereupon, the witness left the stand.)

3 MS. SEAY: Your Honor, may Mr. Jackson be excused at this
4 time?

5 THE COURT: Okay, you're released from subpoena.

6 THE WITNESS: Alright, thank you, sir.

7 MS. SEAY: State calls Shauntiqua Glenn.

8 THE CLERK: Ms. Glenn, please come forward.

9 (Whereupon, the witness came forward.)

10 THE CLERK: If you'll please pause at the end of the
11 bench, please place your left hand on the Bible and raise your
12 right hand and if you'll face the judge, please.

13 SHAUNTIQUA GLENN, having been
14 first duly sworn, testified as follows:

15 THE COURT: Thank you, please be seated. Would you
16 please state your name for the record.

17 THE WITNESS: Shauntiqua Glenn.

18 THE CLERK: Thank you.

19 DIRECT EXAMINATION BY MS. SEAY:

20 Q. Ms. Glenn, how old are you?

21 A. Twenty-four.

22 Q. Alright, and what's your educational level?

23 A. Some college.

24 Q. Okay, are you currently employed?

25 A. No, ma'am.

SHAUNTIQUA GLENN - DIRECT EXAMINATION BY MS. SEAY

- 1 Q. Alright, where was your your previous employment?
- 2 A. Quaker Steak & Lube.
- 3 Q. Okay, and prior to that where did you work?
- 4 A. Wendy's.
- 5 Q. Okay, which Wendy's did you work at?
- 6 A. On Pleasantburg.
- 7 Q. Alright, how long did you work there?
- 8 A. For three years.
- 9 Q. What was your position?
- 10 A. I was a cashier and I made sandwiches.
- 11 Q. Alright, did you work there in January of 2007?
- 12 A. Yes.
- 13 Q. Did you know Isaac Bass?
- 14 A. Yes, ma'am.
- 15 Q. Were you working the evening of January 26th through the
- 16 27th of 2007?
- 17 A. Yes, ma'am.
- 18 Q. Alright, were you there at closing time?
- 19 A. Yes.
- 20 Q. Approximately what time was that?
- 21 A. Closing time?
- 22 Q. Um-hum.
- 23 A. One.
- 24 Q. Okay, who was there at closing time?
- 25 A. Me, Isaac, Barry and Chiquita and Ebony.

SHAUNTIQUA GLENN - DIRECT EXAMINATION BY MS. SEAY

- 1 Q. Alright, and the first ones to leave were?
- 2 A. Chiquita and Ebony.
- 3 Q. Alright, so that just left you and Isaac Bass and
- 4 Mr. Jackson the manager ---
- 5 A. Yes.
- 6 Q. --- there? Did you see Isaac leave?
- 7 A. Yes.
- 8 Q. What door did he leave from?
- 9 A. The back door.
- 10 Q. Do you know why he went out that door?
- 11 A. Because his car is parked close there..
- 12 Q. Okay. Did you hear or see anything after Isaac left?
- 13 A. Yes.
- 14 Q. Can you please describe that.
- 15 A. I heard him banging on the door like he was really tryin'
- 16 to get back in.
- 17 Q. Okay, did you hear him, did you hear him saying
- 18 anything?
- 19 A. No, I just heard him banging really loud.
- 20 Q. Okay, what did you hear next?
- 21 A. A pop.
- 22 Q. Okay. What did you think that was?
- 23 A. I don't know what it was. I was scared, I didn't know
- 24 what was goin' on.
- 25 Q. Okay, what did you do?

SHAUNTIQUA GLENN - DIRECT EXAMINATION BY MS. SEAY

1 A. I just stood there and just froze for a second and then I
2 went to the office.

3 Q. Alright. Did you speak with officers that night?

4 A. Yes.

5 Q. Alright, did you give them an initial statement?

6 A. Yes.

7 Q. And then did you give them a more detailed statement
8 later?

9 A. Yes.

10 Q. Do you know a Rashida Peters?

11 A. Yes.

12 Q. Did she work there at the Wendy's also?

13 A. Yes, ma'am.

14 Q. Did she ever have visitors at the restaurant?

15 A. Yes, ma'am.

16 Q. Okay. Those are all the questions I have for you, please
17 answer any Mr. Smith may have.

18 MR. SMITH: Your Honor, I appreciate this witness coming,
19 I have no questions.

20 MS. SEAY: May she ---

21 THE COURT: Alright, thank you, ma'am.

22 MS. SEAY: --- be excused?

23 THE COURT: You're released from subpoena.

24 (Whereupon, the witness left the stand.)

25 MS. SEAY: State calls Gloria Shelton.

GLORIA SHELTON - DIRECT EXAMINATION BY MS. SEAY

1 THE CLERK: Ms. Shelton, please come forward.

2 (Whereupon, the witness came forward.)

3 THE BAILIFF: Right here (indicating).

4 THE CLERK: If you'll pause at the end of the bench,
5 please place your left hand on the Bible and raise your right
6 hand.

7 THE WITNESS: Okay.

8 GLORIA SHELTON, having been first
9 duly sworn, testified as follows:

10 THE CLERK: Please be seated. Would you state your name
11 for the record.

12 THE WITNESS: Gloria Shelton.

13 THE CLERK: Thank you.

14 DIRECT EXAMINATION BY MS. SEAY:

15 Q. Ms. Shelton, what is your age?

16 A. Forty-one.

17 Q. Okay, and where are you employed?

18 A. At Wendy's, Target.

19 Q. How long have you been employed there?

20 A. For about 26 years.

21 Q. What store do ya currently work at?

22 A. The Pleasantburg store.

23 Q. Were you a employed there in January of 2007?

24 A. Yes, ma'am?

25 Q. What was your title?

GLORIA SHELTON - DIRECT EXAMINATION BY MS. SEAY

1 A. General manager.

2 Q. At the time that this happened in 2007, did Wendy's have
3 any cameras inside or outside the ---

4 A. No, ma'am.

5 Q. --- restaurant? Were you working on the evening of
6 January the 26th?

7 A. I worked but I had gotten off at eight o'clock.

8 Q. Okay, did you later become aware that this murder had
9 taken place at your restaurant?

10 A. Yes, ma'am.

11 Q. How did you become aware of it?

12 A. I was called.

13 Q. Okay, what did you do as a result of that?

14 A. I I live in Fountain Inn so I quickly came to, came back
15 to the restaurant.

16 Q. Okay, and did you then find out what had happened?

17 A. Yes, ma'am.

18 Q. Alright, I wanna ask you if sometime later did you come
19 in contact with an item?

20 A. Yes, ma'am.

21 Q. Okay. Where did you get the item from?

22 A. Um, another employee had found it ---

23 Q. Okay.

24 A. --- and they had put it away ---

25 Q. Okay.

GLORIA SHELTON - DIRECT EXAMINATION BY MS. SEAY

1 A. --- and, uh, I instructed them to call the police.

2 Q. Alright, was it put in the safe?

3 A. Yes, ma'am.

4 Q. Okay, I'm gonna show you item State's Exhibit 25. Does
5 this appear to be the item that you came in contact with?

6 A. Yes, ma'am.

7 Q. And let me show you one more thing.

8 MS. SEAY: This marked for identification, please.

9 (Property sheet marked State's Exhibit No. 29 for
10 identification.)

11 Q. Okay, this is State's Exhibit 29 for identification
12 purposes. Is this your signature here (indicating) on this
13 property sheet?

14 A. Yes, ma'am.

15 Q. Okay, did you turn this (indicating) item over to the
16 police?

17 A. Yes, ma'am.

18 (Gray long-sleeve t-shirt marked State's Exhibit No. 28
19 for identification.)

20 Q. This is State's Exhibit 28. Okay, do you recognize this
21 (indicating) item?

22 A. Yes, ma'am.

23 Q. How do you recognize it?

24 A. Um, earlier that day when Isaac came to work he had that
25 on under his uniform shirt and I told him that he had to take

GLORIA SHELTON - CROSS-EXAMINATION BY MR. SMITH

1 it off because we can only wear white under our shirts ---

2 Q. Okay.

3 A. --- so I had asked him to take it off and he had took it
4 off.

5 Q. Okay. Do you know where it was later found?

6 A. Outside in the parking lot.

7 Q. Okay, thank you. Ms. Shelton, those are all the
8 questions I have, please answer any that Mr. Smith may have
9 for you.

10 CROSS-EXAMINATION BY MR. SMITH:

11 Q. Ms. Shelton, I'll be very brief, okay?

12 A. Okay.

13 Q. That bullet that she showed ya, ---

14 A. Yes, sir.

15 Q. --- which employee found it?

16 A. Lamethia (phonetic) Anderson.

17 Q. And did she have gloves on it when she took it out?

18 A. I I can't answer that.

19 Q. Okay, and the other employees do you s -- did they take
20 it out with their fingers?

21 A. Did they take ---

22 Q. Yeah, when they retrieved the bullet, you know, like in a
23 crime scene, they put a big crime scene, the officers will
24 come out with gloves on their hand and then they ho -- get
25 evidence, you've seen that?

GLORIA SHELTON - CROSS-EXAMINATION BY MR. SMITH

1 A. Yes, sir.

2 Q. Okay. Your your employees weren't trained to do that,
3 were they?

4 A. No, sir.

5 MR. SMITH: No further question.

6 THE COURT: Anything else?

7 MS. SEAY: No, sir. May she be excused at this time?

8 THE COURT: Yes, you're released from subpoena, thank
9 you, ma'am.

10 THE WITNESS: Thank you.

11 (Whereupon, the witness left the stand.)

12 MR. STEINBERG: Sebastian Restrepo. Mr. Restrepo, can
13 you ---

14 THE CLERK: Sir, please come forward.

15 (Whereupon, the witness came forward.)

16 THE CLERK: If you'll pause at the end of the bench,
17 please place your left hand on the Bible and raise your right
18 hand.

19 SEBASTIAN RESTREPO, having been
20 first duly sworn, testified as follows:

21 THE CLERK: Alright, please be seated. Please state your
22 name for the record.

23 THE WITNESS: Excuse me?

24 THE CLERK: Your name?

25 THE WITNESS: Sebastian Restrepo.

SEBASTIAN RESTREPO - DIRECT EXAMINATION BY MR. STEINBERG

1 THE CLERK: Thank you.

2 DIRECT EXAMINATION BY MR. STEINBERG:

3 Q. Mr. Restrepo, I wanna ask you a couple a questions about
4 yourself. How old are you currently:

5 A. I'm 21.

6 Q. And do you work, are you in school right now?

7 A. I'm a full-time student.

8 Q. And where are you a student at?

9 A. Limestone College.

10 Q. And what's your major?

11 A. Criminal justice.

12 Q. Where did you grow up and where'd you go to high
13 school?

14 A. I grew up here in Greenville and I went to high s -- n
15 --at Eastside in Taylors.

16 Q. In 2007 where were you, what were you doing?

17 A. I was with my friends his, in his, in his apartment.

18 Q. Let me ask you were you in school in 2007, January
19 2007?

20 A. Yes.

21 Q. And how old were ya then?

22 A. Fifteen.

23 Q. On the night of January 26th where it went into the 27th,
24 where were you shortly after midnight?

25 A. At my friend's apartment and we were just watchin' TV and

SEBASTIAN RESTREPO - DIRECT EXAMINATION BY MR. STEINBERG

1 on the computer all night.

2 Q. And do you go any place ---

3 A. No.

4 Q. --- or leave?

5 A. Well we left.

6 Q. And where'd you go when you left?

7 A. Went to take my friend home.

8 Q. Okay, and did you have occasion to get onto North
9 Pleasantburg Drive?

10 A. Yeah.

11 Q. Okay, and while on there what di -- what, if anything,
12 did you see?

13 A. Well once I made the left I saw two black males running
14 across the street, few yards up I saw a white male bleeding,
15 he was tryin' to waive me down. I I slowed down but I was
16 too, I got too scared, I kept driving and then I just decided
17 to turn back.

18 Q. How far did you go before you turned back around?

19 A. Not not too far; I made a U-turn around Subway.

20 Q. Okay, they might not, jurors might not know how far. In
21 in football field lengths, soccer field lengths, how long ya
22 think will take?

23 A. Maybe 50 yards.

24 Q. Fifty, okay. Let's talk about the people you saw
25 running. Who did you see running?

SEBASTIAN RESTREPO - DIRECT EXAMINATION BY MR. STEINBERG

1 A. I saw two black males.

2 Q. And how fast were they movin'? Were they walking,
3 jogging, running, what were they doing?

4 A. They were running, sprint.

5 Q. And which way were they going?

6 A. They were going, I was going up the hill and up 291, they
7 were going down towards 385.

8 Q. Were they going in the direction towards the Wendy's or
9 away from the Wendy's?

10 A. Away from the Wendy's.

11 Q. Approximately how old were these people that were
12 running?

13 A. They looked late teens, early twenties.

14 Q. Do you remember anything else about their description?

15 A. One of 'em was wearin' a black jacket and a red shirt
16 under it.

17 Q. You remember what kind of hair they had or or if either
18 of them had any hair?

19 A. I remember like they looked like corn rolls.

20 Q. How close were they running towards each other as they
21 were going?

22 A. Right by si -- with each other.

23 Q. In addition to the two individuals running away from the
24 Wendy's, who else did you see?

25 A. The the two black males running, then the the white

SEBASTIAN RESTREPO - DIRECT EXAMINATION BY MR. STEINBERG

1 person up ahead bleeding ---

2 Q. Okay.

3 A. --- tryin' to waive me down.

4 Q. How did he appear when you, when you passed him?

5 A. Injured and just asking for help.

6 Q. When you say "injured", please describe what you mean by
7 that.

8 A. He was holding his neck with his left hand, he was
9 bleeding through his mouth and nose.

10 Q. You said with his left hand, what was he doin' with his
11 right hand?

12 A. Well he trying to waive me down.

13 Q. The people that ran from the Wendy's did you see where
14 they were going, which direction and how far they got when you
15 last saw them?

16 A. Yeah, once I did the U-turn I saw them. They kept
17 running down and then they made, they made a left to an alley.

18 Q. And did you speak to officers that night?

19 A. Yeah, uh, once I through call 911 they arrived there and
20 they told us to wait and then I gave a statement.

21 Q. Okay, and did you, uh, who was drivin' the car you were
22 in?

23 A. I was.

24 MR. STEINBERG: Beg the Court's indulgence.

25 Q. Please answer any of Mr. Smith's questions.

SEBASTIAN RESTREPO - CROSS-EXAMINATION BY MR. SMITH

1 MR. SMITH: Thank you, Your Honor.

2 CROSS-EXAMINATION BY MR. SMITH:

3 Q. Mr. Restrepo, uh, I guess you were a little excited when
4 you first saw these guys runnin' down the street ---

5 A. Um.

6 Q. --- and then you got a little more excited 'cause you
7 went up and made a U-turn to come back and render assistance
8 to victim in this case?

9 A. Yes.

10 Q. Thank you very much for your service.

11 THE COURT: Okay, thank you, sir, you can step down.

12 MS. SEAY: May he be excused, Your Honor?

13 THE COURT: You're released from subpoena. Thank you
14 very much.

15 (Whereupon, the witness left the stand.)

16 MR. STEINBERG: Detective Jeremiah Motz.

17 THE CLERK: Sir, please come forward.

18 (Whereupon, the witness came forward.)

19 THE CLERK: If you'll please place your left hand on the
20 Bible and raise your right hand.

21 JEREMIAH LYNN MOTZ, having
22 been first duly sworn, testified as follows:

23 THE CLERK: Thank you, please be seated. Please state
24 your name for the record.

25 THE WITNESS: Jeremiah Lynn Motz.

JEREMIAH LYNN MOTZ - DIRECT EXAMINATION BY MR. STEINBERG

1 THE CLERK: Thank you.

2 DIRECT EXAMINATION BY MR. STEINBERG:

3 Q. Good afternoon, Officer Motz, how are you today?

4 A. Good.

5 Q. What is your current occupation and who is your
6 employer?

7 A. I'm currently a police detective with the Greenville City
8 Police Department.

9 Q. And what was your occupation and and your employer in
10 January of 2007?

11 A. Uh, Greenville Police Department, I was on uniform
12 patrol.

13 Q. How long have you been in law enforcement?

14 A. For 11 years.

15 Q. What did you do before you were in law enforcement?

16 A. I was in the Marine Corp.

17 Q. How many years?

18 A. Four, four years.

19 Q. On January 27th, of 2007 at approximately 1:30 a.m., what
20 were you asked to do and what did you do?

21 A. I was, uh, I was workin' uniform patrol, I was responding
22 to a shots fired call in the area of East North Street and
23 Pleasantburg Drive. I responded to, uh, started respond to
24 Pleasantburg Drive. I was headin' north when I was flagged
25 down by a group a people standing in the middle of the road.

JEREMIAH LYNN MOTZ - DIRECT EXAMINATION BY MR. STEINBERG

1 I stopped to see what they needed, they pointed me over to an
2 area to the side of the road and said that there was a person
3 laying in the gr -- or laying on the ground that had blood all
4 over him. I then started to shine my spotlight tryin' to find
5 this person, it was Isaac Bass, he was layin' on the ground.
6 He had, uh, basically his he -- his head was to, I remember
7 his head was to the side. When I first saw him, I saw that
8 the blood was all over his jacket, it was zipped up. He had a
9 large 'bout 'bout fist size wound on his neck. At this time I
10 called for EMS, um, called for EMS other units to to assist me
11 with the scene, told 'em I had a gun -- someone that looks
12 like a gunshot wound to the neck, um, believe Officer Cutting
13 arrived shortly after. We tried to apply pressure to to
14 Isaac's wounds. We had to unzip his jacket 'cause there was
15 blood all, I didn't know where the wound was actually, if
16 there was more wounds or anything like that. We unzipped his
17 jacket, didn't find any other wounds and we applied pressure
18 to to him at that time. He was unresponsive to any of our
19 voices. We tried to make contact with him or speak with him
20 and he couldn't speak or anything like that. He just took
21 like a kinda small shallow breaths until EMS arrived.

22 Q. Okay.

23 A. Uh, ---

24 Q. Next question's rather elementary: In what county did
25 this occur?

JEREMIAH LYNN MOTZ - DIRECT EXAMINATION BY MR. STEINBERG

1 A. Greenville County.

2 Q. Can you remember what the victim was wearing,
3 particularly his upper body clothes?

4 A. I I just remember it was a jacket, ---

5 Q. Okay.

6 A. --- a jacket and shirt and ---

7 Q. Was the individual still alive, he was on the ground ---

8 A. Yes ---

9 Q. --- Mr. Bass?

10 A. --- yes, he was. When when I arrived, when I was
11 applyin' pressure to his wounds, he was still alive. When
12 when EMS got there, he did stop breathing.

13 Q. Was Mr. Bass able to speak to you at all?

14 A. He was not.

15 Q. Were you there when EMS arrived?

16 A. Yes.

17 Q. Was he still breathing when EMS arrived?

18 A. He, uh, had stopped breathing shortly before they they
19 got there.

20 (Aerial photograph of Pleasantburg Drive marked State's
21 Exhibit No. 20 for identification and aerial photograph marked
22 State's Exhibit No. 21 for identification.)

23 Q. I'm gonna show you a document. Let me show as what's
24 been marked as State's Exhibit Number 20. Please take a look
25 at this ---

JEREMIAH LYNN MOTZ - DIRECT EXAMINATION BY MR. STEINBERG

1 A. Okay.

2 Q. --- on your own first.

3 (Whereupon, the witness examined the document.)

4 Q. Do you recognize that document?

5 A. Yes.

6 Q. And what does that document show?

7 A. It's a aerial view of Pleasantburg Drive and surrounding
8 areas.

9 Q. Does it show the areas where you responded to in the
10 night in question?

11 A. Yes, it does.

12 MR. STEINBERG: Your Honor, I would move to introduce
13 State's Exhibit Number 20.

14 MR. SMITH: No objection.

15 THE COURT: Alright, without objection.

16 (State's Exhibit No. 20, aerial photograph of
17 Pleasantburg Drive, admitted into evidence.)

18 BY MR. STEINBERG:

19 Q. If you would come around please, Detective Motz, I want
20 the jury to get an understanding of the, uh, the areas we're
21 talking about.

22 (Whereupon, the witness left the stand.)

23 THE COURT: Please keep your voice level up, she's gotta
24 take everything down.

25 THE WITNESS: Yes, sir.

JEREMIAH LYNN MOTZ - CROSS-EXAMINATION BY MR. SMITH

1 BY MR. STEINBERG:

2 Q. I would like to take this red marker and if you would put
3 an "A" next to where Mallard Cove Apartments is.

4 A. This "A" is this area right here (indicating).

5 Q. Please please put a "B" in the area where you came to
6 Isaac Bass's body.

7 (Whereupon, the witness complied.)

8 Q. Oh, and I would ask you to look at the map and decide or
9 or or guide us to to where the Wendy's on Pleasantburg is
10 located and then put a "C" at that location.

11 A. Yes, sir. This building right here (indicating).

12 Q. Thank you. Please put your last name the very top there.

13 (Whereupon, the witness complied.)

14 Q. You have a seat.

15 (Whereupon the witness returned to the stand.)

16 Q. That's all the question I have. Please answer any of
17 Mr. Smith's questions.

18 MR. SMITH: Your Honor, I have a few too.

19 THE COURT: Sure.

20 CROSS-EXAMINATION BY MR. SMITH:

21 Q. Officer, -- Your Honor, can you see? Uh, ---

22 THE COURT: That's alright, ---

23 MR. SMITH: Okay. Officer, ---

24 THE COURT: --- jury needs to see.

25 MR. SMITH: --- could you come down. Yes, sir.

JEREMIAH LYNN MOTZ - CROSS-EXAMINATION BY MR. SMITH

1 (Whereupon, the witness left the stand.)

2 MR. SMITH: Can I see that red pen? Thanks.

3 MR. STEINBERG: I'm gonna have to object to any markings
4 on this. He can't mark on a document after its been
5 introduced like this, Your Honor.

6 MR. SMITH: Alright.

7 THE COURT: Just point to it.

8 MR. SMITH: I'll just point to it.

9 BY MR. SMITH:

10 Q. Officer, would you tell me where the music store is.

11 A. I believe the music store is in this (indicating) general
12 area. The piano store?

13 Q. Yes, sir, piano store. Is right here (indicating)?

14 A. Yeah, it's it's around this (indicating) area -- area?

15 Q. Okay, would you tell me what that is right here
16 (indicating).

17 A. I I cannot, no.

18 Q. There's another buildin' right there (indicating),
19 right?

20 A. Yes, it is.

21 Q. And then there's another buildin' right there
22 (indicating).

23 A. Correct.

24 Q. And then there's (indicating) another building.

25 A. Correct.

JEREMIAH LYNN MOTZ - CROSS-EXAMINATION BY MR. SMITH

1 Q. And there was a Subway up around here (indicating)
2 somewhere too, isn't it?

3 A. Wanna say the Subway is is that buildin' right there
4 (indicating).

5 Q. That building right there and right behind all this
6 (indicating) is an alley, correct?

7 A. Yes.

8 Q. Right. So there's an alley and then all these
9 (indicating) areas people can run out into these roads and run
10 into the street where Pleasantburg is, right?

11 A. They all have exits yes.

12 Q. They all have exits..

13 A. Yes.

14 Q. And and if you ran down there -- would you show the jury
15 where that Steak and Ale used to be down there.

16 A. It's this one right here (indicating).

17 Q. Right here (indicating), the Steak and Ale. And now this
18 is a buildin' up here (indicating) that's got a parkin' lot
19 under it?

20 A. Yes.

21 Q. Alright, now did you do any other investigation in this
22 case beside this stuff?

23 A. No, I stayed on this scene till everybody cleared.

24 Q. Everybody cleared. And did Mr. Bass -- go ahead and take
25 your seat, I didn't wanna -- I just wanna make sure we got

JEREMIAH LYNN MOTZ - CROSS-EXAMINATION BY MR. SMITH

1 that into the record so the jury could get a full
2 understandin'.

3 (Whereupon, the witness returned to the stand.)

4 Q. Uh, the, uh, the, uh, -- now did EMS when they got on the
5 scene they, uh, did they do CPR with regard to Mr. Mr. Bass?

6 A. They loaded him up qu -- very quickly.

7 Q. Alright.

8 A. I think they did everything in the back a the the
9 truck.

10 Q. Alright, now did Mr. Restrepo, I think Mr. Restrepo came
11 back into the courtroom, there (indicating) he is, did
12 Mr. Restrepo tell you in which direction these two black men
13 were runnin'? I'll just bring it up so we ---

14 A. I I don't -- I wa -- I didn't talk with anybody, I I
15 talked to the people originally here and I focused everything
16 towards Mr. Bass once I found him, ---

17 Q. Okay, so ---

18 A. --- other officers may have been told ---

19 Q. Alright, so you wouldn't know that but ---

20 A. No.

21 Q. Alright, and you don't know whether or not any officers
22 immediately responded to the scene of the Mallard Cove area
23 where those black males were runnin' at the time, do you?

24 A. I heard radio traffic ---

25 Q. Radio traffic and they were goin' that way?

CHARLES KEITH COTHRAN - DIRECT EXAMINATION BY MR. STEINBERG

1 A. That I think officers came in the area lookin'.

2 Q. , Okay. And Mallard Cove is a, is moderately income
3 apartment complex here in Greenville, City of Greenville?

4 A. Yes.

5 Q. Thank you. And it's behind Steak and Ale too, isn't
6 it?

7 A. Yes.

8 Q. Thank you.

9 THE COURT: Anything else?

10 MR. STEINBERG: Not from the State, Your Honor.

11 THE COURT: Alright, thank you, sir, you can step down.

12 THE WITNESS: Thank you.

13 (Whereupon, the witness left the stand.)

14 MR. STEINBERG: Next witness is Keith Cothran.

15 THE CLERK: Mr. Cothran, please come forward.

16 (Whereupon, the witness came forward.)

17 THE CLERK: Sir, please place your left hand on the Bible
18 and raise your right hand.

19 CHARLES KEITH COTHRAN, having been
20 first duly sworn, testified as follows:

21 THE CLERK: Thank you, please be seated. Please state
22 your name for the record.

23 THE WITNESS: Name's Charles Keith Cothran.

24 DIRECT EXAMINATION BY MR. STEINBERG:

25 Q. Detective Cothran, could you please tell us who your

CHARLES KEITH COTHRAN - DIRECT EXAMINATION BY MR. STEINBERG

1 employer is and what area of law you pr -- you practice.

2 A. I am employed with the City of Greenville Police
3 Department and I am currently assigned to the Violent Crimes
4 Division.

5 Q. I bring you back to January of 2007, what was your role
6 then?

7 A. In January of 2007 I was assigned to the Uniform Patrol
8 Division. My responsibilities at that time would've been
9 answer -- answering calls for service, conducting traffic
10 stops, suspicious activities, investigating those type of
11 incidents.

12 Q. Thank you. On January 27th 2007 in the early morning
13 hours, what were you assigned to do, what did you do?

14 A. On January 27th at approximately 1:30 in the morning, we
15 received a call from our dispatch about a possible shots fired
16 incident at 943 North Pleasantburg Drive which is the Wendy's.
17 Myself and other units responded to that area and as I arrived
18 Corporal Motz at the time was stopped on the northbound side
19 of 291 or or Pleasantburg Drive just down from the Wendy's and
20 he was treating Mr. Bass.

21 Q. As Officer Motz was treating Mr. Bass, what did you
22 decide to do?

23 A. Officer Riggins and myself then set up crime scene tape
24 in the area right there where Corporal Motz was rendering aid
25 to Mr. Bass.

CHARLES KEITH COTHRAN - DIRECT EXAMINATION BY MR. STEINBERG

1 Q. You ever go to the Wendy's at that ---

2 A. I did. I, after setting up crime scene tape, there were
3 numerous officers there assisting with trying to treat,
4 Mr. Bass, uh, I went up to the Wendy's. I first made sure the
5 area was safe for me so that there would be no other, no other
6 incidents. After doing that I knocked on the door that
7 patrons would go in. After knocking for several times and
8 having no response, I asked our dispatch to call inside the
9 Wendy's and have someone meet me there. I went around to the
10 delivery door which is just just down from the entry door and
11 when I got there I noticed some things on the ground.

12 Q. Please no -- no -- tell us what you noticed on the
13 ground.

14 A. First thing that I noticed was some small droplets of
15 blood. There's a small ramp that goes up to the delivery
16 door, there were some droplets of blood there, there's a shell
17 casing sitting there, there was another shell casing just down
18 off off the side of the ramp, there was a shirt and there was
19 blood droplets that led from the ramp toward the entry door.

20 Q. You said you placed crime scene tape up, where did you
21 place crime scene tape?

22 A. After dispatch had called inside, the complainant which
23 would be Mr. Barry Jackson, he's an employee there at the
24 Wendy's at the time, he came to the door and I asked him for
25 some Wendy's cups and I asked him to stay inside. I

CHARLES KEITH COTHAN - DIRECT EXAMINATION BY MR. STEINBERG

1 immediately, uh, because of the items I found on the ground
2 knew that there was a crime scene so I took crime scene tape
3 and secured the Wendy's parkin' lot area, my car was on the
4 outside and blocked all the traffic from turning in and after
5 securing the Wendy's with crime scene tape I started to place
6 cups, the Wendy's cups, around different items that I felt may
7 have some importance to the case.

8 Q. Did other officers arrive and assist you?

9 A. Yes, after after I put up crime scene tape and all that
10 other officers began to arrive. Officer Rabaldo (phonetic)
11 who is now serving with United States Army and Corporal
12 Casinata (phonetic) arrived. I asked Officer Rabaldo to speak
13 with the employees inside the Wendy's, take statements and I
14 asked Corporal Casinata to assist in maintaining crime scene
15 integrity.

16 Q. Did you have an opportunity to go to Mallard Cove on the
17 incident in question?

18 A. I did. I, uh, I received a call from my sergeant at the
19 time, Sergeant Brownie, about some suspicious persons at the
20 back of Mallard Cove Apartments which is just down the road
21 from where the incident took place. I went down there,
22 checked that area as thoroughly as possible, got out, looked
23 around and did not locate anyone. I returned to the Wendy's
24 and then I received a call from a Corporal Austin about some
25 other individuals that were potentially followin' someone that

CHARLES KEITH COTHRAN - CROSS-EXAMINATION BY MR. SMITH

1 he had stopped. I went to assist him as a back up unit, uh,
2 contacted at the time Detective Fuller who came up there and
3 spoke with one of the subjects, Uh, photographed the subject
4 per the Detective Fuller's request and then I returned to the
5 crime scene.

6 Q. Did you put all that information into your records and
7 reports?

8 A. Yes, I did.

9 Q. Okay. Beg the Court's indulgence. Please answer any of
10 Mr. Smith's questions.

11 MR. SMITH: Thank Your Honor. May it please the Court.

12 THE COURT: Yeah.

13 CROSS-EXAMINATION BY MR. SMITH:

14 Q. Officer, thanks for comin' today. This right here
15 (indicating) has been marked as an exhibit by State right here
16 Officer Motz who just testified in front of you, ---

17 A. Okay.

18 Q. --- now that crime tape -- could you come down, let's
19 talk ---

20 A. Sure.

21 Q. --- to the jury a little bit.

22 (Whereupon, the witness left the stand.)

23 Q. Excuse me, thank you, Officer. I'm a little clumsy.
24 Okay, he said this area right here (indicating) where he put
25 the "A" is is where Mallard Cove is.

CHARLES KEITH COTHRAN - CROSS-EXAMINATION BY MR. SMITH

1 A. Yeah, this is, uh, the Mallard Cove Apartments right here
2 (indicating).

3 Q. And would you show the jury where when you say you you
4 you investigated that area thoroughly what -- where all you
5 went.

6 A. Well we ---

7 THE COURT: Can everybody see?

8 MR. SMITH: Everybody see? I'm sorry.

9 THE COURT: Okay.

10 A. This is, uh, I guess where I guess Corporal Motz placed
11 this, I don't -- a "C", this (indicating) is the Wendy's, "B",
12 this (indicating) is where Mr. Bass was located in this
13 (indicating) general area. I came down here (indicating),
14 turned on Villa Road, you come into the apartments here
15 (indicating). I went around to the back, I checked this area
16 here (indicating) 'cause the information I had that they were
17 in the back of Mallard Cove. I checked this (indicating)
18 area, primarily this (indicating) area where my hand's at,
19 this this surrounding area right here (indicating), uh, I
20 didn't see anyone at the time.

21 Q. Alright, sir, and what's the distance would you say from
22 Wendy's to that (indicating) area?

23 A. It would be a rough estimate.

24 Q. Yes, sir, a rough estimate's fine.

25 A. Maybe, I don't know, maybe a half a mile, I don't -- from

CHARLES KEITH COTHRAN - CROSS-EXAMINATION BY MR. SMITH

1 here, from this (indicating) point to this (indicating) point
2 maybe a half mile, I don't know.

3 Q. Alright, sir. Officer, by the way, how how long did it
4 take you to put that crime tape around that (indicating)
5 area?

6 A. The Wendy's?

7 Q. Yes, sir.

8 A. When I first -- it woulda been within moments. I
9 arrived, officers were treating Mr. Bass, I got out, there was
10 nothing more that I could do other than try to secure that
11 area, myself and Riggins pull crime scene tape there and I
12 immediately went to Wendy's ---

13 Q. Alright, sir.

14 A. --- so we're talkin' just a matter of moments from the
15 moment I initially stopped with Mr. Bass to goin' to Wendy's.

16 Q. And how many moments did you stay at Wendy's before you
17 went to Mallard Cove ya think?

18 A. Well when I got to Mall -- Wendy's, I secured it, other
19 officers arrived and it remained secured, those other officers
20 maintained that integrity, I -- fr -- are you asking me from
21 the time ---

22 Q. Yes, sir, how much time did you spend at Wendy's to go to
23 Mallard Cove?

24 A. Before I went to Mallard Cove?

25 Q. Yes, sir.

CHARLES KEITH COTHRAN - CROSS-EXAMINATION BY MR. SMITH

1 A. I don't recall, ---

2 Q. Alright, sir.

3 A. --- I don't remember.

4 Q. Now that Wendy's area also, Officer, I believe they said
5 Officer Motz has testified and you may confirm that behind
6 this Wendy's there's a alley behind the Wendy's?

7 A. Yeah, I believe that, yeah, right here (indicating)
8 there's a little alley that goes there (indicating).

9 Q. And if you go in the opposite direction there's a S&S
10 Cafeteria up the street?

11 A. Yeah, there's a S&S up here (indicating) somewhere.

12 Q. Alright, sir, thank you very much. Your witness.

13 MR. STEINBERG: No further questions.

14 MR. SMITH: No further ---

15 THE COURT: You can step down.

16 THE WITNESS: Thank you.

17 THE COURT: Thank you very much.

18 (Whereupon, the witness left the stand.)

19 THE COURT: How's everybody doin'? Does anyone need a
20 break?

21 (No response.)

22 THE COURT: Okay, call your next witness.

23 MS. SEAY: State calls Sara Brunson.

24 THE CLERK: Ms. Brunson, please come forward.

25 (Whereupon, the witness came forward.)

SARA BRUNSON - DIRECT EXAMINATION BY MS. SEAY

1 THE CLERK: Ma'am, if you'll pause at the end of the
2 bench, please place your left hand on the Bible and raise your
3 right hand.

4 THE WITNESS: My right hand on the Bible?

5 THE CLERK: Other way, other way. Uh, there we go.

6 SARA BRUNSON, having been first
7 duly sworn, testified as follows:

8 THE CLERK: Thank you, please be seated. Please state
9 your name for the record.

10 THE WITNESS: Sara Brunson.

11 DIRECT EXAMINATION BY MS. SEAY:

12 Q. Ms. Brunson, where are you currently employed?

13 A. Greenville County EMS.

14 Q. How long have you been employed with Greenville County
15 EMS?

16 A. About eight months.

17 Q. What's your previous work experience?

18 A. Before that I was a forensic officer for Greenville
19 County.

20 Q. Okay, and how long were you a forensics officer?

21 A. From 2005 to 2008.

22 Q. So approximately three years?

23 A. Um-hum.

24 Q. What's your educational background?

25 A. I I was working on a criminal justice degree when I

SARA BRUNSON - DIRECT EXAMINATION BY MS. SEAY

1 started at forensics and toward the end of it and so it's not
2 quite complete but switched over and did a lot of in in-house
3 training.

4 Q. Alright, did you receive any specialized training to do
5 forensics work?

6 A. Yes. Yes, I did.

7 Q. What are the duties of a forensics officer?

8 A. The duties are to respond to the crime scene, collect,
9 document and preserve evidence.

10 Q. Were you employed in that capacity on January 26th
11 through 27th of 2007?

12 A. Yes, I was.

13 Q. Did you receive a call to go to the Wendy's at 943 North
14 Pleasantburg Drive?

15 A. Yes, ma'am.

16 Q. Approximately what time did you receive that call?

17 A. May I refer to my report?

18 Q. Certainly.

19 A. Okay. We received the call at approximately 1:50 p.m.

20 Q. Okay, and what did you do when you first arrived there?

21 A. When we first arrived, we, uh, ---

22 Q. Excuse me, you say "we", there was another forensics
23 officer with you?

24 A. Yes, there was, ---

25 Q. Okay.

SARA BRUNSON - DIRECT EXAMINATION BY MS. SEAY

1 A. --- it was my partner.

2 Q. Who was that?

3 A. Investigator April Deitz.

4 Q. Okay. Okay, continue please with what you did when you
5 first got there.

6 A. Okay, we a -- we arrived on scene and kinda did a, did a
7 overview, um, survey, we then began to locate the evidence and
8 began photographing documentation of the scene as well as
9 videotape.

10 Q. Okay. Specifically, what was your role?

11 A. That evening I was videotaping the crime scene.

12 Q. What did you observe about the scene?

13 A. I remember we we got there, uh, the crime scene tape was
14 up, there were, um, cups placed around as as markers, um, kind
15 of showing where the I guess first responding officers had,
16 um, believed to have found evidence and, um, we started from
17 there.

18 Q. Did you see any suspected blood?

19 A. Uh, yes.

20 Q. Okay, do you recall where that was?

21 A. Um, kind of in a pattern all the way around the almost
22 the building, side a the building and, uh, the backside.

23 Q. Okay. Did, I'm sorry, I didn't understand what you said,
24 a pattern all the way around the building?

25 A. Well from from what I remember there was kind of, um,

SARA BRUNSON - DIRECT EXAMINATION BY MS. SEAY

1 what we suspected was a a trail ---

2 Q. Okay, and where ---

3 A. --- of blood on the ground.

4 Q. --- did the trail begin?

5 A. What I remember I believe it was the rear. I'd say I I
6 can't really say because it ca -- it went all the way around
7 so I'm not ---

8 Q. Okay.

9 A. --- sure where it, where it started.

10 Q. Did it go around the front of the restaurant or do you
11 recall?

12 A. I do not recall.

13 Q. Do you notice any shell casings?

14 A. Yes.

15 Q. Okay. Did you note a projectile?

16 A. We noted a projectile hole in the side door of the rear
17 storage building of the restaurant.

18 Q. Alright, did you go inside?

19 A. We did, we continued to follow the a hole.

20 Q. Alright, what did you see when you got inside?

21 A. The officer pointed out where he, um, had thought it had,
22 uh, continued through the the path and it appeared that the
23 projectile had gone through one door, through the building and
24 seemed to be lodged in the interior wall of that building.

25 Q. Alright, did you do anything to try to retrieve that

SARA BRUNSON - DIRECT EXAMINATION BY MS. SEAY

1 projectile that was lodged in the wall?

2 A. Yes, we walked around the side of the building to where
3 we believed the projectile path would have gone and observed a
4 slight bulge in the metal paneling of the exterior wall of
5 where the, um, interior projectile hole was observed.

6 Q. Alright, and did you actually retrieve it from the wall?
7 How did you do that?

8 A. Where where we saw it, I cut out a larger, much larger
9 area, uh, of the paneling and pulled it back and you -- the
10 projectile was right there at the very end of the insulation
11 visible ---

12 Q. Okay.

13 A. --- and it was cut around and pulled out in tact.

14 (Photograph marked State's Exhibit No. 3 and photograph
15 marked State's Exhibit No. 4 for identification.)

16 Q. Okay, let me show you State's Exhibits fo -- 3 and 4, do
17 you recognize these (indicating)?

18 A. I do.

19 Q. Okay, and what do those depict?

20 A. These (indicating) are the interior wall of the building,
21 this (indicating) was on the the exterior, the interior. This
22 (indicating) is where I retrieved it from and this
23 (indicating) is where it appeared to have gone through.

24 Q. Okay.

25 MS. SEAY: Your Honor, I would offer these into evidence

SARA BRUNSON - DIRECT EXAMINATION BY MS. SEAY

1 at this time.

2 MR. SMITH: No objection.

3 THE COURT: Alright, without objection.

4 (State's Exhibit Nos. 3 and 4, photographs, admitted into
5 evidence.)

6 BY MS. SEAY:

7 Q. Okay, so can you point out or describe where you saw that
8 projectile.

9 A. Oh, the the suspected projectile hole was to the left of
10 the vertical bars on the shelving ---

11 Q. Okay.

12 A. --- right above the Wendy's box.

13 Q. Okay, and then this (indicating) is just a more close-up
14 of that?

15 A. Yes, ma'am.

16 Q. Okay.

17 (Fired projectile Item SB1 marked State's Exhibit No. 27
18 for identification.)

19 Q. Let me me show you item -- State's Exhibit 27, Item SB1,
20 do you recognize this (indicating)?

21 A. I do.

22 Q. How do you recognize it?

23 A. It is how I package evidence. Uh, this (indicating) is
24 the form that I create with all my information on there:
25 where it was from, time and date, case. Inside here

SARA BRUNSON - DIRECT EXAMINATION BY MS. SEAY

1 (indicating) would be a white small plastic container ---

2 Q. Okay.

3 A. --- containing the projectile and padded with intubation.

4 Q. Alright, and so you packaged this and did you put it into
5 a secure location after you collected it and packaged it?

6 A. Yes, it would have been filled out with a property and
7 evidence sheet and placed into property and evidence.

8 Q. Okay, I want you to open this and tell me if it appears
9 to be the same item and in the same condition as when you
10 collected it.

11 A. Okay.

12 (Whereupon, the witness complied.)

13 A. It does seem to be all my initials and signatures on the
14 tape. The tamper resistant tape are still in tact as well as
15 the same information on the outside matching.

16 Q. Okay.

17 MS. SEAY: Your Honor, I would offer State's Exhibit 27
18 into evidence at this time.

19 MR. SMITH: I I need to know what's in that little
20 container there before I can ---

21 BY MS. SEAY:

22 Q. Do you wanna open this for me?

23 A. Sure. This is the tamper resistant tape as well as
24 another piece underneath it just to keep it secure. Inside is
25 the projectile that I recovered as well as the original

SARA BRUNSON - CROSS-EXAMINATION BY MR. SMITH

1 packaging that it was taken from the scene and it was done
2 altogether, initials.

3 MS. SEAY: Okay, again, I'd offer State's Exhibit 27 into
4 evidence.

5 MR. SMITH: No objection, Your Honor.

6 THE COURT: Okay.

7 (State's Exhibit No. 27, fired projectile Item SB1,
8 admitted into evidence.)

9 MS. SEAY: Thank you, Ms. Brunson, please answer any
10 questions Mr. Smith has for you.

11 THE COURT: Cross?

12 MR. SMITH: Yeah, she -- okay, she's finished, ---

13 THE COURT: Yes.

14 MR. SMITH: --- just a few little questions.

15 THE WITNESS: Yes, sir.

16 CROSS-EXAMINATION BY MR. SMITH:

17 Q. Ma'am, I just need to have one idea. There was a
18 somethin' for identification she put up a few minutes ago had
19 bullet, would you tell me what what does cross-contamination
20 mean from forensic standpoint?

21 A. Cross-contamination would be the, uh, anything that
22 interferes or affects the, uh, I wanna say purity or va -- or
23 validity of the, of the evidence but, uh, the integrity ---

24 Q. Right, ---

25 A. --- of it.

SARA BRUNSON - CROSS-EXAMINATION BY MR. SMITH

1 Q. --- and so you guys and ladies, gentlemen are trained at
2 the forensics school I guess whenever you're pickin' up
3 evidence ya do it with gloves and stuff?

4 A. Yes, sir.

5 Q. And then that way they make sure nobody else's
6 fingerprints can get on it ---

7 A. Um-hum.

8 Q. --- and then you won't have any chain of custody problem,
9 is that the theory on it?

10 A. We would keep our evidence and it would be secured with
11 us until it was packaged securely and so it would be, uh,
12 verifiable that it would be untampered.

13 Q. Alright, and I believe the theory in your your field is
14 safety first before for forensics, is that correct? So like
15 if someone is severely injured you don't worry about the crime
16 scene as much until you get the persons outta area and then
17 you start your crime scene investigation?

18 A. We were not, we are not first responders, um, the, uh,
19 EMS and, uh, you know, the officers would would do that. We
20 are pacifically to take care of the crime scene.

21 Q. Okay, so I answered the question wrong inartfully. What
22 happens is the first responders come in, ya'll give them
23 precedent as long as the person is alive and then ya'll come
24 in after.

25 A. Uh, we we are normally there a little bit after, yes.

APRIL JANE DEITZ - DIRECT EXAMINATION BY MS. SEAY

1 Q. Thank you.

2 THE COURT: Anything else?

3 MS. SEAY: Nothing further from her, may she be excused?

4 THE COURT: Yes, released from subpoena. Thank you,
5 ma'am.

6 (Whereupon, the witness left the stand.)

7 MS. SEAY: State calls April Deitz.

8 THE CLERK: Ms. Deitz, please come forward.

9 (Whereupon, the witness came forward.)

10 THE CLERK: If you'll please place your left hand on the
11 Bible and raise your right hand.

12 APRIL JANE DEITZ, having been
13 first duly sworn, testified as follows:

14 THE CLERK: Thank you, please be seated. Please state
15 your name for the record.

16 THE WITNESS: It's April Jane Deitz.

17 THE CLERK: Thank you.

18 DIRECT EXAMINATION BY MS. SEAY:

19 Q. Ms. Deitz, where are you currently employed?

20 A. I work for Greenville County Animal Control.

21 Q. And how long have you been employed there?

22 A. Not long. I started at the beginning of October.

23 Q. What's your previous work experience?

24 A. Previous work experience would be in law enforcement. I
25 was a police officer with the Greenville Hospital System for a

APRIL JANE DEITZ - DIRECT EXAMINATION BY MS. SEAY

1 while, prior to that I worked as a forensic officer for
2 Greenville County for a number a years.

3 Q.. Okay, how long were you employed as a forensics
4 officer?

5 A. From 2002 to -- correction, 2005 until middle a 2010.

6 Q. What's your educational background?

7 A. Forensically speaking or just ---

8 Q. Yeah.

9 A. --- in general?

10 Q. Yes.

11 A. Forensic division they do send us to classes when they
12 were able, it's a lot of on-the-job training which I do have a
13 lotta that, uh, I did attend some classes in Charlotte, when
14 they became available, crime scene techniques and things of
15 that nature.

16 Q. Okay. Did you -- or, excuse me, were you employed with
17 forensics on January 26th through the 27th of 2007?

18 A. I was.

19 Q. Did you accompany Sara Brunson who just testified to the
20 Wendy's on North Pleasantburg Drive?

21 A. Yes, I did.

22 Q. Did ya'll do an initial walk-through of the scene when
23 you got there?

24 A. Uh, we did.

25 Q. What did you do after you did your initial walk-through?

APRIL JANE DEITZ - DIRECT EXAMINATION BY MS. SEAY

1 A. After speaking with the on-scene officers, we do a walk-
2 through of the scene, uh, we would then begin to document that
3 scene, photo documentation, as well as videotaping the scene,
4 that's prior to collection or anything else. If there was a
5 diagram that was necessary, we would take measurements for
6 that, there was no need for a diagram in this particular case,
7 and then we just thoroughly go through the scene workin' our
8 way from the outside in to, uh, document the evidence, collect
9 the evidence for, you know, for packaging or for processing.

10 Q. Alright, did you do photo documentation in this case?

11 A. Yes, I did.

12 (Photographs marked State's Exhibit Nos. 5 through 19 for
13 identification.)

14 Q. Okay, I wanna show you some State's Exhibits and ask if
15 you recognize them. Let me see here, 5, 6, 7, 8, 9, 10, 11,
16 12, 13, 14, 15, 16, 17, 18 and 19, okay?

17 A. Okay.

18 Q. Okay, if you'll look through those and tell me if you
19 recognize them.

20 A. Do you want me to describe as we go or just ---

21 Q. Just ---

22 A. --- for recognition?

23 Q. --- tell me if you, if you recognize them.

24 (Whereupon, the witness examined the exhibits.)

25 A. I do.

APRIL JANE DEITZ - DIRECT EXAMINATION BY MS. SEAY

1 Q. Okay. Are these true and accurate representations of
2 what you observed on the scene that night?

3 A. Yes, they are.

4 MS. SEAY: Your Honor, I would offer these into evidence
5 at this time.

6 MR. SMITH: I've seen 'em, Your Honor, no objection.

7 THE COURT: Okay.

8 MS. SEAY: Okay.

9 (State's Exhibit Nos. 5 through 19, photographs, admitted
10 into evidence.)

11 BY MS. SEAY:

12 Q. Ms. Dietz, I wanna show these to the jury and if you
13 could describe what they are. Thank you.

14 A. Initially when we take our photographs we kinda wanna
15 document the area maybe from different angles, an overall
16 photograph so to speak, and that's what I'm doin' right there
17 (indicating), I'm takin' overall photographs of the exterior
18 of the incident location.

19 THE COURT: Can you all see? They're havin' a -- you're
20 kinda in the way, Ms. Seay.

21 MS. SEAY: I'm sorry. Okay, I'm gonna try to move over
22 here to get outta the way.

23 BY MS. SEAY:

24 Q. What does that photograph depict? The light is not good
25 in here, I'm sorry about that.

APRIL JANE DEITZ - DIRECT EXAMINATION BY MS. SEAY

1 THE COURT: Can you turn it -- yeah.

2 A. It's it's the parking lot area, notice crime scene type
3 that was placed there prior to our arrival. Looks like at a
4 back ramp are near the, uh, where you do the order at that
5 back a the -- from here it's it's kinda dark but I'm thinkin'
6 that's what it is.

7 Q. Okay.

8 A. That (indicating) looks like a side view of the ramp
9 leading up to the back, uh, door. I guess that would be like
10 a delivery door to the back a the business.

11 A. Okay.

12 Q. That (indicating) is one of the vehicles that was parked
13 in the parking lot, it would be, um, if you're facing the
14 Wendy's, it woulda been on the right side, on the same side as
15 that door that was just in the last picture, it was parked on
16 that same side parking lot.

17 That (indicating) is the actual, uh, I guess loading ramp
18 or area at the back a the business and that (indicating) is
19 another photograph of that location, it's just back, uh, a
20 little bit from there, a little bit bigger perspective.

21 This (indicating) is the interior of, uh, a storage area.
22 The photograph was taken due to a suspected projectile having
23 gone through the business and so we photographed the interior
24 of that room because we believed it had passed through that
25 room.

APRIL JANE DEITZ - DIRECT EXAMINATION BY MS. SEAY

1 And that (indicating) appears to be a, uh, looks like
2 where a projectile had struck, I believe it's the door. It's
3 a close-up shot of the hole in the door I believe. Yes,
4 that's (indicating) that's the door.

5 This (indicating) is a side, uh, photograph. I believe
6 that's on the same side facing the Wendy's, would be on the
7 right area and at the bottom there's some, uh, things that
8 were marked that we were interested in that we would get
9 closer to but just an overall photograph of the side.

10 These (indicating) are areas of suspected blood on the
11 sidewalk. Um, I believe that there's -- those are on the
12 sidewalk on the right side of the business that we observed.

13 This (indicating) is a photograph of the, uh, drive-thru
14 area on on that side, um, just a larger photograph to
15 encompass everything.

16 This (indicating) is the actual drive-thru. We were
17 interested in something at the drive-thru so again we start
18 out, work our way in so just an overall of the drive-thru.

19 That (indicating) is the actual, uh, drive-thru window
20 with what appeared to be areas of suspected blood on the, uh,
21 outside of the window and on the, uh, the blocks, the the, uh,
22 bricks.

23 Q. Okay, thank you, Ms. Deitz.

24 MR. SMITH: Think she got one more.

25 MS. SEAY: Oh, I'm sorry.

APRIL JANE DEITZ - DIRECT EXAMINATION BY MS. SEAY

1 BY MS. SEAY:

2 Q. What does -- where where is this (indicating) area?

3 A. This (indicating) is across the street from the business
4 across Pleasantburg Drive at the location that we were
5 informed that the, um, victim was actually taken from that
6 area to the hospital, this is where we were told that he was
7 found so an overall photograph was taken of that area, there
8 was nothing there of evidentiary value other than, um, just
9 the photograph of the location.

10 Q. Okay, thank you.

11 (Two spent shell casings and one unfired round Items AD1,
12 3 and 4 marked State's Exhibit No. 26 for identification.)

13 Q. Alright, I wanna show you an item or I'm gonna show you
14 State's Exhibit 26 which is actually Items AD1, 3 and 4.

15 A. Can I refer to my report for the case?

16 Q. Do you recognize this (indicating)?

17 A. This is the envelope that I packaged, yeah.

18 Q. Okay, and what does it contain?

19 A. I believe ---

20 Q. You wanna open it?

21 A. If it has not been opened, I can tell you based on my
22 page.

23 Q. Okay.

24 A. Items -- I'm sorry, 1, 3 and 4 were items I collected at
25 the scene, I personally collected at the scene, including

APRIL JANE DEITZ - DIRECT EXAMINATION BY MS. SEAY

1 shell casings from a particular location, um, another shell
2 casing from another location which is they're here where where
3 they were picked up at and what type they were and then one
4 unfired round that was also collected from the scene ---

5 Q. So two two shell casings and one unfired round?

6 A. Right.

7 Q. Okay, we're gonna wanna open this so that we can, um, ask
8 that they be introduced into evidence.

9 (Whereupon, the witness opened the exhibit.)

10 Q. Okay, and then would you open each of these, please.

11 A. Yes...

12 (Whereupon, the witness complied.)

13 (Whereupon, a discussion was held off the record.)

14 MS. SEAY: Would you like to see these?

15 MR. SMITH: Yes, ma'am.

16 MS. SEAY: Shell casing.

17 (Whereupon, the defense attorney examined the exhibit.)

18 MS. SEAY: Shell casing, unfired round.

19 MR. SMITH: Alright.

20 BY MS. SEAY:

21 Q. And what did you do with these items after you collected
22 them?

23 A. When they're collected at the scene, they're secured at
24 the scene, taken to the, uh, back to the forensic office. I
25 was responsible for them so they were placed in a secure

APRIL JANE DEITZ - DIRECT EXAMINATION BY MS. SEAY

1 evidence location until which time they can be processed for
2 any type of latent prints and is what I did with them.

3 MS. SEAY: Okay, I'm gonna offer State's Exhibit 26 into
4 evidence at this time.

5 MR. SMITH: (Raises hands in the air.)

6 THE COURT: No objection.

7 (State's Exhibit No. 26, two spent shell casings and one
8 unfired round Items AD1, 3 and 4, admitted into evidence.)

9 BY MS. SEAY:

10 Q. Did you collect any swabbings of of suspected blood at
11 the scene?

12 A. Yes, I did.

13 Q. Where did you collect those swabbings?

14 A. I have two that I collected. Um, Item AD6 was a swab of
15 suspected blood collected from the front sidewalk and AD7 was
16 also a swabbing of suspected blood collected from the exterior
17 side of the drive-thru window.

18 Q. Did you process any of the items you collected for
19 fingerprints?

20 A. Uh, the items that you just showed me, the 1, 3 and 4 I
21 believe it was, were processed for latent prints with negative
22 results.

23 Q. Okay, based on your training and experience are you
24 likely to obtain fingerprints from a fired shell casing?

25 A. In my experience no, likelihood is is no.

APRIL JANE DEITZ - DIRECT EXAMINATION BY MS. SEAY

1 Q. Can you tell us based on your training and experience
2 what are some of the factors that affect your ability to
3 obtain fingerprints.

4 A. When a projectile is fired from or bullet is pr -- fired
5 a gun, there's a heat exchange that occurs durin' that
6 process. Since fingerprints are made of various amino acids,
7 sweat, other things, oils, the heat transaction when the gun
8 is fired, the bullet comes out, tends to burn, evaporate, what
9 have you, any type of evidence such as that so the likelihood
10 of finding prints in my experience I have not, we process all
11 items that come through, that this there were negative results
12 on these so...

13 Q. Let me show you State's Exhibit 28, do you recognize this
14 (indicating) item?

15 A. Yes.

16 Q. How do you recognize it?

17 A. This was a gray t-shirt, sweatshirt, I think it's like a
18 t-shirt, that was at the scene along the ramp area. Um, we
19 did not know who the owner was, it was co -- photographed and
20 collected from the scene at location.

21 Q. Did you secure it in this packaging?

22 A. I did.

23 Q. And what did you do with it after you secured it in this
24 packaging?

25 A. Once it was secured in packaging, it's sent into property

APRIL JANE DEITZ - CROSS-EXAMINATION BY MR. SMITH

1 and evidence, we woulda then placed it in in their P&E to
2 secure it.

3 MS. SEAY: Okay. Your Honor, I'd offer State's Exhibit
4 28 into evidence at this time.

5 MR. SMITH: No objection.

6 THE COURT: Okay.

7 (State's Exhibit No. 28, gray long-sleeve t-shirt,
8 admitted into evidence.)

9 MS. SEAY: Those are all the those I have, Ms. Deitz,
10 please answer any that Mr. Smith might have.

11 CROSS-EXAMINATION BY MR. SMITH:

12 Q. Think you've answered just about everything I got but,
13 uh, the only thing I, you know, I I just had a little concern
14 about it's not your fault but the pictures didn't seem to go
15 down that alley behind the, behind the Wendy's, any pict --
16 any pictures taken behind that alley?

17 A. I'm not familiar with an al -- there's a back parking
18 lot.

19 Q. Yes, ma'am, was a back parkin' lot and I'll show ya right
20 here (indicating) that it's been testified to by Officer Motz
21 and another ---

22 THE COURT: You can step down.

23 Q. Yes, ma'am, you can step down so you can see, ---

24 A. Oh.

25 Q. --- I'm sorry, okay.

APRIL JANE DEITZ - CROSS-EXAMINATION BY MR. SMITH

1 (Whereupon, the witness left the stand.)

2 Q. I can't mark on this anymore but as I understand it
3 there's an alley behind these businesses here (indicating) to
4 here (indicating), ---

5 A. Okay.

6 Q. --- to your knowledge no?

7 A. No.

8 Q. Right, and this wasn't secured either.

9 A. Not to my knowledge.

10 Q. And so if somebody was running down there to get away,
11 that evidence woulda been gone long time ago.

12 A. I -- could be.

13 Q. Could be, right. So I guess the long and the short of it
14 the alleyway was never investigated in this crime.

15 A. It was not investigated by the forensic division.

16 Q. Right, but it mighta been investigated by another unit.

17 A. That could be.

18 Q. Right, and there's a dumpster I think that was -- did
19 ya'll go and swab dumpster because there was a trash can back
20 there where people could lie in wait for somebody to come
21 outta the store?

22 A. We do not.

23 Q. Thank you. Thank you, Officer, I appreciate ya.

24 THE COURT: Anymore questions?

25 MR. SMITH: No more questions, Your Honor.

APRIL JANE DEITZ - CROSS-EXAMINATION BY MR. SMITH

1 MS. SEAY: No more questions for her. May she be
2 excused?

3 THE COURT: Yes, you're released from subpoena.

4 THE WITNESS: Thank you.

5 (Whereupon, the witness left the stand.)

6 THE COURT: Alright, ladies and gentlemen, we've been
7 goin' a pretty good bit, let's take a short break about 15
8 minutes. Don't talk about the case, we'll get right back
9 here.

10 THE BAILIFF: Remain seated please till the jury is out.

11 (The following takes place outside the presence of the
12 jury.)

13 THE COURT: Okay, be at ease.

14 MR. SMITH: Thank Your Honor.

15 (Whereupon, a recess was taken.)

16 (The following takes place in the presence of the jury.)

17 THE COURT: Alright, call your next witness.

18 MR. STEINBERG: Thank Your Honor. State calls James
19 Armstrong.

20 THE CLERK: Mr. Armstrong, please come forward.

21 (Whereupon, the witness came forward.)

22 THE CLERK: Please place your left hand on the Bible and
23 raise your right hand.

24 JAMES WILLIAM ARMSTRONG, having
25 been first duly sworn, testified as follows:

JAMES WILLIAM ARMSTRONG - DIRECT EXAMINATION BY MR. STEINBERG

1 THE CLERK: Thank you, please be seated. Please state
2 your name for the record.

3 THE WITNESS: James William Armstrong.

4 DIRECT EXAMINATION BY MR. STEINBERG:

5 Q. Mr. Armstrong, what is your current title?

6 A. I'm a criminalist employed by Greenville County
7 Department of Public Safety Forensic Division Crime
8 Laboratory.

9 Q. What is your highest level of education?

10 A. I have a bachelor's degree in chemistry from Erskine
11 College.

12 Q. The the term "criminalist" what does that entail?

13 A. Um, I have a, I have a dual responsibility as a forensic
14 firearms examiner and a forensic drug chemist.

15 Q. In regards to the forensic firearms examiner, what what
16 does that job entail?

17 A. Entails lookin' at firearms, identifyin' makes, models,
18 serial numbers, uh, doin' serial number restoration if the
19 numbers have been obliterated, comparing fired evidence such
20 as fired cartridge casings and projectiles to firearms or to
21 themselves and reporting my findings from there.

22 Q. Who is your employer? What is the title of your
23 employer?

24 A. It's Greenville County Department of Public Safety
25 Forensics Division Crime Laboratory.

JAMES WILLIAM ARMSTRONG - DIRECT EXAMINATION BY MR. STEINBERG

1 Q. And how long have you been in that agency?

2 A. I've been employed a little over 16 1/2 years.

3 Q. And how long total do you have in law enforcement?

4 A. Almost 19 years.

5 Q. And what kinda specialized training, if any, do you have
6 in your field of forensic and ballistic examination?

7 A. I have trained as a an apprenticeship-type training
8 process from a retired firearms examiner from Philadelphia
9 Poli -- Police Department, I've attended 13 firearm
10 manufacturing facilities where I watched the manufacturing of
11 the firearms and their components from raw material to the
12 finished product, I've attended four different ammunition
13 manufacturing and assembly plants where I got to see the
14 ammunition bein' processed from raw material to finished
15 product as well, I've attended four different armor schools to
16 learn how to work on various types of firearms, I have had
17 over 240 hours of microscope training, I have, uh, attended
18 numerous training facilities; uh, and courses from the Bureau
19 of Alcohol, Tobacco and Firearm, Explosives and I have
20 testified as an expert in that field of firearm identification
21 30 times in federal and state courts.

22 Q. Do you regularly keep up with advancements and changes in
23 your field?

24 A. Yes, sir, I do.

25 Q. Does your tri -- does your training include the

JAMES WILLIAM ARMSTRONG - DIRECT EXAMINATION BY MR. STEINBERG

1 examination of not just the firearms but the projectiles and
2 fired projectiles?

3 A. Yes, sir, it does.

4 MR. STEINBERG: Your Honor, the State would move that
5 Mr. Armstrong be qualified as an expert witness in the field
6 of firearms and ballistics.

7 MR. SMITH: No objection, Your Honor.

8 THE COURT: Okay, so admitted.

9 BY MR. STEINBERG:

10 Q. Mr. Armstrong, did you have an opportunity to review any
11 of the items in this case?

12 A. Yes, sir, I did.

13 Q. I'm gonna hand you up some of the do -- some of the items
14 that have been introduced. You had a chance to to review and
15 examine what's been marked as ---

16 (Whereupon, a discussion was held off the record.)

17 Q. --- well you have it marked as, in very small print, SV1
18 projectile, could you please tell the jury what that is.

19 A. Yes, sir, Item SV1 is a, uh, is listed on our property
20 sheet a suspected projectile, it is actually a fired bullet
21 core constructed a led, weighs 135.8 grains, um, it's
22 consistent with a caliber range of .38 9 millimeter up to .45.

23 Q. I'm gonna ask you to look at what's been marked as what
24 you have listed as you'll read the, uh, markings on there.

25 Is that one a the items that you introduced or examined?

JAMES WILLIAM ARMSTRONG - DIRECT EXAMINATION BY MR. STEINBERG

1 A. Yes, sir, it is.

2 Q. And what item is that?

3 A. This is item AD3.

4 Q. Okay, and were you able determine what AD3 is?

5 A. AD3 is a fired cartridge case marketed by Hornady in
6 caliber .10 millimeter auto bearing a block-type firin' pin
7 impression.

8 Q. I'm going to show you another item, please tell me how
9 it's been marked and what the item is.

10 A. It's marked as Item AD4. This is a cartridge marketed by
11 Hornady in caliber .10 millimeter auto, has a brass case,
12 copper jacketed hollow point projectile.

13 Q. Okay. Can you tell if that particular item has been, uh,
14 placed into and removed from a weapon?

15 A. Yes, sir, it has been.

16 Q. And how are you able to determine that?

17 A. By looking at, uh, microscopic marks on the the casing
18 and on the the rim area here (indicating) able to tell had
19 extractor and trajectory marks.

20 Q. Was the round fired?

21 A. No, sir.

22 Q. Do you know why it was not fired?

23 A. Have no idea.

24 Q. I'm gonna show you this additional item, please identify
25 what it is and the code number you have.

JAMES WILLIAM ARMSTRONG - DIRECT EXAMINATION BY MR. STEINBERG

1 A. Item AD1 it is a fired cartridge case marketed by Hornady
2 in caliber .10 millimeter auto bearing a block-type firing pin
3 impression.

4 Q. I'm gonna show you State's Exhibit No. 25, you please
5 identify what State's Exhibit No. 25 is.

6 A. This is, this is a copper jacketed, uh, fired bullet
7 jacket, uh, caliber's consistent with .10 millimeter 40, this
8 is my Item Number A, has general rifling characteristics of
9 six land and grooves, a right-hand twist, they're polygonal.

10 Q. Did you compare any of these items to each other?

11 A. Yes, sir, I did.

12 Q. And what were you able to determine if ---

13 A. The Item AD1 and AD3 fired cartridge casings were fired
14 in the same firearm, the Item AD4 cartridge was chambered in
15 and extracted from the same firearm as Items AD1 and 3.

16 Q. Thank you. I'm gonna try to go then to, uh, more
17 layman's man, uh, language. The unfired bullet that you looked
18 at, was that fired -- well pardon me, was that from the same
19 weapon that the fired rounds were from?

20 A. Yes, sir, it was chambered in and or it was placed in and
21 removed from the same firearm.

22 Q. The item that was listed as SB1 what was that?

23 A. Um, SB1 was a fired bullet core constructed of lead.

24 Q. Were you able to or or are you able to see if that is a
25 weapon that would be fired from the same -- from the same type of

JAMES WILLIAM ARMSTRONG - DIRECT EXAMINATION BY MR. STEINBERG

1 instrument as the, um, bullet projectiles and bullet
2 casings?

3 A. No, I could not.

4 Q. Is it -- is the size of it consistent with a .10
5 millimeter though?

6 A. It is within that range, yes.

7 Q. The copper jacket that you looked at, what was that, um,
8 determined to be, what caliber, if anything, were you able to
9 determine was that from?

10 A. The Item A fi -- copper fired bullet jacket was caliber
11 .40/10 millimeter, had a general rifling characteristics of
12 six lands and grooves, a right-hand twist and the rifling was
13 polygonal which is consistent with firearms such as Glock,
14 Heckler & Koch IMI and Kahr Arms and possibly some others.

15 Q. In your report as far as the copper jacket from a firearm
16 projectile, were you able to determine what general caliber
17 that would be consistent with?

18 A. Yes, sir, it's, uh, consistent with a .40/.10
19 millimeter.

20 Q. Okay. In this case did you submit any of your
21 information to any databases?

22 A. Yes, sir, I did.

23 Q. What what database and what was the purpose for this?

24 A. The item AD1 was submitted to what is known as the
25 Integrated Ballistic Identification System or it also known as

JAMES WILLIAM ARMSTRONG - DIRECT EXAMINATION BY MR. STEINBERG

1 NIBIN, National, uh, Integrated Ballistic Identification
2 Network. It is basically a a database where unknown cases or
3 cold cases have evidence placed in 'em such as or the images
4 of fired cartridge casings and projectiles. The fired
5 cartridge case of AD1's images were placed into this database
6 to see if this firearm or if this firearm had been used in
7 another crime or if this firearm actually recovered at another
8 location.

9 Q. And have gotten any notice from this database?

10 A. No, sir, we have not.

11 MR. STEINBERG: Beg the Court's indulgence.

12 THE COURT: Alright.

13 MR. STEINBERG: You don't have State's Exhibit No. 25 not
14 been introduced yet?

15 COURT REPORTER: Nope.

16 MR. STEINBERG: Okay. Your Honor, the State would move
17 to introduce State's Exhibit No. 25 which has previously been
18 examined.

19 MR. SMITH: That's the little bullet thing?

20 THE WITNESS: Think he has it.

21 MR. SMITH: I think -- okay, can I test the witness on
22 that just a little bit before I, uh, uh, ---

23 THE COURT: Well what's your, what's ---

24 MR. SMITH: The only question I got was, Your Your Honor,
25 on it he said it correlated, he didn't say from a reasonable

JAMES WILLIAM ARMSTRONG - DIRECT EXAMINATION BY MR. STEINBERG

1 degree of firearm expertise that this bullet actually came
2 from it. I'm certain it probly did come from the gun though
3 but just have to be a little technical sometime.

4 THE WITNESS: Which item, sir?

5 MR. SMITH: I think he's talkin' about this little bullet
6 in the little round thing right here (indicating)?

7 THE WITNESS: That is a, that is a bullet core, yes.

8 MR. SMITH: Bullet core?

9 THE WITNESS: Yes.

10 MR. SMITH: Okay, and you're say -- he's sayin' it's
11 correlated, are you sayin' it actually came from one a those
12 shells?

13 THE WITNESS: No, sir, I am not.

14 MR. SMITH: That's what I'm talkin' about. I think at
15 this time I'll have to object.

16 THE COURT: Well this is the one that's been testified it
17 came outta the wall inside the Burger King?

18 MR. STEINBERG: Yes, sir.

19 THE COURT: Over your objection, I'm gonna let it in.

20 MR. SMITH: Thank Your Honor.

21 (State's Exhibit No. 25, copper jacket, admitted into
22 evidence.)

23 MR. STEINBERG: Beg the Court's indulgence.

24 BY MR. STEINBERG:

25 Q. Just want to confirm these shell casings you determined

JAMES WILLIAM ARMSTRONG - DIRECT EXAMINATION BY MR. STEINBERG

1 their both Hornaby .10 millimeter that could be fired from a
2 Glock?

3 A. That's correct.

4 Q. And you said you have checked that is consistent with
5 being fired from a Glock?

6 A. It is consistent, yes.

7 Q. And the unfired projectile what we've got, how 'bout if
8 we call it just a full bullet, is that also consistent with a
9 .10 millimeter or is ---

10 A. It is, ---

11 Q. --- that a .10 millimeter?

12 A. --- it is a .10 millileter [sic].

13 Q. And that was fir -- that was extruded from the same
14 weapon that fired the two fired projectiles?

15 A. That's correct.

16 MR. SMITH: I have no objection, Your Honor, if he wants
17 to introduce all that save some time.

18 MR. STEINBERG: The State has no further questions. Um,
19 State's 25 has been introduced?

20 THE COURT: Yes.

21 MR. STEINBERG: Thank you. Thank Your Honor.

22 THE COURT: Did ya move to introduce the other ones?

23 MR. SMITH: Yeah, I have no objection.

24 MR. STEINBERG: Yes, sir, everything should be introduced
25 all the items we're referring.

JAMES WILLIAM ARMSTRONG - CROSS-EXAMINATION BY MR. SMITH

1 MR. SMITH: Your Honor, may I just ask him one question?

2 THE COURT: Sure, you can ask him all you want.

3 CROSS-EXAMINATION BY MR. SMITH:

4 Q. Okay, uh, Officer, this Glock thing, what -- where can ya
5 purchase these Glocks from?

6 A. Basically any firearm store within within United
7 States.

8 Q. Okay, sir, and there's no way actually from this bullet
9 stuff to pin down which Glock was bought from whatever store
10 unless you find the Glock itself?

11 A. Unless we actually have the firearm, there's no way to
12 compare it.

13 Q. And it's not really a military issued type weapon, is it?
14 It's more like for consumer?

15 A. The .10 millimeter is typically used more for sporting
16 rounds, uh, some people do purchase it for home defense and
17 personal protection but typically the .10 millimeter because
18 of its size is used for like sporting or hunting type.

19 Q. And I think and for ya'll to be complete ya'll looked at
20 a whole list a names of people who might have purchased guns
21 in South Carolina and other places to find out who -- Glock or
22 sumtin'?

23 A. I don't know if they did or not, sir.

24 Q. Okay, I appreciate ya.

25 A. Sure.

JAMES WILLIAM ARMSTRONG - CROSS-EXAMINATION BY MR. SMITH

1 Q. Thank you. Thank Your Honor.

2 THE COURT: Anything else?

3 MR. STEINBERG: No further questions, Your Honor.

4 THE COURT: Can I release him from subpoena?

5 MR. SMITH: Yes, sir.

6 THE COURT: Alright, thank you.

7 THE WITNESS: Thank you.

8 (Whereupon, the witness left the stand.)

9 THE COURT: Alright, Mr. Foreman, ladies and gentlemen of
10 the jury, I've been informed that those are all the witnesses
11 that are here and ready to go today and so we're gonna break
12 for the day and ask ya'll to be back at say about 9:15 in the
13 morning, is that okay with everybody?

14 (No response.)

15 THE COURT: Okay. And we'll be prepared to go. Now let
16 me just tell ya you might have noticed that there is a video
17 camera in the courtroom and, I mean, maybe some of you saw it,
18 I don't know, and I wanna assure you that none of your
19 pictures will be on televised anyway, they don't take, they do
20 not even take your picture, okay, that's by court order so
21 don't worry about that but the main thing I wanna remind you
22 of is that you are not to discuss this with anyone and you're
23 not to look at the -- any television coverage, you're not to
24 look at read the paper if there's somethin' in the paper,
25 anything like that. I hope I've been clear that the only

MOTIONS AND MATTERS

1 thing that your decision at the end a this case should be
2 based on is what the e -- is the evidence that's presented in
3 this courtroom so don't go online and do some research. Let
4 me tell ya where and a different county had had somebody do
5 that, they they get on Facebook, some a these social media
6 things and communicate about it, just don't do that. If you
7 protect these rights, you're protecting your own rights,
8 that's how vital it is so with that I hope ya'll have a
9 pleasant evening and button up, I think it's gonna be a little
10 chilly tomorrow. Alright, thank you.

11 (The following takes place outside the presence of the
12 jury.)

13 THE COURT: Alright, anything before we break?

14 MR. SMITH: Nothin', Your ---

15 MR. STEINBERG: Your Honor, I'd like ---

16 MR. SMITH: --- Honor.

17 MR. STEINBERG: You can break, I'd like to approach with
18 Mr. Smith while ---

19 THE COURT: Alright.

20 MR. STEINBERG: We -- af -- after you release the --
21 everyone else.

22 THE COURT: Oh, okay, we'll be in recess.

23 (Whereupon, a recess was taken.)

24 (Proceedings November 6, 2012)

25 (Autopsy report marked State's Exhibit No. 30, photograph

MOTIONS AND MATTERS

1 marked State's Exhibit No. 31, Photograph marked State's
2 Exhibit No. 32, Photograph marked State's Exhibit No. 33,
3 Google Map marked State's Exhibit No. 34, Google Earth Map
4 printout marked State's Exhibit No. 35 and Google Map marked
5 State's Exhibit No. 36 for identification.)

6 (Whereupon, a discussion was held off the record.)

7 THE COURT: Alright, ya'll ready to go?

8 MR. SMITH: Yes, sir.

9 THE COURT: Okay.

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

11 (The following takes place in the presence of the jury.)

12 THE COURT: Alright, ladies and gentlemen, welcome back.
13 Hope ya'll had a pleasant evening. My apologies to ya, I
14 would not have asked you to be here this soon, I -- 'cause I
15 didn't think about what today is so I hope -- has everyone had
16 a opportunity to vote? Well we'll make sure that you get an
17 opportunity to get there, lines are pretty long this mornin'
18 so...okay, ready to go?

19 MS. SEAY: Yes, sir.

20 THE COURT: Alright.

21 MR. STEINBERG: Your Honor, the State calls Dr. Michael
22 Ward.

23 THE COURT: Okay.

24 (Whereupon, the witness came forward.)

25 THE CLERK: Sir, please place your left hand on the Bible

DR. MICHAEL EUGENE WARD -- DIRECT EXAMINATION BY MR. STEINBERG

1 and raise your right hand.

2 DR. MICHAEL EUGENE WARD, having
3 been first duly sworn, testified as follows:

4 THE CLERK: Thank you, please be stated. Please state
5 your name for the record.

6 THE WITNESS: Michael Eugene Ward.

7 DIRECT EXAMINATION BY MR. STEINBERG:

8 Q. Dr. Ward, could you please tell the jury what your
9 occupation is and what your title is.

10 A. I'm a physician and I'm a forensic pathologist and I am
11 the chief medical examiner for Greenville County.

12 Q. You please tell the jury about your medical training.

13 A. I received my bachelor's degree in biology from the
14 University of Alabama, I have a master's degree in forensic
15 science from the University of Alabama in Birmingham. I
16 received my medical degree from the University of South
17 Alabama which is in mobile. I did a 4-year anatomic pathology
18 residency at the Medical University of South Carolina in
19 Charleston and a 1-year fellowship in forensic pathology at
20 the University of New Mexico. I'm board certified by the
21 American Board of Pathology in both anatomic and forensic
22 pathology.

23 Q. You said a a master's degree in forensic sciences, could
24 you tell the jury what that means.

25 A. Yes, my master's program basically dealt with learning to

DR. MICHAEL EUGENE WARD - DIRECT EXAMINATION BY MR. STEINBERG

1 interpret forensics information to gather data, dealing with
2 toxicology, dealing with wound interpretation as well as
3 several courses in the presentation of in the courtroom.

4 Q. Approximately how many autopsies have you performed in
5 your career?

6 A. Well over 3,000.

7 Q. Have you ever been qualified as an expert witness in a
8 criminal trial in your field?

9 A. Yes, I have.

10 MR. STEINBERG: State moves to qualify Dr. Ward as an
11 expert in the field of forensic pathology.

12 THE COURT: Any *voir dire*?

13 MR. SMITH: Yes, sir. Yeah, we know Dr. Ward, he's well
14 qualified. Thank you.

15 THE COURT: Alright, without without objection.

16 BY MR. STEINBERG:

17 Q. Dr. Ward, you conduct a an autopsy of the victim in this
18 case Mr. Marvelin Isaac Bass?

19 A. Yes, I did.

20 Q. You tell the jury when you conducted it.

21 A. The autopsy was on January 27th 2007 and began at 8:30
22 a.m.

23 Q. Can you please identify his race, his approximate age as
24 well as his height and his weight.

25 A. Mr. Bass was an adult Caucasian male 205 pounds, 70

DR. MICHAEL EUGENE WARD - DIRECT EXAMINATION BY MR. STEINBERG

1 inches and appeared that his stated age of 22 years.

2 Q. You prepare a report in this case?

3 A. Yes, I did.

4 Q. I'm gonna show you what's been marked as State's Exhibit
5 Number 30, please identify this document.

6 A. State's Exhibit 30 is a copy of my autopsy report on
7 Mr. Bass.

8 Q. Does it include your findings?

9 A. Yes, it does.

10 MR. STEINBERG: The State would move to introduce State's
11 Exhibit No. 30.

12 MR. SMITH: No objection, Your Honor.

13 THE COURT: Okay.

14 (State's Exhibit No. 30, autopsy report, admitted into
15 evidence.)

16 BY MR. STEINBERG:

17 Q. As part of your autopsy, did you examine the body?

18 A. Yes, I did.

19 Q. And what did you determine as far as the death of
20 Mr. Bass?

21 A. That Mr. Bass died as a result of a gunshot wound of the
22 neck.

23 Q. Were you able to determine the direction in which the
24 rounds were fired?

25 A. Yes, I was.

DR. MICHAEL EUGENE WARD - DIRECT EXAMINATION BY MR. STEINBERG

1 Q. Please tell the jury.

2 A. Mr. Bass had a entrance gunshot wound to the right side
3 of the neck which exited the left side of the neck so the
4 direction was from his right to his left.

5 Q. Was there any notation involving a movement up or down?

6 A. That it was very slightly upward. The entrance was 9
7 inches from the top a the head, the exit was 8 inches from the
8 top a head so during the distance of the width of his neck it
9 moved to one inch very slightly upward.

10 Q. Gonna show you what's been premarked, ---

11 MR. SMITH: I've seen 'em, I've seen 'em.

12 Q. --- premarked as State's Exhibit No. 31, 32, and 33,
13 please identify these photographs, please.

14 A. State's Exhibit 33 is a photograph of Mr. Bass taken at
15 the au -- time of autopsy which we call an identification
16 photograph, it has his unique autopsy number and basically
17 shows the front of his face but also visible are the wounds to
18 both the right and the left side of the neck. State's Exhibit
19 31 is a close-up photograph of the gunshot wound of entrance
20 to the right lateral -- I'm sorry, to the right side of his
21 neck and State's Exhibit No. 32 is a photograph of the gunshot
22 wound of exit to the left side of Mr. Bass's neck.

23 MR. STEINBERG: Your Honor, State would move to introduce
24 these items, ---

25 MR. SMITH: No objection, Your Honor.

DR. MICHAEL EUGENE WARD - DIRECT EXAMINATION BY MR. STEINBERG

1 THE COURT: Alright.

2 MS. STEINBERG: --- publish them to the jury.

3 (State's Exhibit Nos. 31, 32 and 33, photographs,
4 admitted into evidence.)

5 BY MR. STEINBERG:

6 Q. I'm showing you State's Exhibit No. 32, just tell the
7 jury what this photograph is.

8 A. State's Exhibit 32 is a photograph of the gunshot wound
9 of exit to the left side Mr. Bass's neck.

10 Q. I'm going to show you State's Exhibit No. 31, please
11 identify that document.

12 A. It's a photograph of the gunshot wound of entrance to the
13 right side of Mr. Bass's neck.

14 Q. Let me show you State's Exhibit No. 33 and please do the
15 same.

16 A. This is the photograph of the face of Mr. Bass primarily
17 for identification purposes but it also demonstrates the
18 entrance wound on the right, the exit wound on the left which
19 also shows the upward projection.

20 Q. In your experience would injuries such as these have
21 allowed Mr. Bass to speak ---

22 A. Well ---

23 Q. --- after gu -- gunshot?

24 A. --- well this particular gunshot wound the path of the
25 the missile through the neck includes the the larynx at the

DR. MICHAEL EUGENE WARD - DIRECT EXAMINATION BY MR. STEINBERG

1 level of the trachea with disruption of the vocal cords so not
2 only would there have been extensive bleeding with him, with
3 bleeding into the tissues of the trachea and the airway but
4 also the the vocal cords were disrupted. I would not expect
5 Mr. Bass to have been able to speak.

6 Q. Same question as to his ability to run, would he have
7 been able to live for a while after this gunshot?

8 A. Certainly. While this gunshot wound involved vital
9 structures, vessels in the neck, the trachea, there was
10 nothing that would; one, physically have kept him from being
11 able to mobilize, either walk or to run and nothing that would
12 have caused him to die instantaneously so he basically bled
13 out aspirated blood into his lungs and died as a result of
14 that and would certainly have been able to ambulate.

15 Q. Please turn the lights on, please.

16 (Whereupon, the bailiff complied.)

17 Q. When you looked at the wounds in this case, were you able
18 to determine a type of caliber that was used or a class or
19 family of calibers that were used?

20 A. The specific caliber I was not able to determine. There
21 are certain -- no, I basically divide them into small caliber
22 and medium caliber and there are large caliber weapons but
23 they're very rarely seen in in this setting. This would fall
24 into the category of a medium caliber missile that passed
25 through Mr. Bass's neck.

DR. MICHAEL EUGENE WARD - DIRECT EXAMINATION BY MR. STEINBERG

1 Q. What are some of the rounds that would be considered
2 medium caliber?

3 A. The most common ones are the .38, 9 millimeter, 10
4 millimeter, .40 caliber even up to the .45 caliber.

5 Q. Did you do any microscopic examination of the victim's
6 body?

7 A. Yes, I did.

8 Q. Uh, did you determine anything from that examination?
9 Did you examine for gun gun powder?

10 A. We took microscopic sections of the tissue surrounding
11 both the entrance wound and the exit wound looking for the
12 presence of gunshot residue on the skin surrounding the
13 entrance wound. The missile we all know -- understand that the
14 missile exits the barrel of the gun when the weapon is
15 discharged, other objects also exit the barrel of the gun as
16 well: soot and unburned gun powder, um, d -- ex -- exit the
17 barrel of the gun and if the we -- weapon is close enough to
18 the skin, this may deposit itself on the skin so
19 microscopically we looked at the skin surrounding this one and
20 saw no evidence of gunshot residue on the outer surface of the
21 skin surrounding either the entrance wound or the exit wound.
22 Looking at the tissues beneath the skin of this wound, there
23 were, uh, two different classes of foreign material. There
24 was foreign material that was long, thin and refractile in
25 that it changed color un -- a certain way under the microscope

DR. MICHAEL EUGENE WARD - DIRECT EXAMINATION BY MR. STEINBERG

1 that it would refract light back. These were consistent with
2 particles of clothing where the missile went through the
3 jacket, carried some particles of clothing with it into the
4 wound and and even out the other side of the neck and so we
5 had fiber material in the right side a the neck as well as the
6 left side a the neck, that was one class of foreign material
7 that we saw. The second class was this black granular
8 non-refractile foreign material that was present within the
9 soft tissues beneath the entrance wound and the exit wound,
10 this is material that was being carried by the missile from
11 the weapon itself, this, um, basically gunshot residue that
12 has deposited itself on the missile and is deposited as it
13 goes through the soft tissues of the neck so it was on both
14 the right and the left side associated with the entrance wound
15 and the exit wound.

16 Q. Does that information give you any indication as to the
17 range by which the shooter was from the victim?

18 A. It's -- the information is negative information in that
19 there's no gunshot residue deposit on the skin surrounding the
20 entrance wound would put this at greater than 2 to 3 feet.

21 Q. Outside of excluding the 2 to 3-foot range, do you have
22 any idea of how how close they were?

23 A. No, I do not.

24 Q. As part of your role as a medical examiner, did you
25 review the toxicology reports of the victim?

DR. MICHAEL EUGENE WARD - CROSS-EXAMINATION BY MR. SMITH

1 A. Yes, I did.

2 Q. What is a toxicology report and what did it show?

3 A. A urine drug screen performed on Mr. Bass was negative.

4 Q. Dr. Ward, were you able to determine within the bounds of
5 reasonable medical certainty what caused the death of Marvelin
6 Isaac Bass?

7 A. Yes, I was.

8 Q. Please tell the jury what that was.

9 A. Mr. Bass died as a result of a gunshot wound of the neck.

10 Q. What was his manner of death?

11 A. His manner of death was homicide.

12 Q. Thank you, Dr. Ward, please answer any opposing counsel's
13 questions.

14 MR. SMITH: Your Honor, may it please the Court, I just
15 got a few questions.

16 THE COURT: Okay.

17 CROSS-EXAMINATION BY MR. SMITH:

18 Q. Doctor, this was a tragic event you and I, uh, both agree
19 with regard to this young man ---

20 A. Yes.

21 Q. --- and those pictures will indicate that that we just
22 saw.

23 A. Yes, they would.

24 Q. And I guess what you were trained to be objective
25 whenever you're conducting autopsies?

DR. MICHAEL EUGENE WARD - CROSS-EXAMINATION BY MR. SMITH

1 A. Ye -- yes, I am.

2 Q. And you're trained not to be inflamed by what you view in
3 terms of pictures and the actual body that you are dissecting.

4 A. That is correct.

5 Q. In regard to your professional training, you were
6 professional with what you did with Mr. Bass as well, is that
7 correct?

8 A. That is correct..

9 Q. And, uh, and the fact is that the autopsy tells us the
10 manner, mode of death but it can't tell us who actually shot
11 this young man, can it?

12 A. In this case it did not.

13 Q. Right, and it can't tell us that they ha -- were any
14 fibers transferred from one person to another person like if
15 they were close and they were fighting and and fibers came off
16 this other person onto him, we d -- we don't have any a that
17 information, do we?

18 A. None that were collected at autopsy, no.

19 Q. And we don't have any fluids that may have somebody maybe
20 when they're fighting they may spit on someone, we don't have
21 any fluids to give us any DNA evidence in that regard either,
22 do we?

23 A. None that were collected at autopsy, no.

24 Q. And basically when my my my my, uh, prosecutor friend
25 over here said forensics, that that that includes making a

DR. MICHAEL EUGENE WARD -- CROSS-EXAMINATION BY MR. SMITH

1 scientific analysis of evidentiary items and then being able
2 to express them into a court of law, that's what the forensics
3 part is, isn't it?

4 A. That's correct.

5 Q. And also I believe that the conclusion that we can reach
6 based on the testimony is not only that the manner of death
7 was by homicide but it was not by point blank range that this
8 young man was murdered.

9 A. That is correct.

10 Q. Thank you, Office -- thank you, Doctor.

11 MR. STEINBERG: Thank you, Dr. Ward. We ask that
12 Dr. Ward be released from subpoena.

13 THE COURT: You you are released from subpoena. Thank
14 you, Doctor.

15 THE WITNESS: Thank you.

16 (Whereupon, the witness left the stand.)

17 MR. STEINBERG: State calls Detective Sergeant Dan
18 Fuller.

19 THE CLERK: Sergeant Fuller, please come forward.

20 (Whereupon, the witness came forward.)

21 THE CLERK: You'll please place your left hand on the
22 Bible and raise your right hand.

23 DANIEL C. FULLER, having been
24 first duly sworn, testified as follows:

25 THE CLERK: Thank you, please be seated. Please state

DANIEL C. FULLER - DIRECT EXAMINATION BY MR. STEINBERG

1 your name for the record.

2 THE WITNESS: Uh, Daniel C. Fuller, ---

3 THE CLERK: Thank you.

4 THE WITNESS: --- F-U-L-L-E-R.

5 DIRECT EXAMINATION BY MR. STEINBERG:

6 Q. Sergeant Fuller, could you please tell the jury what your
7 current title is and what your role is.

8 A. I'm currently assigned to the Operations Division, we are
9 the uniform patrol officers on the street. I am a sergeant on
10 platoon.

11 Q. How many years in law enforcement do you have?

12 A. Uh, nineteen.

13 Q. What was your title and role in January of 2007?

14 A. I was a detective, investigator of violent crimes.

15 Q. Had you worked murder cases in that role?

16 A. I have yes, sir.

17 Q. Approximately how many had you worked?

18 A. Approximately thirty-five.

19 Q. When were you promoted to sergeant?

20 A. In August of 2007.

21 Q. As it relates to the case involving Marvelin Isaac Bass,
22 what was your role?

23 A. I was assigned as the lead investigator at that time.

24 Q. Do you respond to this crime scene on the night in
25 question?

DANIEL C. FULLER - DIRECT EXAMINATION BY MR. STEINBERG

1 A. Yes, I did.

2 Q. What was -- what were some of your roles in that case at
3 that time on the night in question?

4 A. I I initially talked to the first officers on the scene
5 find out what they've learned, uh, speak to any s -- find,
6 identify and speak to any witnesses who may have been present
7 and interview them at depth, review the crime scene, uh, and,
8 uh, try to look for and obtain evidence to identify shooter.

9 Q. Did you walk or observe the area around the Wendy's?

10 A. Yes, I did.

11 Q. Same question concerning where the body was located.

12 A. The body was located several feet away from the store.
13 When I arrived the body had already been transported. I spoke
14 to the first officer who located it, his name was Officer
15 Jeremiah Motz. After speaking with, uh, Officer Motz, he had
16 identified three potential witnesses. There were some young
17 teenage males in a vehicle that saw the victim and some other
18 people running from that area. Uh, ---

19 Q. Did you speak to, um, any other witnesses?

20 A. Uh, yes, I did.

21 Q. Okay.. Did you search for evidence that night in the
22 crime scene or the dot -- the victim's body was found?

23 A. Yes, we did.

24 Q. Did you search for evidence any place else?

25 A. At the store inside and outside, um, where the body was,

DANIEL C. FULLER - DIRECT EXAMINATION BY MR. STEINBERG

1 up and down the sidewalks around, behind and in front of the
2 business. Um, based on witness testimony there were some
3 people seen running from the scene behind some area buildings
4 and towards an apartment complex and so we searched around
5 those buildings and around those apartment complexes.

6 Q. And what was the apartment complex that was closest to
7 this?

8 A. Mallard Cove Apartment Complex at Villa Road.

9 Q. Did any other other investigators, uniform officers
10 assist you in this ---

11 A. Yes, they did.

12 Q. --- your search?

13 A. Yes.

14 Q. Were ya able to locate any evidence ---

15 A. Did not.

16 Q. --- on the night in question? After speaking with all
17 your, all the witnesses on the night in question, did you have
18 an idea of who you were looking for?

19 A. No, we did not.

20 Q. Okay. Did you have a description of, a general
21 description of of people in the area?

22 A. Uh, that night?

23 Q. Yes, sir.

24 A. Our best evidence led us to believe we were searching for
25 two black males.

DANIEL C. FULLER - DIRECT EXAMINATION BY MR. STEINBERG

1 Q. Did you have a canine unit available to you?

2 A. We did.

3 Q. And was the canine unit of any assistance in this
4 matter?

5 A. No, it was not.

6 Q. And what was the reason for that?

7 A. We had no, uh, the the canine, not bein' a canine
8 expert, ---

9 Q. Yes, sir.

10 A. --- from the guidance that I've been given by the
11 handlers, canine needs a a scent cloth or initiation point to
12 have a scent to trace and track. Uh, if they don't know what
13 they're lookin' for, they have nothing to follow and we did
14 not have, uh, that type of evidence available to start the dog
15 with.

16 Q. Okay. Did you go back out to the scene on the 27th
17 during daylight hours?

18 A. I did.

19 Q. And what was your intention, uh, durin' daylight hours?

20 A. To re-canvass the area. Uh, this happened, uh, in the
21 early morning hours, it was dark so we went back daylight,
22 retraced all our steps adding additional steps tryin' to find,
23 locate something that would help clue us in on this case.

24 Q. You said the word "canvassing", what does canvassing
25 mean?

DANIEL C. FULLER - DIRECT EXAMINATION BY MR. STEINBERG

1 A. It's when you're just out lookin' for everything and
2 anything that you can find that might clue you into someone
3 having been there or that might lead you to identify someone
4 who was there where they are the perpetrator or a witness.
5 We're just walking, lookin' for somethin' dropped, someone
6 outside that may have seen or heard, basically we're visible
7 and we're out trying to find something, anything, nothing
8 particular but anything that might be of value.

9 Q. Okay. Did you locate anything during the daylight hour
10 search?

11 A. Nothing additional.

12 Q. And did other officers assist you?

13 A. They did.

14 Q. Did anyone search for videos in neighboring businesses?

15 A. Yes.

16 Q. Who searched and and was anything discovered?

17 A. Several detectives responded to the Wendy's store that
18 night. Uh, one of the detectives that assisted me on that
19 case was Detective Bobby Bradford, that was one of the tasks
20 delegated to go to all of the businesses on Pleasantburg Drive
21 up and down both sides of the road and, uh, obtain and inquire
22 about videos or cameras that may have recorded that were
23 outside their businesses. I think he located one video that
24 had nothing to offer.

25 Q. Okay. After you did the search durin' daylight hours,

DANIEL C. FULLER - DIRECT EXAMINATION BY MR. STEINBERG

1 did you follow up on any leads? How active were you in in
2 looking for evidence in this case?

3 A. Quite.

4 Q. Who was your your primary partner in this case?

5 A. Uh, Tanya Ebanena (phonetic).

6 Q. And what is her role now? Where does she live?

7 A. She presently resides in the State of Pennsylvania
8 working for the FBI.

9 Q. She an agent?

10 A. She is.

11 Q. Did you interview any of the victim's family members?

12 A. I did.

13 Q. Did you interview any Wendy's employees?

14 A. Yes.

15 Q. Do you obtain any other information from Wendy's?

16 A. Nothing that would lead me to identify our perpetrator.

17 Q. Okay, still ask that same question though, did you ask
18 them about their store hours?

19 A. Yes.

20 Q. Did you get for them an employee list and employee
21 numbers?

22 A. Yes.

23 Q. Did you go to the local apartment complexes in that area
24 and, uh, conduct any investigation there?

25 A. Yes.

DANIEL C. FULLER - DIRECT EXAMINATION BY MR. STEINBERG

1 Q. What, if anything, did you obtain?

2 A. From Mallard Cove I spoke to management and maintenance
3 staff, also obtained a tenant list of everyone who lived
4 there.

5 Q. Did you speak to any other apartment complex managers?

6 A. Yes, the apartment complex that's next to Mallard Cove is
7 called Fairway Club Apartments, uh, spoke to management and
8 maintenance staff there also, uh, did not obtain a tenant list
9 from that apartment complex.

10 Q. Did you examine any of the items that were seized by the
11 forensics officers?

12 A. Yes.

13 Q. Do you have the unfired cartridge tested for DNA, the
14 still whole bullet basically?

15 A. No.

16 Q. And, um, ---

17 A. Wait -- pardon, the unfired.

18 Q. Yes, sir, the unfired, that what I would call a still
19 whole bullet.

20 A. Yes, that was.

21 Q. Okay, and what were the results?

22 A. No DNA available.

23 Q. Okay. Can a fired cartridge, that means a spent bullet,
24 can that be tested for DNA?

25 A. In my experience and discussions with forensics experts,

DANIEL C. FULLER - DIRECT EXAMINATION BY MR. STEINBERG

1 DNA has never been recovered from a fired cartridge and we did
2 not recover any.

3 Q. Already show you what's been marked as State's Exhibit
4 No. 25 listed by law enforcement as Item A, you please
5 identify this document, this item.

6 A. Yes, this is a projectile jacket from a fired bullet, um,
7 it's a made substantially copper. Um, if you ever hear the
8 term a "jacketed round", it's typically a lead bullet that has
9 a copper coat around the bullet and this is the copper coat.

10 Q. And where did ya'll obtain that and from who did ya'll
11 obtain that?

12 A. This was obtained from one of the management staff at the
13 Wendy's, her name is Gloria Shelton, took it from her. She
14 located it at the restaurant, uh, under the door that had been
15 fired through at the scene where the victim was, near where
16 the victim was shot.

17 Q. In your experience did you see any reason to have this
18 sent for DNA or fingerprint testing?

19 A. No, sir.

20 Q. What is your reasoning behind that?

21 A. It is a fired projectile and, uh, from my experience and
22 mentoring from forensic experts, no DNA or prints have ever
23 been recovered from a fired shell casing or bullet. The high
24 temperatures burn off any oils that are left which is what the
25 fingerprints are consist of.

DANIEL C. FULLER - DIRECT EXAMINATION BY MR. STEINBERG

1 Q. Did you speak to James Armstrong in this case?

2 A. I did.

3 Q. The jury's already heard from him but please remind them
4 what his role was.

5 A. He was the forensic examiner on the evidence of this case
6 relating to firearms.

7 Q. After getting his information and reading his reports,
8 what, if anything, were ya able to do with that information?
9 Did you, did you contact any other agencies?

10 A. Uh, yes.

11 Q. What was your reasoning behind that?

12 A. Uh, we were able to determine the make and caliber of the
13 weapon used in this case based on his examination, uh, that
14 was determined to be a Glock brand 10 millimeter handgun.

15 Q. With that information were you able to go to any local
16 establishments or, uh, any other databases and and conduct any
17 further investigation?

18 A. Yes.

19 Q. Please tell the jury.

20 A. Uh, we went through all police records that we could
21 locate to determine Glock 10 millimeter handguns that had been
22 either bought, sold, pawned or stolen in our circuit. Uh,
23 it's a unique gun, not very common. We located I believe
24 around seven of those weapons, uh, gave that information to,
25 uh, an ATF liaison with the Greenville Police Department to

DANIEL C. FULLER - DIRECT EXAMINATION BY MR. STEINBERG

1 investigate the ownership and attempt to locate those weapons
2 for examination.

3 Q. Did you get any useful information outta that case, ---

4 A. No.

5 Q. --- investigation? Do you conduct, uh, contact any pawn
6 shops in this case, this matter?

7 A. We did.

8 Q. What was your reasoning behind that?

9 A. Attempt to locate, uh, anyone who may have been buying 10
10 millimeter ammunition of late.

11 Q. Okay, you get any useful information that helps you in
12 solvin' this case?

13 A. No, we did not.

14 Q. Moving away from the firearm itself, did you con --
15 contact the media and is that part of your normal duties?

16 A. Uh, that is delegated to a public information officer,
17 yes.

18 Q. Was that done in this case?

19 A. Yes, it was.

20 Q. And and what was the reasoning behind contacting the
21 media?

22 A. We were looking for public assistance. We did not have
23 much information to solve this case, we needed assistance. We
24 needed additional leads, the ones we have were not fruitful.

25 Q. You said public, I'm ask you about, um, agency, do you

DANIEL C. FULLER - CROSS-EXAMINATION BY MR. SMITH

1 contact any other agencies?

2 A. Yes, we do.

3 Q. And what was your reasoning behind that?

4 A. Uh, we were looking for similar crimes, uh, information
5 about what crimes used with a weapon similar to ours, anyone
6 that's been arrested or for a violent crime that may have
7 alluded to having knowledge of our case.

8 Q. Okay. Did any of these techniques you used were they
9 able to to give you useful information?

10 A. No, sir.

11 Q. Think you may have told me this toward the beginning but
12 when did you get promoted and moved to Uniform Patrol?

13 A. August of 2007.

14 Q. What was this case listed as when you left?

15 A. Active and unsolved.

16 Q. Thank you, Sergeant Fuller, please answer any opposing
17 counsel's questions.

18 MR. SMITH: Your Honor, may it please the Court.

19 THE COURT: Yep.

20 CROSS-EXAMINATION BY MR. SMITH:

21 Q. Good mornin', Officer.

22 A. Good mornin', sir.

23 Q. Officer, uh, in this investigation I do think that you
24 spoke to several eyewitnesses that actually saw the gentlemen
25 or whoever these people were runnin' down the street ---

DANIEL C. FULLER - CROSS-EXAMINATION BY MR. SMITH

1 A. Correct.

2 Q. --- and I think they gave some detail information about
3 what these people looked like as they were runnin' down the
4 street, their approximate height, clothing, things a that
5 nature?

6 A. They did.

7 Q. And I think one of the persons was a Patrice Amy Lindsey?

8 A. I remember speaking with her.

9 Q. Okay, I notice that she's not on the witness list right
10 here but she was a pretty good witness because she actually
11 was the one that could identify the runners inside the
12 apartment complex?

13 A. Um, she described three people that she observed running
14 from the scene yes, sir.

15 Q. Alright, and then I think there was another young man by
16 the name of Montoya, do you remember that name?

17 A. I do.

18 Q. He gave some description of these two individuals who
19 were runnin' down the street as well, correct?

20 A. That's that's right.

21 Q. And the people you were lookin' for that night were not
22 people who had on short pants, is that correct?

23 A. I do not recall any descriptions of someone wearin'
24 shorts, no, ---

25 Q. Right, ---

DANIEL C. FULLER - CROSS-EXAMINATION BY MR. SMITH

1 A. --- correct.

2 Q. --- and the the fact a the matter is it was in January,
3 it was cold that night, wasn't it?

4 A. It was.

5 Q. And the, uh, the, uh, temperature, do you recall what the
6 temperature, I know you probly can't 'cause I can't recall
7 what the temperature was yesterday, but it was cold, is that
8 correct?

9 A. I remembér it bein' cold, yes.

10 Q. And so and also in this case although the State has what
11 they call 'em missiles and projectiles, we're talkin' about
12 bullets in layman's terms, aren't we?

13 A. Yeah.

14 Q. And that's the way I understand it, bullets. We don't
15 have any guns in this case that match up to these bullets
16 right here (indicating), do we?

17 A. We do not.

18 Q. And we don't have a murder weapon whatsoever.

19 A. Not to my knowledge.

20 Q. I notice Mr. Montoya's not on the witness list too and,
21 uh, let's see, the other thing then is there were no other
22 eyewitnessss besides those two individuals, possibly a man
23 driving a car and Mr. Restrepro [sic] who testified yesterday,
24 correct?

25 A. I'm not familiar ---

DANIEL C. FULLER - REDIRECT EXAMINATION BY MR. STEINBERG

1 Q. Now you can't, I mean, you don't have all your notes
2 there, I understand that so I'm not tryin' to trap ya anything
3 but there was a fella named Restrepo who ya'll interviewed out
4 there at the scene that night who act ---

5 A. Right. Okay.

6 Q. Thank you very much.

7 A. Okay.

8 REDIRECT EXAMINATION BY MR. STEINBERG:

9 Q. Brief, very briefly. Sergeant Fuller, concerning the
10 description of Patrice Lindsey, do you remember that
11 investigation ---

12 A. I do.

13 Q. --- or that interview?

14 A. I do.

15 Q. Was one a the three people our victim?

16 A. Yes.

17 Q. Now in the tally, uh, once you interviewed everybody out
18 there, did you have one solid description not knowing who it
19 was but one solid description of the individuals that were
20 running?

21 A. No, I did not.

22 Q. And because a that information what what, if anything,
23 were you able to, uh, consider or conclude?

24 A. The witnesses that we interviewed were basically Patrice
25 Lindsey who is, uh, southbound on Pleasantburg Drive in a

DANIEL C. FULLER - RECROSS-EXAMINATION BY MR. SMITH

1 vehicle, she described two persons. We also interviewed three
2 young males in a vehicle headed northbound on Pleasantburg,
3 they described two persons. What I determined and was
4 confused about ---

5 Q. Yes, sir.

6 A. --- the descriptions of the people in these two vehicles
7 did not match. Both saw two people that we surmised were
8 assailants but they did not match. It was as if we were
9 lookin' at two groups, three people. I still remember talking
10 with my fellow partners on this case, it was as if Patrice
11 Lindsey had seen two different people than the three young
12 males at the scene, they weren't consistent descriptions.

13 Q. Thank you, Sergeant Fuller.

14 RECROSS-EXAMINATION BY MR. SMITH:

15 Q. Let me ask this question too, Officer: The two in both
16 vehicles though they were describing people who were runnin'
17 down the street in front of this young man who had been shot,
18 is that correct?

19 A. Yes.

20 Q. And the fact is when you called out the people to go and
21 look around Mallard Cove Apartments, how much time did it take
22 for you to get that call to go to Mallard Cove Apartments?

23 A. Well we were at Mallard Cove that night and again the
24 next morning and several times in the next several days and
25 weeks.

DANIEL C. FULLER - RECROSS-EXAMINATION BY MR. SMITH

1 Q. Right, and the long and the short of it though is we
2 don't have Pali -- Tri -- Patrice Lindsey in here to give us
3 under oath what her description was that night, do we? She's
4 not on the witness list, that's all I'm say.

5 A. Okay.

6 Q. Thank you.

7 THE COURT: Alright, what?

8 MR. STEINBERG: We have no further questions for this
9 wi ---

10 THE COURT: Okay. Alright, thank you, sir, you can step
11 down.

12 THE WITNESS: Thank you. ---

13 MR. STEINBERG: Your Honor, we would ask that, uh,
14 Sergeant Fuller be released from subpoena.

15 THE COURT: Any objection?

16 MR. SMITH: Oh, no objection.

17 THE COURT: Okay.

18 MR. SMITH: Thank you, Officer.

19 THE COURT: Thank you.

20 MR. STEINBERG: Thank Your Honor.

21 (Whereupon, the witness left the stand.)

22 THE COURT: Okay, call your next witness.

23 MS. SEAY: State calls Detective Collis, uh, Flavell.

24 THE COURT: Alright.

25 (Whereupon, the witness came forward.)

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 THE CLERK: Sir, please place your left hand on the Bible
2 and raise your right hand.

3 COLLIS FLAVELL, having been first
4 duly sworn, testified as follows:

5 THE CLERK: Thank you, be seated. Please state your name
6 for the record.

7 THE WITNESS: It's Collis Flavell, F-L-A-V-E-L-L.

8 THE CLERK: Thank you.

9 DIRECT EXAMINATION BY MS. SEAY:

10 Q. Detective Flavell, where are you employed?

11 A. Uh, Greenville City Police Department.

12 Q. And what's your occupation there?

13 A. I'm a investigator in the Crimes Against Persons Unit.

14 Q. How long have you been in that position?

15 A. Approximately fifteen years.

16 Q. Uh, what sorts of crimes against persons do you
17 investigate?

18 A. Any violent crime that involves a person as a victim, um,
19 assault and battery, uh, first degree, second degree, ABHAN,
20 assault and battery intent to kill, murder, criminal sexual
21 conduct, kidnappin', carjackin', um, any violent crime.

22 Q. Does that include murders?

23 A. Yes.

24 Q. Okay. Um, what's your, um, training, education to
25 perform your duties?

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 A. Uh, South Carolina, uh, Police Academy, um, Greenville
2 Tech, um, and I've been to numerous homicide schools, um,
3 evidence collection schools, um, investigative schools
4 throughout my career.

5 Q. Do you know approximately how many murder cases you've
6 handled?

7 A. A little over a hundred.

8 Q. And in 2007 what was your title?

9 A. Investigator in the Violent Crimes Unit.

10 Q. Did you have any involvement with this case in 2007 when
11 it happened?

12 A. I was not an active investigator in this case, no.

13 Q. And, um, I believe Detective Fuller just testified that
14 this case was ultimately listed as unsolved, is that
15 correct?

16 A. It was.

17 Q. When were you assigned to work on this case?

18 A. I think around 2009 is when it was affi -- if I can
19 explain that. It was officially reassigned to me, um, not as
20 an active, um, I still had all my other cases and working
21 cases, that this was just an unsolved homicide that was
22 sittin' there, um, and they assigned it to me, um, so it would
23 have a name attached to it but I wasn't per se actively
24 workin' this case in 2009.

25 Q. Okay. Do -- does your agency have a cold case review

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 team?

2 A. We do.

3 Q. And what's the purpose of that?

4 A. In 2010, latter part a 2009, 2010 we started what we
5 call, we phrase it "cold case review team" and each cold case
6 that we have in our department was assigned to a Crimes
7 Against Persons investigator, several of us got more than one,
8 and basically what the goal in that unit was is to go through
9 the unsolved cases, try to get 'em in some kind of order, uh,
10 review the evidence, review the case itself and see if there's
11 any active leads that we could potentially work on to try to
12 solve that case.

13 Q. So what did you do to begin your investigation on this
14 case involving Isaac Bassed -- Bass's death?

15 A. When I got assigned this case, it was a lot of paperwork,
16 ya know, it's actually a big box, a big banker box. Um, the
17 prior investigation in this case was a lot of, um, leads and
18 notes and there wasn't a lot of official police supplementals
19 or reports to go along with that, um, so what I did is I went
20 through, uh, started goin' through the file, um, tryin' to
21 categorize information that was in the file and I started
22 doin' supplemental reports, police reports on each lead in
23 that file to determine what it was, if it was active, if was
24 closed. Um, that one thing I did is is I notified the family,
25 actually, in in two thousand, January of 2010 or a little bit

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 before that I was given the opportunity to work solely on the
2 Wendy's case, stopped all of my active cases, they gave me one
3 month to do nothin' but to get this case up to speed, get the
4 file together, I notified the family, I spoke with Jeff and
5 Valerie Creel who was Isaac's mother and stepfather, um, they
6 became, um, active in the investigation.

7 Q. How did they become active in the investigation?

8 A. They were wanting to, uh, do something, um, and they came
9 up with an idea that they were gonna have an auction and Jeff
10 and Valerie were soliciting businesses, people for items to
11 hold at this auction to raise the reward money to try to get
12 some information on the murder. Um, durin' that auction, uh,
13 Channel 4, I believe it was Channel 4, um, Channel 7 and the
14 newspaper got involved and Greenville News ran an article in
15 that paper the day before the auction which I believe was
16 January the 25th 2010 is when the article was ran in the
17 Greenville News and in the bottom a that article they listed
18 Jeff and Valerie Creel's phone number for anyone who wanted to
19 donate to the auction to contact them directly.

20 Q. Did you receive any information after this media
21 publicity?

22 A. I did. On the night of, um, January 25th, I don't recall
23 the exact time, um, it was about eight or nine o'clock at
24 night, Jeff Creel, Isaac's stepfather, called my cell phone
25 and was very excited and had stated that he had just received

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 a phone call from a person, a female, who stated that she had
2 information on who killed Isaac Bass and he asked me if I
3 would contact her and gave me a phone number to call.

4 Q. Did you contact her?

5 A. I did.

6 Q. And as a result of that, what kind of information did you
7 receive?

8 A. Oh, as as a result a that phone call, it's kinda where
9 this lead started through my investigation, as a result a that
10 phone call, I started looking for Jerome Love and Kendel
11 Love.

12 Q. Okay, and what did you do, um, in your, uh, research or
13 investigation to locate those two individuals?

14 A. As a result of the information I received, um, I started
15 doin' some research on Jerome Love and Kendel Love. Um, just
16 through normal process I located a female by the name of
17 Corliss Orlena Loye and I went and spoke with her.

18 Q. Approximately when did you go speak with her?

19 A. Wanna say it was February.

20 Q. Okay, did you tell her what you were working on?

21 A. I did not originally no, I did once I met with her in
22 person.

23 Q. Alright, when you met with her in person did you advise
24 her what you were there for?

25 A. I did.

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 Q. Uh, what was her demeanor or her reaction when you told
2 her?

3 A. When I went there, I I I made phone contact with her the
4 day before and told her I wanted to come speak with her, she
5 agreed to speak with me so the next morning, um, I went to her
6 house, um, went in, we sat down living room and like I say,
7 per the prior conversation I told her that I was investigating
8 sumtin' that Jerome and Kendel may have been involved in, uh,
9 several years ago. When I got there, I explained to her that
10 it was, I was workin' the the, uh, murder at Wendy's and she
11 immediately reacted to that information, she started cryin',
12 she was holdin' her head down, I I ex -- just explained to her
13 that she needed to talk to me.

14 Q. Okay, and did you speak with her, without saying what she
15 said, you, did you speak with her that day?

16 A. I did.

17 Q. Did she indicate that somebody else had information that
18 might ---

19 A. She did.

20 Q. --- be useful to you?

21 A. She did.

22 Q. Who was that person?

23 A. Her daughter Jalisa [sic] Neal.

24 Q. Okay, and what did you do as a result of learning that?

25 A. I spoke with Jalisa Neal.

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 Q. Okay, did you take a statement from her?

2 A. I did.

3 Q. As a result of the statement that you took from her, um,
4 where did your investigation lead you?

5 A. After speakin' with Jalisa Neal, um, it actually led me
6 back to the file. Information I received from her I was
7 lookin' for a set of twins that lived at Villa Road,
8 Mallard Cove Apartments at the time of the murder. Detective
9 Fuller during the original investigation luckily instead of
10 just obtaining a occupant list from the management he went
11 through Mallard Cove's occupant file and hand wrote each
12 apartment because on the occupant list it has basically who
13 pays the rent there and no no further information, in the file
14 it has every person that lives in that apartment includin'
15 children, vehicles attached, where they work. He had gone
16 through each apartment and hand wrote the -- that information
17 on notebook paper and that was in the file so I went back, uh,
18 reviewed the file, um, there were actually three sets of twins
19 that lived at Mallard Cove but only one set that would have
20 been of age of who we were lookin' for and that led me to
21 Ricky and Rashad Simmons in Fort Benning, Georgia.

22 Q. Alright, and backin' up just a little bit, um, when you
23 were in this part of your investigation, did Korey Love's name
24 come up?

25 A. It did.

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 Q. Okay. Now you said that your investigation led you to
2 Ricky and Rashad Simmons in Fort Benning, Georgia, did you
3 research that to find out where they were?

4 A. I did.

5 Q. What did you do next?

6 A. I drove to Fort Benning, Georgia.

7 Q. Did anybody accompany you?

8 A. Sergeant Kelly Riggs who was the sergeant over the
9 Violent Crimes Unit at that time.

10 Q. Okay, and I believe he's now retired, is that correct?

11 A. He is.

12 Q. Where is Fort Benning, Georgia?

13 A. It's I'm gonna say southeast Georgia past Atlanta down
14 I-75.

15 Q. Okay, did you notify Ricky and Rashad Simmons or any of
16 their family members that you were comin' to talk to them?

17 A. I did not.

18 Q. Did you go to their home?

19 A. I did.

20 Q. What did you observe when you got there?

21 A. When we arrived at Fort Benning, Georgia I had CID agents
22 assigned to the base were assisting us in maneuvering around
23 the base. The original address that I had for Ricky and
24 Rashad when we got to that address the house was vacant. CID
25 was able to locate another house on base where they were

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 livin', they had moved to a larger, a larger on base housing.
2 We arrived, went -- walked up to the front door, the door was
3 open, had a screen door or a storm door that was closed. I
4 could see, um, I didn't know who he was at the time but later
5 identified as Ricky Simmons was sittin' in the livin' room
6 watchin' TV.

7 Q. Alright, what did you do?

8 A. Uh, knocked on the door. Ricky came to the door, told
9 him who I was, told him I was from Greenville, South Carolina
10 and asked him if I could talk to him about a case I was
11 workin' and he agreed to talk and invited us in.

12 Q. Okay, and, um, when you went in, did you take a statement
13 from him?

14 A. I did.

15 Q. How did you take a statement from him, uh, when you were
16 not in your office?

17 A. I had my laptop and a portable printer, I took it into I
18 I would cl -- I would say it was a dining room area, um, we
19 set it up at the table and conducted our interview in his
20 house.

21 Q. Who was present?

22 A. Myself, Ricky and Sergeant Riggs.

23 Q. Before you talked with him or while you talked with him
24 did you give him any information whatsoever about this
25 crime?

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY.

1 A. No.

2 Q. Did you tell him anything about who might be involved
3 at -- or any knowledge that you had at that time about who
4 might be involved or anything like that?

5 A. Prior to the interview?

6 Q. Yes.

7 A. No.

8 Q. Were you able to speak with Ricky's twin Rashad?

9 A. I was.

10 Q. And how did that come about?

11 A. When we arrived of course we were lookin' to talk to
12 Ricky and Rashad. Rashad was not home at the time, he was I
13 believe, I can't remember if he was at soccer or volleyball,
14 his sister's tr -- a track meet, he was gone to his sister's
15 track meet, um, accordin' to Ricky. Um, probly almost like
16 five minutes before concluding our interview with Ricky Rashad
17 showed showed up at home. Sergeant Riggs at that time left
18 the interview with me and went out and spoke with Rashad and
19 told Rashad while we were there and asked if he was willin' to
20 talk to us, he stated he was, um, so as soon as we finish with
21 Ricky then Rashad basically they just switch places.

22 Q. Did you interview Rashad separately?

23 A. I did.

24 Q. Was Ricky present?

25 A. He was not.

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 Q. Okay. Did you take a statement from Rashad?

2 A. Yes, I did.

3 Q. Detective Flavell, this (indicating) is State's Exhibit
4 34, do you recognize this?

5 A. I do.

6 Q. How do you recognize it?

7 A. It has my signature on it, um, and Rashad Simmons'
8 signature.

9 Q. Okay, what is it?

10 A. It's a, basically just a Google Map printout of which
11 shows 291, um, area of the Mallard Cove Apartments and the
12 Wendy's.

13 Q. Did you use that as part of your interview with Rashad
14 Simmons?

15 A. I did.

16 Q. And how did you do that?

17 A. Durin' the interview with Rashad based on the information
18 he gave me, um, I asked him to draw his path to the Wendy's.

19 Q. Okay, and did he do that for you?

20 A. He did.

21 Q. And did he sign that map?

22 A. Yes, he did.

23 MS. SEAY: Okay. Your Honor, I'd offer this into
24 evidence at this time.

25 MR. SMITH: No objection.

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 THE COURT: Alright, without objection.

2 (State's Exhibit No. 34, Google Map, admitted into
3 evidence.)

4 BY MS. SEAY:

5 Q. Detective Flavell, what was your next course of action?

6 A. Based on the interview with Ricky and Rashaad Simmons, um,
7 I then started looking for Rashida Peters, um, Korey Love and
8 Jarod Ransom.

9 Q. Had you heard the name Jarod Ransom before?

10 A. I had.

11 Q. In what regard?

12 A. When -- I didn't realize I had. When I was interviewing
13 Corliss Love, um, when I was trying to identify who the twins
14 were, Corliss told me that her son had gone to school with
15 twins and he was currently in the military. Um, I asked her
16 if she had any contact with him, she said he called home
17 frequently. I asked her when he called if she would ask her
18 son who the twins were and she said that she would and at that
19 time she told me her son's name was Jarod, um, didn't really
20 think a lot about it then until after the interview with Ricky
21 and Rashad, um, we was actually drivin' down Interstate 85 and
22 kinda hit me who Jarod was. I actually asked Sergeant Riggs
23 to pull over, uh, on the side a the interstate so I could get
24 my file and when I flipped through my file I saw the name
25 Jarod and I realized that that meant at that point that Jarod

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 Ranson was Corliss Love's son.

2 Q. Okay, and based on everything that you had learned at
3 that point, what did you do in regard to Korey Love?

4 A. I signed warrants on Korey Love.

5 Q. Okay, what were the warrants for?

6 A. For murder, attempted armed robbery, possession of a
7 weapon durin' a violent crime and possession of a weapon under
8 the age 18.

9 Q. At that time had you interviewed or did you have any
10 information from Jarod Ransom?

11 A. I did not.

12 Q. Um, were those warrants served on Kar -- Korey Love?

13 A. They were.

14 Q. Can you describe how that took place.

15 A. I wanna say warrants were issued; we started lookin' for
16 Korey and, um, at that point in my investigation I knew that
17 Rashida Peters and Korey Love were dating and from the
18 employee records that Detective Fuller, um, or Sergeant Fuller
19 got from Wendy's, um, Rashida Peters was an employee at
20 Wendy's at the time of the murder. I went to Rashida Peters'
21 address lookin' for Korey Love.

22 Q. And, uh, did you eventually ha -- make contact with Korey
23 Love?

24 A. I did.

25 Q. Where was that?

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 A. Actually at the Law Enforcement Center. When I was at
2 Rashida Peters' apartment, I spoke with her mother, um, Sandra
3 Ancrum, um, and I don't know exactly how much time had passed,
4 I received a phone call that Korey Love, Rashida Peters,
5 Sandra Ancum -- Ancrum and there was a un -- an unidentified
6 female with them had came to the Law Enforcement Center.

7 Q. Alright, so they're at the Law Enforcement Center and did
8 you then have an opportunity to interview Korey Love?

9 A. I did.

10 Q. Please describe that process.

11 A. Once they were at the Law Enforcement Center, I took 'em
12 upstairs in the detective division, we have like a a lobby
13 much like a doctor's office waiting area, I placed everybody
14 in that waiting area and I took Korey to, we have two separate
15 interview rooms that are set up, basically they're just a 12
16 by 12 room with a set a chairs and a table, um, and we went in
17 one a the interview rooms, um, and I interviewed him.

18 Q. These are State's Exhibits 1 and 2 for identification and
19 tell me if you recognize State's Exhibit 1.

20 A. I do.

21 Q. What is that?

22 A. It's a a rights waiver, Greenville Police Department
23 Rights Waiver, um, signed by me and Korey Love.

24 Q. Is that a standard form that the Greenville Police
25 Department uses?

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 A. Yes, it is.

2 Q. Please explain the process that you went through with
3 that waiver of rights form with Korey Love.

4 A. Um, the first thing I do, um, with anybody that I am
5 interviewing advise them of their rights is I obtain some
6 personal and educational history from that person, it's
7 elementary but even the spelling of their name. I ask them to
8 spell their name for me, I spell it out at the top a the form,
9 get their age, their date a birth and their educational level
10 and where they went to high school or college if they have
11 college and I document that at the top a the form. I then ask
12 the person that I'm interviewing to read the first line of the
13 form out loud to me. Once they read that, I ask them if they
14 understand it, they say if they do, I ask 'em to initial that
15 line, I then ask 'em to read the rest a the form, initial each
16 line if they understand it. At the bottom of the rights form,
17 there's a waiver of your rights, there's a word "coercion" is
18 in there, um, I circle that word, ask the person if they
19 understand the word "coercion", most people don't, it's just
20 not a word that we use very often, I explain the word
21 "coercion" the dictionary definition of that word is force and
22 there's two types of coercion: mental or physical. Once they
23 acknowledge that they understand that, they read the waiver,
24 um, initial the waiver and then sign the form if they're
25 willin' to talk at that time.

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 Q. Okay, did he sign the form?

2 A. He did.

3 MS. SEAY: Okay. Your Honor, I would offer State's
4 Exhibit, is that No. 1, into evidence at this time.

5 MR. SMITH: No objection, Your Honor.

6 THE COURT: Okay.

7 (State's Exhibit No. 1, waiver of rights form, admitted
8 into evidence.)

9 BY MS. SEAY:

10 Q. Okay, after he signed the form or let me ask you this
11 way, um, at at some point when you were talking with Korey
12 Love, did you tell him what you were there to talk to him
13 about?

14 A. Yes.

15 Q. Can -- do you remember what you told him?

16 A. I told him his name came up, uh, in the Wendy's murder.

17 Q. Did you explain that he was a suspect in the Wendy's
18 murder?

19 A. Yes.

20 Q. And were you able to take a statement from him?

21 A. Yes.

22 Q. Okay, look at State's Exhibit No. 2, is that the
23 statement you took from him?

24 A. It is.

25 Q. Okay, and, uh, would you explain the process you used to

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 take a statement from from a suspect.

2 A. Basically when we're sitting in an interview room, um, as
3 we're talkin' we're, um, then we took -- take notes, we have
4 now have computer jacks in those rooms where we can actually
5 take our computer in there and do the statement as we're in
6 there, back then we didn't. Um, once we're completed the
7 statement I type it up, take it back to him, he reads it and
8 then signs the statement.

9 Q. Alright, and you took that statement from him?

10 A. I did.

11 MS. SEAY: And, uh, I would offer State's Exhibit No. 2
12 into evidence at this time.

13 MR. SMITH: No objection.

14 THE COURT: Okay.

15 (State's Exhibit No. 2, Korey Love's statement, admitted
16 into evidence.)

17 BY MS. SEAY:

18 Q. Um, what does the statement say?

19 A. Basically that he knew nothing about the Wendy's murder
20 and had no involvement in it.

21 Q. Okay. Did he tell ya anything else?

22 A. Korey Love?

23 Q. Um-hum.

24 A. No.

25 Q. Okay. Uh, do you recall what his demeanor was during

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 this process?

2 A. Um, just every every question I tried to ask him about
3 the Wendy's murder it was, I don't know what you're talkin'
4 about, it was a very short interview. Um, every time I
5 started to ask him a question he'd say, I don't know anything
6 about the murder, um, so that's why the statement is is what
7 it is and, um, once the statement was signed then we talked to
8 Rashida Peters after that.

9 Q. Alright, um, let me ask you at this point in time did you
10 determine his age at the time of the murder in 2007, in
11 January of 2007?

12 A. I did.

13 Q. How old was he then?

14 A. Seventeen.

15 Q. Okay, um, how did you make that determination?

16 A. Uh, I believe it was South Carolina DMV, um, a driver's
17 license or ID.

18 Q. Okay.

19 A. Um, ---

20 Q. Alright, so you said you then spoke with Rashida Peters,
21 she had come to the Law Enforcement Center with Korey Love?

22 A. She had.

23 Q. Okay, so you spoke with her on that same day?

24 A. I did.

25 Q. Did you take a statement from her?

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 A. I did.

2 Q. And as a result of that what did you do?

3 A. Tryin' to think of my next step.

4 Q. Did you ---

5 A. Durin' durin' the, uh, initial interview with Rashida,
6 um, I had a second interviewer, um, interview her, um, after I
7 interviewed her originally.

8 Q. Okay. Did you take another statement from Rashida
9 Peters?

10 A. I did.

11 Q. During the course of this whole investigation, did you
12 ever charge Rashida Peters with a crime?

13 A. I did not.

14 Q. Did you ever have any, uh, direct evidence to implicate
15 her in this crime?

16 A. I did not.

17 Q. Did you investigate any other names that came up in the
18 investigation?

19 A. I did.

20 Q. Can you name some of the people that you made contact
21 with.

22 A. Dontavius Sullivan, Original Mustafa, Richard Parker,
23 Kristina Lockwood, Eva Mills via New York City PD.

24 Q. Wait, what do you mean by that?

25 A. One of the names that came up during the investigation

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 was Eva Mills. Through my investigation I found out that Eva
2 was living in, um, and I don't know if I'm gonna pronounce
3 this right, it's Central Islip, New York, um, and I contacted,
4 um, an agency in that jurisdiction, um, and requested that
5 they go interview Eva Mills for me which they did.

6 Q. Okay, and all these people that you talked to did you
7 take statements from from all of them?

8 A. I did except Eva Mills.

9 Q. Okay, and but you had information about the interview,
10 that the New York, um, agency did with Eva Mills, correct?

11 A. Yes, I did.

12 Q. Did any of those people have any knowledge of the
13 crime?

14 A. Um, every person I talked to denied any knowledge of the
15 Wendy's murder.

16 Q. Did you make any efforts in 2010, even though the crime
17 had occurred in 2007, did you make any efforts to try to
18 locate the murder weapon?

19 A. I did.

20 Q. What did you do?

21 A. Early on, um, kinda when I was puttin' the file together,
22 um, I ran pawn records from January 2007 till December 2007,
23 printed out every gun that was pawned in Greenville County,
24 then went through those records and identified any Glock 10
25 millimeter and started tryin' to track those guns down which

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 was unsuccessful. I did find one Glock 10 millimeter in a
2 pawnshop, I went and picked it up, had it tested and that
3 results were negative. Later in my investigation there was
4 information that the murder weapon was possibly thrown in a
5 sewer drain, um, not particularly which sewer drain but just a
6 sewer drain. I contacted, uh, Brian Watson who's a city
7 engineer over storm water and drainages and talked, spoke with
8 him, I then spoke with a supervisor of storm water drains, um,
9 basically told him what information we had, the date and
10 basically the chances a that gun being in a storm water drain
11 at this point, from the flow of water I was told it's just
12 about impossible that the gun would still be there. I took
13 the four, four apartment complexes: Villa Road, 65 Villa
14 Road, 15 Villa Road, 260 Pelham Road and 3, I believe it's 300
15 Pelham Road, just in those four complexes there's 60 storm
16 water drains. Um, ---

17 Q. Let me stop you and ask you what are the names of those
18 apartment complexes the addresses you just gave?

19 A. Um, Fifteen Villa Road is Mallard Cove, uh, Churchill
20 well back then it was Churchill, I'm not -- it's changed names
21 two or three times now, um, 260 and 300 Pelham Road, um, is
22 Churchill Apartments, um, and 65 Villa, um, but I cannot think
23 a the name right now.

24 Q. Okay, and so you were saying there's 60 drains.

25 A. Sixty storm water drains just in the complex that are

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 private drains basically, um, I learned that those drains,
2 some drains go to the pond at Mallard Cove, um, some drains go
3 to the natural creeks, um, that are in the area. I went to,
4 actually Public Works came out with a camera 'cause that they
5 use to check storm water drains, we checked several drains in
6 the 65 Villa Road apartment complex with the camera and all
7 the drains were clean, um, clean, nothing in 'em and that was
8 explained to me that because of the water flow the drains stay
9 clean. I then walked a creek, um, there's a par-3 golf course
10 right off a Villa Road and you can see it when you're coming
11 in 385 that separates Mallard Cove Apartments and 65 Villa
12 Road. I went to, and actually there's a backside of 260 and
13 300 Pelham Road and there's a creek, um, I walked that creek,
14 um, just lookin' for any runoff or drains coming into that
15 creek.

16 Q. Okay, did you find anything?

17 A. I did not.

18 Q. Did you ever meet with a Demetrius Antwon Jackson?

19 A. I did.

20 Q. And who is that?

21 A. Uh, Demetrius Jackson, um, from my investigation lived,
22 at the time of the murder lived at, um, Churchill Apartments
23 and Korey, Jerome, Korey's father and Kendel lived with, um,
24 Demetrius and Leslie Jackson.

25 Q. When you met with Mr. Jackson, was it after Korey Love

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 had been arrested for these crimes?

2 A. Yes, it was.

3 Q. Alright. Um, did he ha -- did Mr. Jackson have any
4 connection to Jerome Love?

5 A. Uh, Jer -- he was, Demetrius was I'm I'm assumin' a some
6 kinda manager at Bonefish Grill where Jerome worked and also
7 allowed Jerome, Korey and Kendel to move in, um, with him, his
8 wife Leslie and their children.

9 Q. Okay, did you take a statement from him?

10 A. I did.

11 Q. Let me ask you if you had any further contact with Ricky
12 Simmons or Rashad Simmons.

13 A. I did.

14 Q. Um, approximately when was that?

15 A. I believe it was in the mid part of April.

16 Q. Of 2010?

17 A. 2010. I went back to Fort Benning, Georgia and
18 re-interviewed Ricky Simmons.

19 Q. Why did you do that?

20 A. In the -- in his original statement, um, he was dishonest
21 about, um, where he was at the time a the murder.

22 Q. Uh, and how -- di -- how did you determine that?

23 A. Based on the information I had, um, from Jalisa Neal, uh,
24 Ricky Simmons or Rashad Simmons, um, I knew that Ricky, um,
25 had actually left his apartment that night, um, and started

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 towards the Wendy's, um, and in his original statement to me,
2 um, he left that part out. He stated he was in his room, that
3 he never actually left his apartment and he heard the
4 gunshots, um, from his window, um, I knew that to be
5 inaccurate.

6 Q. Alright, so you went to meet with him again, did you
7 confront him?

8 A. I did.

9 Q. Um, what what did you tell him?

10 A. I explained to him, I explained to him that, um, he
11 needed to tell us the truth, that I knew, um, from his own
12 brother's statement that, um, he had more of a active role
13 than what he had originally told us and, uh, while I was
14 talking to him his his, uh, his whole demeanor changed, um, he
15 got quiet and I just told him if you -- you need to tell us
16 the truth and he said, Okay, I'll tell ya, and, uh, basically
17 his line was, he said, Really I I I thought I told ---

18 MR. SMITH: Your Honor, I lo -- I love this officer but,
19 I mean, I let li -- te -- hearsay get in, they get up there
20 testify on that.

21 THE COURT: Yeah, okay.

22 BY MS. SEAY:

23 Q. Without sayin' what he told you did you take another
24 statement from him?

25 A. I did.

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 (Whereupon, defense counsel examined an exhibit.)

2 MR. SMITH: No objection to this either, Your Honor.

3 MS. SEAY: Okay, this is State's Exhibit 35 and there's
4 no objection, um, to its entry into evidence, is that correct?

5 MR. SMITH: Right, ---

6 MS. SEAY: Okay, ---

7 MR. SMITH: --- no objection.

8 MS. SEAY: --- so we'll offer it into evidence and I will
9 ask you if you recognize it.

10 (State's Exhibit No. 35, Google Earth Map printout,
11 admitted into evidence.)

12 THE WITNESS: I do.

13 BY MS. SEAY:

14 Q. What is it?

15 A. It's a Google Earth Map printout of the same area as
16 before: 291 Villa Road, the Wendy's and that area.

17 Q. Okay, and what did you do with that Google Map?

18 A. Uh, I had Ra -- Ricky Simmons, uh, draw his path on the
19 night a the murder, um, towards the Wendy's.

20 Q. And did he do that?

21 A. He did.

22 Q. Uh, did he sign that map?

23 A. Yes, he did.

24 Q. Did you tell Ricky and Rashad Simmons anything about
25 bein' charged in this case?

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 A. I did not. Uh, Ricky Simmons asked me on the original
2 interview, um, if they were gonna be charged and I told him at
3 this point in the investigation I didn't know who was gonna be
4 charged, um, that's the only time I spoke with anyone about
5 charges.

6 Q. Alright, did you at any time in your investigation did
7 you charge Ricky Simmons or Rashad Simmons?

8 A. I did not.

9 Q. Um, how did you reach that decision?

10 A. Uh, based on my investigation, uh, their role, um, at --
11 on the night of the murder at Wendy's, they were a non-active
12 participant, um, they weren't at the location when the
13 incident occurred.

14 A. Based on your investigation, did you eventually charge
15 Jarod Ransom?

16 A. I did.

17 Q. Approximately when did you charge him or obtain warrants
18 for him?

19 A. I believe it was June.

20 Q. Okay, and what were the warrants you obtained for Jarod
21 Ransom?

22 A. Uh, murder and attempted armed robbery.

23 Q. Were ya able to locate him?

24 A. I did.

25 Q. Where was he?

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 A. He was in Okinawa, Japan.

2 Q. Was he in the service?

3 A. He was in the Marine Corp.

4 Q. What did you do next?

5 A. I contacted NCIS and requested their assistance, um, ---

6 Q. What's NCIS?

7 A. Naval Criminal Investigative Service.

8 Q. Okay, and so you requested their assistance?

9 A. I did.

10 Q. What did you, uh, request that they do?

11 A. Interview, uh, Jarod Ransom.

12 Q. Did you give them any in -- any information with which to
13 conduct an interview?

14 A. Yes, I did. We extensively, uh, talked back and forth,
15 that they knew pretty much what I had working, um, when they
16 pulled him in and interviewed him.

17 Q. Okay, and, um, do you know approximately when they
18 conducted their first interview with him?

19 A. It was, it was not long after I signed the warrant, it
20 was like the next day, ---

21 Q. Okay.

22 A. --- um, I can't remember exact date.

23 Q. Did they take a statement from him?

24 A. They did.

25 Q. Did they conduct another interview with him?

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 A. They did.

2 Q. Did they take a second statement from him?

3 A. Yes.

4 Q. Um, and based on what you knew about the situation, did
5 Jarod Ransom ever implicate Korey Love?

6 A. Yes. Ever or ---

7 Q. I'm ---

8 A. --- with them with ---

9 Q. --- I'm sorry at at that time when ---

10 A. No, he did not.

11 Q. --- the NCIS interviewed him?

12 A. No, he did not.

13 Q. Um, as a result of the second interview that NCIS
14 conducted and the second statement, um, did you come up with
15 another name that you hadn't heard before?

16 A. I did.

17 Q. What was it?

18 A. The nickname was Byrd, possibly first name Tobarius was
19 given. Um, as a result of that, um, due to Jarod's location,
20 um, and the amount of time that it would take to get him back
21 to Greenville, um, I investigated Byrd or Trabarius, um, and
22 was unable to locate any, uh, information or existence of this
23 person.

24 Q. What efforts did you make to try to locate this Tobarius
25 Byrd?

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 A. All of our basic records, our records checks, DMV
2 searches, um, I then contacted the whole group of, um, kids
3 that were friends at that time, went to school together. I
4 spoke with Original, Kristina, Dontavius, none a them had ever
5 heard of a person with a nickname Byrd or Trabarius. I then
6 went to Ramblewood Apartments on East North Street, uh, spoke
7 with the manager at Ramblewood Apartments and she had no
8 record of a Trabarius living at Ramblewood Apartments.

9 Q. So did you ever locate any evidence of the existence of
10 this person?

11 A. No.

12 Q. Was Jarod taken into custody at some point?

13 A. He was.

14 Q. Uh, when did he come into your custody?

15 A. I believe it was in August.

16 Q. Okay, of 2010?

17 A. 2010.

18 Q. So he was transported from Okinawa, Japan to
19 Greenville?

20 A. Yes, the, uh, the Marine Corp. transported him to San
21 Francisco, California, uh, via military flight and then we
22 paid a an extradition service, uh, to transport him from
23 California to Greenville.

24 Q. Alright, where did you take custody of him?

25 A. At the Law Enfor -- at the Law Enforcement Center in the

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 jail sally port when the transport service I had them notify
2 me when they were close to Greenville and I met them in the
3 sally port, um, and took Jarod straight off the van into my
4 car and then up to my office.

5 Q. Alright, did you interview him?

6 A. I did.

7 Q. Did he agree to talk with you?

8 A. He did.

9 Q. Um, what did you tell him about your investigation thus
10 far?

11 A. Um, the first thing I did was just let him, of course he
12 knew why he was there, he was under arrest for it. Um, once
13 we did the rights waiver I just asked him tell me his story
14 and basically he reiterated his story that he gave NCIS with
15 this Byrd or Trabarius, um, I'm not sure I let him completely
16 finish with that. When I confronted him with the fact that I
17 had already investigated Byrd and/or Trabarius and knew that
18 he didn't exist, um, he demeanor changed, slumped in his seat,
19 leaned over, he -- we set there for a while, um, he wasn't
20 sayin' anything just sit there but he was shakin' his head. I
21 was talkin' to him about Trabarius and the people who I talked
22 to to disprove, um, theory of Trabarius or Byrd, he never said
23 anything but he was shakin' his head as if to agree. Um, I
24 then told him he needed to think of hisself right now and quit
25 tryin' to protect anybody and do the right thing and I took a

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 statement from him.

2 Q. Was he emotional durin! this time?

3 A. Yes.

4 Q. Was he cryin'?

5 A. He was.

6 Q. Um, and you took a statement from him?

7 A. I did.

8 (Whereupon, defense counsel examined an exhibit.)

9 MR. SMITH: No objection to this one either.

10 MS. SEAY: State's Exhibit 36, um, I would move it into
11 evidence without objection at this time.

12 (State's Exhibit No. 36, Google Map, admitted into
13 evidence.)

14 BY MS. SEAY:

15 Q Do you recognize this (indicating)?

16 A. I do.

17 Q. And what is it?

18 A. It's a Google Map of same basic same as the last two:

19 291, shows Mallard Cove, shows the Wendy's, um, and basically
20 I handed it to Jarod and asked him to show me, um, their path
21 that night to Wendy's and he drew it out and signed it.

22 Q. Okay, um, did you meet with any other potential witnesses
23 in the case?

24 A. I did.

25 Q. And what were their names?

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 A. I took a, I know I later I met with Ronald Chapman and I
2 believe it was his sister, um, is it La -- La -- Laquira
3 (phonetic)?

4 Q. And why did you speak with them, I mean, what connection
5 did they have to the situation?

6 A. They were really no connection other than the fact that
7 there was some information taken that Ronald Chapman lived at
8 Villa Road, um, just like Dontavius, Original, uh, it was
9 just in that group, um, and I went and met with Ronald and I
10 believe it was his sister, um, later.

11 Q. Did they have any information about the crime?

12 A. No.

13 Q. Um, Detective Flavell, I wanna show you one a these maps
14 that's, um, already into evidence. This is the one that
15 Officer Jeremiah Motz marked on, um, we can turn this around
16 for the jury. Would you just point out the various locations
17 that you referred to in your testimony.

18 (Whereupon, the witness left the stand.)

19 A. This (indicating) is 15 Villa Road, ---

20 Q. And that's what?

21 A. --- Mallard Cove ---

22 Q. Okay.

23 A. --- Apartments. This (indicating) is the par-3 golf
24 course I referred to and this (indicating) is 65 Villa Road.
25 This is actually Villa Road runs beside the interstate right

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 here (indicating) ---

2 Q. And, um, is Wendy's on this map?

3 A. Yes, Wendy's is right here (indicating).

4 Q. Okay, and what about, um, Churchill Apartments, could you
5 see them on this map?

6 A. Yes, um, Churchill Apartments is right here
7 (indicating).

8 Q. And what -- in your -- as part a your investigation, um,
9 did you determine who all lived at Churchill Apartments that
10 you've been talkin' about?

11 A. I did.

12 (Whereupon, the witness returned to the stand.)

13 Q. Could -- oh, I knew I was gonna do that, sorry. Um, who
14 lived at Churchill Apartments?

15 A. Uh, Jerome, Korey, Kendel, Corliss, Jalisa, Jarod, ---

16 Q. Okay.

17 A. --- Demetrius and Leslie.

18 Q. Okay. Detective Flavell, um, those are all the questions
19 that I have for you at this time, please answer any that
20 Mr. Smith has for you..

21 CROSS-EXAMINATION BY MR. SMITH:

22 Q. Detective Flavell, I hate to ---

23 THE COURT: Uh, ---

24 Q. --- get ---

25 THE COURT: --- well I was just gonna suggest that we

COLLIS FLAVELL - DIRECT EXAMINATION BY MS. SEAY

1 take a short break, ya'll been goin' for a while, it's probly
2 a good time for a morning break and this is a good time for it
3 so don't talk about it, we'll get back in just about 15
4 minutes, okay?

5 THE BAILIFF: Please remain seated till the jurors are
6 out.

7 (The following takes place outside the presence of the
8 jury.)

9 THE COURT: Alright, Mr. Smith, I just thought this was a
10 good chance to break, ---.

11 MR. SMITH: It was, Your Honor.

12 THE COURT: --- okay?

13 MR. SMITH: Thank Your Honor.

14 THE COURT: Officer, you may stand down, please do not
15 discuss your testimony, ---.

16 THE WITNESS: Yes, sir.

17 THE COURT: --- okay?

18 (Whereupon, the witness left the stand.)

19 (Whereupon, a recess was taken.)

20 (Whereupon, the witness returned to the stand.)

21 THE COURT: Ya'll ready?

22 MR. SMITH: Yes sir, Your Honor.

23 THE COURT: Okay.

24 (The following takes place in the presence of the jury.)

25 THE COURT: Alright, Mr. Smith.

COLLIS FLAVELL - CROSS-EXAMINATION BY MR. SMITH

1 MR. SMITH: Thank Your Honor. May it please the Court,
2 members of the jury.

3 CROSS-EXAMINATION BY MR. SMITH:

4 Q. Oci -- Officer Flavell, uh, have an opportunity now to
5 ask you some questions on cross-examination. If you don't
6 understand my questions, just stop me and I'll try make 'em as
7 understandable. Under Sixth Amendment he -- I have a right to
8 question you in this regard durin' the course a this trial.
9 Now as I understand it, Officer, you did not actually witness
10 the shooting on January 27?

11 A. I did not.

12 Q. And you did not witness, uh, Mr. Bass being shot ---

13 A. No.

14 Q. --- and you did not witness who in fact pulled the
15 trigger,

16 A. No.

17 Q. You were not an eyewitness to the events before the
18 shooting, ---

19 A. No.

20 Q. --- and you were not an eyewitness to the events during
21 the shooting ---

22 A. No.

23 Q. --- and you were not an eyewitness to the events after
24 the shooting. When I say "events", uh, the people who you've
25 named that are involved you didn't see any of them that night,

COLLIS FLAVELL - CROSS-EXAMINATION BY MR. SMITH

1 did you? Ricky Simmons ---

2 A. The night a the shooting?

3 Q. Yes, sir. Did you s ---

4 A. No.

5 Q. Right. And you did not see the two men who were
6 described as running away that night either, did you?

7 A. No.

8 Q. So frankly you have no personal knowledge from either
9 sight, sound or hearing on that night as to who actually
10 committed this murder, that is a fact, isn't it?

11 A. No personal knowledge from that night, ---

12 Q. Yes, sir.

13 A. No.

14 Q. --- so and from physical evidence that has been talked
15 about, there's no DNA, nothing whatsoever linking Korey Love
16 to that crime, is there?

17 A. There is not.

18 Q. So what that leaves us with then is three witnesses or
19 four witness or how many you got say that Mr. Love is
20 involved, is that correct?

21 A. That is correct.

22 Q. Right. Now at at the end and conclusion when the
23 prosecutor right here, Ms. Seay, said that, uh, they all lived
24 out at Churchill, technically that that's true that all those
25 individuals you named: Corliss, Jalesa, Korey, Jerome,

COLLIS FLAVELL - CROSS-EXAMINATION BY MR. SMITH

1 Demetrius and Leslie they all lived out at, out at, uh,
2 Churchills, correct?

3 A. Yes.

4 Q. But what she didn't go one step further was to say they
5 lived in two different addresses in that apartment complex,
6 that is a fact, isn't it?

7 A. They lived in two separate apartments.

8 Q. And that is key because Jalesa lived with Corliss Love,
9 isn't that correct?

10 A. That is correct.

11 Q. Right, and Mr. Korey Love was living with Demetrius
12 Jackson.

13 A. That is correct.

14 Q. Right. Now when Korey Love came down to the Law
15 Enforcement Center I believe it was on February 11, 2010, is
16 that when you took your statement? No, it looks like it was
17 March the 16th, that's ---

18 A. March 16th yes, sir.

19 Q. But on February 11, 2010 Corliss Love was in a domestic
20 dispute with Jerome Love.

21 MS. SEAY: Objection, relevance.

22 MR. SMITH: Relevance is she opened the door. She was
23 tryin' -- he said this, the crying when she was talkin' to him
24 when he came out ---

25 THE COURT: Wait, wait, wait, wait, ya'll come up here.

COLLIS FLAVELL - CROSS-EXAMINATION BY MR. SMITH

1 (Whereupon, a bench conference was held off the record.)

2 MR. SMITH: Thank Your Honor.

3 BY MR. SMITH:

4 Q. Did you know that on February 10, 2010 Corliss Love and a
5 Jerome Love was in fight, a domestic dispute?

6 A. I did.

7 Q. Right, so when she ca -- when, she came out there to see
8 you, she coulda been cryin' about that, couldn't she?

9 A. Actually, she was, uh, in fear to talk to me because a
10 that. Um, she told me when I was talkin' to her that, uh, one
11 a the hurdles for her was, um, and I believe in her exact
12 words was, You don't understand, this guy's done this, he's
13 done this, he's done this, um, and I told her I I understood
14 her her position, um, and even, uh, counseled her on getting a
15 order of protection, um, and then was when we called Jalisa
16 Neal Down.

17 Q. Alright. Now as I understand it too, uh, uh, Officer,
18 the individuals that you named I think you named, uh, Original
19 Mustafer [sic] and a list a the names that you learned from
20 it's Ricky Simmons and all those folks and I think you
21 testified with regard to Ms. Seay that all those folks said
22 they had no involvement ---

23 A. That is correct.

24 Q. --- and also, the the situation with Mr. Eric Jarod
25 Ranson, he he made up a name, first while he was in Okinawa

COLLIS FLAVELL - CROSS-EXAMINATION BY MR. SMITH

1 with the I think you said Tovarious Byrd.

2 A. Nickname Byrd, first ---

3 Q. But ---

4 A. --- name Tobarious.

5 Q. Okay. And I believe also when you went down and you
6 talked to Ricky Simmons you and I think, uh, Officer Riggs you
7 told him, you said, you explained to him the hand of one is
8 the hand of all, is that correct? It's in your report right
9 here, you ---

10 A. Uh, can I see the document? I'm not gonna -- I don't
11 deny sayin' that.

12 Q. Okay. Let me see if I can find it for ya. Right here
13 (indicating).

14 (Whereupon, the witness examined the document.)

15 A. Uh, that's actually not in my report but, um, ---

16 Q. The other officer's report you said that though, right?

17 A. According to him. I don't recall saying hand of one hand
18 a all.

19 Q. Well I understand ---

20 A. I wouldn't deny it though, it's it is hand a one hand a
21 all.

22 Q. Okay, and would you tell the jury what the hand of one
23 and hand a all means..

24 A. You're a participant in a crime, uh, like a murder and
25 even though you don't pull the trigger but you're an active

COLLIS FLAVELL - CROSS-EXAMINATION BY MR. SMITH

1 participant somehow in that murder, under South Carolina law
2 it's hand of one hand of all: You can be charged with murder
3 just as the other person, as the actual shooter's charged.

4 Q. Okay. And when you first talked to him you, I think you
5 wrote in your own handwriting you say, Detective Flavell, you
6 had a file folder that appeared before a witness before you
7 did your interview, didn't it?

8 A. I did.

9 Q. And what was the name on that file folder before you
10 started questioning Ricky Simmons?

11 A. Uh, Korey Love.

12 Q. This man right here (indicating), right?

13 A. That's correct.

14 Q. So you had mentioned the hand of one the hand of all and
15 then you had the file folder out with the name Korey Love.

16 A. The hand of one hand of all statement woulda been, um,
17 after the interview. Um, when I originally got to Ricky and
18 Rashad Simmons' apartment, we sat at a table. As I was
19 pullin' my stuff outta my, uh, I carried a, uh, accordion, um,
20 folder with files in it, Ricky Simmons said, um, I know, he
21 said, that's Korey Love, he said, I went to school with him.
22 He saw his name on one a the folders in my accordion file, um,
23 is what happened.

24 Q. But you didn't have Eric Jarod Ranson's name on there,
25 did you?

COLLIS FLAVELL - CROSS-EXAMINATION BY MR. SMITH

1 A. I had, uh, probably twenty sumtin' files in there with
2 everybody's name on it, yes.

3 Q. Right, right. And and and and what's important is that
4 was when the prosecutor was questioning you you were tryin' to
5 give the impression you wasn't telegraphing who may have been
6 involved in this murder, isn't that what you were tryin' to
7 telegraph to the jury?

8 A. I was not telegraphing who was involved in this murder.

9 Q. And the fact is I think you told them when you got down
10 there, I'm not down here to arrest you, didn't you tell 'em
11 that?

12 A. That is correct. I have no jurisdiction of arrest in
13 Georgia.

14 Q. Right, but you didn't have any jurisdiction to make
15 arrest in Okinawa but you still could've gotten a warrant for
16 their arrest in South Carolina and executed it in Georgia,
17 could you not?

18 A. That's correct.

19 Q. Alright, now the other thing too is, the other thing too
20 is that that, uh, basically what you have is some people that
21 you've described in your direct testimony have lied to you
22 durin' the course a this investigation, isn't that correct?

23 A. That is correct.

24 Q. And I think you mention at least two of 'em, you said
25 Eric Jarod Ranson you told him to do the right thing 'cause

COLLIS FLAVELL - CROSS-EXAMINATION BY MR. SMITH

1 you thought he was lyin', is that correct?

2 A. That's correct.

3 Q. And I think you think Ricky Simmons was lying too, is
4 that correct?

5 A. That is correct.

6 Q. Alrighty. Officer, I appreciate this opportunity to have
7 questioned you.

8 THE COURT: Alright, any redirect?

9 MS. SEAY: No redirect but we would, um, ask the Court,
10 um, to allow Detective Flavell to be, um, subject to recall, if
11 necessary.

12 THE COURT: Yeah, we'll determine that if that becomes
13 appropriate. Thank you, sir, you can step down.

14 THE WITNESS: Thank you, sir.

15 (Whereupon the witness left the stand.)

16 MS. SEAY: State calls Corliss Orlena Love.

17 THE CLERK: Ms. Love, please come in. If you'll come
18 right down here (indicating) to the end a the bench.

19 (Whereupon, the witness came forward.)

20 THE CLERK: And if you'll stop there (indicating), place
21 your left hand on the Bible and raise your right hand.

22 CORLISS ORLENA LOVE, having been
23 first duly sworn, testified as follows:

24 THE CLERK: Alright, please be seated. Please state your
25 name for the record.

CORLISS ORLENA LOVE - DIRECT EXAMINATION BY MS. SEAY

1 THE WITNESS: Corliss Orlena Love.

2 THE CLERK: Thank you.

3 DIRECT EXAMINATION BY MS. SEAY:

4 Q. Ms. Love, what name do you go by?

5 A. Orlena.

6 Q. Okay, how old are you Ms. Love?

7 A. Forty-two.

8 Q. What's your occupation?

9 A. I work at Emeritus, CNA.

10 Q. I'm sorry ---

11 A. A certified nurse's assistant.

12 Q. Okay, at Emeritus, is that what you said?

13 A. Yes.

14 Q. Okay, and I believe are you also a student?

15 A. I'm a student at Brown Mackie in criminal justice.

16 Q. Okay. Um, who are your children?

17 A. Jalesa Neal, Erica Ransom, Tevon Kennedy and, um, Jasmine
18 Ransom.

19 Q. Okay, and when you say Eric Ransom, is that Jarod
20 Ransom?

21 A. Jarod, yes.

22 Q. He goes by Jarod?

23 A. Yes.

24 Q. Um, and are you currently married?

25 A. No, separate.

CORLISS ORLENA LOVE - DIRECT EXAMINATION BY MS. SEAY

1 Q. You're separated. Who are, who are you separated from?

2 A. Jerome Love.

3 Q. Okay, and so at one point in time were you the stepmother
4 to Korey Love?

5 A. Yes.

6 Q. I wanna, um, draw your attention back to the year of
7 2007, um, before your marriage to Jerome Love, were you living
8 at, um, Road, Churchill Apartments?

9 A. Yes, I were.

10 Q. Who was living with you?

11 A. My children and myself. . .

12 Q. And do you know where Jerome and his children were
13 living?

14 A. They were livin' in the same complex, a different
15 apartment.

16 Q. Okay, wh -- who were they living with?

17 A. With, uh, Leslie and Antwon Jackson.

18 Q. Okay, were, um, Mr. Love and Ms. Jackson good friends?

19 A. Yes, they were.

20 Q. At -- do you know at what point you and Mr. Love, um,
21 began seeing each other?

22 A. Not long after after that, after --- it wasn't long ---

23 Q. Okay.

24 A. --- became his friend.

25 Q. Well before you and Mr. Love started seeing each other

CORLISS ORLENA LOVE - DIRECT EXAMINATION BY MS. SEAY

1 were Jarod and Korey friends?

2 A. Yes.

3 Q. How did they know each other?

4 A. Through school.

5 Q. Okay, where did they attend school?

6 A. J.L. Mann.

7 Q. Did you know about the murder that happened at Wendy's?

8 A. I didn't know about it at the time.

9 Q. How did you learn about it?

10 A. From my daughter Jalesa.

11 Q. Okay. Did you know at the time who was involved?

12 A. At the time no, I did not.

13 Q. When did you and Mr. Love get married?

14 A. April 2007.

15 Q. And did ya'll move in together?

16 A. Yes.

17 Q. Did all your children live together?

18 A. Yes.

19 Q. So did Korey and Jarod together as stepbrothers?

20 A. Yes.

21 Q. Where was Jerome working during this time?

22 A. At Bonefish Grill.

23 Q. Okay, where is that located?

24 A. It's on Woodruff Road.

25 Q. And what was his, uh, general work schedule?

CORLISS ORLENA LOVE - DIRECT EXAMINATION BY MS. SEAY

1 A. It varied but he would always close. Um, ---

2 Q. Okay, do you know what time they closed?

3 A. I'm not sure, I would say maybe eleven around.

4 Q. Okay, you're, but you're not sure?

5 A. I'm not sure of that, no.

6 Q. Um, when he was working there and he would have to close,
7 approximately what time would he arrive home?

8 A. Really late, that would vary. Maybe midnight, 2:30 but
9 the latest he got home was 6:30 in the morning.

10 Q. Do you know what he was doing?

11 A. Out with friends drinking.

12 Q. Okay. Uh, let me ask you about Jarod. Did he graduate
13 from high school?

14 A. Yes.

15 Q. Um, from J.L. Mann?

16 A. Greenville High.

17 Q. Oh, I'm sorry.

18 A. He grad.

19 Q. Um, Greenville High School. So he went to both J.L. Mann
20 and Greenville High School?

21 A. Yes.

22 Q. Okay, and what year did he graduate?

23 A. '08.

24 Q. Alright, what did he do after graduation?

25 A. He signed up for military for Marines then went off.

CORLISS ORLENA LOVE - DIRECT EXAMINATION BY MS. SEAY

1 Q. Okay, and did -- where'd he end up stationed?

2 A. Okinawa; Japan.

3 Q. Alright. Let's move forward to the year 2010. Did you
4 get a call from Detective Flavell here with the Greenville
5 Police Department?

6 A. I did.

7 Q. Did he ask to come over and speak with you?

8 A. Yes.

9 Q. Did you know what he was comin' for?

10 A. I didn't, no.

11 Q. Did you a -- agree to talk to him, to let him come
12 over?

13 A. I agreed, yes.

14 Q. Alright. Um, when it was time for him to come over, what
15 did you do?

16 A. He wanted to come over to speak with myself and Jalesa
17 and I went to wake her up and informed her, you know, to get
18 dressed, that he was comin' over.

19 Q. Did you tell her why he was coming?

20 A. Yes.

21 Q. You told Jalesa why?

22 A. Well she already knew ----

23 Q. Okay.

24 A. --- but ---

25 Q. Did she tell you that she already knew why he was

CORLISS ORLENA LOVE - CROSS-EXAMINATION BY MR. SMITH

1 comin'?

2 A. Yeah, she did.

3 Q. Okay. Is that the first time that you had heard about
4 it?

5 A. Yes.

6 Q. Did you, at that time did you tell him what you knew
7 about the situation and give him a statement?

8 A. I did.

9 Q. When did you learn about your son Jarod's involvement in
10 this crime?

11 A. I learned about it when Detective Flavell came ---

12 Q. Was that, ---

13 A. --- to the house.

14 Q. --- was that the time we were just talkin' about?

15 A. Yes, when he came to the house.

16 Q. The the time we were just talkin' about, the very first
17 time that he came over to talk to you?

18 A. Yes.

19 Q. Thank you. Please answer any questions Mr. Smith has for
20 you.

21 CROSS-EXAMINATION BY MR. SMITH:

22 Q. Ms. Love, uh, I have a few questions to to ask you. Um,
23 on January 27, 2010, what time a night did your son Eric Jarod
24 Ranson come into the house?

25 A. I don't know.

CORLISS ORLENA LOVE - CROSS-EXAMINATION BY MR. SMITH

- 1 Q. When you got up that mornin', was he in the house?
- 2 A. I think so, ---
- 3 Q. Right.
- 4 A. --- yes.
- 5 Q. And your daughter was at at your house that mornin'?
- 6 A. Yes.
- 7 Q. Jalesa, correct?
- 8 A. Jalesa.
- 9 Q. Right, and you had another daughter named Jasmine?
- 10 A. Jasmine, yeah.
- 11 Q. Right, and di -- ya have another child too, don't you?
- 12 A. Tevon Isaac, um-hum.
- 13 Q. Right, how how active has, uh, Eric Jarod Ranson's dad
- 14 been in his life?
- 15 A. He's been in their life. He's he's been active ---
- 16 Q. Where does he live?
- 17 A. --- in their life but he's -- he was livin' in New
- 18 York.
- 19 Q. New York. How many times they visit with him ever --
- 20 over the course of the years you were down here in South
- 21 Carolina?
- 22 A. I think they visited with him just a couple times.
- 23 Q. A couple a times. He pay child support?
- 24 A. Yes.
- 25 Q. When did he pay the child support?

CORLISS ORLENA LOVE - CROSS-EXAMINATION BY MR. SMITH

1 A. He paid the child support from the time I moved here in
2 '98 all the way up until August of 2004.

3 Q. Right. Now Jalesa who's her dad?

4 A. Harold O'Neil.

5 Q. Harold O'Neil, ---

6 A. Um ---

7 Q. --- where does he live?

8 A. I don't know where he lives.

9 Q. You don't know.

10 A. I mean, he lives in Greenville but I don't know.

11 Q. Okay, he has no contact with her?

12 A. He does now.

13 Q. He does now.

14 A. Um-hum.

15 Q. And let me see now the other two children, uh, ---

16 A. Isaiah ---

17 Q. --- Isaiah.

18 A. --- Isaiah, Kennedy.

19 Q. Right, and so in February of 2007 you and Jarod Ranson
20 started dating, is that correct?

21 A. Jarod?

22 Q. I mean Jerome Love, I apologize, Jerome Love started
23 dating, is that correct?

24 A. February, 'bout that, yes.

25 Q. Alright. And I think you came over to Jerome's house at

CORLISS ORLENA LOVE - CROSS-EXAMINATION BY MR. SMITH

1 that time and you were tellin' him that your son was stayin'
2 out late at night, is that correct?

3 A. Yes.

4 Q. Right. You wanted him to have a man involved in his life
5 in order try to turn him around, isn't that correct?

6 A. I wanted to -- he was stayin' out late. He was really
7 with J -- with Korey then but Jerome informed me that that's
8 where he was at in the evenings and that he was safe with
9 him.

10 Q. Right, but you knew that Jerome Love had strict rules for
11 his household over there at Leslie Jackson's house, didn't
12 you?

13 A. No, I didn't know he had strict rules ---

14 Q. Well you were never invited over there, were you?

15 A. No, ---

16 Q. Right.

17 A. --- I didn't know.

18 Q. So you're saying that you were gonna trust your husband,
19 you trust your child with a man who you didn't think had
20 strict rules?

21 A. He, Jarod was with Korey so they were friends and I
22 didn't have a problem with him being with one a his friends.

23 Q. Well you knew that Korey had to be in at a certain time a
24 night, didn't you?

25 MS. SEAY: Your Honor, she's already ---

CORLISS ORLENA LOVE - CROSS-EXAMINATION BY MR. SMITH

1 THE WITNESS: I ---

2 MS. SEAY: --- answered that question.

3 MR. SMITH: Well she ---

4 THE COURT: Well go ahead, answer it, ---

5 MR. SMITH: Thank you.

6 THE COURT: --- tell him what you know.

7 MR. SMITH: Go --

8 THE WITNESS: I didn't know that he had to be in at a
9 certain time. I know that Jarod did. I didn't want him out
10 no late at night runnin' around.

11 BY MR. SMITH:

12 Q. Well did you -- well never mind. Tact is, ma'am, is that
13 on the January 27, 2007 Eric Jarod Ranson confessed to you and
14 Jalesa Neal, that is a fact, isn't it?

15 A. Confessed about what?

16 Q. That he confessed to the murder.

17 A. No, he didn't confess to me about anything.

18 Q. And you went over to see this man by the name of Jerome
19 Love and you struck up a relationship with him, didn't you?

20 A. I started a relationship with him, yes.

21 Q. Right. And then by April the two a ya'll were
22 married ---

23 A. Right.

24 Q. --- and Korey Love went out of town during Spring break
25 on occasion, didn't he?

CORLISS ORLENA LOVE - CROSS-EXAMINATION BY MR. SMITH

1 A. Yes.

2 Q. And when ya'll got married, he was outta town on Spring
3 break, wasn't he?

4 A. Right.

5 Q. Now did you drive a car during that period a time of
6 January 2007?

7 A. Yes.

8 Q. Right. And did you and Jalesa Neal drive by the Wendy's
9 that mornin'?

10 A. I drove by, yes, I ---

11 Q. Right. And you saw where the tape that they had around
12 that Wendy's that mornin', didn't you?

13 A. Right.

14 Q. So you had a special interest, you had a special interest
15 in looking at that Wendy's that mornin', didn't ya?

16 A. I was leavin' to run a errand and I happen to pass by
17 that Wendy's from where I live.

18 Q. Special errand. Yeah, that special errand included you
19 and Jalesa Neal going to find out where your son had actually
20 murdered Isaac Bass.

21 A. No.

22 Q. No further questions.

23 THE COURT: Any redirect?

24 MS. SEAY: Nothing further from her. May she be excused?

25 THE COURT: Yes, you may stand down. Any objection to

JALESA NEAL - DIRECT EXAMINATION BY MS. SEAY

1 that, Mr. Smith?

2 MR. SMITH: No objection, Your Honor.

3 THE COURT: Alright, you're released from subpoena.

4 (Whereupon, the witness left the stand.)

5 MS. SEAY: State calls Jalesa Neal.

6 THE CLERK: Ms. Neal, if you'll come forward, please, and
7 pause at the end a the bench.

8 (Whereupon, the witness came forward.)

9 THE CLERK: Please place your left hand on the Bible and
10 raise your right hand. The other way around. Left hand on
11 the Bible, there you go, raise your right hand.

12 JALESA NEAL, having been first
13 duly sworn, testified as follows:

14 THE CLERK: Thank you, please be seated. Would you state
15 your name for the record, please.

16 THE WITNESS: Jalesa Neal.

17 THE CLERK: Thank you.

18 DIRECT EXAMINATION BY MS. SEAY:

19 Q. Ms. Neal, how old are you?

20 A. Twenty-three.

21 Q. Who do ya live with?

22 A. My mom and my brothers.

23 Q. Okay, what are their names?

24 A. Corliss Love and Isaiah Kennedy.

25 Q. Is Jarod Ransom your brother?

JALESA NEAL - DIRECT EXAMINATION BY MS. SEAY

1 A. Yes.

2 Q. And, um, at one point in time was Jerome Love your
3 stepfather?

4 A. Yes.

5 Q. And at one point in time was Korey Love your
6 stepbrother?

7 A. Yes.

8 Q. Let's go all the way back to January of 2007. Do you
9 know about how old you were at that time?

10 A. Seventeen or 18.

11 Q. Okay. Where were you living then?

12 A. Churchill Apartments.

13 Q. Who did you live with at Churchill Apartments?

14 A. My mom and my brother and my sister.

15 Q. Did that include Jarod?

16 A. Yes.

17 Q. Was Jarod friends with Korey Love?

18 A. Yes.

19 Q. And were your parents dating at that time or were, I
20 mean, excuse me, not your parents but were Mr. Love and your
21 mom dating or were Korey and Jarod friends first?

22 A. Korey and Jarod was friends first.

23 Q. Okay. And did Korey Love also live at Churchill
24 Apartments in another apartment?

25 A. Yes.

JALESA NEAL - DIRECT EXAMINATION BY MS. SEAY

1 Q. Okay. Do you know who he lived with?

2 A. His dad and his brother and some family friend of
3 theirs.

4 Q. Okay. Did you hear about the murder that happened at
5 Wendy's at that time?

6 A. Yes.

7 Q. How'd you hear about it?

8 A. On the news.

9 Q. At some point after that did you overhear a conversation
10 between Jerome Love and Korey Love?

11 A. Yes.

12 Q. Where did that take place?

13 A. When I was walkin' past their apartment.

14 Q. Okay, why were you walking past their apartment?

15 A. I always walked around the complex.

16 Q. Okay. And, um, where was their apartment in relation to
17 your apartment?

18 A. It was towards the mailbox on down.

19 Q. Towards the mailbox on down?

20 A. Yes.

21 Q. Okay. When you were walking by and you overheard this
22 conversation, what was Korey Love saying?

23 A. He was sayin' he had robbed someone at the Wendy's and
24 shot and killed 'em.

25 Q. Do ya know, um, you said you heard about the Wendy's

JALESA NEAL - DIRECT EXAMINATION BY MS. SEAY

1 murder on the news, then you heard Korey say this, do you know
2 how long it was between?

3 A. A couple a days.

4 Q. Okay. And how did you overhear this conversation?

5 A. Just by walkin' past and I was listening.

6 Q. Okay, and was the door open or closed?

7 A. Open.

8 Q. Did they see you listening?

9 A. Not at first.

10 Q. When did they see see that you were out there?

11 A. I guess later on in between that time and that one of
12 them had, um, walked up to the door and closed the door.

13 Q. Okay. Did Korey say anything else about the Wendy's
14 murder?

15 A. Um, he said that he was with the twins and that they ran
16 across the street towards Mallard Cove Apartments.

17 Q. Did you know Rashida Peters?

18 A. Yes.

19 Q. Who was she?

20 A. Um, she was a girlfriend of Korey.

21 Q. Okay. And do you know where she worked?

22 A. Wendy's.

23 Q. Did you ever hear any further conversations?

24 A. Uh, several months later.

25 Q. Were you all living as a family by then?

JALESA NEAL - DIRECT EXAMINATION BY MS. SEAY

1 A. Yes.

2 Q. Your parents or Mr. Love and your mom had gotten
3 married?

4 A. Yes.

5 Q. What did you overhear?

6 A. That he said that he and sh -- um, that he said he had
7 shot and killed the man at Wendy's by tryin' to rob him and
8 got into a fight and ran across the street toward Mallard Cove
9 Apartments.

10 Q. Who said that?

11 A. Korey.

12 Q. Where did you hear that conversation?

13 A. In the apartment.

14 Q. Where you lived with him?

15 A. Yes.

16 Q. Did you know who the twins were?

17 A. No, I just knew ---

18 Q. Did you ---

19 A. --- they were their friends.

20 Q. --- know their names?

21 A. Not their name, I just know 'em by the twins.

22 Q. Okay, did you know where they live?

23 A. Mallard Cove.

24 Q. Did you ever hear Korey say that Jarod was involved?

25 A. No.

JALESA NEAL - DIRECT EXAMINATION BY MS. SEAY

1 Q. Did you know at the time that your brother was
2 involved?

3 A. Not at the time.

4 Q. When did you find out about Jarod bein' involved in
5 this?

6 A. Right after the, uh, detectives had came to the house.

7 Q. Did you ever hear Jarod talk about the Wendy's murder?

8 A. No.

9 Q. Alright, let's go to 2010 when Detective Flavell came
10 over to talk to your mother, do you remember that?

11 A. Yes.

12 Q. Did your mother ask you to get up and get dressed because
13 the police were coming?

14 A. Yes.

15 Q. What did you say to your mother?

16 A. That I already knew about what they was comin' for.

17 Q. How did you know what they were comin' for?

18 A. 'Cause they said that they had, it had somethin' to do
19 with Kendel Love and I knew they had the names mixed up, they
20 said and somethin' that happened in 2007.

21 Q. Okay, and how did you know that the names were mixed
22 up?

23 A. 'Cause I overheard Korey's telling his daddy he had did
24 it.

25 Q. Did you tell Detective Flavell what you knew about the

JALESA NEAL - CROSS-EXAMINATION BY MR. SMITH

1 situation then?

2 A. Yes.

3 Q. Did you give him a statement?

4 A. Yes.

5 Q. Were you truthful in that statement in 2010 ---

6 A. Yes.

7 Q. --- about what you told him?

8 A. Yes.

9 Q. And is that what you've just testified to now?

10 A. Yes.

11 Q. Did you cooperate with him even though you didn't know
12 your brother was involved?

13 A. Yes.

14 Q. When you first overheard Korey say that he had done this,
15 why didn't you go forward to the police or somebody with this
16 information?

17 A. I didn't wanna get involved.

18 Q. Why didn't you wanna get involved?

19 A. Thought somethin' might happen to one of us.

20 Q. You were afraid?

21 A. Yes.

22 Q. Thank you. Please answer any questions that Mr. Smith
23 has for you.

24 CROSS-EXAMINATION BY MR. SMITH:

25 Q. Morning, Ms. Neal.

JALESA NEAL - CROSS-EXAMINATION BY MR. SMITH

1 A. Mornin'.

2 Q. Let me see, well good evening. I, uh, I have a few
3 questions I need to ask you in this trial and as I understand
4 it you say you happened to be walking past their apartment on
5 the day that the murder occurred, is that correct?

6 A. Co -- yeah, a couple a days.

7 Q. Well in your statement on Friday on you say, On the 26,
8 2/26/10, "Detective Flavell and Lusk came to my -- talked to
9 my mom and Jerome and Ke -- about Jerome and Kendel Love.
10 Detective Flavell told my mom he was working on a murder that
11 happened several years ago at Wendy's Restaurant. I was
12 living at Churchill Apartments on Pelham ---

13 MS. SEAY: Your Honor, I'm gonna ---

14 THE COURT: Yeah.

15 MS. SEAY: --- object to him reading her statement. ---

16 MR. SMITH: Okay.

17 THE COURT: If you wanna impeach her with the statement,
18 do it the right way, Mr. Smith.

19 MR. SMITH: Alright.

20 BY MR. SMITH:

21 Q. Didn't you say that you were at the apartment where Korey
22 Love lived on that morning?

23 A. I was down at the apartments.

24 Q. Did you not say that you were inside their apartment that
25 mornin'?

JALESA NEAL - CROSS-EXAMINATION BY MR. SMITH

1 A. No.

2 Q. Now what -- let me ask you this: You left your brother
3 out of this statement with regard to that murder that mornin',
4 did you not?

5 A. I didn't know my brother was involved.

6 Q. Isn't it a fact that your brother came home that mornin'
7 and you got down and walked down to see what Korey Love was
8 doin? What time did your brother get home, let me just ask
9 that. What time did your brother get home that mornin'?

10 A. I don't remember.

11 Q. You don't remember. What time did you start ridin'
12 around Wendy's to see the tape around Wendy's restaurant?

13 MS. SEAY: Objection, she's never testified to that.

14 BY MR. SMITH:

15 Q. Well did you ride around Wendy's on that morning?

16 A. I don't remember.

17 Q. In your statement, if this will refresh your
18 recollection, you said, I remember riding past Wendy's later
19 that morning and saw the police tape around the parking lot.
20 Did you not say that in your statement that you signed,
21 ma'am?

22 A. Yes.

23 Q. Does that refresh your recollection that you were looking
24 at the Wendy's that mornin'?

25 A. Yes.

JALESA NEAL - CROSS-EXAMINATION BY MR. SMITH

1 Q. Does that refresh your recollection that you were not at
2 Korey Love's house that mornin', you were actually riding
3 around at the Wendy's?

4 A. I know I rode around that, probly that morning. I know
5 for a fact that I was within a couple a days I walked down to
6 the apartments.

7 Q. Within a couple a days, let's talk about the couple a
8 days. The mur -- the murder happened on Saturday mornin' and
9 then Sunday was, uh, church day, did ya go to church?

10 A. No.

11 Q. Right. And then the school day was on that Monday,
12 wasn't it?

13 A. Yes.

14 Q. Right. Did you catch the bus to go to school?

15 A. I wasn't goin' to school then.

16 Q. You wasn't goin' to school but Korey Love was goin' to
17 school, you knew that, didn't ya?

18 A. Yes.

19 Q. Right, so you wasn't around walking around that morning
20 listening to him and his father talking about anything when he
21 was goin' to school that morning, were you?

22 A. I just know it was within a couple a days. I don't know
23 for sure if he went to school or not.

24 Q. I understand. Now the fact of the matter is you say the
25 twins were involved, your brother was good friends with those

JALESA NEAL - CROSS-EXAMINATION BY MR. SMITH

1 twins, wasn't he?

2 A. Yes.

3 Q. And those twins would come up there and visit your house
4 on occasion, wouldn't they?

5 A. I'm not for sure.

6 Q. Well let me see, you didn't go to school and yet the
7 brother was friends with the twins and you're not sure they
8 ever came to your house?

9 A. No.

10 Q. Alright. Now you discussed this case with Ms. Seay on a
11 number of occasions, haven't you?

12 A. Yes.

13 Q. How many times did you go over the statement with
14 Ms. Seay?

15 A. Think three.

16 Q. Three times?

17 A. Think so.

18 Q. Three times and she allowed you to read your statement,
19 correct?

20 A. Yes.

21 Q. And you rehearsed your testimony some, didn't you?

22 A. Yes.

23 Q. Right. And you newly improved your testimony after
24 rehearsal, didn't ya?

25 A. Yes.

JALESA NEAL - REDIRECT EXAMINATION BY MS. SEAY

1 Q. No further questions.

2 REDIRECT EXAMINATION BY MS. SEAY:

3 Q. Ms. Neal, did I tell you what to say in court?

4 A. Just to tell the truth.

5 Q. Thank you.

6 THE COURT: Alright, thank you may step down. Wanna
7 release her from subpoena?

8 MS. SEAY: Yes, I would like to have her excused, please.

9 THE COURT: Any objection, Mr. Smith?

10 MR. SMITH: No objection, Your ---

11 THE COURT: Alright, you're released.

12 (Whereupon, the witness left the stand.)

13 MR. STEINBERG: Your Honor, ---

14 (Whereupon, a discussion was held off the record.)

15 MR. STEINBERG: --- we have a matter to take up that we
16 discussed earlier involving our next witness.

17 THE COURT: Alright, Mr. Foreman, ladies and gentlemen of
18 the jury, this is a, can't remember if I told ya'll that from
19 time to time I need to discuss matters with the attorneys out
20 of your presence, uh, not tryin' to deceive you in any way but
21 we might be tryin' to keep something from ya if it's a piece
22 of evidence that should not be admitted and a course you can
23 understand why you shouldn't hear it, this is one of those
24 times. Don't talk about the case, we'll get back with ya in
25 just a minute.

MOTIONS AND MATTERS

1 (The following takes place outside the presence of the
2 jury.)

3 THE COURT: Okay, what is it?

4 MR. STEINBERG: Your Honor, our next witness is going to
5 be Rashida Peters the former girlfriend of Korey Love.
6 Opposing counsel has objected to having a possible impeachment
7 evidence spif -- specifically statement that Ms. Peters made
8 in a post-polygraph interview where she said that during a
9 conversation with her and Korey, Korey confessed to killing
10 someone. Um, I do not expect her to tell the truth at which
11 point I would then confront her and impeach her with that, I
12 don't wanna do that without Your Honor ruling on this matter.
13 We have limited the clips to as to remove all language dealing
14 with polygraph and lie detectors, we would ask that you
15 admonish Ms. uh, Ms. Peters not to use it or the language
16 polygraph, lie detector. I have told her perhaps a hundred
17 times, perhaps you might have another more impact and again, I
18 I don't wanna play the the critical recording until Your Honor
19 rules on this matter, that's why I wanna do it ---

20 MR. SMITH: Your Honor, I think ---

21 MR. STEINBERG: --- before we give a ---

22 MR. SMITH: -- the problem with their said is there's
23 Brady material on the recording and I asked 'em to redact that
24 before we got to trial so that we could play recording and
25 all -- oth -- other thing is the Court I believe should listen

MOTIONS AND MATTERS

1 to it because she was coerced in giving that statement that
2 she heard him say it because she flips around and says
3 somethin' else totally different after she says it so what
4 we're left with ---

5 THE COURT: Wait a minute. You said you --- there's
6 Brady material that you wanted taken off the tape?

7 MR. SMITH: No, no, I I can't play the tape 'cause they
8 didn't redact it and I think under the rules if they're gonna
9 use something under the rule of completeness, if they wanna
10 play somethin' they need to, they need to make all of it
11 available ---

12 THE COURT: No, ---

13 MR. SMITH: --- so ---

14 THE COURT: --- no, no, that's not, uh, you're referrin'
15 to a civil rule. Uh, we don't, just 'cause they play part a
16 something and the rest of it's unconstitutional, we don't let
17 it in just to show completeness.

18 MR. SMITH: Right.

19 THE COURT: So what is the ---

20 MR. SMITH: The basis of my mine mine basically is
21 twofold; number one, the coer -- coercive environment that the
22 witness was in and I think if the Court ---

23 THE COURT: Well you can, you can, I mean, we're not
24 gonna talk about polygraphs. She can talk about her her bein'
25 in, uh, interrogated, um, but what what's the object -- if

MOTIONS AND MATTERS

1 she, if she's testifies differently today from what she said
2 on whatever day this was, ---

3 MR. SMITH: Well that we got two ---

4 THE COURT: --- why should they not be allowed to impeach
5 her?

6 MR. SMITH: At first I thought she was gonna be their
7 witness. Well I know you can impeach anybody but she's given
8 two statements sayin' he didn't say anything before I -- she
9 did the polygraph, sumtin' like that.

10 THE COURT: Okay. So I'm not hearin' any real objection
11 here.

12 MR. SMITH: Yeah, our objection is we believe the witness
13 was coerced into giving a statement that's negative against
14 him.

15 THE COURT: Well that's just a matter of of weight, not
16 admissibility.

17 MR. SMITH: Alright.

18 THE COURT: You can get into the co -- into what you
19 allege to be coercive ---

20 MR. SMITH: Alright.

21 THE COURT: --- interrogation but you do not mention
22 polygraph.

23 MR. SMITH: Alright, sir.

24 MR. STEINBERG: Your Honor, we would ask that Ms. Peters
25 be brought in, that you instruct her that as well.

MOTIONS AND MATTERS

1 THE COURT: Okay, I'll be happy to. Ms. Peters, if you
2 would just come up to this lectern right here (indicating).

3 (Whereupon, the witness came forward.)

4 THE COURT: Raise your right hand for me.

5 RASHIDA PETERS, having been first
6 duly sworn, testified as follows:

7 THE COURT: Okay, need you to speak up a little bit.

8 THE WITNESS: Yes, sir.

9 THE COURT: How are you doing' today?

10 THE WITNESS: I'm okay, I'm in a little pain but I'm
11 okay.

12 THE COURT: Alright. You understand that the State is
13 gonna call you as a witness in this trial?

14 THE WITNESS: Yeah.

15 THE COURT: Okay. And I would, as I would tell any
16 witness would instruct you to tell the truth today, okay? I
17 understand that there was some interview you had with law
18 enforcement that involved a polygraph or a lie detector test,
19 is that right?

20 THE WITNESS: Um-hum.

21 THE COURT: You have to speak up.

22 THE WITNESS: Yes.

23 THE COURT: Okay. Well I'm -- I will instruct you that
24 polygraphs have not be -- have been found to be not
25 scientifically reliable so we don't allow them in court, okay,

MOTIONS AND MATTERS

1 so I am instructing you now not to mention the f -- anything
2 about a polygraph test ---.

3 THE WITNESS: Okay.

4 THE COURT: --- or a lie detector test, okay? Do. ---

5 THE WITNESS: Um, ---

6 THE COURT: --- you understand?

7 THE WITNESS: --- yes.

8 THE COURT: It's fine that you tell 'em that you're
9 bein', ya know, interviewed by the police but do not mention a
10 polygraph test, okay?

11 THE WITNESS: Okay.

12 THE COURT: Alright.

13 MR. STEINBERG: Yes, sir, that's all.

14 THE COURT: Alright. Uh, well she can -- let's get the
15 jury back. You ready to go?

16 MR. STEINBERG: Yes, sir, Your Honor.

17 THE COURT: Ready to go, Mr. Smith?

18 MR. SMITH: Yes, sir.

19 THE COURT: Okay. You can just, if you would, just have
20 a seat and we'll -- alright -- no, you don't have to -- yeah,
21 that's fine, that's good. Thank you.

22 THE COURT: You swear her.

23 THE CLERK: Yes.

24 (Whereupon, a discussion was held off the record.)

25 (The following takes place in the presence of the jury.)

RASHIDA PETERS - DIRECT EXAMINATION BY MR. STEINBERG

1 THE COURT: Alright, call your next witness.

2 MR. STEINBERG: State calls Ms. Rashida Peters.

3 THE CLERK: Ms. Peters, if you'll come forward, please
4 pause at the end a the bench there.

5 (Whereupon, the witness came forward.)

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

8 RASHIDA PETERS, having been first
9 duly sworn, testified as follows:

10 THE CLERK: Thank you, please be seated. Would you
11 please state your name for the record.

12 THE WITNESS: Rashida Peters.

13 THE CLERK: Thank you. You need some water?

14 THE WITNESS: I'm okay, I'm okay.

15 DIRECT EXAMINATION BY MR. STEINBERG:

16 Q. Good afternoon, Ms. Peters, how are you today?

17 A. I'm okay.

18 Q. Can you please tell jury how old you are.

19 A. Twenty-three.

20 Q. How old were you in 2007, ma'am?

21 A. 2007 I would be 17.

22 Q. What is your current occupation?

23 A. I work at McDonald's.

24 Q. Which McDonald's?

25 A. Um, the one on Hudson Road.

RASHIDA PETERS - DIRECT EXAMINATION BY MR. STEINBERG

1 Q. And where do you currently live?

2 A. Street.

3 Q. What's the name of that apartment complex?

4 A. Ramblewood Apartments.

5 Q. In 2007 did you know the defendant in this case Korey
6 Love?

7 A. Yes.

8 Q. And how did you know him?

9 A. I went to school with him.

10 Q. Would you con -- consider him a friend at the time?

11 A. Um, we were cool.

12 Q. What was your occupation in January of 2007?

13 A. I worked at Wendy's.

14 Q. Which Wendy's?

15 A. Um, the one on Pleasantburg.

16 Q. Is that the one that we're talkin' about in this case
17 today?

18 A. Yes.

19 Q. At some point in time did you start dating Korey Love?

20 A. Yes.

21 Q. Do you remember when you started dating him?

22 A. I would say we started datin' about 2008.

23 Q. Did you date him at all in 2007?

24 A. Um, we liked each other.

25 Q. Did he come to visit you in 2007?

RASHIDA PETERS - DIRECT EXAMINATION BY MR. STEINBERG

1 A. Yeah, we, everybody hung out outside in the summertime.

2 Q. How long did you date Korey Love for?

3 A. Um, I would say almost two years.

4 Q. You remember when he was arrested on this case?

5 A. Um, March 2010.

6 Q. Did you visit him at all in jail?

7 A. Um, I visit him once.

8 Q. Did you write him any letters or he write you any
9 letters?

10 A. Yeah, we wrote each other.

11 Q. And did he -- you ever speak on the phone?

12 A. Yeah.

13 Q. Do you have a discussion with Detective Flavell about
14 your feelings for Korey Love?

15 A. Um, yeah, when we came down to the detention center,
16 what, uh, whatever that was, detention center, uh, ---

17 Q. Yes. Yes, ma'am. Do you recall a time when Detective
18 Flavell came to your house in Ramblewood?

19 A. Um, I think so.

20 Q. Okay.

21 A. Yeah.

22 Q. Was that this year?

23 A. Yes.

24 Q. And what did you say was your relationship or your
25 feelings towards Korey Love at the time?

RASHIDA PETERS - DIRECT EXAMINATION BY MR. STEINBERG

1 A. I love him.

2 Q. You still love him?

3 A. Yeah, I still love him.

4 Q. Okay. I'm not trying to ask you embarrassing questions,
5 that's not my point here now. Did Korey ever visit you at the
6 Wendy's on 291?

7 A. No.

8 Q. Did he ever wait for you out there?

9 A. No.

10 Q. Do you know Eric Jarod Ransom, he goes by Jarod?

11 A. Yes.

12 Q. How close were he and Korey?

13 A. They were like brothers.

14 Q. Break this down, before they were actually stepbrothers,
15 were they also that close?

16 A. Um, before they were stepbrothers, yeah.

17 Q. Okay. How often would you see the two of them
18 together?

19 A. I guess like, um, all the time. I mean, when I was able
20 to go outside, yeah.

21 Q. And and how how close do they live to each other?

22 A. They lived in the same complex.

23 Q. Did you know Ricky or Rashad Simmons?

24 A. Yes.

25 Q. Where do they live?

RASHIDA PETERS - DIRECT EXAMINATION BY MR. STEINBERG

1 A. They live in our complex.

2 Q. And what was your complex back in 2007?

3 A. Um, Mallard Cove.

4 Q. Were they friends with Korey?

5 A. Yeah, I guess, yeah.

6 Q. Did you ever hear any discussions by Korey involving
7 the Wendy's?

8 A. No.

9 Q. Before the Wendy's was robbed, did you ever hear
10 anything?

11 A. No.

12 Q. Afterwards?

13 A. No.

14 Q. Specifically, do you recall a conversation on your
15 property, your porch, your patio?

16 A. Yeah.

17 Q. Okay. Tell us about that conversation.

18 A. Um, we were just talkin' about our relationship and
19 things that we were ashamed of at least this and, you know,
20 that was how it went. Like he said he was ashamed a somethin'
21 he done and I was like I was givin' him somethin' I've done,
22 you know. We was thinkin' about like crazy stuff so was like,
23 you know, bad things or whatever, somethin' that happened in
24 our lives.

25 Q. Did he tell you specifically the bad thing?

RASHIDA PETERS - DIRECT EXAMINATION BY MR. STEINBERG

1 A. No.

2 Q. He tell you was it something he had done or something he
3 had heard? what was it?

4 A. It was just like somethin' he was ashamed of. I don't
5 know what that means. Like coulda been somethin' he's done or
6 heard, I don't know.

7 Q. And did -- how did he appear when he told ya that?

8 A. Normal, like we were just talkin'.

9 Q. Alright. Well a -- and actually that conversation was
10 not the conversation I was alluding to. Do you remember
11 conversation between you and Korey and some other people,
12 other people are present on your porch or your patio prior to
13 this robbery ---

14 A. No.

15 Q. --- and murder?

16 A. No.

17 Q. Did your unit have a porti -- patch or a portio?

18 A. We had, yeah, we had like a a porch with stairs yeah, it
19 was like the front porch.

20 Q. On January 26 the night it carried over to January 27,
21 were you physically working on that night at the Wendy's?

22 A. Um, I don't think I was, no.

23 Q. Did ya speak to Korey that day?

24 A. No, I don't know. I don't think so, no.

25 Q. Was it possible you did?

RASHIDA PETERS - DIRECT EXAMINATION BY MR. STEINBERG

1 A. No.

2 Q. Why is it not possible that you spoke to him?

3 A. Because he usually I was in the house, like I wasn't
4 really able to go outside, I was always on punishment 'cause
5 my grades were low.

6 Q. But would he have called you on the phone or you called
7 him on the ---

8 A. We've never ---

9 Q. --- phone?

10 A. --- talked on a phone.

11 Q. You never tal -- you never spoke on the phone?

12 A. Uh-uh (negative).

13 Q. This night of January 26th, 27th, do you remember what
14 day of the week it was?

15 A. No.

16 Q. When did you find out what happened the Wendy's?

17 A. Um, I found out I think the next day. Uh, my mom said
18 she seen it on the news and I got called from the job sayin'
19 that someone was killed outside and we had like a meeting at
20 work that we had to come up there. They let us know like the
21 different times we close, you know, the earlier times that we
22 close, that was it.

23 Q. Did you know the victim in this case Isaac Bass?

24 A. Yeah, I worked with him.

25 Q. How well did you know him?

RASHIDA PETERS - DIRECT EXAMINATION BY MR. STEINBERG

1 A. Um, we're co-workers and he was a funny guy jokin'.

2 Q. What was that last word?

3 A. I mean, he would joke, he was funny.

4 Q. After this tragic event at the Wendy's, did you ever have
5 any conversation with Korey about it?

6 A. No.

7 Q. Ya didn't mention with him how could something happen at
8 your place a business?

9 A. No, 'cause, I mean, we weren't really that close to.

10 Q. On March 16th of 2010, did you speak with officers at the
11 Law Enforcement Center?

12 A. Yes.

13 Q. Did you speak with Detective Flavell about this
14 killing?

15 A. Yes.

16 Q. Did you initially write a statement on this case?

17 A. Yes.

18 Q. I'm gonna show you a document I'd like to have it marked
19 for identification. I have two more documents out while we're
20 at it.

21 (Statement of Rashida Peters marked State's Exhibit
22 No. 37 for identification and statement of Rashida Peters
23 marked State's Exhibit No. 38 for identification.)

24 MR. STEINBERG: Thank you, ma'am.

25 BY MR. STEINBERG:

RASHIDA PETERS - DIRECT EXAMINATION BY MR. STEINBERG

1 Q. I'm gonna show you what's been marked as State's Exhibit
2 No. 38, you give that statement?

3 A. Um, yes.

4 Q. You agree that, you agree with that state -- it's your
5 signature?

6 A. That's my signature.

7 Q. Okay. Please read over this. Is that correct statement?

8 A. Yes.

9 Q. And please tell the jury basically what that statement
10 says.

11 A. "Detective Flavell", or or how -- however you say his
12 name, um, "told me that he had information that I was involved
13 in a robbery at Wendy's and Isaac's murder. I do not know
14 anything about the planning of the robbery or the murder of
15 Isaac. I worked at Wendy's and would never set anyone up to
16 get hurt. Um, Detective Flavell told me he had information
17 that Korey, Jarod, Ricky and Rashad were involved in the
18 planning of the robbery. I was friends with all these guys
19 but never knew anything about their involvement and if I would
20 have known they were involved I would never have as --
21 associated with them."

22 Q. Um, let me ask you a couple more questions. Was that a
23 true statement?

24 A. Yes, because I didn't know ---

25 Q. Okay.

RASHIDA PETERS - DIRECT EXAMINATION BY MR. STEINBERG

1 A. --- anything.

2 Q. Is there any -- was there anything else you needed to
3 tell off -- officers about this case that time?

4 A. Just like the fact that on the shame part but anything
5 else no 'cause I really didn't know anything about it.. I
6 didn't know that they were gonna do anything like that or
7 anything like that was gonna happen.

8 Q. Thank you, ma'am. Ms. Peters, shortly after speaking
9 with Detective Flavell and giving that statement, did you
10 speak with, uh, Sergeant Nate Brooks a shorter, uh, officer?

11 A. Yeah.

12 Q. Did you discuss that conversation that you had with Korey
13 Love you had previously mentioned about airing your issues?

14 A. Yeah.

15 Q. Do you remember what you told him, what you told Sergeant
16 Brooks?

17 A. Um, um, same thing I wrote, I said that he was ashamed of
18 somethin'. Um, it's been so long ago. No, I really don't
19 remember everything I said to him.

20 Q. Do you remember Korey telling you that he had killed
21 someone, ---

22 A. No.

23 Q. --- using that language?

24 A. No.

25 Q. If I played for you a recording, would it refresh your

RASHIDA PETERS - DIRECT EXAMINATION BY MR. STEINBERG

1 memory?

2 A. I guess.

3 MR. STEINBERG: I'd like to have this listed RP-C, it's a
4 D -- CD-R, I'd like to have it marked for identification.

5 (CD-R RP-C of Rashida Peters marked State's Exhibit
6 No. 39 for identification.)

7 MR. STEINBERG: Thank you, ma'am.

8 (Whereupon, State's Exhibit No. 39 was played for the
9 jury.)

10 BY MR. STEINBERG:

11 Q. Okay. Was that your voice?

12 A. Yes.

13 Q. I don't mean to be rude at all, do you need to listen to
14 that again?

15 A. No.

16 MR. STEINBERG: State has had marked State's Exhibit No.
17 39, we move to introduce it piece of evidence.

18 MR. SMITH: No objection.

19 THE COURT: Okay.

20 (State's Exhibit No. 39, CD-R RP-C of Rashida Peters,
21 admitted into evidence.)

22 BY MR. STEINBERG:

23 Q. Ma'am, after having listened to that statement, you agree
24 that you informed Sergeant Brooks that Korey Love had killed
25 someone?

RASHIDA PETERS - DIRECT EXAMINATION BY MR. STEINBERG

1 A. Yes..

2 Q. Who'd he say he killed?

3 A. He didn't say who.

4 Q. On that CD we just played, was the name Isaac
5 mentioned?

6 A. He didn't -- I didn't say that he killed Isaac, I said I
7 didn't know but he didn't say who it was.

8 Q. Okay, but did you say the word "Isaac" on there?

9 A. I said Isaac name, yeah.

10 Q. Okay. What were the circumstances surrounding the
11 conversation you had with Korey? What was your reason for
12 that conversation?

13 A. Well, I mean, we just talkin' about our relationship
14 really and that was it. We just havin' normal conversation,
15 was just talkin' about our relationship like any other couple
16 does.

17 Q. When you're having a normal conversation like every other
18 couple does, why would you, why would you bring up having
19 killed someone?

20 A. I don't know.

21 Q. I understand you you've already testified that you love
22 him ---

23 A. Yeah.

24 Q. --- and you've stayed in contact with him, ---

25 A. Um-hum.

RASHIDA PETERS - DIRECT EXAMINATION BY MR. STEINBERG

1 Q. --- did he ever tell you who he killed?

2 A. No.

3 Q. He ever tell you why he killed?

4 A. No.

5 Q. Where he killed?

6 A. No.

7 Q. After speaking with, um, Sergeant Brooks, did you give a
8 second written statement to Detective Flavell?

9 A. Yes.

10 Q. Was a female officer Lieutenant Theresa Thompson
11 present?

12 A. Yes.

13 Q. In the second written statement, did you admit that you
14 had not told the truth the first one?

15 A. I didn't say I didn't tell the truth but...

16 Q. The day in question when you gave of this first and the
17 second statement and the conversation you had with Sergeant
18 Brooks that we just played, were you with Korey that day?

19 A. No, I was at a, um, interview.

20 Q. Did you see him at all that that day?

21 A. Yeah, my mom picked us both up.

22 Q. So did you arrive together at the Law Enforcement
23 Center?

24 A. Yes.

25 Q. In that second statement, did you admit that Korey Love

RASHIDA PETERS - DIRECT EXAMINATION BY MR. STEINBERG

1 and his group of friends would come visit you at Wendy's?

2 A. I mean, they didn't really come visit. I've never seen
3 Korey or anything but I've seen Ricky and Rashad come up
4 there.

5 Q. And who did you refer to as the group of people that
6 would hang out with Korey? You just said Ricky and Rashad,
7 was Jarod part a that group?

8 A. Yeah.

9 Q. I'll show you State's Exhibit Number 37, please identify
10 what this document is.

11 A. Um, ---

12 Q. And what are the hours on the very top?

13 A. 1632.

14 MR. STEINBERG: Your Honor, I would ask the Court to take
15 judicial notice 1632, uh, hours is 4:32 hours p.m.

16 THE COURT: Okay.

17 BY MR. STEINBERG:

18 Q. I would like you to please read that statement in its
19 entirety to the jury.

20 A. "I do not tell the truth the first time I I was asked
21 about this by Detective Flavell. He asked me tell the truth
22 about what I knew about Wendy's murder. I did not know they
23 were going to rob the Wendy's, I didn't even know they were
24 going to Wendy's. I never gave them any information. I
25 should have known that they were used to because they used to

RASHIDA PETERS - DIRECT EXAMINATION BY MR. STEINBERG

1 come up there when I was workin'."

2 Q. Please read the rest of it.

3 A. "Detective Fl ---

4 MR. SMITH: Your Honor, he askin' her questions about the
5 statement. I don't think it's ---

6 THE COURT: Is it admitted?

7 MR. SMITH: No.

8 MR. STEINBERG: Your Honor, I would move to admit at this
9 time.

10 THE COURT: Ya'll come up for a sec.

11 (Whereupon, a bench conference was held off the record.)

12 BY MR. STEINBERG:

13 Q. Ms. Peters, you testified earlier that Korey did not come
14 visit you at Wendy's, you were pretty clear about that.

15 A. No.

16 Q. Yes?

17 A. Yeah.

18 Q. Would you agree that in the statement you said, "I should
19 have known because they used to come up there all the time
20 when I was working"?

21 A. Yes.

22 Q. And you gave that statement to officers?

23 A. I told, um, Ms. Thompson.

24 Q. Okay. And do you sign a statement to that effect?

25 A. Um, I signed a a paper, yeah.

RASHIDA PETERS - DIRECT EXAMINATION BY MR. STEINBERG

1 Q. Okay. And when you were asked the -- who is the word
2 "they", who do you respond?

3 A. I never even gave her a name, I just said they.

4 Q. Well you were asked the word who is "they", ---

5 A. Um--hum.

6 Q. --- who did you respond?

7 A. Says Ricky, Rashad, Jarod and Korey.

8 Q. In that statement you also state that Korey told ya that
9 he had done something drastic, is that correct?

10 A. I didn't use the words "drastic" but I say he done
11 somethin' that was bad.

12 Q. Would you agree that you signed a statement saying it was
13 drastic?

14 A. I mean, when I signed the statement did not say drastic
15 on there. I've seen the statement.

16 Q. Did I give you a copy of the statement ---

17 A. Yeah, you gave me ---

18 Q. --- two weeks ago?

19 A. --- my own copy.

20 Q. Alright. Um, I'm gonna show you this copy State's
21 Exhibit Number 37. I'm gonna have to ask you to read over it
22 to yourself and if there's anything that is incorrect I want
23 you to tell me about that now.

24 (Whereupon, the witness examined the exhibit.)

25 A. I never used the words "drastic".

RASHIDA PETERS - DIRECT EXAMINATION BY MR. STEINBERG

1 Q. Do you know what it means?

2 A. Like somethin' bad or explain to me.

3 Q. Okay. Have you had an opportunity to read that?

4 A. Yeah.

5 Q. In that statement do you agree that you had already given
6 one statement to Sergeant Brooks, you now gave another
7 statement to Detective Flavell and Lieutenant Thompson the
8 female ---

9 A. Yeah.

10 Q. --- officer where you admitted that you had a
11 conversation about something drastic having occurred ---

12 A. Yeah.

13 Q. --- and you were asked the words, "Why would you think
14 that he killed someone?" Why did you, why did you use the
15 word "killed" earlier?

16 A. Because -- why would I think that he killed someone?

17 Q. Right.

18 A. I mean, I really didn't think he would kill anyone.

19 Um, ---

20 Q. But you'd already given your conversation, your testimony
21 about your conversation he -- you had where he had made that
22 admission.

23 A. Yeah. I don't know, I g -- I -- at first, I mean, I
24 wasn't thinkin' that he killed someone, I thought it was just
25 like somethin' petty but I don't know, I just just things that

RASHIDA PETERS - DIRECT EXAMINATION BY MR. STEINBERG

1 run through your mind, you know, you never think that someone
2 that you date have done somethin' that bad. We all make
3 mistakes ---

4 Q. Right.

5 A. --- but somethin' like that no.

6 Q. You agree that this was not about something minor, this
7 was not something petty?

8 A. Yeah.

9 Q. Did you tell Lieutenant Theresa Thompson about your
10 concerns about speaking with law enforcement?

11 A. What do ya mean?

12 Q. Did you tell her that you were scared to speak to police?

13 A. No, I, I mean, I-I don't talk to police no more. I mean,
14 I don't have no reason to really.

15 Q. I'm gonna ask you the question again: Did you tell her
16 you were afraid to speak to police?

17 A. I didn't. I don't think I told her that, no.

18 Q. Did you come here under subpoena on this case?

19 A. Yes.

20 Q. Have I had conversations with you in this case or you had
21 conversations with anybody in law enforcement in this matter?

22 A. You.

23 Q. Right. Has anybody else in law enforcement spoken with
24 you?

25 A. No.

RASHIDA PETERS - CROSS-EXAMINATION BY MR. SMITH

1 Q. Okay. Do you remember speaking to Ms. Seay or Detective
2 Flavell?

3 A. Yes, my only -- the only time I talked to her was with
4 you, Ms. Seay, and Detective Flavell is when I see him at the
5 detention center.

6 Q. Okay, and did we give you a copy of your report?

7 A. The first time no.

8 Q. So you're not getting a copy when the -- you first gave
9 it?

10 A. No.

11 Q. And were you given a copy at that subsequently?

12 A. Um, we had to come to the pretrial.

13 Q. Okay. Thank you, Ms. Peters, please answer any questions
14 that Mr. Smith might have for you.

15 A. Okay.

16 CROSS-EXAMINATION BY MR. SMITH:

17 Q. Thank you. Uh, Ms. Peters, I have a few questions for
18 you. As I understand it you had been accused for a period a
19 time during your interviews with the police of been a planner
20 in the robbery, isn't that correct?

21 A. Yes.

22 Q. And at the time you were afraid that you were gonna have
23 to go to jail yourself for a robbery, isn't that correct?

24 A. Yes.

25 Q. And you knew at the time that they were accusing you of

RASHIDA PETERS - CROSS-EXAMINATION BY MR. SMITH

1 planning this robbery whoever was saying that was telling a
2 lie, is that correct?

3 A. Yes.

4 Q. And they kept telling you that you could suffer severe
5 penalties if you didn't tell a story about him killin'
6 somebody, isn't that a fact?

7 A. Yes.

8 Q. So you made that story up to get from under the pressure
9 of these people when they were threatenin' you for planning
10 this robbery, isn't that a fact?

11 A. I didn't make a story up, I just told the truth.

12 Q. Well, when they did your written statement, you didn't
13 say anything in your written statement that he had killed
14 anybody, did ya?

15 A. No.

16 Q. Were you tellin' the truth in your written statement?

17 A. Yes.

18 Q. Well you can't be tellin' two truths at the same time,
19 one is a lie. It is a fact, is a lie that Korey Love never
20 told you he killed anyone, isn't it?

21 A. No.

22 Q. And it's a fact also that you never planned a robbery
23 with Korey Love, isn't it?

24 A. Yes, I never planned anything.

25 Q. And is it a fact also that you never planned a robbery

RASHIDA PETERS - CROSS-EXAMINATION BY MR. SMITH

1 with Ricky Simmons or Rashad Simmons?

2 A. Yes.

3 Q. And you knew that the hand of one is the hand of all,
4 that you yourself could face severe penalties if you planned
5 this robbery, didn't you?

6 A. Yes.

7 Q. And you were gonna do everything in your power protect
8 yourself, right?

9 A. Yes.

10 Q. And that means even lying against the man you say you
11 Love, correct?

12 A. Not correct.

13 Q. Now with regard to the prosecutor, did you and him
14 discuss your testimony before you got here today?

15 A. Um, yes, the pretrial.

16 Q. At the pretrial. How many people were present at the
17 pretrial when ya'll were discussin' your testimony?

18 A. One. Well it was just three. It was me and the two, um,
19 Ms. Seay and...

20 Q. No further questions.

21 THE COURT: Alright, anything else?

22 MR. STEINBERG: No, Your Honor. We ask that, uh,
23 Ms. Peters be released.

24 THE COURT: Alright, you're released from subpoena.
25 Thank you, ma'am.

MOTIONS AND MATTERS

1 (Whereupon, the witness left the stand.)

2 THE COURT: Alright, Mr. Foreman, ladies and gentlemen of
3 the jury, ya know, we don't punch time clocks, this looks like
4 a pretty good time to stop for lunch, uh, so I'm gonna --
5 let's break and ask ya'll to be back at, uh, well let's go
6 ahead and make it 2:30 and, uh, don't talk about the case,
7 don't read anything, don't go to visit the scene, don't do
8 anything like that. We'll see ya at 2:30, okay?

9 THE BAILIFF: Have a seat please till the jury is out.

10 (The following takes place outside the presence of the
11 jury.)

12 THE COURT: Okay, anything before we break?

13 MS. SEAY: No, sir.

14 THE COURT: Alright, how much more do ya have?

15 MS. SEAY: We have Ricky Simmons, Rashad Simmons, uh,
16 potentially an officer depending on whether that becomes
17 necessary, um, Jarod Ransom and possibly, uh, Ilya Salters and
18 I I can let you know about him after lunch.

19 THE COURT: Okay. Alright, anything, Mr. Smith, ---

20 MR. SMITH: Uh, ---

21 THE COURT: --- before we break for lunch?

22 MR. SMITH: Oh, nothing, no.

23 THE COURT: Okay, alright. Alright, see ya'll at 2:30.

24 MR. SMITH: Yes.

25 (Whereupon, a recess was taken.)

MOTIONS AND MATTERS

1 THE COURT: Thank you, please be seated. Ya'll ready?

2 MR. SMITH: Yes, sir.

3 MS. SEAY: Yes, sir.

4 THE COURT: Okay.

5 MR. STEINBERG: Has Your Honor, uh, decided on the issue
6 involving Rule 608 prior bad act?

7 MR. SMITH: Your Honor, it's not prior bad act, it's the
8 testimony I think would be, uh, The day we were outside
9 chilling we had boxing, we were bored, we started talkin'
10 about robbing and acting like we were going to do it at night.
11 Who is "we"? Rashad, Jarod, Korey, KaeKae (phonetic), TaeTae
12 (phonetic), Reg Original, think Shar -- Sheda's sister was out
13 there. He was a part of bein' initiated into a gang 'cause he
14 says in another part a his statement my crew. I think we
15 oughta have an opportunity to present that not as character
16 evidence but as to whether or not these, all these people
17 were conspiring.

18 THE COURT: Conspiring?

19 MR. SMITH: Yeah, they were planning a robbery and he
20 says a week before the robbery happened he knocked somebody
21 out. Now were they in a boxing tournament or were they
22 actually in somethin' else I don't know but he was sayin' they
23 were boxin' out there earlier and then the other thing is
24 later on he says that he was bein' initiated into a street
25 gang. Now we understand that he's gonna testify too that my

MOTIONS AND MATTERS

1 client was fightin' this guy and the pol -- and all the
2 medical evidence and everything else says that this young man
3 who was murdered was not shot at poke -- post, ya know, at
4 close range and there's nothin' in the autopsy showed that he
5 was injured by fighting so I I ---

6 THE COURT: Oh.

7 MR. SMITH: --- I just think we oughta have an
8 opportunity to explore that on cross-examination.

9 MR. STEINBERG: Uh, Your Honor, that's not even in the
10 statement. Only thing that's in the statement is that, We did
11 talk about robbing a Wendy's, that's a -- it ---

12 MR. SMITH: He's got two statements.

13 MR. STEINBERG: If if counsel will show ---

14 THE COURT: Well show me what it is you want -- what is
15 it that -- I thought ya'll were gonna get -- figure out ---

16 MR. STEINBERG: Yes.

17 THE COURT: --- what it is you were fightin' about.

18 (Pause.)

19 MR. SMITH: Excuse me, Your Honor. There a statement --
20 Your Honor, let me move on with this. I got some case law, I
21 don't wanna hold up, then when I get to my point on
22 cross-examination I'll stop and not do anything until that
23 point.

24 THE COURT: Well if we can clear it up so the jury
25 doesn't ---

MOTIONS AND MATTERS

1 MR. SMITH: Alright.

2 THE COURT: --- get shuffled around let's get it cleared
3 up.

4 MR. SMITH: Alright, sir. Okay. It's in the, uh,
5 incident report of 4/12/10 Ricky stated that they came to
6 Ricky's house after Ricky was asked to identify. They, Ricky
7 stated to Korey and Jarod, Ricky stated it was a week before
8 he was to get jumped into a gang. Ricky stated that he never
9 got jumped but was going to and that's in Detective Riggs's
10 statement about what this fellow told.

11 THE COURT: That's in his when he was interviewin'?

12 MR. SMITH: Yes, sir.

13 MR. STEINBERG: Yes, sir, apparently. It's not any
14 statement signed by this, uh, this witness we're about to call
15 which is Ricky Simmons.

16 MR. SMITH: Well, I mean, even FBI reports they don't
17 sign statements but they still can cross-examine 'em. Now you
18 can't -- of those of us were to practice in federal courts you
19 hardly ever see written statements in federal court. The FBI
20 do -- does a, uh, does up the statement, you get to
21 cross-examine.

22 MS. SEAY: What what page is that on?

23 MR. SMITH: It's on, uh, first page. It says on March
24 the 11th 2010 I assisted Detective Flavell.

25 THE COURT: So you're saying you're not impeaching his

MOTIONS AND MATTERS

1 credibility, you, what are ya doin'?

2 MR. SMITH: What I'm doin' in effect is if he's a member
3 of a gang, they target this kid 'cause there's no money drop,
4 we know there's no money drop. We've already established in
5 this case that Rashida Peters, uh, we're gonna be able to
6 establish Rashida Peters was not a part of any plan and I
7 think even when and and I -- but, however, that is these guys
8 are gonna get up here, these -- he's gonna say the -- this is
9 my crew. He said that in one of his statements this is my
10 crew Rashad, Jarod, KaeKae, Korey, Reg Original. This is not
11 the gang that my client was in or Original or any a
12 these ---

13 THE COURT: Which gang was your client in?

14 MR. SMITH: None.

15 THE COURT: Oh, okay. Alright. Well ---

16 MR. SMITH: And ---

17 THE COURT: --- I, ya know, let me just -- I think we're
18 gonna have to see how it goes, ---

19 MR. SMITH: Alright.

20 THE COURT: --- see whether or not he can get into it.

21 MR. STEINBERG: Your Honor, we would, I understand that,
22 we would still refer to this being Rule 608 prohibited
23 conduct.

24 THE COURT: Well he's -- we'll just see where we are when
25 it comes up. I'm I'm not sure how it's gonna play out.

RICKY D. SIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

1 MR. STEINBERG: Yes, sir, Your Honor.

2 THE COURT: Okay. Alright.

3 (The following takes place in the presence of the jury.)

4 THE COURT: Alright, welcome back, ladies and gentlemen.

5 Call your next witness..

6 MR. STEINBERG: Thank Your Honor. State calls Mr. Ricky
7 Simmons.

8 THE CLERK: Mr. Simmons, please come forward.

9 (Whereupon, the witness came forward.)

10 THE CLERK: Sir, if you'll pause at the end a the bench,
11 there (indicating). Please place your left hand on the Bible
12 and raise your right hand.

13 RICKY D. SIMMONS, having been
14 first duly sworn, testified as follows:

15 THE COURT: Thank you, please be seated. Please state
16 your name for the record.

17 THE WITNESS: Ricky D. Simmons.

18 DIRECT EXAMINATION BY MR. STEINBERG:

19 Q. Good afternoon, Mr. Simmons, how are you today?

20 A. I'm okay.

21 Q. Can you please tell the jury where you live.

22 A. Um, right now I stay in Americus, Georgia.

23 Q. And is that north or south or of Atlanta and how far?

24 A. Uh, it's not north or south, it's more over west towards
25 southwest towards Florida.

RICKY D. SIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

- 1 Q. Okay. And who do ya live with?
- 2 A. Myself.
- 3 Q. Do you go to school right now?
- 4 A. Yes, sir.
- 5 Q. And what school are you in?
- 6 A. Georgia Southwestern State University.
- 7 Q. What is your major?
- 8 A. Exercise science.
- 9 Q. And what or how far along are you in your career
- 10 school?
- 11 A. I'm between my sophomore and my junior year.
- 12 Q. Are you currently working any place?
- 13 A. Yes, sir.
- 14 Q. Where are you working?
- 15 A. Burger King.
- 16 Q. In 2007 how old are you, of 2007?
- 17 A. Uh, my birthday's on the so I was 17, 16 at the
- 18 beginning a the year, 17 after the .
- 19 Q. Okay, so you had just turned 17 on -- around the
- 20 time period?
- 21 A. Yes, sir.
- 22 Q. What high school did ya go to?
- 23 A. J.L. Mann High School.
- 24 Q. Did you graduate from that school?
- 25 A. No, sir.

RICKY D. SIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

- 1 Q. Where'd you graduate from?
- 2 A. Graduated from Chattahoochee County High School.
- 3 Q. And where is that?
- 4 A. Cusseta, Georgia.
- 5 Q. When you were in high school in Greenville County, did
- 6 you know Korey Love?
- 7 A. Yes, sir.
- 8 Q. Please turn around and face me if you would. Please
- 9 point to Korey Love.
- 10 A. This gentleman right here (indicating) in the red tie.
- 11 Q. Thank you, sir. How well did you know him?
- 12 A. For the time I was there I got to know him pretty well.
- 13 I didn't know him that well at first.
- 14 Q. Would you have considered him a friend at the time?
- 15 A. Yes, sir.
- 16 Q. Did you know Eric Jarod Ransom?
- 17 A. Yes, sir.
- 18 Q. How well'd ya know him?
- 19 A. The same.
- 20 Q. When was the last time you spoke to Jarod Ransom?
- 21 A. I haven't spoken to Jarod directly since I left.
- 22 Q. And when did you leave Greenville?
- 23 A. Uh, between the 28th and the 29th of January.
- 24 Q. Do you have a, do you have a brother?
- 25 A. Yes, sir.

RICKY D. SIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

1 Q. Is he your twin brother?

2 A. Yes, sir.

3 Q. And what is his name?

4 A. Uh, Robert Rashad Simmons.

5 Q. And what does he go by?

6 A. He goes by Shad.

7 Q. How close were you to, um, how close were you and your
8 brother to Korey and Jarod?

9 A. Uh, I can't speak on behalf a my brother but on my behalf
10 I felt I was rather close to him.

11 Q. Okay. Who is Rashida Peters?

12 A. A a friend at that time.

13 Q. What was her relationship to Korey Love?

14 A. Um, I couldn't say she was directly his girlfriend but it
15 was somethin' more than friends, I can't directly say.

16 Q. Was he seeing somebody else?

17 A. Um, directly I can't say yes.

18 Q. Okay. Who's Eva Mills?

19 A. Eva Mills is another friend a mines.

20 Q. Okay, does she have any relationship to Korey?

21 A. Yeah, she was all of our friend.

22 Q. Okay. Do you know where Rashida Peters worked?

23 A. Wendy's.

24 Q. Which Wendy's?

25 A. Um, the one, I don't know but I think it's off

RICKY D. SIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

1 Pleasantburg Drive.

2 Q. Did Korey Love ever talk about Rashida working at this
3 location?

4 A. Yes, sir.

5 Q. Please tell the jury what he had to say about this
6 Wendy's and about, uh, Ms. Peters working there.

7 A. Uh, we first started, when she first started workin'
8 there, it really wasn't a big conversation about it but later
9 on down we all got into conversation about robbin' the
10 Wendy's. And when I say "we", I don't mean we that directly
11 as me and Korey, I mean we as a group a friends.

12 Q. Can you remember what Korey would say about this, about
13 this Wendy's?

14 A. Directly basically in my eyes it was, it'd be easy money
15 if we robbed 'em.

16 Q. What kind of robbery was suppose -- this supposed to
17 be?

18 A. Uh, at that point in time before it wasn't a armed
19 robbery it was more we -- a forced robbery, just us outnumber
20 somebody and takin' money.

21 Q. What kinda robbery you call that?

22 A. Um, ---

23 Q. You used a word, I'm s -- I -- not an armed robbery but a
24 what robbery?

25 A. I would call it group force outnumber ---

RICKY D. SIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

1 Q. Yeah, ---

2 A. --- somebody.

3 Q. --- okay. Can you please tell the jury where you lived
4 in January of 2007.

5 A. Um, I don't know the house number, I stayed in Mallard
6 Cove Apartments.

7 Q. And who'd ya live with there?

8 A. My grandmother at the time.

9 Q. You you had talked about this conversation, ---

10 A. Yes, sir.

11 Q. --- how of -- how often do you have this conversation
12 about robbin' Wendy's?

13 A. Periodically. It'd be like, uh, I wouldn't say it was a
14 planned conversation, more just spur a the moment type
15 stuff.

16 Q. Do you remember some a the locations this was
17 discussed?

18 A. Uh, we would hang out at, uh, close to my house, close to
19 my grandma house, uh, Rashida's house at times playin'
20 basketball, uh, close to Korey or Eva's house, it really
21 wasn't a designed lo -- location.

22 Q. Okay. Whose idea was this?

23 A. When it first came up, it was I I was sayin' my idea, it
24 was Korey idea when it first came up but eventually all of us
25 was into it. It wasn't just, I can't sit here and say it was

RICKY D. SIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

1 just his idea even regardless of the situation all of us had a
2 piece in it so I can't, I really can't blame it on him.

3 Q. Alright, I'm not, I'm not lookin' for blame at this
4 point, I'm lookin' for who actually initiated or why was
5 Wendy's chosen?

6 A. Well if you put 'em like that, I would say Korey
7 initiated it.

8 Q. But but why? Do you know why it was chosen at this
9 Wendy's as opposed to the Subway or the S&S Cafeteria?

10 A. A inside connection.

11 Q. Gonna bring you to the night this incident happened or
12 the day this incident happened January 26 of 2007, had you
13 spoken to Korey Love about this matter on the case on the date
14 in question?

15 A. That I didn't directly speak to him but, uh, hold on,
16 when you say that night, you talkin' about before or just in
17 that ---

18 Q. Early -- any time durin' that day of January 26.

19 A. That daytime I wouldn't say yes or no. I mean, we talked
20 about it but directly takin' it serious I wanna say no but it
21 it came up that day yes, sir.

22 Q. Okay, let's let's explore this area. Why did you not
23 take it seriously?

24 A. We were kids at the time, I was 17, still in high school.
25 I mean, we talk about a lotta stuff, doin' a lotta stuff that

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1 was outta the ordinary so I would say I ta -- we took it
2 serious.

3 Q. Okay. Later that night did it get serious?

4 A. Um, to to my knowledge yes but me sayin' no.

5 Q. Okay. Did you have a conversation, do not repeat what
6 was said; but did you have a conversation with your brother
7 that night about that incident?

8 A. Yes, sir.

9 Q. What caused that conversation to occur?

10 A. Um, a phone call to his phone.

11 Q. Okay. Followin' that phone call to his phone, what did
12 you do?

13 A. Um, we talked and then we, uh, try to -- we figured out a
14 way to get out the house.

15 Q. What happened then?

16 A. After we got outta the house, we kinda set, we set on the
17 porch like maybe five, ten minutes and then after that we
18 started walkin' towards Wendy's.

19 Q. Are you able to get in and out your house easily at night
20 where you -- now do you have free reign at your house to to
21 leave your house?

22 A. No, sir. I don't know -- at that point in time my
23 grandma had dogs so free reigns to get out, no but were there
24 ways to get out the house yes, sir.

25 Q. Okay. And had you snuck outta the house before?

RICKY D. SIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

1 A. Yes, sir.

2 Q. Had you ever snuck outta the house before with Korey and
3 Jarod?

4 A. Di -- not directly for them but yes, sir.

5 Q. Okay. Had you met them before after having snuck outta
6 the house?

7 A. Yes, sir.

8 Q. When you walked outside, you were waiting up front, who
9 were you waiting for?

10 A. Believe I was waitin', me and my brother were waitin' for
11 Korey and Jarod at that point in time.

12 Q. Did you ever see Korey and Jarod while you were waiting
13 out there?

14 A. No, sir.

15 Q. Did you eventually go any place?

16 A. Yes, sir, we started walkin' towards Wendy's.

17 Q. And which way did you go to get there? How do you get
18 from your apartment in Mallard Cove out to, uh, this
19 Wendy's?

20 A. When I came out the apartment, there was a if you walkin'
21 like to mailbox, set of mailboxes and it's a a green, like
22 green bushes before you hit the main road, you walk through a
23 cut in the bushes, you know, we walked around the building
24 through a alley then we cut up across the main road.

25 Q. While you were in route to Wendy's, did you hear anything

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1 unusual?

2 A. We got behind, it's a bank across the street, when we got
3 behind the bank, I heard gunshots then we made a stop.

4 Q. Who was with you at that time?

5 A. My brother.

6 Q. Once you heard that that gunshots, what did you do?

7 A. Um, I said, I looked at him and I cursed and then ran
8 across the street back toward the house.

9 Q. Why did you curse?

10 A. I don't know, it was just my first reaction.

11 Q. What path di -- did you take as you fled from that
12 location?

13 A. It wasn't a path, I just ran directly across the
14 street.

15 Q. Okay. And where did you run to?

16 A. The same way I came there.

17 Q. You mentioned a mailbox, how close is the mailbox to your
18 house?

19 A. About as far from where I'm sittin' now to the first row
20 of the audience, people sittin' in the first row behind that
21 row.

22 Q. Who was with you when you got to the mailboxes in in your
23 hou -- in your residence?

24 A. My brother.

25 Q. Did anybody else show up?

RICKY D. SIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

1 A. Eventually Korey and Jarod showed.

2 Q. How did they appear when you saw them?

3 A. Anxious, upset.

4 Q. Did you see whether either of them had a firearm?

5 A. No, sir.

6 Q. Did you hear anything that Korey had to say about this
7 shooting?

8 A. When you ask that, what are you askin' for?

9 Q. What did Korey say to you when you were outside near the
10 mailbox your house?

11 A. When we first -- when they first got to the mailbox, we
12 really, we just started walkin' directly, wasn't nothin' said
13 at that moment while we were walkin' and we just like talk
14 about stuff went wrong and like directly nothing came out
15 directly at that point in time to say he murdered anybody, it
16 was more, at that point it was more, uh, we were wrong and
17 where were we headed that point in time and ---

18 Q. Was ---

19 A. --- why weren't we there.

20 Q. --- was the word "murder" or or "killed" or or anything
21 of that nature mentioned?

22 A. Not murder or killed, shot was mentioned but not murdered
23 or killed.

24 Q. Did you write a statement to law enforcement?

25 A. Yes, sir.

RICKY D. SIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

1 Q. Did you write two statements to law enforcement actually?

2 A. Yes, sir.

3 Q. Okay, I'm gonna show you a statement dated March 11th.

4 (Whereupon, a discussion was held off the record.)

5 Q. I'm gonna have marked for identification purposes two
6 documents a March 11th 2010 statement.

7 MR. SMITH: Your Honor, is he establishing that the
8 gentleman needs to refresh his recollection?

9 THE COURT: I'm not sure what he's ---

10 MR. SMITH: Me either.

11 MR. STEINBERG: Your Honor, I I I'm allowed to, uh,
12 present to him with a statement if he is not, if he's saying
13 something that's inconsistent.

14 THE COURT: Right, well you hadn't asked him anything yet
15 so...

16 MR. STEINBERG: Right.

17 (Statement dated 3/11/2010 marked State's Exhibit No. 40
18 and Statement dated 4/22/2010 marked State's Exhibit No. 41
19 for identification.)

20 BY MR. STEINBERG:

21 Q. I have two documents, I'm gonna ask you to look at them
22 but do not read them out loud.

23 A. Yes.

24 Q. One is State's Exhibit No. 40. Please tell us what it is
25 and what is it dated.

RICKY D. SIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

1 A. Uh, it dated -- like where?

2 Q. Read ---

3 A. Oh.

4 Q. --- right there (indicating).

5 A. It dated March 11, 2010 and it's my first statement I
6 made.

7 Q. Now I'm gonna show you State's Exhibit No. 41, please
8 identify what the statement is and its date as I point to it.

9 A. It dated April 22nd 2010, it's my second statement.

10 Q. Do you remember giving a statement to officers telling
11 them exactly what Korey told you in 2010?

12 A. Yes, sir.

13 Q. And would it refresh your memory if you saw what you
14 wrote in 2010 approximately two and a half years ago?

15 A. Yes, sir.

16 Q. Gonna show you, again, do not read it out loud yet, I'm
17 gonna show you State's Exhibit No. forty ---

18 MR. SMITH: Your Honor, he hasn't answered a question
19 yet. He needs to ask some sorta specific question to see what
20 he's tryin' to ask him to refresh his memory with. I hadn't
21 heard -- maybe I'm kinda confused here but ---

22 MR. STEINBERG: Think, Your Honor, witness has already
23 tested to generally what is said, I want the specifics so I
24 want him to read this at this point.

25 THE COURT: Well ask him the specific question and

RICKY D. SIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

1 then ----

2 MR. STEINBERG: Alright.

3 BY MR. STEINBERG:

4 Q. Mr. Simmons, do you recall Korey saying to you that they
5 went to rob the Wendy's and that a dude came out and yelled so
6 they beat him up?

7 A. Yes, sir.

8 Q. Do you remember while you were walking Korey saying or
9 they said, "We were sitting behind some trash cans and the
10 dude came out and saw them," do you remember that?

11 A. Yes, sir.

12 Q. And the following statement, "The dude tried to get back
13 inside and they beat him up," you remember that?

14 A. Yes, sir.

15 Q. Do you remember the second interview you had ---

16 A. Yes.

17 Q. --- with Detective Flavell? Do you remember how Jarod
18 acted when they came back up to the mailboxes near you?

19 A. Yes, sir.

20 Q. How was Jarod Ransom acting?

21 A. He wasn't acting normal but he wasn't really talked at
22 that point in time, he was more anxious in my eyes, like
23 unsteady, unstable but it wasn't talkative, it wasn't like
24 the -- it wasn't a normal Jarod, Jarod's a quite person but it
25 wasn't, it wasn't like like Jarod is a, he's a quite person

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1 but he's not quite but when I seen him it was unsteady as if
2 like he made a mistake, he didn't know what to do or like I I
3 don't know exactly how to put it but it it wasn't, I can't say
4 anxious 'cause it wasn't like he was happy at that point in
5 time, it was more unstable, unsteady at that point in time ---

6 Q. Do you, do you remember saying that Korey was acting
7 crazy?

8 A. Yes, sir, I remember sayin' that.

9 Q. Do you remember saying that he was like someone was
10 chasing him?

11 A. Yes. When they came, when they came out the woods both
12 of 'em were lookin' like that.

13 Q. Okay. Do you remember Korey telling you specifically
14 what had happened?

15 A. I'm tryin' to remember ex -- exactly what was said. I
16 can't remember off the top a my head right now what was said.
17 I remember us havin' that conversation, we was walking
18 though.

19 Q. Okay. And in general what did they say or what did Korey
20 say had happened?

21 A. Basically, it was a robbery attempt went wrong. The dude
22 attacked, they came back and attacked then he shot him but it
23 was my -- I can't -- I don't know how many shots it was, I
24 know it was more than one shot fired 'cause I heard it but I
25 can't tell you directly or I never -- he never told me where

RICKY D. SIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

1 he shot him at, how he shot him, but I know from what I was
2 told it was basically a altercation between them when they
3 tried to rob him and this altercation went bad and shots were
4 fired. I can't tell you directly where he was shot or how
5 many times he shot him but I know with my own ears I heard
6 more than one shot in total.

7 Q. Did you see the actual gunshots? Did you see Korey and
8 Jarod ---

9 A. No, ---

10 Q. --- at the time?

11 A. --- no, sir. Uh, when I was walkin' I was at the bank,
12 it's like I can't say I'm a block away but it's not and you
13 can see the Wendy's from the main road but the way we were
14 walkin' you couldn't see the shot but you could hear it clear
15 day.

16 Q. Okay, di --- and who did Korey say fired the bullet?

17 A. He did, sir.

18 Q. He Korey?

19 A. Yes, sir.

20 (Whereupon, a discussion was held off the record.)

21 (Aerial photograph marked State's Exhibit No. 23 for
22 identification, aerial photograph marked State's Exhibit
23 No. 24 for identification.)

24 Q. Mr. Simmons, I'm gonna ask you to come around here and
25 identify what's been marked as State's Exhibit No. 23.

RICKY D. SIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

1 (Whereupon, the witness left the stand.)

2 A. Identify this (indicating) area?

3 Q. Yes.

4 A. Um, ---

5 Q. Just reflect the area well what you're talking about on
6 the day in question.

7 A. Yes, sir.

8 MR. STEINBERG: Okay. The State would move to introduce
9 State's Exhibit No. 23 as evidence.

10 MR. SMITH: No objection.

11 THE COURT: Okay.

12 (State's Exhibit No. 23, aerial photograph, admitted into
13 evidence.)

14 BY MR. STEINBERG:

15 Q. I'm gonna have you stand in front of this in front of the
16 jury. I'm gonna ask you to use the green pen -- first of all,
17 take a look at it and tell us where Mallard Cove
18 Apartments is.

19 A. Right here (indicating).

20 Q. Okay.

21 THE COURT: Mr. Simmons, you need to keep your voice up
22 'cause we gotta re -- record everything.

23 THE WITNESS: Yes, sir.

24 THE COURT: Thank you.

25 BY MR. STEINBERG:

RICKY D. SIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

1 Q. I'm gonna ask you to use this (indicating) green pen, put
2 an "A" next to where your apartment was.

3 (Whereupon, the witness complied.)

4 Q. I'm gonna ask you use that same green pen and draw the
5 path you took and stop at the point in which you heard the
6 gunshots.

7 (Whereupon, the witness complied.)

8 (Whereupon, a discussion was held off the record.)

9 Q. Please put a "B" to where you actually heard the
10 gunshots.

11 (Whereupon, the witness complied.)

12 Q. Thank you. I'm gonna ask you again look at this map and
13 use a red pen to show the path you took as you fled.

14 (Whereupon, the witness complied.)

15 Q. This area that you have, uh, kind of highlighted over
16 here with the actual pen marks is that near where the mailbox
17 was?

18 A. Yes, sir. The mailboxes would be here (indicating).

19 Q. Thank you, please have a seat. Actually, if you would,
20 one more thing. I would have you print your first name above
21 this (indicating).

22 (Whereupon, a discussion was held off the record.)

23 Q. Just put it right, right there (indicating).

24 (Whereupon, the witness complied.)

25 Q. Thank you, Mr. Simmons.

RICKY D. SIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

1 (Whereupon, the witness returned to the stand.)

2 Q. After this incident happened, in the days after this
3 happened, did Korey ever talk about this case with you?

4 A. You said after?

5 Q. After it happened.

6 A. Yes, sir.

7 Q. Did he apologize for it?

8 A. No, sir.

9 Q. Well well what what caused this conversation to occur?

10 A. When you say this conversation, what are you directly
11 talkin' about?

12 Q. Did Korey ever talk to you about this this shooting, ---

13 A. Yes, sir.

14 Q. --- this robbery? What did he say about it?

15 A. I mean, truthfully there was it -- no remorse, it was
16 more like when the robbery happened we guess they feel that he
17 shouldn't approach him with confrontation then he wouldn't a
18 got shot, it was more of no sorrow, it was -- it's it is what
19 it is, no one's gonna find out so there's no reason to feel
20 sorry about it.

21 Q. Did he ever tell you what he did with the firearm?

22 A. He never told me directly. Another gentleman, I can't
23 remember, I don't know his name like that, it was a another
24 gentleman, a light-skinned dude who was, um, Eva Mills stayed
25 close towards him and it was someone that her sister dated, it

RICKY D. SIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

1 was his firearm at that point in time. It wasn't his firearm,
2 it wasn't Korey's firearm, it was the other male's firearm and
3 basically they got rid -- it's a alley, not a alley but more
4 of like a creek or water damn like you know where when it
5 rains out in trenches, the water it drifts out to the sewage
6 water, got thrown down there.

7 Q. Did you give your information to the officer, Detective
8 Flavell?

9 A. Yes, sir.

10 Q. Okay. Was Korey present in that conversation you just
11 discussed?

12 A. Yes, sir.

13 Q. You ever have the name of that individual?

14 A. No, sir.

15 Q. Okay. Were you interviewed, you've already testified
16 this, but you were interviewed on March 11, 2010 ---

17 A. Yes, sir.

18 Q. --- the initial interview, where where did that occur?

19 A. Um, it occurred at my mother's house in Fort Benning,
20 Georgia.

21 Q. Okay, and did you tell the officers the complete truth in
22 that case?

23 A. No, sir.

24 Q. I would like you to tell the jury why you didn't tell the
25 complete truth and what you left out.

RICKY D. SIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

1 A. Um, at that point in time when I got confronted about the
2 situation, I really didn't know how to handle the situation so
3 I told what I could tell to keep myself out the situation. I
4 told what happened, I left out I wouldn't say key details but
5 I left out more details to distance myself in the situation at
6 that point in time.

7 Q. Had officers threatened you or promised you anything to
8 get that statement?

9 A. No, sir.

10 Q. Did they tell you you were either going to be arrested or
11 not going to be arrested?

12 A. No, sir.

13 Q. Were you later re-interviewed by Detective Flavell?

14 A. Yes, sir.

15 Q. And was Detective Riggs there also, another da -- another
16 detective?

17 A. Yes, sir.

18 Q. Okay. Do they confront you?

19 A. What do you mean by confront?

20 Q. Did they have a conversation with you about your previous
21 statement?

22 A. Um, he, I wouldn't say a conversation. They asked me,
23 um, he put the statement back in front of me, he asked me, um,
24 was I tellin' the truth, uh, was there any changes I would
25 like to make to the statement.

RICKY D. SIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

1 Q. Did you?

2 A. Yes, sir.

3 Q. Please tell us in the second statement what did you, what
4 did you add and why did you make the decision ---

5 A. Um, ---

6 Q. --- to tell that information?

7 A. --- in the first statement I put it that I was nowhere
8 near the crime scene, I put that I stayed in the house, um, I
9 lied about knowing what happened, um, I lied about, well I
10 wouldn't say I lied, I kept out the fact that I knew where the
11 gun got dumped at that point in time, I kept out, uh, the
12 conver, uh, the conversation that I had with Korey and this
13 other gentleman. I left out key points to wit to keep myself
14 distanced from the situation so I wouldn't get charged.

15 Q. And in a second statement did you admit that you were
16 already outside of your house when you heard the gunshots?

17 A. Yes, sir.

18 Q. I'm gonna show you what's already been introduced as
19 State's Exhibit No. 35, on the second statement did
20 you -- look at this photograph, is it somewhat similar to the
21 the overall aerial photograph, somewhat similar to the picture
22 you just looked at?

23 A. Yes, sir.

24 Q. And did you draw the route that you took to get there?

25 A. Yes, sir.

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 Q. Why did you make the decision in April to admit you were
2 in fact on your way to the Wendy's?

3 A. It wasn't, it wasn't a decision, it was more of morals.
4 My mom told me I need to tell the truth if I knew what
5 happened. I never told my mother what happened so she told me
6 if I knew what happened tell the truth so I did it.

7 Q. Before your interview with the officer in March, had you
8 ever told your mother what had happened?

9 A. No, sir.

10 Q. Your mother in the courtroom right now?

11 A. Yes, sir.

12 Q. Point her out to us, she still if she's still in here.

13 (Whereupon, the witness complied.)

14 Q. After having a conversation with your mother about what
15 happened to Isaac Bass, do you admit that you were at least
16 going to commit a group force robbery?

17 A. Yes, sir.

18 MR. STEINBERG: Beg the Court's indulgence. Thank you,
19 Mr. Simmons, please answer any questions that Mr. Smith might
20 have for you at this time. Beg the Court's indulgence.

21 (Whereupon, a discussion was held off the record.)

22 CROSS-EXAMINATION BY MR. SMITH:

23 Q. Uh, Mr. Simmons, let's see, you talk about the issue of
24 remorse, ---

25 A. Yes, sir.

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 Q. --- you have none yourself because from 2007 until 2010
2 you never reported this incident to the police, did you?

3 A. No, sir.

4 Q. Right. And not only did you not report it to police,
5 while you were runnin' down the street and Mr. Bass was tryin'
6 to gasp for rest of his life, you didn't turn around and
7 render any assistance to him either, did you?

8 A. No, sir.

9 Q. Right. So you just kept runnin'. Now the other thing
10 too is that when you first met with Officer Flavell, he told
11 ya the hand a one is the hand of all, correct?

12 A. He said -- can you repeat that, sir.

13 Q. The hand of one is the hand of all. If you were found
14 guilty, you'd be just as guilty as Korey and Jarod and all the
15 rest of 'em, wouldn't ya?

16 A. I don't remember, sir.

17 Q. You don't remember. And the fact of the matter is also
18 that you a -- you by your own acknowledgement planned this
19 robbery, right?

20 A. When you you say planned as if I -- we planned a armed
21 robbery. When we planned it, it wasn't more and we ne -- no
22 one ever knew about a firearm until that night after it
23 happened ---

24 Q. Okay, well let's just ---

25 A. --- so yes, sir, I did ---

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 Q. Alright.

2 A. --- plan to do it but we did not plan to kill anybody, we
3 not plan to arm rob anybody, it was more of just do it and
4 leave.

5 Q. Okay, my question is did you plan a robbery?

6 A. Yes, sir.

7 Q. Right. And when you planned a robbery, you said to this
8 jury that you were gonna do it with a group a people,
9 correct?

10 A. Yes, sir.

11 Q. A gang of people, right?

12 A. No, sir.

13 Q. Well what do you consider a group to be, two, three,
14 four, five people?

15 A. If that fits the occasion, sir.

16 Q. Yes, and the fact is also, sir, that you didn't receive
17 the phone call from anybody, did ya?

18 A. No, sir.

19 Q. Right, somebody else received a phone call in your house
20 that night, correct?

21 A. Yes, sir.

22 Q. So you didn't see Korey Love when he came, if he came
23 down to your house that night, did ya?

24 A. No, sir.

25 Q. And you didn't see him go to the Wendy's that night

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 either, did ya?

2 A. No, sir.

3 Q. So when you and your brother waited for ten minutes and
4 started walking to the Wendy's, you didn't know whether or not
5 Eric Jarod Ranson or Korey Love had already gone to the
6 Wendy's, did ya?

7 A. No, sir.

8 Q. The fact of the matter is also, sir, that if you didn't
9 know who was goin' up to the Wendy's and you didn't know it
10 was gonna be robbed because you just told this jury a few
11 minutes ago it was a joke, you didn't know who was doin' the
12 shootin' up there, did ya?

13 A. When you asked that question you were referring before or
14 after?

15 Q. Before.

16 A. Before no, sir, ---

17 Q. Right, ---

18 A. --- afterwards yes.

19 Q. --- so before you didn't know who was doin' the shootin'
20 yet you accordin' to your testimony was runnin' away,
21 correct?

22 A. Yes, sir.

23 Q. Right, you didn't know that Korey was there, you didn't
24 know whether Eric Jarod Ranson was there, you and your brother
25 were the ones who were walkin' there, correct?

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 A. Yes, sir.

2 Q. Right, and then when ya'll got a certain distance there,
3 when you got a certain distance there, not only did you not
4 know that anybody was shootin', you didn't see anybody doin'
5 the shootin', did ya?

6 A. You said, you just said in your statement I did know
7 anybody was shootin', I heard gunshots.

8 Q. Well you didn't know Korey Love had a gun, did you?

9 A. I never said I knew Korey had a gun until after the fact,
10 sir.

11 Q. Well I'm asking you before the fact. You did not know
12 that Korey Love had a gun that night accordin' to your
13 testimony, correct?

14 A. No, sir.

15 Q. 'Cause you told this jury ya'll wasn't plannin' no armed
16 robbery, correct?

17 A. Yes, sir.

18 Q. So before you got there you didn't know who was shooting,
19 isn't that a fact?

20 A. Yes, sir.

21 Q. Now you are a confessed liar, aren't you?

22 A. No, sir.

23 Q. Well you told, when the officer came back to you the
24 second time, you said, I'm lyin' in my statement, the only
25 thing I left out was the fact that I was tryin' to remove

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 myself from it, isn't that a fact?

2 A. No, sir, I didn't lie in my statement, I left out key
3 facts to keep myself outta the statement, sir.

4 Q. So you think the officer came back the second time to get
5 your statement 'cause you was tellin' the truth?

6 A. No, sir.

7 Q. Now those those statements that you had with the exhibit
8 numbers on there are they up here?

9 MR. STEINBERG: I have -- Mr. Smith, ---

10 MR. SMITH: Yes, sir.

11 MR. STEINBERG: --- here.

12 MR. SMITH: Okay. Thank you very much.

13 MR. STEINBERG: Yes, sir.

14 BY MR. SMITH:

15 Q. In your statement you say, "I felt like I told the truth
16 but I did lie about staying in the house," so you did mention
17 it in your sworn signed statement that you lied, didn't you?

18 A. Yes, sir.

19 Q. Right. So now let's get to some other stuff. You
20 accused several different people in this case of bein'
21 involved in this case or knowing about the robbery. I think
22 you say it was, uh, KaeKae and TaeTae, all those folks who
23 were in your crew, is that correct?

24 A. Yes, sir.

25 Q. Right. That was a lie too, wasn't it?

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 A. No, sir.

2 Q. Well, they've heard this officer testify to what what
3 they knew about it. Now you said first in your statement
4 ya'll went to Eva Mills' house that night, do you remember
5 that?

6 A. Yes, sir.

7 Q. And ya also say in your statement that she was Korey
8 Love's girlfriend, do you remember that?

9 A. I didn't say she was his girlfriend, I said that that
10 they, I think they dated or they were havin' sexual relations
11 at one point in time.

12 Q. You wanna see your statement on that? It says Eva was
13 Korey's girlfriend at the time. You see that?

14 A. You said, you just said, sir, in your statement that
15 night.

16 Q. So was she his girlfriend or not?

17 A. I don't know, sir, ya have to ask Korey Love.

18 Q. Well I'm askin' you, you're the one givin' the statement
19 here under oath. And then you say you went over her house and
20 nobody'll verify that.

21 A. No one can verify where we went that night because Eva
22 won't testify, sir.

23 Q. Well let's talk about Kristina Lockwood, she will. You
24 didn't go over her house that night either, did ya?

25 A. Yes, sir, I did.

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 Q. Yeah, but you didn't go over there with Korey Love, did
2 ya?

3 A. Yes, sir, I did.

4 Q. Alright, I guess we'll bring Kristina Lockwood in here.
5 Now the officer in their investigation said they talked to
6 her, that they'll verify what you say, you're tellin' a lie on
7 that too, aren't you?

8 A. No, sir.

9 Q. Well let's see, you told the officer one lie that the
10 window in your house was open in the middle of the window in
11 your first statement, that's why he came to see you the second
12 time, right?

13 A. I said that I didn't come out that night to keep myself
14 outta the situation from gettin' charged, sir.

15 Q. Well ---

16 A. I said, I just said that in my statement. I told you
17 that I lied about not coming' out that night to keep myself
18 from gettin' charged, sir.

19 Q. Yeah, yeah. Now ya also told some lies on this Rashida
20 Peters, didn't you?

21 A. No, sir.

22 Q. Well you said Rashida told ya'll about where the money
23 drop was gonna be, right?

24 A. Yes, sir.

25 Q. Right. Did ya know they didn't drop the money except in

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 the safe inside the buildin'?

2 A. I didn't know where the money was dropped except for what
3 I was ---

4 Q. Well you ---

5 A. --- told, sir.

6 Q. Right. Well that would be a lie because it wasn't gonna
7 be no money drop at 1:30 a.m. in the mornin' ---

8 MR. STEINBERG: Objection to testifying by counsel.

9 MR. SMITH: I'm asking a question.

10 THE COURT: No, that's alright, go ahead.

11 MR. SMITH: Thank Your Honor.

12 BY MR. SMITH:

13 Q. There wasn't gonna be no money drop because that wouldn't
14 be until 1:30, I mean, the next mornin', not at 1:30 at night,
15 did ya know that?

16 A. No, sir, I did not work there, sir.

17 Q. Right, you didn't work there but you lied on, you lied on
18 Rashida Peters.

19 A. No, sir, I didn't.

20 Q. Well you made her the focus of the investigation.

21 A. There would be no murder without Rashida Peters, sir.

22 Q. Right. Well maybe it wouldn't a been any murder if you
23 hadn't planned it.

24 A. Sir, you can't tell me I planned it.

25 Q. Well you said you were the one who along with your crew

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 planned to go up there and rob somebody.

2 A. When you say "you" as if I was a ringleader, sir.

3 Q. But was your brother the ringleader?

4 A. No, sir, we were all a group a friends, um, there was no
5 ringleader.

6 Q. Well did anybody have sense enough to say, Hey, you know,
7 this is such a stupid idea, let's not go up there and rob
8 somebody 'cause we might hurt somebody?

9 A. No, sir.

10 Q. No, you didn't do that 'cause you didn't care about
11 anybody else except yourself, didn't you?

12 A. I wasn't there, sir, so I can't answer that question.

13 Q. And so when the officers come down there investigatin',
14 you make up this cockamamie story that it's Korey Love,
15 correct?

16 A. No, sir.

17 Q. Well didn't you see the file that the officer had in his
18 possession when he came down there to talk to ya?

19 A. I seen a folder.

20 Q. Yeah, and it's in your statement, "I saw a folder in
21 Detective Flavell's file that said Korey Love," you remember
22 sayin' that, ---

23 A. Yes, sir.

24 Q. --- after he had told you the hand of one is the hand of
25 all?

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 A. I don't remember hearin' that, sir.

2 Q. So you think you can just go around committin' crimes
3 without having any responsibility for it?

4 A. Sir, I did not commit a crime.

5 Q. So you don't think that conspiring to commit a robbery is
6 a crime.

7 A. I understand that's a crime but that's not what the trial
8 is about, sir.

9 Q. No, but I'm asking you what's goin' on in that brain and
10 the fact is, sir, the officers wanted you to tell the truth.
11 Now let's talk a little bit about this walking around around,
12 uh, I think you said Mallard Cove. Did ya know that there
13 were police officers who had a description of two men running
14 down and they were circulatin' all around this apartment
15 complex lookin' for somebody?

16 A. No, sir.

17 Q. Right, and ya'll were just walkin' around, just walkin'
18 around, just talkin' about how this murder happened, is that
19 correct?

20 A. I never said we were walkin' around Mallard Cove, sir.

21 Q. Yeah, yeah. Well let's see, did ya run across the golf
22 course?

23 A. Later that night, sir.

24 Q. You ran across the golf course later that night and I
25 think your brother was in the house with Kristina Lockwood,

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 right?

2 A. Yes, sir.

3 Q. Right. Now you knew it was a alley back behind this

4 Wendy's, didn't ya?

5 A. A alley behind Wendy's, sir?

6 Q. Yes, sir.

7 A. No, no alley, it's more of a a way to walk above a fence

8 and below a fence, it's not a alley. I mean, it's, uh, I

9 wouldn't call it a alley because you can't, I mean, in your

10 eyes it might be a alley but it's more just a way not to be

11 seen, sir..

12 Q. Um-hum, um-hum. Now the other thing too is you said

13 these fellas are Eric Jarod Ranson and Korey Love had gloves

14 on, correct?

15 A. Yes, sir.

16 Q. And you said that Korey had shorts on too and a black

17 hoodie?

18 A. I said I think he had on shorts and a black hoodie. I

19 can't recall exactly what he had on that night, sir.

20 Q. Well ya think your remember it better in your statement

21 when you said it then than than you're sayin' it now?

22 A. I mean, I know what I said in my statement but I can't be

23 one hundred percent about what they had on ---

24 Q. Right.

25 A. --- in 2007, sir.

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 Q. Well your brother said he had on shorts too.

2 A. Okay.

3 Q. Alright, so that would mean that the two people that were
4 runnin' with the long stuff on were you and Eric Jarod Ranson,
5 wouldn't it?

6 A. No, sir.

7 Q. Where did you get the gun from, sir?

8 A. I didn't get a gun, sir.

9 Q. Well did your brother have the gun?

10 A. No, sir.

11 Q. Now the other thing too is ya'll were doin' a lotta goin'
12 to girlfriend's house, what time you get home that night?

13 A. Ricky didn't have a girlfriend at that time, sir, so
14 ya'll is a understatement.

15 Q. Ricky didn't have a girlfriend.

16 A. I did not have a girlfriend at that time, sir.

17 Q. Oh. But then you say in your statement that ya'll had
18 girlfriends and they would knock on the window, ya'll would go
19 see 'em?

20 A. I'm not sure but I know I didn't have a girlfriend and I
21 notice in a statement or somethin' I wrote. Everyone but
22 Korey and Rashad talked to people within that point in time
23 they snuck out but me and Jarod didn't have a girlfriend at
24 that point in time, sir.

25 Q. Okay, and then the other thing you told us about Rashida

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 in your statement you say that ya'll are so, you know, you
2 didn't know how to do these robbery things, you says "Rashida
3 told us not to cross the highway at the Wendy's, she told us
4 to go in by this tall building and come in from behind." You
5 said Rashida told you that. You didn't have sense enough to
6 cross the road and get to the Wendy's yourself?

7 A. What do you mean, sir?

8 Q. Well you said you had to have Rashida use, either you're
9 makin' Rashida the ringleader or you makin' Korey the
10 ringleader, which is it?

11 A. I'm not makin' either a ringleader, sir, I'm tellin' you
12 in order to rob somewhere you have to have some typa
13 information about it. Rashida knew what was goin' on there at
14 that point in time so the inside connection was Rashida at
15 that point in time. There was no ringleader. I'm not a
16 ringleader, I'm not anything you tryin' to portray me to be
17 right now, sir.

18 Q. I'm not tryin' to potray you, all I'm tryin' to ask you
19 is did you have sense enough to walk across the street to get
20 to Wendy's?

21 A. Yes, sir.

22 Q. Right. And you didn't need Rashida to tell you how to
23 walk across the street, did you?

24 A. No, sir.

25 Q. And you didn't need Rashida to tell you not to go rob

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 anybody either, did ya?

2 A. No, sir.

3 Q. And you didn't need Rashida to say that Korey Love was
4 not at the Wen -- you didn't know he was up there before the
5 shooting so ---

6 A. He was there after the shooting, sir.

7 Q. I understand but my point is this: You didn't know who
8 was at the Wendy's because ya'll were waitin' ten minutes and
9 these people never showed up.

10 A. I never said in any statement I produced that I knew who
11 was at the Wendy's at that point in time. I knew about the
12 phone call that my brother got at that point in time, I knew
13 who I was supposed to meet, where I was supposed to meet and
14 that they were not there at that point in time so I knew they
15 probly already went or they were behind me, that's why I
16 started walkin' sir.

17 Q. They probly already went. So your brother didn't get
18 back on the phone and say, Hey, guys where are you, uh, Ricky
19 and I are right here waitin' on you.

20 A. Sir, he didn't have a cell phone at that time.

21 Q. He didn't have a cell phone but you say he got a phone
22 call.

23 A. Rashad has a cell phone. Jarod did not have a cell phone
24 at that point in time.

25 Q. Jarod didn't have a cell phone?

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 A. So he couldn't call us when they were already out.

2 Q. Well do you know of any reason why your brother would say
3 that he got a phone call from Jarod's cell phone?

4 A. Maybe he thought it was a cell phone at that point in
5 time, sir.

6 Q. Now you also said that Rashida told ya'll where the
7 cameras were, you remember that?

8 A. Yes, sir.

9 Q. And she told you specifically this is where to go
10 because ---

11 A. She didn't tell me pacifically [sic], sir, she told us as
12 a group.

13 Q. As a group. Okay, let's say as a group. She told ya
14 where the cameras were and how to hang back there at those
15 trash cans so the cameras wouldn't get you, so you'd be outta
16 focus, you remember that?

17 A. Yes, sir.

18 Q. Do you know that the manager and everybody have have
19 stated there were no cameras there?

20 A. No, sir, I didn't know. I don't work at Wendy's so I
21 wouldn't know where the cameras were, sir.

22 Q. Right, so you told another lie on Rashida, didn't you?

23 A. I did not tell a lie, sir, I'm tellin' my sources where I
24 got information from, sir.

25 Q. Sir, the fact is, let's just be frank with it, you and

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 your brother were around that trash can ---

2 A. No, sir.

3 Q. --- and Jarod Ranson had the gun that night ---

4 A. No, sir.

5 Q. --- and you can't say anything against him and he can't
6 say against you and you're coverin' up to save yourselves,
7 aren't you?

8 A. No, sir.

9 Q. And the only man that has said in the statements that
10 already be introduced in this trial had no involvement is
11 Korey Love.

12 A. No, sir, Korey Love was the triggerman, sir.

13 Q. I understand. And what about Original Mustafa? He
14 wasn't no triggerman, was he?

15 A. No, sir.

16 Q. And you said he was involved, didn't you?

17 A. I said he knew about it ---

18 Q. He knew about it ---

19 A. --- at that point in time, sir.

20 Q. --- 'cause you said they were your crew and all ya'll had
21 planned this for three or four months, then you said, uh,
22 let's see, Ronald Chapman, you know him?

23 A. Legal name, sir? I don't refer to people's full names at
24 that point in time, sir.

25 Q. You you don't? So it's not important for you to know

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 somebody real name?

2 A. If I don't consider 'em a friend that or all the way no,
3 sir; if I know a nickname it's okay.

4 Q. It's okay. So so I gather when you said all these people
5 were your crew they weren't really your crew, they're just
6 just people you hangin' out with, people you box with,
7 correct?

8 A. Yes, sir.

9 Q. People you do the gloves with, right?

10 A. It was people that I was cool with at that point in time
11 when I was there, sir.

12 Q. Cool. And you can, you can throw 'em under the bus any
13 time you want to 'cause you don't have any real friendships,
14 do you?

15 A. I'm not throwin' nobody under the bus, sir.

16 Q. Well you didn't have a girlfriend accordin' to your
17 testimony and you didn't have any real friends, did ya?

18 A. I didn't say that, sir, you did.

19 Q. Well did ya have any real friends, sir?

20 A. Yes, sir.

21 Q. Well who were your real friends?

22 A. One of 'em's here and one of 'em's the defendant, sir.

23 Q. Um-hum. Now you said they took the gloves off at Eva's
24 apartment, correct?

25 A. In my first statement yes.

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 Q. That was a lie, wasn't it? You can say it, they need to
2 hear it, go ahead.

3 A. Yes, sir, in my first statement when I said they took off
4 the gloves at Eva house that was a lie.

5 Q. Right, so you were tryin' to bring bring Eva into it,
6 make her a part a this conspiracy, weren't ya?

7 A. No, sir.

8 Q. Well you said that the guy who was at that house got this
9 gun from Korey Love, didn't ya?

10 A. No, sir, I said Korey Love got the gun from him, sir:

11 Q. Or got the gun from him and then I think you wrote a
12 letter.

13 A. Oh, yes, sir.

14 Q. You wrote a letter say, "I can't place the gun," after ya
15 gave all these statements to the police mind you, "I can't
16 place the gun in Korey Love's hand but I can say I know the
17 gun was dropped in the sewer in a trash bag by the next guy,"
18 remember that?

19 A. Yes, sir.

20 Q. Now the guy who was the boyfriend was named Cornelius
21 Lyles, did you know that?

22 A. No, sir.

23 Q. Did you know that he is dark skin?

24 A. He's was not dark skin, sir, the guy I was talkin'
25 about ---

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 MR. STEINBERG: Objection to testifying..

2 MR. SMITH: Well I'm just askin' him what he knows.

3 THE COURT: Ju ---

4 MR. SMITH: Excuse me, Your Honor.

5 THE COURT: It's alright, he -- it's cross-examination,
6 we have wide latitude in South Carolina.

7 MR. STEINBERG: Thank Your Honor.

8 BY MR. SMITH:

9 Q. And you said, "I told you about that said he got rid of
10 it, me Korey and him was outside, he trusted me, that's why
11 the conversation was never hushed, the rest of my statement is
12 true," so you had to actually remind the police again that the
13 rest a your statement is true 'cause you were lyin' somewhere
14 down the line and then you say, "I can't go to jail for him,
15 this is the only thing I held back," right?

16 A. Yes, sir.

17 Q. Right, well that ain't the only thing ya held back.

18 A. What else did I hold back, sir?

19 Q. Well you said you were removin' yourself from the scene
20 in your first statement.

21 A. When I made that statement, that was afterwards so
22 typically that was only thing I held back at that point in
23 time, sir.

24 Q. Um-hum. Well why didn't you tell 'em which sewer it was
25 in?

RICKY D. SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 A. I told the sewer. I said the sewer behind that
2 neighborhood. I can't, I don't know exactly where it's at but
3 it's between the neighborhood and the golf course, there's a
4 fence there, sir.

5 Q. Yeah, but yeah, look, look, look, look. Here I am, say
6 she's you and me, we walkin' along lollygaggin' about this
7 murder, here I see the big ol' sewer 'cause we walkin'
8 together now, we open the sewer up, flush the gun down there
9 and you say you've been in that neighborhood, you can't
10 remember that sewer.

11 A. You said where is the sewer.

12 Q. Yeah, you ---

13 A. I didn't ---

14 Q. --- coulda ---

15 A. --- see any ---

16 Q. --- taken Officer Flavell to see that sewer if you wanted
17 to.

18 A. I mean, I can take him over to see but I don't know
19 exactly, I can't tell you off the top of my head exactly where.
20 I can describe where it's at, I can walk to it.

21 Q. Um-hum. Oh, this thing about knockin' on the window, how
22 high is that house a yours where you have to knock on the
23 window?

24 A. Well you asked about the window that was in my first
25 statement, sir.

RICKY D. SIMMONS - REDIRECT EXAMINATION BY MR. STEINBERG

1 Q. Oh, so wasn't no knock on the window.

2 A. I told ya wasn't a knock on the window ---

3 Q. Oh, ---

4 A. --- sir.

5 Q. --- okay, well I just wanted to make sure we got another
6 lie out. The, uh, -- let me -- I might be through with you, I
7 just need to ask...

8 (Whereupon, a discussion was held off the record.)

9 Q. Thank you, Mr. Simmons, I appreciate your participation.

10 MR. STEINBERG: Some very brief reply questions.

11 REDIRECT EXAMINATION BY MR. STEINBERG:

12 Q. Opposing counsel asked you why you didn't stop and give
13 Mr. Bass aid and assistance, when you fled did you see
14 Mr. Bass?

15 A. No, sir.

16 Q. I don't know if you, if you knew Mr. Bass, I'm not sure
17 if you knew him or not, did you see a a white person in the
18 road falling down, holding his neck?

19 A. I didn't see anybody, sir.

20 Q. On the night it happened, you heard the gunshot but did
21 you know that somebody had actually died?

22 A. No, sir.

23 Q. Opposing counsel's asked questions about various, um,
24 names: KaeKae and TaeTae, were they older or younger than
25 you, ---

RICKY D. SIMMONS - REDIRECT EXAMINATION BY MR. STEINBERG

1 A. Younger.

2 Q. --- than than you and, uh, Korey?

3 A. Younger.

4 Q. Was Korey or older or younger than you?

5 A. I'm not sure if Korey was older than me.

6 Q. Counsel also asked questions concerning being a, being a
7 ringleader, in your statement who did you say raised the issue
8 and gave ya information about the Wendy's?

9 A. Rashida gave us information but in my eyes the person who
10 pushed it most was Korey Love.

11 Q. And did Rashida actually tell you to go commit a, a,
12 commit a robbery?

13 A. Not that she never directly came out and said go rob
14 Wendy's no but typically in my eyes if they converse and we
15 all talked about it in my eyes and you give information then
16 yes, I would say she did.

17 Q. Who did she give information to?

18 A. Directly she gave it to Korey but she gave it to all of
19 us when like we was outside our porch and what they say, what
20 people say when we sittin' on my porch while they talkin'
21 about it.

22 Q. You were sitting where?

23 A. On our porch, like it's a little deck from her front door
24 to the sidewalk.

25 Q. And did Korey ever give ya information?

RICKY D. SIMMONS - REDIRECT EXAMINATION BY MR. STEINBERG

1 A. Yes, sir.

2 Q. Opposing counsel asked you questions concerning whether
3 you were the one that pulled the trigger, were you the one
4 that pulled the trigger?

5 A. No, sir.

6 Q. Who talked about having a gun that night?

7 A. Before nobody, afterwards Korey Love.

8 Q. And when Korey and -- well let me ask ya this: When you
9 were over at part you listed as Point A in your apartments,
10 who came toward your position when you were with your
11 brother?

12 A. Before or after the shooting?

13 Q. After the shooting.

14 A. After Korey and Jarod came to us.

15 Q. And and how close were they to each other? They arrive
16 at the same time?

17 A. Sorta kinda, probly like a step or two behind each
18 other.

19 Q. Also, opposing counsel asked you about a gun being placed
20 in a sewer, I wanna make sure I -- that's clear, did you
21 actually see the gun being placed in a sewer?

22 A. No, sir, I never seen like when you say seen the gun, I
23 never seen it but I seen the bag ---

24 Q. Okay.

25 A. --- like at the incident I never seen, I can't tell you

RASHAD SIMMONS- DIRECT EXAMINATION BY MR. STEINBERG

1 what color the gun is, nothin'. I never seen the gun so I
2 can't place the gun in Korey's hand, I never seen it.

3 Q. Did you see the the bag itself being placed into the
4 sewer?

5 A. Yes, sir.

6 Q. Okay, and who who placed it in there?

7 A. The mixed gentleman.

8 Q. Okay, and was Korey present durin' this conversation?

9 A. Yes, sir.

10 Q. Thank you, Mr. Simmons.

11 THE COURT: Alright, thank you can step down.

12 (Whereupon the witness left the stand.)

13 MR. STEINBERG: State calls Rashad Simmons.

14 THE CLERK: Mr. Simmons, please come forward.

15 (Whereupon, the witness came forward.)

16 THE CLERK: Sir, if you'll pause at the end a the bench,
17 please place your left hand on the Bible and raise your right
18 hand and if you'll face the judge, please.

19 RASHAD SIMMONS, having been first
20 duly sworn, testified as follows:

21 THE CLERK: Alright, please be seated. Please state your
22 name for the record.

23 THE WITNESS: Rashad Simmons.

24 DIRECT EXAMINATION BY MR. STEINBERG:

25 Q. Mr. Simmons, can you please tell us where you live right

RASHAD SIMMONS- DIRECT EXAMINATION BY MR. STEINBERG

1 now.

2 A. Where I live right now?

3 Q. Where's your home?

4 A. My mom stays in Augusta but we in Americus, Georgia right
5 now.

6 Q. And who do ya live with in Americus?

7 A. My, me and my brother.

8 Q. And what do you do?

9 A. Me?

10 Q. Yes.

11 A. I'm a college student.

12 Q. An what is your major?

13 A. History.

14 Q. And how far along are you in college?

15 A. In my second year 'bout to finish up.

16 Q. Where'd you go to high school in January of 2007?

17 A. I went to J.L. Mann High School.

18 Q. Did you move from Greenville at ---

19 A. Um, ---

20 Q. --- some point?

21 A. --- yes, sir.

22 Q. When did you move and where'd you move to?

23 A. We left, my mom came back and went to Fort Benning,
24 Georgia.

25 Q. And what does your mom do for a living?

RASHAD SIMMONS- DIRECT EXAMINATION BY MR. STEINBERG

1 A. She's in the military.

2 Q. Okay, is she st -- was she stationed at Fort Benning,
3 Georgia?

4 A. Yes, sir.

5 Q. Where'd she come back from?

6 A. She was overseas.

7 Q. Okay. Who'd you live with in Greenville?

8 A. My grandma.

9 Q. In what apartment complex?

10 A. Mallard Cove.

11 Q. When you were in high school, when you were at J.L. Mann
12 High School, did you know the defendant Korey Love?

13 A. Yes, sir.

14 Q. What kinda relationship did ya'll have?

15 A. We was homeboys, friends.

16 Q. Same question with Eric Jarod Ransom, did you know him?

17 A. Yes, sir.

18 Q. How close was Eric Jarod Ransom but you call him Jarod
19 with Korey Love?

20 A. They was like friends like together, just like me and my
21 brother.

22 Q. You know what we're here for today, right?

23 A. Yes, sir.

24 Q. Do you recall any conversations concerning this matter
25 before it happened with Korey Love?

RASHAD SIMMONS- DIRECT EXAMINATION BY MR. STEINBERG

1 A. By conversation you mean like talkin' about it?

2 Q. Yes, sir.

3 A. Yes, it was brought up before that.

4 Q. Do you remember any occasions of when or where it might
5 have come up?

6 A. We talked like it was brought up at Rashida's house and
7 like we would be like hoopin' outside, would be brought up
8 then.

9 Q. Was it discussed more than once?

10 A. Yes, sir.

11 Q. What were ya'll planning on doing or what was the general
12 discussion?

13 A. The plan was just to rob Wendy's.

14 Q. And and how were you planning on doing that?

15 A. Like what you mean?

16 Q. Were were you planning on -- you have any particular
17 plans to go over there?

18 A: Like it wasn't no plan plan. Like when you say plan,
19 like we gonna do this and that, no, it was talked about.

20 Q. Okay. Were you planning on using a gun?

21 A. No, sir.

22 Q. Had anybody discussed using a gun?

23 A. No, sir.

24 Q. Had Korey Love even discussed using a gun?

25 A. No, sir.

RASHAD SIMMONS- DIRECT EXAMINATION BY MR. STEINBERG

1 Q. Do you know why Wendy's was chosen over say the Subway or
2 the, uh, S&S cafeteria?

3 A. Because we had a friend that worked there.

4 Q. What was Korey's relationship with this friend?

5 A. They was talkin' at the time.

6 Q. Okay. For people of my age group, what do you mean by
7 talking?

8 A. Like I wouldn't say boyfriend and girlfriend but they was
9 talkin' like when you you're not friend, ya'll more than
10 friends but...

11 Q. And what was this friend's name?

12 A. Rashida Peters.

13 Q. When the conversation would come up, what would Korey say
14 about this? Can you remember any -- anything specific?

15 A. I mean, it wasn't no specific, it was just like how
16 friends talk, like teenagers are talkin' about gettin' money
17 just like we were always 'cause it's our click. It wasn't
18 really no like deep conversations like, Well we can do this
19 and that, nothin' like that.

20 Q. Do you remember in a c -- in a conversation on March 11th
21 2010 talking to officers?

22 A. You said March 11?

23 Q. March 11th of 2010 speaking with ---

24 A. I don't ---

25 Q. --- Detective Flavell.

RASHAD SIMMONS- DIRECT EXAMINATION BY MR. STEINBERG

1 A. Yeah, I remember talkin' to, I just don't remember what
2 day.

3 Q. Okay, well at your house in Fort Benning do you remember
4 that?

5 A. Yes, sir.

6 Q. Before I ask this question, how did you come into contact
7 with the officers that night? Did you know they were comin'
8 that day to Fort Benning?

9 A. No, I was at my sister's then I pulled up and they was
10 already in the house.

11 Q. And did they tell you they wanna speak with you?

12 A. When I walked in, it wasn't Detective Flavell, it was
13 another, it was a older cop. He was like, he pulled me into
14 the laundry room and he just basically told me why they was
15 there and he was like it's the investigation and to tell me
16 like what's goin' on or what you know and I told him right
17 then and there what happened.

18 Q. Did you wait or hesitate at all?

19 A. No, sir, I just told him what happened.

20 Q. Did you wait, confer with your brother at all at that
21 time?

22 A. I didn't see him till after the fact.

23 Q. Okay. Getting back to the discussions that Korey had,
24 you remember telling the officer on that day that Korey told
25 you he had an inside connection so we could get it and go, do

RASHAD SIMMONS- DIRECT EXAMINATION BY MR. STEINBERG

1 you remember ---

2 A. I said I just, I mean, I just said that he told me he had
3 an inside connect.

4 Q. Okay. I'm gonna bring you to the day this incident
5 happened January 26, 2010, do you remember that day pretty
6 well?

7 A. Yes, sir.

8 Q. Durin' the daylight hours, do you remember having any
9 discussion about this with Korey?

10 A. Durin' daylight hour?

11 Q. Okay.

12 A. I mean, not that day, no.

13 Q. Okay. Did you ever have discussion towards the evening
14 about this case with Korey Love?

15 A. We had a phone call but it wasn't yet.

16 Q. You said a phone call?

17 A. Yes, I had a phone call.

18 Q. What, if anything, did Korey say on that phone call?

19 A. Oh, can I look at my statement that I wrote it down but,
20 I mean, I can sum it up what he said, I can sum up what he
21 said but ---

22 Q. Well I'm gonna -- I'll show you your your statement.

23 A. I have it with me in my hand I'm allowed.

24 Q. Uh, make sure you identify what statement you're you're
25 looking to first.

RASHAD SIMMONS- DIRECT EXAMINATION BY MR. STEINBERG

1 A. This is the statement ---

2 Q. Okay.

3 A. --- that I wrote.

4 Q. It -- open it up and just read the date on it so we all
5 know what we're talking about.

6 A. 2/2007 -- no, 3/11/10.

7 Q. Okay, March 11, 2010.

8 A. Yes, sir.

9 Q. Please read that and then tell the jury what did, um,
10 Korey Love have to say to you on the phone that night.

11 A. Okay. Um, uh, he told me, I mean, he told me come
12 outside, I asked him what he was doin', uh, he told me come
13 outside, I asked him what he was doin', he said he was goin'
14 to rob Wendy's and then I came outside ten minutes later.

15 Q. You sure it was his voice?

16 A. Yes, I know his voice and Jarod's voice apart.

17 Q. Okay. Let me ask a question, I'm not sure if already
18 asked this or not, um, where were you when you received that
19 phone call?

20 A. I was at my grandmother's house.

21 Q. In your grandmother's house, does your mother --
22 grandmother allow you to just come and go as you please or did
23 you have a curfew?

24 A. No, we usually have to be in when the street lights came
25 on but sometime we stayed out light.

RASHAD SIMMONS- DIRECT EXAMINATION BY MR. STEINBERG

1 Q. How late? Were ya'll able to stay out till 1:30 at
2 night?

3 A. No.

4 Q. Have you -- what -- did you ever go out, you ever sneak
5 out?

6 A. Yeah, I sneak out a couple time yes, sir.

7 Q. You ever meet up with Korey after hours before?

8 A. I mean, not like that but, I mean, like when I sneak out
9 I probly go see other folks but not to meet up like this
10 like ---

11 Q. I don't mean for a a robbery, I mean, did you ever
12 see ---

13 A. Oh, I know I understand what you're saying. I'm saying
14 like the nights before that when I snuck out it'd be like to
15 go meet with a female like that.

16 Q. I understand. I understand. After this phone call from
17 Jarod regarding from Korey, where did, uh, where did you go
18 and who were you with?

19 A. About ten minutes after my brother, about ten minutes
20 later I -- we had to sneak out so it took me a second to get
21 outside so about ten minutes later I walked outside and walked
22 out the first flight to that deck 'cause like it's like some
23 stairs, there's a porch and stairs and then I walked out
24 there.

25 Q. Did you see Korey and Jarod at this point?

RASHAD SIMMONS- DIRECT EXAMINATION BY MR. STEINBERG

1 A. No, sir.

2 Q. What did you decide to do at that point?

3 A. At this point we decide to -- we said they left so we
4 tried to walk to Wendy's, go to Wendy's.

5 Q. Okay. Approximately what time did you receive a general
6 phone call, the phone call from, uh, Korey?

7 A. I don't know what time it was, I can't give you a precise
8 time.

9 Q. Was it before or after midnight?

10 A. I probly say like I really couldn't tell, you know, like
11 whenever it happened everything was closed in the street when
12 I walked outside.

13 Q. You say everything, you're talkin' about the stores?

14 A. Yes, like the music store and stuff like that was closed,
15 the little restaurant across it was closed too.

16 Q. After you were outside, did you leave from your apartment
17 complex?

18 A. Yes, sir.

19 Q. Where did you go to?

20 A. I walk, we walked through a little cut, it's like some
21 cuts in the bushes, walked through there, walked behind the
22 building and then we crossed the street and walked behind the
23 music store and got to started walking towards Wendy and then
24 I stopped.

25 Q. Do you know what you were goin' over there for?

RASHAD SIMMONS- DIRECT EXAMINATION BY MR. STEINBERG

1 A. Yes, sir.

2 Q. Where you goin' over there for?

3 A. To help with the robbery.

4 Q. You admit that?

5 A. Yes, sir.

6 Q. Alright, and did you know that it was going to be an
7 armed robbery?

8 A. No, sir.

9 Q. Did you know a firearm was gonna be involved?

10 A. No, sir.

11 Q. You said you just stopped, do you remember where you
12 stopped?

13 A. Yes, I stopped behind some buildin's.

14 Q. What caused you to stop?

15 A. Because I heard gunshots.

16 Q. How many gunshots did you hear?

17 A. I heard two then I took off runnin'.

18 Q. Where'd you run to?

19 A. I ran across the street and then ran back to my
20 neighborhood.

21 Q. When you got back to your neighborhood, did you see
22 anybody else show up?

23 A. Not right then.

24 Q. Well did anybody show up later?

25 A. Yes, sir.

RASHAD SIMMONS- DIRECT EXAMINATION BY MR. STEINBERG

1 Q. Approximately how soon after that?

2 A. A few minutes like.

3 Q. How did they appear? Well fir -- who who did you see and
4 how did they appear?

5 A. I seen Jarod and Korey.

6 Q. How did they appear to you?

7 A. They were breathin' hard like they was runnin' 'cause we
8 runnin' too so breathin' hard.

9 Q. Which way did they come from?

10 A. The same. They came through the same cut we came
11 through.

12 Q. Korey make any statements during that time period about
13 this shooting?

14 A. Yes, sir.

15 Q. Please tell the jury what ---

16 A. Can I ---

17 Q. --- he had say.

18 A. --- e -- I could read my statement tell you exactly what
19 he said.

20 Q. Yes, sir, if that would assist you, please read your
21 statement. You're readin' that same March 11, 2010
22 statement?

23 A. Yes, sir.

24 Q. Yes, sir, please read read your statement.

25 A. Okay. Um, "I asked him what happened, Korey said hit the

RASHAD SIMMONS- DIRECT EXAMINATION BY MR. STEINBERG

1 guy, try to take the money, he said the guy fought back so he
2 shot him. He said guy didn't fall the first time so he shot
3 him again and then tried to run and then Korey said he seen,
4 the guy seen his face and he didn't want the guy to get away
5 so that's why he had to shoot him."

6 Q. Could could you please speak a little bit slower and very
7 clearly, I'm I'm havin' trouble, I'm tryin' to write this
8 down.

9 A. Oh, okay, so want me to start over?

10 Q. Yes, sir, plea -- please read ----

11 A. I said ---

12 Q. --- regular.

13 A. --- he said the guy, "Korey said he hit the guy, try to
14 take money, he said the guy fought back so he shot him. He
15 said the guy didn't fall the first time so he shot him and
16 tried to run. He said he had to shoot him again. Korey said
17 the guy see his face and he didn't want the guy to get away so
18 he had to shoot him and Jarod wasn't really sayin' nothin', he
19 was just standin' beside him."

20 Q. Thank you. Um, where did you go after that?

21 A. After that we all walked to Kristina's house.

22 Q. Did Korey sh -- show you the gun?

23 A. No, sir.

24 Q. Did Korey say where the gun was?

25 A. Said it was in a bag.

1 Q. Okay. Who's house you go to?

2 A. Kristina's.

3 Q. And how long you stay there?

4 A. Probly like a hour or so, not too long.

5 Q. Did -- were the other guys that were with you, did they
6 also stay there the whole time?

7 A. No, they didn't stay the whole time, like they stayed for
8 a few, they left. I stayed until I left after.

9 Q. Did you ever discuss this case with with Korey after
10 that?

11 A. After this?

12 Q. Yes, sir.

13 A. No, sir.

14 Q. Did he ever explain again why it happened?

15 A. Did I ever explain?

16 Q. No, did he ever explain to you why it happened?

17 A. No, sir.

18 (Aerial photograph marked State's Exhibit No. 22 for
19 identification.)

20 Q. Okay. I'm gonna ask you to look at an aerial photograph.
21 Please come take a look at State's Exhibit No. 22, step down
22 here if you would.

23 (Whereupon the witness left the stand.)

24 MR. SMITH: Your Honor, this is cumulative. I don't
25 know, ---

RASHAD SIMMONS- DIRECT EXAMINATION BY MR. STEINBERG

1 THE COURT: This in evidence?

2 MR. SMITH: --- they're the same ---

3 MR. STEINBERG: It's gonna be put in evidence just one
4 second, Your Honor.

5 BY MR. STEINBERG:

6 Q. Can you identify this State's Exhibit No. 22?

7 A. Um-hum.

8 Q. Can you, can you identify State's Exhibit No. 22? This
9 (indicating) accurately reflect the area where you live?

10 A. Yes, sir.

11 Q. Okay.

12 THE COURT: You gotta keep your voice up, we have to be
13 able to hear it and record it.

14 THE WITNESS: Yes, sir.

15 BY MR. STEINBERG:

16 Q. This (indicating) acc -- accurately reflect the area to
17 where you ran as well?

18 A. Yes, sir.

19 MR. STEINBERG: State would move to introduce State's
20 Exhibit No. 22.

21 MR. SMITH: No objection.

22 THE COURT: Well it is cumulative. It's the same
23 picture, right?

24 MR. STEINBERG: Yes, sir, there's gonna be drawings on
25 here and there's a reason for doin' this, Your Honor.

RASHAD SIMMONS- DIRECT EXAMINATION BY MR. STEINBERG

1 MR. SMITH: Well let me object to it, Your Honor. You
2 already got two of 'em in. I don't know if thir -- maybe the
3 third's a charm but the, uh, the fact is it's up to. Are you
4 saying somebody's gonna write on it after you put in ---

5 MR. STEINBERG: Yes, sir, this is a blank, I have blank
6 copies for the -- that reason ---

7 THE COURT: Wait a minute, ya'll come up here.

8 MR. SMITH: Yes, sir.

9 (Whereupon, a bench conference was held off the record.)

10 BY MR. STEINBERG:

11 Q. I'm gonna show you what State's Exhibit No. 22, I'll
12 bring it in fronta the jury. Come over here, please.

13 (Whereupon, the witness complied.)

14 Q. I want you to take this (indicating) green marker and
15 show the jury by placing the letter "A" next to where your
16 apartment was. Take a look at it first so you make the right
17 decision.

18 (Whereupon, the witness complied.)

19 Q. Please use that same green marker to show the path by
20 which you went towards the Wendy's.

21 (Whereupon, the witness complied.)

22 Q. Please place the letter "B" to where you stopped.

23 (Whereupon, the witness complied.)

24 Q. Gonna ask use a red marker, hand me that green marker if
25 you would, please use the red marker to show the path you took

RASHAD SIMMONS- DIRECT EXAMINATION BY MR. STEINBERG

1 back to your, to your, uh, residence.

2 (Whereupon, the witness complied.)

3 Q. Thank you.

4 MR. STEINBERG: State would move State's Exhibit No. 22
5 into evidence.

6 THE COURT: Alright, any ---

7 MR. SMITH: No ---

8 THE COURT: --- objection?

9 MR. SMITH: --- no objection.

10 THE COURT: Alright, no objection.

11 (State's Exhibit No. 22, aerial photograph, admitted into
12 evidence.)

13 BY MR. STEINBERG:

14 Q. Please have a seat.

15 (Whereupon, the witness returned to the stand.)

16 Q. Mr. Simmons, do you know where this firearm went after
17 this?

18 A. No, sir.

19 Q. I'm gonna jump in time back 2010, you remember giving
20 statements to Officer Flavell and Sergeant Riggs?

21 A. Yes, sir.

22 Q. Why didn't you come forward before this? Why didn't
23 you -- why did you wait until they had to knock on your door
24 at Fort Benning?

25 A. I honestly didn't know when after that happened, I didn't

1 know he died until my grandma told me and I was 17, I just --
2 back then didn't talk about it.

3 Q. Do you agree you should have?

4 A. Yeah, I just wanted to keep it to myself and I shoulda
5 said sumtin' about it then.

6 Q. Thank you, Mr. Simmons, please answer any of Mr. Smith's
7 questions.

8 MR. SMITH: Thank you.

9 CROSS-EXAMINATION BY MR. SMITH:

10 Q. Uh, Mr. Simmons, I'll be asking you a few questions. Uh,
11 Mr. Simmons, let me just think. You you want this jury to
12 believe that you're a man of integrity, right?

13 A. Yes, sir.

14 Q. Right. A man of honesty.

15 A. Yes, sir.

16 Q. Right. And a man who shoplifted down in Georgia.

17 A. Yes, I shoplifted.

18 Q. Right, and that was a crime of dishonesty, wasn't it?

19 A. Yes, sir.

20 Q. Right. So that wasn't very much someone who's had
21 integrity, was it?

22 A. You said what ---

23 Q. Right, that's not integrity, is it, stealin' ---

24 A. I think it's just, ---

25 Q. --- from people?

RASHAD SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 A. --- it's just dishonest.

2 Q. Right, it's dishonest and so what you did in Georgia
3 shopliftin' was about the same thing you were gonna do here in
4 Greenville, correct, when you were 'going' to rob the
5 Wendy's?

6 A. No, sir, ---

7 Q. Well ---

8 A. --- I wouldn't ---

9 Q. --- don't ---

10 A. --- say that.

11 Q. --- ya think planning to robbing a Wendy's is stealing
12 from somebody?

13 A. I didn't plan, like it wasn't a set plan to rob
14 anybody.

15 Q. Oh, wasn't a set plan to rob anybody.

16 A. Yes, I said -- you say our plan, wasn't a set plan, was
17 talked about.

18 Q. Okay. Now the other thing too is I have your criminal
19 record here ---

20 A. Um-hum.

21 Q. --- and you pled guilty down there on was it this year?

22 A. The shoplift charge?

23 Q. Yes, sir, on July the 9th 2012.

24 A. I pled no solo.

25 Q. Sir?

RASHAD SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 A. I said I pled no solo to that charge.

2 Q. Okay. Now the other thing too is it was convenient for
3 you to say that you got the phone call from Korey, correct,
4 very convenient, you agree to that, you say Korey gave you a
5 phone call, correct?

6 A. Yes, sir.

7 Q. Right. And you say it was on Jarod's cell phone.

8 A. Yes, sir.

9 Q. Right. So this was Jarod's cell phone that you were
10 receivin' the call from, correct?

11 A. Yes, sir.

12 Q. Right, "And on this cell phone he told me to come
13 outside," right?

14 A. Yes, sir.

15 Q. Right, "And I asked him what he was doin'," that's what
16 you did, right?

17 A. Yes, sir.

18 Q. "And he said they were goin' to rob Wendy's," correct?

19 A. Yes, sir.

20 Q. "Me and Ricky came out the house 'bout ten minutes
21 later," correct?

22 A. Yes, sir.

23 Q. And then you say Korey and Jarod were already gone,
24 correct?

25 A. I never, that, I didn't say that. I didn't say he was

RASHAD SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 already gone in my statement.

2 Q. You say, ---

3 A. Um, ---

4 Q. --- "Me and Ricky came out the house about ---

5 A. I do, I do ---

6 Q. --- ten minutes ---

7 A. --- I do see that I'm sorry.

8 Q. Right.

9 A. I was just lookin' you -- I'm tryin' to follow you, I was
10 reading.

11 Q. Oh, that's fine. That's fine, ---

12 A. I'm sorry.

13 Q. --- we'll give you much time ya need. Jarod were already
14 gone, correct?

15 A. Yes, sir.

16 Q. Right. So ya waited at your house for a period a time,
17 correct?

18 A. I was already home.

19 Q. You was already gone by now.

20 A. I said I was already home.

21 Q. You was already home, that's what I'm sayin'. You inside
22 your house, ya got this phone call, correct, ---

23 A. Yes.

24 Q. --- and the fellas never show up, correct?

25 A. Yes, sir.

1 Q. Right. And when they never show up, you and Ricky
2 started goin' toward the Wendy's, correct?

3 A. Yes, sir.

4 Q. You don't know at this point who's up there, do ya?

5 A. They was already gone.

6 Q. Right, so you don't know were they up there or not.

7 A. It didn't learn only as I already goin' as I walked
8 towards there.

9 Q. You walked toward there. Well if you was waitin' on
10 'em ---

11 A. I wasn't waitin', they called me.

12 Q. Didn't you say it was like, it was me and Ricky came out
13 the house ten minutes later?

14 A. I had to get outta the house, sir.

15 Q. Ya had to get out the house.

16 A. Yes, sir.

17 Q. Right, you had to get out the house and wherever these
18 people were they weren't at your house, were they?

19 A. No, sir.

20 Q. Right, and you didn't get a phone call from 'em on the
21 outside sayin', We're outside right now, we're waitin' for you
22 to get outside right now.

23 A. No, sir.

24 Q. Right, got no phone call like that. So ya don't know who
25 walked up there when, right?

1 A. I do know who walked up there, I already know it was him.

2 Q. Not before because, tell you why, you couldn't get out
3 the house, you couldn't assume that they got outta the house,
4 could ya?

5 A. He tell me on the way then that means you comin', that's
6 why I was comin' outside but you say you're goin' somewhere
7 and you call me, that means you're comin'.

8 Q. Right.

9 A. In my eyes, a 17-year-old, that means you're comin'.

10 Q. Alright.

11 A. Just let me know when to come outside. We ho -- we
12 friends so if I call my friend and say we fixin' to go do
13 this, that means I'm on the way.

14 Q. Okay. So ya blame it on bein' 17-years-old, is that
15 correct, why the robbery was gonna go on?

16 A. I'm not blamin' anything, I'm not up here to tell, I'm
17 just explainin' to you what that meant.

18 Q. Now let's ask this: When you and your brother were
19 waitin' in Mallard Cove for these fellas to come back, ya'll
20 were waitin' there, right, ---

21 A. Yeah.

22 Q. --- 'cause ya'll never made it up to the Wendy's
23 accordin' to you.

24 A. No, sir, we never made it to Wendy's.

25 Q. Right, and you don't know who shot up there at the

RASHAD SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 Wendy's, do ya?

2 A. I know who told me. I didn't see anybody shoot.

3 Q. Right, you never seen ---

4 A. If that's what you're asking, I never seen nobody
5 shoot.

6 Q. Right, I'm gonna get to the point in the sequence but,
7 whoever shot at Wendy's, you guys start runnin', ---

8 A. Yes, sir.

9 Q. --- right, but you don't know who at that point has done
10 the shootin', do ya?

11 A. No, sir.

12 Q. You don't even know if your boys have been involved in
13 it, do you?

14 A. I didn't see anybody no, sir.

15 Q. Right, right. And then you say we're waiting there 'bout
16 ten minutes for these fellas to come back, that you don't know
17 who's up there already, correct?

18 A. Yes, sir.

19 Q. Right. And then you say ya'll run across the golf
20 course, correct?

21 A. I said -- hold on -- you said I ran across the golf
22 course.

23 Q. Yes, sir.

24 A. No we were just went there. I didn't ---

25 Q. You say, Where did ya'll go, Officer Flavell asked you

1 that, you say, We ran across the golf course to Kristina's
2 apartment, you remember that?

3 A. But you skippin' details. Like you tryin' to make it
4 seem like I just ran like as soon as he got done just ran
5 across, that's not what happened.

6 Q. Okay, well let's just do it this way: Did ya know that
7 there were police officers comin' out to Mallard Cove that
8 night after they got a report from some witnesses?

9 A. No, sir.

10 Q. Right, you didn't know that. So ya'll were just, your
11 brother said ya'll was just walkin' but ya'll were runnin'
12 across the golf course, so which is it, were you walkin' or
13 runnin'?

14 A. If we goin' to the golf course, we run -- no, you gotta
15 run because it's dark, you do not run across golf course.

16 Q. Right. Now you say, okay, you and Ricky and, uh, Officer
17 Flavell says to you, says, uh, Where did ya'll go after? We
18 ran across the golf course, Kristina was a friend from school,
19 when we got there she asked why we were breathin' hard,
20 remember that

21 A. Yes.

22 Q. Now do you know any reason why your brother said he went
23 to Eva Mills's house?

24 A. You said do I know why he said that?

25 Q. Yeah.

RASHAD SIMMONS - CROSS-EXAMINATION BY MR. SMITH

- 1 A. I mean, I don't -- I'm not him, I can't tell you why he
2 said that.
- 3 Q. That's right, ya'll got two different stories about what
4 happened after the incident, don't ya?
- 5 A. Yes.
- 6 Q. So both a you are lying, aren't you?
- 7 A. No, sir.
- 8 Q. As a matter a fact, what happened was this big map you
9 drawin' one of you brothers was the killer along with that
10 Eric Jarod Ranson, wasn't ya?
- 11 A. No, sir.
- 12 Q. Well somebody was lying in wait behind the trash can.
- 13 A. Behind what trash can, sir?
- 14 Q. Up there at the Wendy's.
- 15 A. I don't know.
- 16 Q. Well you knew up at the Wendy's they had a trash
17 dumpster, didn't he?
- 18 A. No, I did not, sir.
- 19 Q. You didn't?
- 20 A. I never said that, never told ---
- 21 Q. So Rashida didn't tell you that.
- 22 A. No, Rashida never told me that.
- 23 Q. Yeah, and Rashida did she tell ya about those cameras?
- 24 A. She didn't tell me about any cameras, no.
- 25 Q. Right, didn't tell you nuttin' and she wasn't sittin'

RASHAD SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 there makin' any phone calls that night to you either, was
2 she?

3 A. No, sir, I didn't talk Rashida on the phone.

4 Q. Right. Now let's talk a little bit about this thing you
5 said you had on the same outfit that Korey did, shorts and a
6 hoodie, correct?

7 A. No, I did not. I don't know what Korey was wearing.

8 Q. Well what were you wearin'?

9 A. I had on my J.L. Mann track hoodie.

10 Q. What else? And you said some shorts.

11 A. I did say I had on shorts. I really didn't -- I guess I
12 had ---

13 Q. Right.

14 A. --- on shorts then yes, sir..

15 Q. And you know what the whether was out there that night?

16 A. It was cold.

17 Q. Right. Now if it stands to logic that you got on shorts
18 and Korey's got on shorts then the two people who runnin' with
19 the long pants on gotta be Ricky and it's gotta be Jarod,
20 don't it?

21 A. I never said Ricky, Jarod had on pants.

22 Q. Well you probly closer to your brother than anybody else
23 in the world, ya'll twins, correct?

24 A. Yes, sir.

25 Q. And when you was in that house that night plannin' that

RASHAD SIMMONS - CROSS-EXAMINATION BY MR. SMITH

1 robbery that ended up into the death of that young man named
2 Isaac Bass, ya'll were puttin' on your clothes, wasn't ya?

3 A. I did put on a hoodie.

4 Q. Yeah, you put on a hoodie and you didn't have to pull
5 them shorts up, did ya?

6 A. I already had shorts on.

7 Q. You already had them shorts on and then you come on
8 outside in the cold and you're waitin' there ten minutes in
9 the cold for your buddies to get there, right?

10 A. Yes, sir.

11 Q. Yeah. And then Officer Flavell says he can't confirm
12 with Kristina or any a these other witnesses that you were at
13 they house that night, did ya know that?

14 A. I can't control what they say.

15 Q. Right. So all you have to do is if I'm in trouble,
16 create a fictional person who can be real like Korey Love
17 here, can't you?

18 A. I'm not creating a fictional person, only people I'm
19 sayin' are alive and are real people that I know.

20 Q. Right, a m -- a known man who just told this jury a few
21 minutes ago with integrity, correct, ---

22 A. Yes.

23 Q. --- who shoplifts, correct? .

24 A. I shoplifted one time, yes, sir.

25 Q. Yeah, yeah. And a man who planned a robbery, correct?

RASHAD SIMMONS - REDIRECT EXAMINATION BY MR. STEINBERG

1 A. I didn't plan a robbery, sir.

2 Q. Okay. Let me see, maybe this is hard. Were ya goin' up
3 there to rob somebody that night, sir?

4 A. Yes, we were gonna rob but it wasn't a plan, it wasn't a
5 drawn out plan.

6 Q. So it hadn't been planned for three or four months, had
7 it?

8 A. It had been talked about not planned, those are ---

9 Q. Right, ---

10 A. --- two different things..

11 Q. --- this was a spur of the moment thing when you got that
12 phone call from Jarod's cell phone, wasn't it?

13 A. Yes, sir.

14 Q. Right, and you and your brother thought ya'll could steal
15 somethin' from somebody in Greenville for nothin', didn't you?

16 A. It wasn't just me and my brother, ---

17 Q. That's right, ---

18 A. --- no, sir.

19 Q. --- it was Eric Jarod Ranson with you.

20 A. There was four of us.

21 Q. Yes.

22 MR. SMITH: No further questions for this witness.

23 MR. STEINBERG: Few questions if I may.

24 REDIRECT EXAMINATION BY MR. STEINBERG:

25 Q. You said it was Jarod's phone, did you know -- why did

1 you think it was Jarod's phone that called you up that night?

2 A. You said why'd I think his phone?

3 Q. Yeah.

4 A. Because Korey never called me from his house and he
5 didn't have a cell phone.

6 Q. Did Korey ev ---

7 A. He didn't have a phone.

8 Q. Did Korey ever call you from -- had Korey ever called you
9 from that number before?

10 A. Yes, I've never called from that number before, they all
11 was together so ---

12 Q. When you say "they", who you talking about?

13 A. Korey and Jarod.

14 Q. Okay. And had either of them -- bo -- both of them had
15 called you from that number before?

16 A. Yes, I received a phone call from them before.

17 Q. Okay. Opposing counsel asked you why you were waiting
18 outside in Mallard Cove near the apartments if you didn't know
19 if Korey and Jarod were there, do you remember that question?

20 A. Can you repeat it, sir.

21 Q. Yes. Opposing counsel asked you a question, he said why
22 were you just waiting outside, um, after the shooting had
23 occurred. Um, ---

24 A. Yes, sir.

25 Q. --- he -- yeah, and and you didn't know why, uh, you said

RASHAD SIMMONS - REDIRECT EXAMINATION BY MR. STEINBERG

1 you had not seen them go over there so you didn't know if they
2 were there, what did you think had happened after you heard
3 two gunshots at the Wendy's followin' the conversation you had
4 with Korey, what do you think had occurred?

5 A. That one of 'em had shot somebody.

6 Q. And and so there's no dispute, you never claimed you went
7 to Eva Mills' house this night, did you?

8 A. No, I never said I went to Eva Mills, I stayed over
9 there.

10 Q. Where'd you go after after you left Mallard Cove with ---

11 A. I went to ---

12 Q. --- Korey and everybody?

13 A. --- Kristina's house.

14 Q. And you stayed there.

15 A. No, sir.

16 Q. Where where'd you go after that?

17 A. After I left there, I went home.

18 Q. Alright, and did you go by yourself?

19 A. Yes, sir.

20 Q. What kinda shorts were you wearing, do you remember?

21 A. It was probly dark 'cause I was on a track so woulda
22 brought some dark shorts.

23 Q. Had you ever walked outta your house in the evening hours
24 even when it's somewhat cold, although it's a South Carolina
25 January, ---

RASHAD SIMMONS - RECROSS-EXAMINATION BY MR. SMITH

1 A. Um-hum.

2 Q. --- um, had you ever worn shorts before outside?

3 A. Yes, I still do it to this day.

4 Q. Opposing counsel asked you questions concerning making
5 someone's name up to to, uh, put somebody else in trouble, was
6 Korey Love your friend?

7 A. Yes, sir.

8 Q. If Korey Love had not done and said what you have said
9 today, would you have substituted him and put him there?

10 A. Can you repeat the question.

11 Q. Yes, sir, might have not been clear. Would you throw him
12 under the bus, would you throw him into this mix if he was not
13 present?

14 A. No, I wouldn't throw anybody into the mix if they was not
15 present.

16 Q. Thank you, Mr. Simmons.

17 A. You welcome.

18 RECROSS-EXAMINATION BY MR. SMITH:

19 Q. Just have few questions, uh, I don't wanna belabor this,
20 sir. I think he just asked you, he said did you know that one
21 of them had shot -- you said, I know that one of them had shot
22 somebody, correct, is that your testimony?

23 A. Yes, sir.

24 Q. Right, but you didn't know that any of 'em had a gun, did
25 ya?

RASHAD SIMMONS - RECROSS-EXAMINATION BY MR. SMITH

1 A. No, sir.

2 Q. Right, so you don't know whether or not one of them shot
3 somebody, do you?

4 A. Yes, sir. If you call me, tell me you goin' somewhere
5 and I heard two gunshots at the place you was goin' to that
6 means I'm just gonna tell you that you -- somebody shot him.

7 Q. But you don't know whether Eric Jarod Ranson or Korey
8 Love at that point shot anybody, did ya?

9 A. At that point no, sir.

10 Q. Right, so when you was testify and say, I knew that one
11 of them had shot somebody, that's not true, is it?

12 A. Can you repeat the question.

13 Q. Alright, let's just do it this way: I'll do it -- Number
14 one, you didn't see the shooting at Wendy's, correct?

15 A. No, sir, I didn't see it.

16 Q. So you have no personal knowledge about what happened up
17 there at Wendy's be -- at at that time, correct, at 1:27,
18 correct?

19 A. I don't know what time it was.

20 Q. Well 1:30, let's say 1:30 January 27, 2007. You don't
21 know who it ---

22 A. Yeah, ---

23 Q. --- was, right?

24 A. --- I can't say the time, I don't know what time it
25 was, ---

RASHAD SIMMONS - RE-CROSS-EXAMINATION BY MR. SMITH

1 Q. Right.

2 A. --- but at -- before they came over there I did not know
3 about the gun or time was.

4 Q. So you got a dilemma here: Either you knew they had a
5 gun and they shot or ya didn't know they had a gun because if
6 you knew they had a gun then you could suspect that one a
7 these guys had shot somebody, correct?

8 A. I don't understand the question, can you repeat it ---

9 Q. Okay, let's see if we can do this: You said you didn't
10 know that somebody had a gun, correct?

11 A. No, I did not know they had a gun.

12 Q. Right, so you couldn't make an assumption that person
13 shot somebody, could ya?

14 A. Yes, I could 'cause I heard the gunshots and I know ---

15 Q. Right.

16 A. --- what what I was called. I was called and told to
17 come up there and I heard the gunshot, that's why I'm sayin'
18 that but I did not see a gun at that point in time.

19 Q. Well did ya see a gun in Eric Jarod Ranson's possession
20 at that time?

21 A. No, sir, never seen ---

22 Q. Did ya see one in Korey Love's hands?

23 A. No.

24 Q. Right. So you can't say with any degree of certainty
25 anybody from your crew shot anybody, can ya?

RASHAD SIMMONS - RECROSS-EXAMINATION BY MR. SMITH

1 A. Yes, sir, I can.

2 Q. Alright. No further questions.

3 MR. STEINBERG: Nothing else from the State, Your Honor.

4 THE COURT: Alright, what ---

5 MR. STEINBERG: Nothing else from the State.

6 THE COURT: Okay, you can step down, thank you.

7 MR. STEINBERG: Your Honor, ---

8 THE WITNESS: You want me to leave?

9 THE COURT: Wait a minute. Let me talk to the lawyers up
10 here.

11 (Whereupon, the witness left the stand.)

12 (Whereupon, a bench conference was held off the record.)

13 THE COURT: Alright, Mr. Foreman, ladies and gentlemen of
14 the jury, we're gonna break for the evening. We do have more
15 we could do but I, you know, we need to vote so thank ya'll
16 very much. Let me rem -- remind you that it's human nature
17 the deeper you get into a case like this the more you wanna
18 talk about it, I believe we all know that, it's just human
19 nature, don't do it. It's vitally important to the the people
20 involved in this case and if we had, ya know, we're not
21 interested in what somebody outside this courtroom thinks so
22 don't read the newspaper, don't go on online, don't go visit
23 the scene and don't talk about it, we'll see ya'll back at
24 9:30 in the mornin', alright. Thank you.

25 (The following takes place outside the presence of the

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1 jury.)

2 THE COURT: Alright, anything before we break?

3 (No response.)

4 THE COURT: Okay.

5 MR. SMITH: Thank Your Honor.

6 MR. STEINBERG: Okay.

7 THE COURT: Everybody go vote.

8 MR. SMITH: Yes, sir.

9 (Proceedings November 7, 2012)

10 THE COURT: Ya'll ready to go?

11 MR. SMITH: Yes, sir, get these three marked right quick
12 then be ready or four.

13 MS. SEAY: I have a couple of matters, Your Honor, before
14 we get started.

15 THE COURT: Okay.

16 MS. SEAY: Our next witness is going to be Eric Jarod
17 Ransom the, uh, co-defendant in this case. He has pled guilty
18 to attempted armed robbery, uh, he did that on April the 10th
19 of this year. You should have the paperwork up there, we
20 asked for it to be present in the courtroom, and as you will
21 note from the paperwork, um, his sentence was deferred and it
22 is without recommendation or negotiation in this case. My
23 concern is that the NCIC report for Mr. Ransom has some
24 incorrect information on it and this NCIC report has been
25 provided to Mr. Smith. The the information that's on here is

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1 some jumbled up wording, something about deferred sentence, it
2 looks like 3 years probation then 5 years time, defendant
3 serves 30 days straight time, driver's license suspension, so
4 it's it's nothing that's correct and I wanted to make sure
5 that defense counsel, um, knows that the sentence has been
6 deferred and that it is without negotiation or recommendation,
7 that this information on the NCIC report is incorrect and I
8 need to notify SLED about that so that they can correct it,
9 that's one matter.

10 THE COURT: Okay.

11 MS. SEAY: Uh, the second matter is that the defendant
12 co-defendant has a conviction as a juvenile in 2007 for
13 assault and battery of a high and aggravated nature.
14 Actually, it's not a conviction, it is -- it was handled with
15 diversion and arbitration and so we would submit that it has
16 not been adjudicated. Um, I talked with Ashley Case who
17 handles juvenile prosecutions for the solicitor's office, she
18 informed me that that is an informal process, that it is a
19 step under PTI but it never went to court and so it has never
20 been adjudicated so I would submit that it is not admissible
21 for impeachment purposes against this co-defendant.

22 MR. SMITH: Your Honor, I believe it is. I mean, the
23 charge on it is assault and battery of a high and aggravated
24 nature, that's just one step down from assault and battery
25 with intent to kill and we don't, uh, we think this guy's a

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1 violent person. Uh, we don't have the records from, uh, Judge
2 Verdin right now but we believe that, uh, he was sleepin' with
3 his sisters, at least that they had a DSS file, that's what we
4 thought the information would be with regard to some
5 information where, uh, his family was bein' investigated in
6 two thous ---

7 THE COURT: I understand none a that was founded ---

8 MR. SMITH: Okay, I -- okay.

9 THE COURT: --- so that that's what I've been told.

10 MR. SMITH: Okay, so I I didn't have access to it.

11 THE COURT: Yeah, well Judge Verdin has gone through it,
12 uh, and she says that there there was no ---

13 MR. SMITH: No findings.

14 THE COURT: --- no find, yeah.

15 MR. SMITH: Alright, sir.

16 MS. SEAY: So we would certainly ask that that not be
17 brought up in this trial then.

18 MR. SMITH: Well if there's no findings, I'm not gonna
19 bring it up. I I ---

20 THE COURT: Okay.

21 MS. SEAY: Your Honor, the, Your Honor, the other matter,
22 um, have you ruled on the, on the ABHAN?

23 THE COURT: I think he just said he wasn't gonna bring it
24 up.

25 MR. SMITH: Well the -- I don't know if the ABHAN was

MOTIONS AND MATTERS

1 with the -- I think the ABHAN was -- okay ---

2 THE COURT: Was it related to the DSS investigation?

3 MS. SEAY: No, no ---

4 MR. SMITH: Well ---

5 MS. SEAY: --- it's a separate matter.

6 MR. SMITH: --- separate matter. Your Honor, this is,

7 this is the key: We have, uh, we have videotape where he was

8 in a knife fight, uh, when he told the United States Marines

9 because at first he lied about the knife fight and then, uh,

10 because he's got a scar on his arm. Now if he was in a knife

11 fight, that shows a guy who's a violent person. I wanna ask

12 him about how he got that scar in this knife fight. The, uh,

13 I think that's relevant to the kinda attitude he had on the

14 night and our position is he's the guy who who did it. Now on

15 this tape also he admits on the tape that he was the guy that

16 did the thing and that his DNA will be found on the trash bin

17 and that Korey Love's DNA would not be found. We think all of

18 this is relevant to show that the -- that they've given the

19 deal to the guy who actually did the deed and when the, when

20 the, uh, investigators in the Marines say, Somebody has to

21 pay, somebody outta the pictures have no pride will take

22 convincin' him to talk to everyone and the first person who

23 talks will get the deal, so he admitted to his guilt in a

24 sworn statement to the United States Marines and then when he

25 comes to Greenville he accuses Mr. Love by substitutin'

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1 Mr. Love's name for a guy named Tobarious Byrd. Now this guy's
2 credibility ---

3 THE COURT: You don't have to get ---

4 MR. SMITH: Okay, I understand.

5 THE COURT: --- wound up. Uh, ---

6 MR. SEAY: Your Honor, Rule 609 is very clear that
7 juvenile judi -- judications -- judiv -- juvenile
8 adjudications are admissible under the rule of conviction of
9 the crime would be admissible to attack the credibility of an
10 adult, this was not adjudicated.

11 MR. SMITH: Your Honor, but I still think it's still the
12 Court's discretion because we try people who are juveniles now
13 for the death penalty.

14 THE COURT: Um, ---

15 MS. SEAY: I don't think that's correct statement, Your
16 Honor.

17 THE COURT: Um, yeah.

18 MR. SMITH: Well we try 'em as adults nowadays.

19 THE COURT: Well we've been doin' that since I got a
20 license to practice law ---

21 MR. SMITH: Yes, sir, s ---

22 THE COURT: --- and you got licensed the same time,
23 Mr. Smith.

24 MR. SMITH: Yes, sir.

25 THE COURT: Ya know I I can't violate the the rules that

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1 says it's gotta be an adjudication, ---

2 MR. SMITH: That's fine, Your Hon ---

3 THE COURT: --- not an adjudication, ---

4 MR. SMITH: Fine, I I'm ---

5 THE COURT: --- it's not a conviction.

6 MR. SMITH: Yes, sir, I'll follow the Court's direction.

7 THE COURT: Okay.

8 MR. SMITH: Your Honor, with regard to the knife fight
9 , though, I wanna be able to ask him about that.

10 MS. SEAY: Your Honor, that's my next issue. Um, when
11 this co-defendant was first interviewed when he was stationed
12 in Okinawa, Japan, he was interviewed by the Naval Criminal
13 Investigative Services. He had an interview on July 12th of
14 2010, it was audio and video recorded. He had another
15 interview the next day, it was also audio and video recorded.
16 The first interview is about an hour and a half long, the
17 second interview is close to four hours long. We have
18 provided both of those in their entirety to Mr. Smith through
19 the discovery process. Now my understanding is that Rule 613
20 says that if a witness admits making a statement, that
21 extrinsic evidence of that statement is not admissible.
22 Mr. Smith has told me that he has a PowerPoint presentation
23 with clips of this NCIS video in it and my concern is that
24 some a this stuff is not gonna be admissible if my witness
25 admits making the statement and admits that he lied in the

MOTIONS AND MATTERS

1 statement and that that would, extrinsic evidence would not be
2 admissible then and, uh, there's also references to polygraph
3 in there because they gave him a polygraph so we have that
4 issue interspersed in there as well, um, so I just would like
5 to clear that up before we get started.

6 MR. SMITH: Your Honor, may it please the Court. Uh,
7 there is part of what she says is true, it's a written, sworn
8 statement under oath; however, there are other aspects of
9 this, uh, video where he admits that he was the guy that he
10 said nobody had anything to do with it but Jarod, talkin'
11 about himself, and then he says that, uh, uh, Korey Love does
12 not deserve to go to jail for murder. He says, uh, and these
13 things are not directly in the statement but they're on the
14 video, uh, he says, he talks about the twins in the, uh, on
15 the, uh, video, he doesn't include them in his, in his, uh,
16 written statement, but he does say he knows that the twins ran
17 away. Now he didn't actually put that in his statement that
18 he swore to but he did say it on the video. Now -- and then
19 he says that Korey Love wasn't involved and that his DNA would
20 be found on the dumpster. Now if he, if he admits all that, I
21 ain't got no problem but if he denies it then I'd have a
22 problem and we'd like to actually play the video clips ---

23 THE COURT: Alright, ---

24 MR. SMITH: --- with regard ---

25 THE COURT: --- well ---

MOTIONS AND MATTERS

1 MR. SMITH: --- to ---

2 THE COURT: --- this is -- see ya'll, I'm not familiar
3 with any of this ---

4 MR. SMITH: Yes, sir.

5 THE COURT: --- and I don't know how it's gonna play out.
6 I can't make a a a ruling on it till I know what's gonna
7 happen. I appreciate you alerting me to ---

8 MR. SMITH: Yes, sir.

9 THE COURT: --- these potential issues but I'm not -- I
10 can't rule right now.

11 MR. SMITH: Yes.

12 MS. SEAY: I unders ---

13 THE COURT: If it comes up and you wanna go there, it's
14 just like we handled it ---

15 MR. SMITH: Okay, sir.

16 THE COURT: --- then then you need to, you know, ---

17 MR. SMITH: Yes, sir.

18 THE COURT: --- ask for a bench conference, we'll do
19 whatever we have to do. We'll address it when it arises.

20 MS. SEAY: Okay, thank you, Your Honor.

21 THE COURT: Is that it?

22 MS. SEAY: That's all.

23 THE COURT: Okay.

24 (Whereupon, a discussion was held off the record.)

25 (The following takes place in the presence of the jury.)

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

1 THE COURT: Alright, ladies and gentlemen, welcome back.
2 Thank you for your patience this morning, we're ready to
3 resume. Alright, proceed.

4 MS. SEAY: State calls Eric Jarod Ransom.

5 THE CLERK: Mr. Ransom, please come around to the bench
6 on that (indicating) side.

7 (Whereupon, the witness came forward.)

8 THE CLERK: If you'll pause at the end of the bench the
9 best you can, please place your left hand on the Bible and
10 raise your right hand.

11 ERIC JAROD RANSOM, having
12 been first duly sworn, testified as follows:

13 THE CLERK: Thank you, please be seated. Please state
14 your name for the record.

15 THE WITNESS: My name is Eric Jarod Ransom.

16 THE CLERK: Thank you.

17 DIRECT EXAMINATION BY MS. SEAY:

18 Q. Mr. Ransom, your full name is Eric Jarod Ransom, is that
19 correct?

20 A. Yes, ma'am.

21 Q. And you go by Jarod, is that correct?

22 A. Yes, ma'am.

23 Q. Okay. Uh, how old are you right now?

24 A. I'm 22.

25 Q. Okay, what's your date of birth?

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

1 A. July .

2 Q. Okay. Did you grow up here in Greenville?

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

4 Q. Okay. Did you attend Greenville County Schools?

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

6 Q. Okay. Did you ever attend J.L. Mann High School?

7 A. Yes, ma'am.

8 Q. Okay. When you went to J.L. Mann High School, what grade
9 were you in?

10 A. Um, I I was in, I was in ninth, tenth and eleventh.

11 Q. Okay. And, um, did you play any sports or do any
12 activities at, uh, J.L. Mann?

13 A. Yes, ma'am, played football and I, and I wrestled.

14 Q. Okay, football and wrestling. Um, how often did you
15 attend practices?

16 A. I went all the time.

17 Q. Okay. And, um, I understand, uh, from your mom's
18 testimony yesterday you graduated from Greenville High School,
19 is that correct?

20 A. Yes, ma'am.

21 Q. What year?

22 A. 2008.

23 Q. Okay. After you graduated what did you do?

24 A. Um, I worked. I worked for about at a restaurant for
25 about nine months and after I did that I joined the

1 military.

2 Q. Alright, what branch of the military did you join?

3 A. Marine Corp.

4 Q. Okay. Why did you make that decision?

5 A. Well I, um, I joined for a couple reasons. Um, number
6 one, I joined because I wanna do something better with my life
7 and I wanted to better myself as a person, as a man, um,
8 second, I did it because and my biggest reason's because of
9 9/11. Uh, think a lotta people in here remember where they
10 were, what they were doin' when 9/11 had happened. Well I
11 myself I was in, I was in school, I was 11-years-old, sixth
12 grade and, um, when it happened everything stopped, like
13 school and everything, like teaching and everything just
14 stopped. We watched everything on TV. At that point in my
15 ti -- at that point, you know, in my life of me bein' so young
16 I didn't know anything about, you know, what a terrorist was
17 or a terrorist attack, I didn't know anything about it but,
18 um, I remember when I was startin' to learn more about it I
19 remember I just felt angry, ya know, me bein' mad and I wanted
20 to do sumtin', I wanted to fight back but, um, I feel like
21 every year when 9/11 comes around I feel like us as a people
22 we get a little fearful, you know, not knowin' if sumtin' like
23 that ever happen again ---

24 Q. Okay.

25 A. --- and, ya know, I didn't, I didn't want us, you know,

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

1 people of this country, my people, to have to live their lives
2 like that so one way to p -- try to prevent that is for people
3 to stand up and fight so that's why, that's why I made a
4 decision and I did somethin' that was bigger than me, that's
5 also me, you know, why I made a decision.

6 Q. Alright. After you joined, uh, the military, did you go
7 to boot camp?

8 A. Yes, ma'am.

9 Q. Where did you go to boot camp?

10 A. Went to Parris Island, South Carolina.

11 Q. Alright, where did you go after that?

12 A. After that, um, I came home and, um, once they got done
13 with me from, ya know, from my leave from boot camp I went to,
14 I went to North Carolina for combat training.

15 Q. Okay, and after combat training where did you go?

16 A. I went to my MOS school. My MOS is it means, it stands
17 for Military Occupational Specialty.

18 Q. Alright, what ---

19 A. I went there, I went to s -- I was a field radio operator
20 and I went to school for it in California.

21 Q. Okay. Um, did you eventually get stationed in Okinawa,
22 Japan?

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

24 Q. Alright, and is it there that you learned that the police
25 were looking for you for this Wendy's murder?

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

1 A. Yes, ma'am.

2 Q. Alright. Let me ask you some questions about your
3 family. Um, who is your mother?

4 A. My mother is Orlena Corliss Corliss Smith.

5 Q. Okay. Corliss Orlena does she, does she also or has she
6 ever used the last name Love?

7 A. Yes, ma'am.

8 Q. Okay. And do you have brothers and sisters?

9 A. Yes, ma'am, I have two sisters, one brother.

10 Q. Alright. Is Jalesa Neal one of your sister -- one of
11 your sisters?

12 A. Yes, ma'am, she is.

13 Q. Okay, and, um, were you ever friends with Korey Love?

14 A. Yes, ma'am.

15 Q. How old were you when you became friends with him?

16 A. I was about 'bout 15, 16, some somewhere around here 15,
17 16.

18 Q. Where did you meet him?

19 A. Um, from -- went to school. He he moved out to where I
20 was livin', where we was on Churchill Pelham Road.

21 Q. Churchill Apartments?

22 A. Yes, ma'am.

23 Q. Okay, did you live in separate apartments at that ---

24 A. Yes, ma'am.

25 Q. --- time?

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

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

2 Q. Alright, who did he live with?

3 A. He lived with, uh, his father there, um, Leslie and
4 Antwon.

5 Q. Okay, do you know their last name?

6 A. Jackson.

7 Q. Okay, so he lived with the Jacksons and you lived with
8 your mother and your brothers and sisters?

9 A. Yes, ma'am.

10 Q. Okay. Um, how would you describe your relationship with
11 Korey Love when ya'll were knowin' each other?

12 A. Uh, I mean, we were cool. I mean, I I wouldn't say we
13 were closer to each other than we were, you know, to everyone
14 else but we were friends.

15 Q. Would you consider yourself good friends?

16 A. Pretty good friends.

17 Q. Did you spend a lot of time together?

18 A. Yes, ma'am. I mean, we had the same, we had the same
19 friends, we had went to the same school. Uh, I I say, you
20 know, we pretty good friends.

21 Q. Okay. At some point did your mother start dating Jerome
22 Love?

23 A. Yes, ma'am.

24 Q. Okay, they eventually got married, is that right?

25 A. Yes, ma'am.

1 Q. Okay. And did you live with Korey Love as stepbrothers
2 for a period of time?

3 A. Yes, ma'am.

4 Q. Okay. How long did you live at Churchill Apartments?

5 A. Uh, we stayed there, stayed there for about about maybe
6 about five years, sumtin' like that.

7 Q. Okay. Did you know Rashida Peters?

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

9 Q. Were you friends with her?

10 A. Yes, ma'am.

11 Q. Where did she work?

12 A. She worked at Wendy's.

13 Q. Okay. What was her relationship to Korey Love?

14 A. They would, I mean, they would mess with each other a
15 time, I guess you could say it was like boyfriend, girlfriend.

16 Q. Okay, what -- can you describe what you mean by messin'
17 with each other.

18 A. Yes, ma'am, they like had kind of a sexual
19 relationship.

20 Q. Okay, did Korey talk to you about that?

21 A. Yes, ma'am.

22 Q. Did ya'll go to visit Rashida at Wendy's?

23 A. Yes, ma'am.

24 Q. Who would go up there?

25 A. A lot of us, you know, me, Korey, uh, besides, uh, Ricky

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

1 and Rashad, it's a lot of us, uh, Dontavius, a lot of us.

2 Q. What would happen when you'd go up there to see her?

3 A. Sometimes we just, um, just go in there, just chill with
4 her, just, you know, not chill with her but we just go up
5 there.

6 Q. Did she give you anything?

7 A. I mean, sometimes they would give us free food 'cause we
8 went up there a lot and they knew our faces, you know, they
9 knew that that we were her friends so sometimes they give us
10 free food so we always went up there.

11 Q. Okay, did Korey go up there?

12 A. Yes, ma'am.

13 Q. So you know Ricky and Rashad Simmons.

14 A. Yes, ma'am.

15 Q. Were you good friends with them too?

16 A. Yes, ma'am.

17 Q. Where did they live?

18 A. They lived in, uh, Mallard Cove.

19 Q. Okay. Where was Mallard Cove in relationship to
20 Churchill Apartments?

21 A. Um, it was across the golf course. We had to go, we
22 always went through the golf course to get there.

23 Q. Alright. Did you and Korey ever go through the golf
24 course together to get to Mallard Cove Apartments?

25 A. Yes, ma'am.

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

1 Q. Did -- when you were, um, back in 2007 how old were
2 you?

3 A. Um, at the time when this happened, uh, I was 16 when
4 this happened.

5 Q. You were 16 when this happened.

6 A. Yes, ma'am.

7 Q. How old was Korey at the time this happened?

8 A. Seventeen.

9 Q. Okay. Um, let's focus on that that period of time. Did
10 anybody ever talk about robbin' the Wendy's?

11 A. Yes, ma'am.

12 Q. Where did this take place?

13 A. Um, first first took place playin' basketball. We played
14 basketball, um, with some people they had, they have like a
15 little basketball court, you know, right across the street
16 from Mallard Cove, they would let us come to their yard and
17 play basketball, that's where it first came up, that's when it
18 first came up.

19 Q. Okay, who brought it up?

20 A. Korey brought it up.

21 Q. Alright, what did he say?

22 A. Uh, he was just talkin' about how he wanted to rob the
23 Wendy's.

24 Q. And who all was present?

25 A. I was there, uh, Ricky, Rashad was there, of course Korey

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

1 was there, I wanna say Dontavius was there.

2 Q. Was that Dontavius Sullivan?

3 A. Yes, ma'am.

4 Q. How old was he at the time, older or younger than you?

5 A. He was young. He was younger, younger than rest of us.

6 Q. Okay. What did you think when Korey started talkin'
7 about robbin' the Wendy's?

8 A. We didn't think much of it. We didn't really pay
9 attention, pay attention to it.

10 Q. Did it come up again?

11 A. Um, at Man -- it came up again. Um, one time I went out
12 to Mallard Cove and I saw Ricky and Rashad, they they told me
13 that he brought it up again and I wasn't there to hear it but
14 until he brought it up again.

15 MR. SMITH: Objection, Your Honor.

16 THE COURT: That's hearsay.

17 MR. SMITH: Yes, it is, sir.

18 BY MS. SEAY:

19 Q. Okay, without without sayin' what somebody told you, did
20 did Korey ever bring it up in your presence again?

21 A. No, ma'am.

22 Q. Alright. Let me take you to, um, the night of or the
23 night of January the 26th, the early morning hours of January
24 27th 2010, you were 16 at the time, is that right?

25 A. Two -- 2010?

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

1 Q. I I'm sorry, 2007, excuse me. You were 16 in 2007, okay.

2 A. Yes, ma'am.

3 Q. Was the Wendy's robbery plan talked about that day?

4 A. Um, I can't remember. I mean, no one ever told me about
5 it that night. Um, I mean, later on once we got up there, you
6 know, he basically told me that he was gonna try to rob
7 someone but, uh, I can't really remember like what happened,
8 you know, earlier that day.

9 Q. Okay, well let me ask you this: Did you, at some time
10 that night, did you meet up with Korey Love?

11 A. Yes, ma'am, he actually came came to my house ---

12 Q. Okay.

13 A. --- and knocked on the door.

14 Q. Came to your house and knocked on the door, about what
15 time was that?

16 A. Uh, I mean, it was around, maybe around midnight, ---

17 Q. Okay.

18 A. --- somewhere.

19 Q. And is this while he was livin' with the Jacksons?

20 A. Yes, ma'am.

21 Q. And when he knocked on your door at midnight, what did he
22 say to you?

23 A. He just told me, uh, to come out and I would go with him,
24 said the twins will be out there, should be waiting on us.

25 Q. Alright, and so how did you get to Mallard Cove?

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

1 A. We walked, walked through the golf course.

2 Q. Alright. When you got to Mallard Cove, were the twins
3 waiting on you?

4 A. No, ma'am, they were, they were in the house, I believe
5 they were in the house. We went, uh, knocked on the door but
6 no one came, no one answered.

7 Q. Okay. Did you know why you were goin' to get the
8 twins?

9 A. No, he just told me we were goin' out there to that they
10 should be waitin' on us out there.

11 Q. Alright, and did the twins ever come ou -- come out while
12 you were there?

13 A. No, ma'am.

14 Q. Um, what did you do next?

15 A. After that, um, he told let's go up to Wendy's so I asked
16 him if Rashida was workin', he told me yes she should be so we
17 walked up to Wendy's and, um, once we got there he asked me to
18 look back to see if I could see the twins comin' so looked
19 back and I didn't see anyone comin', told him no but, um,
20 after ---

21 Q. How did ya'll get up to the Wendy's?

22 A. We walk.

23 Q. Okay. Tell me the route that you took.

24 A. Um, it was like once we left their apartment went through
25 like a little cut, um, it's like some kind of like abandoned

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1 but I don't know what the buildin's used for but kinda went
2 behind the buildin', we walked -- headed across the street and
3 we walked behind like a bank and we came up to like a
4 drive-thru of of the Wendy's. .

5 Q. Did you come up behind the Wendy's?

6 A. At the drive-thru.

7 Q. Alright. Let me show you State's Exhibit 36. Is this
8 (indicating) your signature?

9 A. Yes, ma'am. Yes, ma'am.

10 Q. Okay. Did you draw this?

11 A. Yes, ma'am.

12 Q. Okay. Did you draw this for Detective Flavell?

13 A. Yes, ma'am.

14 Q. Uh, what does it show?

15 A. Shows, uh, the route that we took to Wendy's.

16 Q. Okay. And that's the route that you just described?

17 A. Yes, ma'am.

18 Q. Okay, so you came out about at the drive-thru ---

19 A. Yes, ma'am.

20 Q. --- and you said Korey said what to you?

21 A. He told me that he was gonna try to rob someone. .

22 Q. Alright, and what were you supposed to do?

23 A. I mean, uh, once he told me to look back and see if I
24 could see the twins, after that, uh, he really didn't tell me
25 do anything.

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

1 Q. So what did you do?

2 A. I stood there.

3 Q. Where did you stand?

4 A. Um, back by the trash can.

5 Q. Did you know why you were goin' up there, Mr. Ransom?

6 A. Uh, not init -- not initially, not until he told me that
7 he was gonna try to rob someone.

8 Q. And then you stayed, correct?

9 A. Yes, ma'am, I did stay.

10 Q. Okay, and you stayed back by the trash cans as a lookout
11 sort of, didn't you?

12 A. Yes, ma'am.

13 Q. Tell me what happened next.

14 A. Um, after that that's when, uh, Mr. Bass had come out the
15 like side door and, um, Korey kinda crept up on him. Once he
16 got a little, you know, close enough to him, no doubt pulled a
17 gun out, pulled a gun, um, pointed in his face, Mr. Bass saw
18 it, he just started screamin', um, screamin' for help. Uh, he
19 ran back, uh, to the door that he came out of and, uh, he was
20 knockin', you know, bangin' on the door, um, you know, no one
21 came to open it but after, uh, after he started bangin' on the
22 door, he ended up tryin' to run past Korey and, uh, Korey
23 kinda grabbed him but he couldn't hold him, he had a gun, he
24 had a gun in his hand but he kept tryin' to hold him with one
25 hand but Mr. Bass was already free and, um, ---

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

1 Q. Mr. Bass tryin' to run away?

2 A. Yes, ma'am.

3 Q. What direction was he runnin'?

4 A. He tried to run, he tried to run, um, back to like the
5 front of Wendy's.

6 Q. What happened next?

7 A. Uh, while he was runnin' tryin' to get away, that's when
8 Korey shot him.

9 Q. What did you do?

10 A. After, um, after the gunshot went off, saw Mr. Bass fall
11 and, um, you know, he went to, he went to, you know, get back
12 up, I had, I just took off runnin', took off runnin' the same
13 way we came and, uh, you know, ended up gettin' back to
14 Mallard Cove.

15 Q. Did you know that Korey had a gun that night?

16 A. No, ma'am.

17 Q. Did you ---

18 MR. SMITH: Your Honor, I'm gonna ---

19 Q. --- and you said ---

20 MR. SMITH: --- ask her that she ask him direct questions
21 and not leading questions.

22 THE COURT: Alright, don't don't lead.

23 BY MS. SEAY:

24 Q. Did you have a gun that night?

25 A. No, ma'am.

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

1 Q. Had you ever seen Korey with a gun before?

2 A. No, ma'am.

3 Q. You said Mr. Bass fell and tried to get back up, is that
4 the last thing you saw?

5 A. Yes, ma'am.

6 Q. And what was the path that you took to get back?

7 A. Took the same path, the same same route that we came from
8 or the same same route we took to get there.

9 Q. So who was with you, you said "we"?

10 A. Um, I took off runnin' and Korey was behind me.

11 Q. Did you ever see him do anything with the gun?

12 A. No, ma'am.

13 Q. Do you have any idea what he did with it?

14 A. No, ma'am.

15 Q. So when you got back to Mallard Cove, did you see
16 anybody?

17 A. No, ma'am, I don't remember seein' anyone.

18 Q. You don't remember seein' the twins?

19 A. No, ma'am, I don't, I don't remember, I don't know why
20 but I don't remember seeing 'em.

21 Q. What was your state of mind after you heard this gunshot
22 and you saw Mr. Bass fall to the ground?

23 A. You know, I was, I was shocked, you know, I I was scared,
24 you know, I didn't, I didn't know anything about the gun so I
25 was caught off guard, I was really surprised and, you know, my

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

1 mind started racin' and that's when I just took off runnin'.

2 Q. So when you got back to Mallard Cove, where did ya'll
3 go?

4 A. After we got to Mallard Cove, we ended up goin' back
5 across the golf course to a girl named Kristina's house, went
6 to her house and we stayed over there for, you know, just for
7 a little bit, didn't stay that long.

8 Q. Did you talk to anybody about what had happened?

9 A. No, ma'am.

10 Q. Did Korey talk to anybody about what had happened?

11 A. No, ma'am.

12 Q. What's the next thing you remember?

13 A. Um, after we, after we left her house, that's when we
14 went back on the golf course and we went home.

15 Q. Did Korey go, did you see him go to the Jackson's
16 apartment?

17 A. Yes, ma'am.

18 Q. How'd he get in?

19 A. He walked in.

20 Q. How did you get back to your house in your apartment?

21 A. I walked up there. I walked back, I walked back home.

22 Q. Okay, and did your mother know that you were out that
23 night?

24 A. No, ma'am.

25 Q. Had you snuck out?

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

1 A. Yes, ma'am.

2 Q. Had you ever snuck out before?

3 A. Yes, ma'am.

4 Q. Who did ya sneak out with?

5 A. That night?

6 Q. No, had you ever snuck out with anybody before?

7 A. Um, yes, ma'am, that, um, you know, we would always, me.
8 Korey, Ricky, Rashad we always be out, you know, late, you
9 know, probly when we supposed to be in the house, you know, we
10 always kinda snuck out.

11 Q. That night after you had seen Mr. Bass fall to the ground
12 and start to get back up, did you think about tellin' anybody
13 that there was somebody up there that might be hurt really
14 bad?

15 A. I kinda, like I kinda I was hopin' that he was alright,
16 you know, I didn't, you know, when the gunshot went off, I
17 didn't really know if he was shot or not, you know, I was
18 standin' back so far I couldn't really see or I didn't see,
19 you know, any blood or anything and I didn't see him, you
20 know, favor, you know, favor anything, you know, if somethin'
21 happens to your arm, you might favor your arm, if somethin'
22 happens to your leg, you might favor your leg, I didn't really
23 see him favor anything but then, yeah, at the same time I
24 really didn't, you know, stay stay there too long to see if
25 anything was really wrong but I was kinda hopin' he was

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1 alright, uh, you know, but I I wasn't really too just, too
2 sure.

3 Q. Why didn't you tell somebody?

4 A. Um, you know, I didn't, I didn't really know how, I, uh,
5 I didn't know how.

6 Q. When did you find out what had happened to Mr. Bass?

7 A. When we, like I got back to school, um, the next week
8 and, um, I saw in the newspaper.

9 Q. What did you think?

10 A. I was, I was surprised, um, I couldn't believe it.

11 Q. Were you upset?

12 A. I think I was just, um, you know, scared, uh, I guess I
13 was a little upset.

14 Q. Did you think about tellin' anybody at that point?

15 A. Um, um, I mean, I didn't know how to go about it, like I
16 I wanted to but I just didn't know, I didn't know how is
17 'cause I guess I just figured that the best thing to do was
18 just to be, you know, quite about it, just not say anything.

19 Q. So you never told anybody about it.

20 A. No, ma'am.

21 Q. Okay. After that, um, were you and Korey still
22 friends?

23 A. Yes, ma'am.

24 Q. And then your parents eventually married.

25 A. Yes, ma'am.

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1 Q. And ya'll lived together as stepbrothers.

2 A. Yes, ma'am.

3 Q. Did you ever talk about what had happened at the
4 Wendy's?

5 A. No, ma'am.

6 Q. It never came up?

7 A. No, ma'am.

8 Q. And you went on to graduate from high school you
9 testified and joined the military.

10 A. Yes, ma'am.

11 Q. Do you remember on July 12th of 2010 the Naval Criminal
12 Investigative Services interviewing you?

13 A. Yes, ma'am.

14 Q. Do you remember giving a statement to Special Agent
15 Kenneth Wheeler, Jr.?

16 A. Yes, ma'am.

17 Q. Did you tell the truth about what they asked you?

18 A. No, ma'am. At first, uh, at first I denied it, denied
19 knowin' anything.

20 Q. That was your statement you didn't know anything?

21 A. Yes, ma'am, that's what I did at first I denied it yes,
22 ma'am.

23 Q. So you lied, your statement was a lie?

24 A. Yes, ma'am.

25 Q. Do you recall the next day, July 13th of 2010, being

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

1 interviewed again?

2 A. Yes, ma'am.

3 Q. And do you recall giving another statement to Special
4 Agent Kenneth W. Wheeler, Jr.?

5 A. Yes, ma'am.

6 Q. Was that statement truthful?

7 A. No, ma'am.

8 Q. In fact, did you make up somebody's name?

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

10 Q. Tell me about that.

11 A. Um, I made up a story because, you know, uh, I was -- I
12 made a mistake, I was, I was tryin' to, was trying to, you
13 know, protect Korey, you know, uh, you know, at one point, you
14 know, he was my stepbrother so, you know, I looked at him like
15 a brother, I looked at him like he was family, you know, I
16 love him like he was family so I I tried to protect him, I I I
17 made up a name, you know, instead a using his name I just just
18 made up some name.

19 Q. What was the name that you made up?

20 A. Byrd.

21 Q. Byrd.

22 A. Yes, ma'am.

23 Q. What was the first name of Byrd?

24 A. Um, Tobarus, Tobarus.

25 Q. Does Tobarus Byrd exist?

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

1 A. No, ma'am.

2 Q. Did you tell in this second statement to Agent Wheeler
3 did you tell them that you were present?

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

5 Q. So you admitted that you were at the Wendy's the night of
6 the murder.

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

8 Q. You made up the name Tobarius Byrd instead a tellin' them
9 that Korey ---

10 A. Instead a ---

11 Q. --- was involved.

12 A. Yep. Yes, ma'am, I did.

13 Q. In fact, did you deny that Korey was involved?

14 A. Uh, yes, ma'am, I did by makin' up the name instead a
15 just using his name and telling them, uh, really the truth.

16 Q. Did you make up other parts of your story?

17 A. Yes, ma'am, I I I made, I made up some parts, I took out
18 some parts and, uh, substituted, you know, Korey yes, ma'am, I
19 did.

20 Q. And so in your second statement to the Naval Criminal
21 Investigative Services you lied.

22 A. Yes, ma'am.

23 Q. Did you also draw them a map of where you said that this
24 Byrd lived?

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

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

1 Q. Where did you tell them that he lived?

2 A. Ramblewood.

3 Q. Ramblewood apartments?

4 A. Yes, ma'am.

5 Q. And did you specify an apartment where he lived?

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

7 Q. And did you know anybody that lived at Ramblewood
8 Apartments?

9 A. Rashida was livin' there at time of, uh, when they came
10 to investigate, she was livin' there at the time.

11 Q. And on this map where you specified where Byrd lived,
12 whose apartment was that in fact?

13 A. Um, Rashida's, I believe Rashida's.

14 Q. And so this map about Ramblewood Apartments and Byrd
15 livin' there was a lie.

16 A. Yes, ma'am.

17 Q. Did you eventually get taken into custody for this
18 matter?

19 A. Yes, ma'am.

20 Q. Alright, and what happened to you?

21 A. I was, I was locked up in in Japan, um, after that they
22 flew me to California. I was locked up in California for a
23 little bit and then that's when, uh, South Carolina came to
24 pick me up.

25 Q. Alright, did you arrive here in Greenville at some

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

1 point?

2 A. Yes, ma'am, uh, August the 5th 2010.

3 Q. Okay. When you arrived on August 5th 2010, uh, were you
4 met by anyone?

5 A. Detective Flavell.

6 Q. Alright. Did Detective Flavell take you to an interview
7 room?

8 A. Yes, ma'am, he did.

9 Q. When he asked you about the murder, did you tell him the
10 truth at first?

11 A. Not at first no, ma'am, um, told him, told him the whole
12 Byrd story, uh, so no, ma'am, I didn't tell him the truth at
13 first.

14 Q. What did, uh, well did you eventually tell him what had
15 happened?

16 A. Yes, ma'am, I did, uh, you know, he, you know, he he
17 talked to me and I just started thinkin' about, you know, what
18 I was doin' and the choice that I was makin', you know,
19 the mistake I was makin' by tryin' to protect, you know, Korey
20 but, you know, I thought about it and I just wanna do the
21 right thing, ---

22 Q. So you told him ---

23 A. --- I told him.

24 Q. --- what had happened.

25 A. I told him what happened yes, ma'am.

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

1 Q. Did you tell him exactly what you told this jury today
2 about what happened?

3 A. Yes, ma'am.

4 Q. Were the twins present at the time of the murder?

5 A. No, ma'am.

6 Q. Mr. Ransom, you have pled guilty to attempted armed
7 robbery, is that correct?

8 A. Yes, ma'am.

9 Q. And you did that back in April of this year, is that
10 right?

11 A. Yes, ma'am.

12 Q. And is it your understanding that you face up to 20 years
13 for that charge?

14 A. Yes, ma'am.

15 Q. And is it also your understanding that a judge is gonna
16 sentence you when this case is concluded?

17 A. Yes, ma'am.

18 Q. Is it also your understanding that regardless of what
19 happens to Korey Love that you're gonna be sentenced?

20 A. Yes, ma'am.

21 Q. Is it your understanding that you will not have any
22 parole eligibility?

23 A. Yes, ma'am.

24 Q. And as part of the plea negotiations in this case, is it
25 your understanding that the murder charge against you will be

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

1 dismissed if you testify truthfully in this court of law?

2 A. Yes, ma'am.

3 Q. And are you incarcerated right now because you have pled
4 guilty to attempted armed robbery?

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

6 Q. When Detective Flavell interviewed you, did you tell him
7 anything about saying anything to Isaac Bass's family?

8 A. Yes, ma'am. Um, mentioned to him that I just wanted
9 wanted to apologize to 'em and, uh, I mentioned it a few
10 times. I mentioned it to NCIS, mentioned it to Flavell, I
11 mentioned it to my old public defender, my old lawyer I I
12 apologize and tell 'em I'm I'm sorry about what happened. Uh,
13 I wish I could take it back, I wish I could change this whole
14 thing for everybody. Well I I didn't know what was gonna
15 happen, I didn't know, I wasn't prepared for anything like
16 that, uh, and I pray for 'em all the time and, uh, make sure I
17 continue to pray for 'em. I'm just really sorry about what
18 happened.

19 Q. Have you talked to the twins since this murder
20 happened?

21 A. No, ma'am.

22 Q. You ever talk to them about the murder?

23 A. Um, after it happened?

24 Q. Have you; have you talked to them like since 2007 about
25 this?

ERIC JAROD RANSOM - DIRECT EXAMINATION BY MS. SEAY

- 1 A. No, ma'am.
- 2 Q. When you gave Detective Flavell your statement where you
3 said you told him the truth, did he promise you anything at
4 that time?
- 5 A. No, ma'am, nothin' was promised to me no, ma'am.
- 6 Q. Did he threaten you in any way?
- 7 A. No, ma'am, he didn't.
- 8 Q. Did you understand that you were going to be charged at
9 that time?
- 10 A. Yes, ma'am.
- 11 Q. And have you met with me and with Assistant Solicitor
12 Mr. Steinberg ---
- 13 A. Yes, ma'am, I have.
- 14 Q. --- prior to today?
- 15 A. Yes, ma'am, I have.
- 16 Q. Did you tell us the truth about what happened?
- 17 A. Yes, ma'am.
- 18 Q. Did we make any promises to you about what would happen
19 to you?
- 20 A. No, ma'am.
- 21 Q. You ever talk with your family about this murder?
- 22 A. Um, you mean after, you mean after it happened?
- 23 Q. After it happened did you talk with anybody in your
24 family?
- 25 A. No, ma'am, I didn't talk to 'em about it no, ma'am.

ERIC JAROD RANSOM - CROSS-EXAMINATION BY MR. SMITH

1 Q. To your knowledge did anybody in your family know that
2 you were involved in this?

3 A. No, ma'am.

4 Q. Mr. Ransom, those are all the questions that I have for
5 you, please answer any that Mr. Smith, Mr. Love's attorney,
6 has for you.

7 CROSS-EXAMINATION BY MR. SMITH:

8 Q. Mr. Ransom, uh, you said you didn't know anything about
9 this robbery, is that correct?

10 A. No, sir, I didn't say that.

11 Q. Right, right. And where's the cell phone?

12 A. What cell phone?

13 Q. The cell phone that one of the twins got the phone call
14 from you.

15 A. I didn't have a cell phone.

16 Q. Right. So it is your testimony you never got a cell
17 phone call or you called from your cell phone to Ricky or
18 Rashad Simmons in order to do that robbery that night, is that
19 correct?

20 A. Never had a cell phone, sir.

21 Q. Never had a cell phone. Now the other thing too is you
22 say the reason why you told all these lies to the United
23 States military and you disgraced the uniform that you served
24 in, right?

25 A. I did that ---

ERIC JAROD RANSOM - CROSS-EXAMINATION BY MR. SMITH

1 Q. Right, not only you disgraced it, you terrorized this
2 family back here who lost a son too, didn't ya?

3 A. I mean, I didn't terrorize 'em, you know I didn't. I
4 mean, yes I made a mistake by tryin' to protect Korey but...

5 Q. No, sir, you pled guilty to attempted armed robbery so
6 that means attempted armed robbery you were terrorizing that
7 boy's family yourself.

8 A. I mean, uh, no, sir, I don't; I don't agree with that.
9 Uh, ---

10 Q. Right. So you pled guilty to somethin' that you don't
11 believe you did.

12 A. I mean, I understand I was there. I understand that, uh,
13 just me bein' there, you know, hands of one, hands of all,
14 right, so understand that me bein' there I'm just as guilty as
15 he is and if that's the case there's no way I could stand up,
16 you know, to a murder charge so therefore yes, I pled guilty
17 to the attempted armed robbery.

18 Q. That's right and by pleading guilty to the attempted
19 armed robbery you got the murder charge dropped, didn't ya?

20 A. Uh, not unless I I do what I'm supposed to do. Uh, I
21 guess technically I still have it to my name.

22 Q. Right, but when you testified in front of Judge Verdin,
23 and we got the transcript of record here, the only thing you
24 pled guilty to was attempted armed robbery, is that correct?

25 A. Yes, sir.

ERIC JAROD RANSOM - CROSS-EXAMINATION BY MR. SMITH

1 Q. That doesn't carry a life sentence, does it?

2 A. No, sir, it doesn't.

3 Q. That carries a 20-year sentence, isn't it?

4 A. Yes, sir, it does.

5 Q. And so when you told Detective Flavell and you wasn't
6 protectin' Korey Love, you were protectin' yourself because
7 you said why did you make the story up about the guy named
8 Byrd, quote, and this is your statement to these (indicating)
9 people, you said, "When the agent was questioning me he told
10 me that he did not believe that I was the one that shot the
11 guy then like ten minutes later he was tellin' me that all the
12 evidence was pointing toward me. I did not trust the guy, I
13 just made it up because I did not believe he had any evidence
14 against me," isn't that what you said?

15 A. That's what I said yes, sir.

16 Q. So you were protectin' yourself and you wasn't protectin'
17 Korey Love, isn't on a fact?

18 A. No, sir.

19 Q. Now the other thing too is in each one of the statements
20 that you gave to the United States military they had you to
21 stand up, and we got the video where you were in these rooms,
22 first, they had you in your military uniform when you gave
23 your first lyin' statement, correct?

24 A. (The witness nodded in the affirmative.)

25 Q. And then they stripped you of your uniform and then the

ERIC JAROD RANSOM - CROSS-EXAMINATION BY MR. SMITH

1 next day you gave another another one when you were handcuffed
2 to a seat, remember that?

3 A. Yes, sir.

4 Q. Right. And then that officer told you that you needed to
5 protect yourself because the first person who testified in
6 this case would get the deal, didn't he tell you that?

7 A. No, sir, not necessarily.

8 Q. Let's run the tape. You wanna see it?

9 MR. SMITH: Your Honor, she knows how to work this stuff
10 better than I do so if I don't ---

11 THE COURT: Yep.

12 MR. SMITH: Oh, can we see it? Can we turn the lights
13 down just a little?

14 (Whereupon, a discussion was held off the record.)

15 MR. SMITH: Excuse us one second.

16 (Whereupon, a discussion was held off the record.)

17 (Whereupon, defense counsel began to play the video.)

18 MS. SEAY: Your Honor, I'm going to object unless this
19 is limited to the statement that he's inquired about ---

20 THE COURT: Exactly.

21 MS. SEAY: --- to impeach his credibility.

22 THE COURT: Find that spot.

23 MR. SMITH: Yes, sir, that's what we're tryin'.

24 THE COURT: Alright. Mr. Smith, I don't know if the jury
25 can hear it so if you'll take the microphone at your desk and

ERIC JAROD RANSOM - CROSS-EXAMINATION BY MR. SMITH

1 put it in front of the speakers we might...

2 (Whereupon, defense counsel began to play the video for
3 the jury.)

4 THE COURT: Turn the sound off unless it's...

5 MS. SEAY: Your Honor, the the tape is just being played.

6 THE COURT: Yeah, so turn the sound off until you find
7 where you're going.

8 (Whereupon, a discussion was held off the record.)

9 MR. SMITH: I was asking the question that they -- you
10 got the spot?

11 UNIDENTIFIED WOMAN: Um-hum.

12 MR. SMITH: Okay well it's at the spot, Your Honor.

13 THE COURT: Alright.

14 (Whereupon, defense counsel began to play the video.)

15 MS. SEAY: Your Honor, this is not the statement ---

16 MR. SMITH: Yes, ---

17 MS. SEAY: --- that he ---

18 MR. SMITH: --- it is the statement. It's ---

19 THE COURT: Well just -- alright, hang on. Pause it.

20 MR. SMITH: Thank Your Honor.

21 THE COURT: Show me what you're -- come up here, show me
22 what you're doin'.

23 (Whereupon, a bench conference was held off the record.)

24 (Whereupon, the video was played for the jury.)

25 THE COURT: Mr. Smith, you gotta move, these people have

ERIC JAROD RANSOM - CROSS-EXAMINATION BY MR. SMITH

1 to see it.

2 MR. SMITH: Oh.

3 BY MR. SMITH:

4 Q. So he told ya the first one who talk is gonna get the
5 deal, didn't he?

6 A. Yes, sir, he just did.

7 Q. Right, and then you were lookin' for a deal when you gave
8 this statement, didn't you?

9 A. No, sir, I wasn't.

10 Q. Well you wrote this statement in your own hand.

11 A. You're right, I did write the statement.

12 Q. And when ya wrote that statement in your own hand, your
13 fellow Marines thought you were tellin' the truth, didn't
14 they?

15 A. Yes, sir.

16 Q. And then durin' that period a that interview you were
17 cryin', weren't you?

18 A. Yes, sir.

19 Q. And you were tryin' to be as sincere to your fellow
20 Marines as you could, weren't ya? correct?

21 A. Uh, I mean, not really. I mean, I was -- I know I
22 was -- I I did the wrong thing and I made a mistake, you know,
23 so can't say I was really bein' sincere to 'em.

24 Q. And you told 'em on the tape that the twins were out
25 there that night too, didn't you?

ERIC JAROD RANSOM - CROSS-EXAMINATION BY MR. SMITH

1 A. Uh, I never told 'em that they were there, I never told
2 'em they were there.

3 Q. And did you also state in your statement that the girl's
4 house you went to that night you didn't know who she was,
5 correct?

6 A. Right, uh, she wasn't, she wasn't really one of my
7 friends, she was more Korey's friend so I didn't really know
8 her too well, you know, know know her like that.

9 Q. So she was Korey's friend and you didn't know her
10 like -- who was your girlfriend?

11 A. Who was my girlfriend?

12 Q. Yes.

13 A. At the time, uh, Nicole Harris.

14 Q. Nicole Harris. And where does she live?

15 A. She lives, um, Augusta Road.

16 Q. Now let me ask ya this question too: Your sister got up
17 that mornin' and ya'll rode by the Wendy's that mornin'?

18 A. Uh, no, s -- I mean, I have no idea what they did.

19 Q. Right, but when you got home that night your sister was
20 at home, your mama was at home and you were at home when you
21 got there, right?

22 A. Yes, sir, I was home when I got there.

23 Q. Right. And when ya got home you had breakfast the next
24 mornin', correct?

25 A. I'm not sure what I did, uh, next mornin' ---

ERIC JAROD RANSOM - CROSS-EXAMINATION BY MR. SMITH

1 Q. Well who cooks in the house breakfast?

2 A. Whoever's hungry.

3 Q. Yeah, so your sister cooks breakfast?

4 A. Anybody cooks breakfast.

5 Q. Right, and what time do ya'll usually have breakfast at
6 your house?

7 A. We don't eat breakfast together, we eat whenever we,
8 whenever we eat.

9 Q. Eat. And you don't eat hamburgers in the mornin', do
10 you?

11 A. I mean, if if, you know, if there's hamburgers left over
12 then we might eat hamburgers in the mornin'.

13 Q. Alright, but the Wendy's wasn't open that mornin' so you
14 couldn't get hamburgers there, could you?

15 A. Was the Wendy's open that mornin'?

16 Q. Yes, sir.

17 A. Um, I'm pretty sure they were still workin' there when we
18 were there that night when we went there that night, they were
19 closin' up.

20 Q. Okay. Now now did you -- you knocked on the twins' door
21 or who knocked on the twins' door when ya'll went down there
22 to see the twins?

23 A. Um, believe I knocked. I mean, I can't say for sure
24 about knock, ---

25 Q. Right.

ERIC JAROD RANSOM - CROSS-EXAMINATION BY MR.. SMITH

1 A. --- I believe I knocked.

2 Q. You knocked. And then when you knocked on the door you
3 left?

4 Yes, sir, uh, that's when we, we were told to come up to
5 Wendy's and have some cheeseburger, yes, sir, went to Wendy's.

6 Q. So Korey was planning this thing with you, you knocked on
7 the twins' door to get them to come outside.

8 A. No, sir, he wasn't, you know, we wasn't, you know,
9 planning doing anything, um, he didn't even, you know, mention
10 it but, um, we didn't say anything about a robbery,
11 anything..

12 Q. Right. So -- alright, so this is the key: You didn't
13 have a cell phone, you knock on the door and the twins don't
14 come out, correct?

15 A. Yes, sir, I believe I, believe I knocked on the door, no
16 I didn't have a phone and right, twins didn't come out.

17 Q. Right, and so the twins have no idea that you and Korey
18 are on your way.

19 A. Uh, I'm not sure because I didn't, I didn't speak to 'em.
20 Um, from from what I hear, they spoke to him, he spoke to
21 them. He called them on the phone but I didn't, I never heard
22 from 'em that night. I didn't get t -- I didn't speak to 'em,
23 they didn't speak to me.

24 Q. Right, but did you know they say that Korey didn't have a
25 cell phone, that you had the cell phone?

ERIC JAROD RANSOM - CROSS-EXAMINATION BY MR. SMITH

1 A. Right, one of 'em did say I had a phone but I didn't, I
2 didn't have a cell phone.

3 Q. So if no call was made to the twins with your cell phone
4 and since Korey didn't have a cell phone ---

5 A. Korey had a cell phone.

6 Q. --- and you knocked on the door ---

7 MS. SEAY: Your Honor, the witness was tryin' to answer
8 the question.

9 THE COURT: Well he he -- wait till he finishes his
10 question and then you can answer ---

11 MR. SMITH: Okay.

12 THE COURT: --- fully, okay.

13 BY MR. SMITH:

14 Q. Go ahead, say what you wanna say.

15 A. Korey had a cell phone.

16 Q. Okay, so Korey had a cell phone and Ricky and Jarod says
17 it's your cell phone, correct?

18 A. Ricky and who? Rashad?

19 Q. Rashad, yes.

20 A. One of 'em, I can't remember which one but there's one of
21 'em did say I had a cell phone ---

22 Q. Right, so they didn't receive a phone call from your cell
23 phone, that's what you're tellin' the jury, correct?

24 A. Right, they didn't receive a phone call from my cell
25 phone because I didn't have a cell phone.

ERIC JAROD RANSOM - CROSS-EXAMINATION BY MR. SMITH

1 Q. Right, and yet you knocked on the door 'cause you don't
2 know there's gonna be a robbery but you go down there and you
3 knock on the door waitin' for them to come out.

4 A. I believe I'm the one who knocked on the door.

5 Q. Right, and then you leave that scene headed to Wendy's,
6 correct?

7 A. I leave, uh, me and Korey we walked up to Wendy's.

8 Q. Right, and the twins have no idea because they hadn't
9 received a cell phone call from you.

10 A. I had no idea. I mean, 'cause I didn't know anything
11 about a phone call, anything like that.

12 Q. So but they waited outside the apartment ten minutes
13 waiting for ya'll to come.

14 A. I don't know what they did.

15 Q. So if they didn't receive a phone call from your phone
16 that they said they got a phone call from then they wouldn't
17 know a robbery was goin' on that night either, would they?

18 A. I'm not sure. I have no idea what kinda conversation
19 they had with Korey prior to, you know, me or Korey comin' to
20 get me, I have no idea.

21 Q. And so, sir, isn't it a fact though when you got home the
22 night after you shot that man you told your mother and your
23 sister that you were the one who was involved in that robbery?

24 A. No, sir, you got it all wrong. Uh, first of all, I never
25 shot anyone. I'm not a killer, um, and no I didn't talk to my

ERIC JAROD RANSOM - CROSS-EXAMINATION BY MR. SMITH

1 family no, I didn't. I aint talk, I I never talked to anyone
2 about it.

3 Q. And what you did that night, sir, was you lie in wait
4 like a coward behind that trash bin waiting for Isaac Bass to
5 come out, didn't you?

6 A. No, sir.

7 Q. And then when Isaac Bass came out you had this gun in
8 your possession.

9 A. Never had a gun no, sir. . .

10 Q. Right, but you never saw Korey, based on your testimony,
11 with a gun whatsoever, correct?

12 A. I saw him when he pointed it at Mr. Bass.

13 Q. Right, but before ya'll went down there you never saw
14 Korey who you supposed to be so close with have a gun, right?

15 A. Never knew he had one no, sir, ---

16 Q. Right.

17 A. --- new he had a gun until after he pull it out, pointed
18 at Mr. Bass and the shots went off.

19 Q. And when ya ran away together and you don't know what
20 happened to the gun whatsoever, is that correct?

21 A. No, sir, I don't know what he did with that gun.

22 Q. And yet ya'll were runnin' down, accordin' to your story,
23 ya'll were runnin' down this alleyway together too, weren't
24 you?

25 A. Yes, sir.

ERIC JAROD RANSOM - CROSS-EXAMINATION BY MR. SMITH

1 Q. Right, and you never discussed this this murder with
2 Korey even though ya'll were livin' together after your dad
3 and his dad and your mother got married, correct?

4 A. That's right. I mean, it's it's not, you know, it's not
5 somethin' I wanna talk about, it's not somethin' I wanna, you
6 know, relive, you know, it's not.

7 Q. Right, and the other thing too is you had ample
8 opportunity to serve your country and tell your country the
9 truth while you were over there at E -- Okinawa the first time
10 they started questioning you about this murder and robbery,
11 correct?

12 A. Um, that has nothin' to do, you know, the whole murder
13 situation have nothin' to do with, you know, my military
14 background so...

15 Q. Well hadn't a citizen of the United States been murdered
16 here in Greenville, the people you are sworn to take care of
17 and protect?

18 A. Yes, sir, you're right.

19 Q. Yeah, so but the main thing what you were tryin' to do,
20 sir, is the reason why you went into the military was not
21 because of 9/11, you went into the military to get away from
22 this murder.

23 A. No, sir, I went to the military to serve my country and,
24 you know, like I said, to do something bigger than me, um,
25 mean, it doesn't make sense to, you know, try to run from

ERIC JAROD RANSOM - CROSS-EXAMINATION BY MR. SMITH

1 somebody. Why would I run from somebody, that's somethin' I
2 didn't do but, um, makes no sense why would you, if you run,
3 you run to where people don't know you, you run to where no
4 one can find you. I ran to the mil -- I went to the military,
5 why would I go to the military try to run when everyone knows
6 where I am, everyone knows what I was doin', how is that
7 runnin'?

8 Q. Right, but you said to the agent, "When the agent was
9 questioning me, he told me that he did not believe that I was
10 the one who shot the guy then like ten minutes later he was
11 tellin' me that all the evidence was pointed toward me. I did
12 not trust the guy and just made it up because I did not
13 believe he had any evidence against me."

14 A. Right.

15 Q. Right, but eventually in your mind he -- you thought he
16 had evidence pointing to you as the one doin' the murder,
17 didn't you?

18 A. Excuse me, sir?

19 Q. In your mind based on that statement from your statement
20 you had in your mind that he had evidence pointing to you as
21 the only murderer in this case.

22 A. No, sir. I mean, I knew, I knew that, you know,
23 eventually if he did the work I knew that he'd basically find
24 out that, you know, it wasn't me.

25 Q. So he said that all the evidence was pointing toward me,

ERIC JAROD RANSOM - CROSS-EXAMINATION BY MR. SMITH

1 meaning you, correct?

2 A. That's right, that's what he said.

3 Q. Right, meaning that you were the murderer, correct?

4 A. I mean, I wasn't a murderer.

5 Q. I understand but he in your mind you were thinking he was
6 accusing you of being the murderer, ---

7 A. That's ---

8 Q. --- correct?

9 A. --- what he was, that's what he was sayin' at that point.

10 Q. Sir?

11 A. That's what he was sayin' at that point.

12 Q. Right, and it was after that point you got to thinkin',
13 Well let me see, how can I remove myself from this so you make
14 up the first statement to the United States Marines, ya hold
15 your hand up, swear a oath and you tell 'em you not involved
16 and nobody's involved, correct?

17 A. I did, I did do that.

18 Q. Right, then the next statement you say, Okay, I'm
19 involved but there's a guy named Tobarius Byrd who's involved
20 too, correct?

21 A. Uh, yes, sir, I did make up that story.

22 Q. Right. And then the next person you say was involved in
23 order protect yourself from this murder charge here in
24 Greenville is your half brother who you never discussed the
25 case with before or your stepbrother.

ERIC JAROD RANSOM - CROSS-EXAMINATION BY MR. SMITH

1 A. Honestly it was him in the first place. I just, I just
2 substituted. I just, you know, instead a usin' his name like
3 I said earlier instead a usin' his name, I'll just try to
4 protect him, I'll try to, you know, like I said before, you
5 know, I made a mistake, you know ---

6 Q. Sir, in none of your statements did you say anything
7 about protecting Korey Love.

8 A. That's my reason, I'm tellin' you my reason.

9 Q. I understand you're tellin' this jury your reason,
10 correct?

11 A. Yes, sir, I'm tellin' everyone my reason.

12 Q. Right. Now His Honor or Her Honor Judge Verdin told ya
13 this, she said, Of two serious offenses you could be sentenced
14 to life without parole, have you discussed this with your
15 attorney?

16 A. Yes, sir, he talked to me about it yes, sir.

17 Q. Yeah, and you were satisfied with the services of your
18 lawyer 'cause he worked that deal out for ya, right?

19 A. I mean, he was doin', he was, uh, it wasn't about the
20 deal, I mean, he was doin' his job, was representin' me.

21 Q. Right. Now nobody forced you to plead guilty durin' that
22 particular period a time, correct?

23 A. No, sir, no one forced me to.

24 Q. Right. And so when Judge Verdin and I imagine the
25 prosecutor when you met with them on a number of occasions,

ERIC JAROD RANSOM - CROSS-EXAMINATION BY MR. SMITH

1 they told you, Look, we can give you life without parole,
2 correct?

3 A. Yes, sir, that's what I was facin'.

4 Q. Right, and that would give you an incentive to do
5 everything you can to make sure you don't get life without
6 parole, correct?

7 A. No, sir. Um, and I just wanna, like I say, I just wanna
8 do the right thing, you know, uh, I feel like know the
9 victim's family deserve know what happened, um, they deserve
10 to know the truth and, ya know, I just, like I say, I just
11 wanna do the right thing.

12 Q. And the right thing to you is to murder Isaac Bass ---

13 A. No, the right thing is the truth.

14 Q. --- and now to try to murder his life.

15 A. No, the right thing is the truth. That man right there
16 (indicating defendant) know when I look him in his face you
17 know if I did it, wouldn't be sittin' here today. You know
18 me, I loved you like a brother, loved you like family, you
19 know I didn't do it. You know what happened, we both do. I
20 would never let you go down for somethin' I did, you know me.

21 THE COURT: No more question, ---

22 MR. SMITH: No more questions.

23 THE COURT: --- alright, anything from the State?

24 MS. SEAY: Just briefly.

25 REDIRECT EXAMINATION BY MS. SEAY:

ERIC JAROD RANSOM - REDIRECT EXAMINATION BY MS. SEAY

1 Q. Mr. Ransom, did you give your statement before this
2 negotiation with the State took place?

3 A. Excuse me?

4 Q. Did you give your statement to Detective Flavell tellin'
5 him the truth before your negotiations with the State took
6 place?

7 A. Yes, ma'am.

8 Q. Okay, thank you.

9 THE COURT: Alright, thank you, sir, you can step down.
10 (Whereupon, the witness left the stand.)

11 THE COURT: Okay, call your next witness.

12 MS. SEAY: Your Honor, the State rests at this time.

13 THE COURT: Alright. Uh, Mr. Foreman, ladies and
14 gentlemen of the jury, this is one of those times when I have
15 to take up some legal issues with the attorneys, it's probly
16 also a a pretty good time for a morning break so, uh, please
17 return to your jury room, don't discuss the case, we'll get
18 back with ya very shortly.

19 (The following takes place outside the presence of the
20 jury.)

21 THE COURT: Alright.

22 MR. SMITH: Your Honor, uh, under the rules I make a
23 motion for a directed verdict. We believe that looking at the
24 evidence in the light most favorable to the State that; number
25 one, they have no physical evidence, uh, attaching this, uh,

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1 crime to Mr. Love and second of all, every witness she's put
2 on that witness stand has been a liar and has been admitted
3 liar and their testimony is a fraud.

4 THE COURT: Alright, so you're askin' me to weigh the
5 evidence?

6 MR. SMITH: Yeah, well yes, sir.

7 THE COURT: There there's a, there's a -- I'm gonna deny
8 your motion.

9 MR. SMITH: Thank Your Honor.

10 THE COURT: Alright, Mr. Love, would you please stand for
11 me.

12 (Whereupon, the defendant complied.)

13 THE COURT: Raise your right hand. You swear to tell the
14 truth?

15 THE DEFENDANT: Yes, I do.

16 THE COURT: Alright, you understand, put your hand down,
17 you have an absolute constitutional right to testify in this
18 case, ---

19 THE DEFENDANT: Um-hum.

20 THE COURT: --- you have an equal absolute constitutional
21 right not to testify and it cannot be held against you. Now
22 there are a lot of strategic decisions that go into whether or
23 not a person testifies, a person in your position testifies,
24 that's something to be discussed between you and your attorney
25 and I know that you've done that. Clearly your attorney is

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1 very well prepared in this case so I'm sure you probly already
2 had these discussions and he may make a recommendation to you
3 about whether he thinks you should testify or whether you
4 should not testify and that's well and good and you should
5 listen carefully to what he has to say but what I wanna tell
6 you is that the decision to testify is yours and yours alone
7 and, uh, you can -- if you are -- if you testify then you will
8 be subject to cross-examination from the State and and there
9 are other strategic consequences that occur when you make that
10 decision but those are things you need to talk about with your
11 lawyer and I'm sure you've already done that so I'm gonna,
12 we're gonna take a short break, uh, when we come back, I'll
13 need to know if you intend to testify, okay?

14 THE DEFENDANT: Okay.

15 THE COURT: Alright.

16 MR. SMITH: Thank Your Honor.

17 THE COURT: Alright, take about ten or fifteen minutes.

18 (Whereupon, a recess was taken.)

19 (Transcript of Eric Ransom marked Defendant's Exhibit
20 No. 1, Statement of Eric Ransom marked Defendant's Exhibit
21 No. 2, Statement marked Defendant's Exhibit No. 3, Hand drawn
22 map marked Defendant's Exhibit No. 4, Statement marked
23 Defendant's Exhibit No. 5, Rap sheet of Eric Ransom marked
24 Defendant's Exhibit No. 6, Eric Ransom video CD marked
25 Defendant's Exhibit No. 7, Eric Ransom 1 of 2 case crackers CD

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1 marked Defendant's Exhibit No. 8, Eric Ransom interview CD
2 marked Defendant's Exhibit No. 9, Eric Ransom interview CD
3 marked Defendant's Exhibit No. 10 and Bonefish Grill records
4 marked Defendant's Exhibit No. 11 for identification.)

5 THE COURT: Alright, Mr. Love, have you made a decision?

6 MR. SMITH: Uh, we --- for right now, Your Honor, we are
7 reservin' that right right to.

8 THE COURT: Okay.

9 MR. SMITH: Okay.

10 THE COURT: Alright.

11 MR. SMITH: Thank Your Honor.

12 THE COURT: You gonna present other evidence?

13 MR. SMITH: Yes, sir, gonna present ---

14 THE COURT: Okay, what do ya have?

15 MR. SMITH: Uh, I got, uh, I got the records-keeper of,
16 uh, Bonefish Grill who's comin' in to testify ---

17 THE COURT: Alright, well I'm just, it's quarter to
18 twelve, I'm just tryin' to gauge ---

19 MR. SMITH: Oh, I got about ---

20 THE COURT: --- logistics.

21 MR. SMITH: --- depends, uh, it's probly go, uh, he'll be
22 short and I got two witnesses need, uh, uh, ---

23 THE COURT: Alright, we'll cross that bridge we come to
24 it.

25 MR. SMITH: Okay, alright. Oh, Your Honor, I apologize.

MOTIONS AND MATTERS

1 Could I, could I take up one matter maybe approach the bench
2 or somethin', uh, that the, uh, I have one witness, uh, ---

3 THE COURT: Just hold the jury out here if they come.

4 What?

5 MR. SMITH: I have, uh, one witness Mr. Demetrius Antwon,
6 they interviewed him earlier but he has a criminal conviction
7 that's over ten years old and I think under Rule 609, uh, ---

8 THE COURT: Well what is it?

9 MR. SMITH: Uh, gosh.

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

11 MR. SMITH: I'm I'm gonna call him after lunch anyway and
12 I'll have have that.

13 THE COURT: Okay.

14 MR. SMITH: Okay. You have it in front you?

15 MS. SEAY: Um, I do.

16 MR. SMITH: What you ---

17 MS. SEAY: Um, ---

18 MR. SMITH: --- has?

19 MS. SEAY: --- he has 1997 possession of controlled
20 substance in North Carolina; 2000, um, looks like a, like a
21 DWI in North Carolina, PWID cocaine in North Carolina,
22 possession a marijuana in North Carolina and then 2003 assault
23 on a female in North Carolina and possession of drug
24 paraphernalia in North Carolina so I don't think there's
25 anything, uh, ---

MOTIONS AND MATTERS

1 THE COURT: When was he released on -- when was his
2 sentence finished on ---

3 MS. SEAY: Uh, ---

4 THE COURT: --- the '97 and the 2000? I mean, we can do
5 all this but but need to know the ten years begins at the
6 termination of his incarceration including probation or
7 parole.

8 MS. SEAY: Um, the conviction for possession with intent
9 to distribute cocaine was 11/15 of 2000 and in 2003 it says a
10 probation revocation 9/18/03.

11 THE COURT: Sounds like he can be impeached with
12 possession with intent to distribute cocaine and not the '97
13 case. Ya'll just go through it and see what so we know what
14 we're talkin' about when the time comes. Alright, we ready to
15 go?

16 MR. SMITH: Yes, sir.

17 THE COURT: Okay.

18 (The following takes place in the presence of the jury.)

19 THE COURT: Alright, Mr. Smith.

20 MR. SMITH: Your Honor, at this time we call Mr. Normy --
21 Norman, thanks.

22 MS. SEAY: Was this ---

23 MR. SMITH: He's the, uh, records-keeper.

24 MS. SEAY: Okay.

25 THE CLERK: Sir, please come forward.

BEN NAUMAN - DIRECT EXAMINATION BY MR. SMITH

1 (Whereupon, the witness came forward.)

2 THE CLERK: Okay, if you'll pause at the end a the bench
3 right back here (indicating). Please place your left hand on
4 the Bible, raise your right hand.

5 BEN NAUMAN, having been first
6 duly sworn, testified as follows:

7 THE CLERK: Thank you, please be seated. Please state
8 your name for the record.

9 THE WITNESS: My Name is Ben Nauman..

10 THE CLERK: Thank you.

11 THE COURT: Spell that last name for us will you please,
12 sir.

13 THE WITNESS: N-A-U-M-A-N.

14 THE CLERK: Thank you.

15 DIRECT EXAMINATION BY MR. SMITH:

16 Q. Would you state your name, please.

17 A. Ben Nauman.

18 Q. And where do you live, Mr. Nauman?

19 A. I live at, uh, 22 Windemere Drive.

20 Q. And who are you employed with?

21 A. Bonefish Grill.

22 Q. How long have you been employed with Bonefish Gr --
23 Grill?

24 A. Uh, Bonefish Grill I've been with since, uh, 2006.

25 Q. Alright, what's your position with Bonefish Grill?

BEN NAUMAN - DIRECT EXAMINATION BY MR. SMITH

1 A. Managing partner.

2 Q. Alright, and, uh, as managing partner are you, uh,
3 familiar with the records that are kept in the usidary --
4 usual and ordinary course a business?

5 A. Yes, I am.

6 Q. I've handed you what has been Defense Exhibit No. 11 for
7 identification, can -- do you know what that is?

8 A. Yes, this is, uh, direct deposit information and hourly
9 application.

10 Q. Alright, sir, and is there another document behind there?

11 A. This is a clock in and out data.

12 Q. Alright, sir, and which employee is that?

13 A. Jerome Love.

14 Q. Okay, was Jerome Love a employee on or about January
15 twi -- 26 and 27 of two thousand and and and seven.

16 A. Yes, he was.

17 Q. At Bonefish Grill here in Greenville, South Carolina?

18 A. Yes.

19 Q. And are those records reflective of his employment and
20 the time that he, uh, was doin' services for your business at
21 the time?

22 A. Yes, sir..

23 MR. SMITH: Your Honor, at this time I offer those into
24 evidence.

25 MS. SEAY: May I just look at ---

BEN NAUMAN - DIRECT EXAMINATION BY MR. SMITH

1 THE COURT: Yeah, take a look ---

2 MS. SEAY: --- the records?

3 THE COURT: --- look at 'em.

4 (Whereupon, the solicitor examined the exhibit.)

5 THE COURT: Any objection?

6 MS. SEAY: No objection.

7 THE COURT: Okay.

8 (Defendant's Exhibit No. 11, Bonefish Grill records,
9 admitted into evidence.)

10 BY MR. SMITH:

11 Q. Okay, sir, look at the time card that night, can you tell
12 me, uh, what time, uh, Mr., uh, Love got off?

13 A. On the 27th it looks like he got off at, uh, 1:01 a.m.

14 Q. 1:01 a.m. and, uh, and is there anything on the 26?

15 A. Uh, the 26th says he was clocked out at 11:56 p.m.

16 Q. Alright, sir, and what is normal normal, uh, hours for
17 employees?

18 A. Uh, back at the house, uh, kitchen employees we, uh,
19 often, we close at 10:30 on, uh, Monday through Thursday, uh,
20 Friday and Saturday we close at 11:30 and Sunday we close at
21 10 so uh, depending on the workload, the the last guest
22 leaving, um, kitchen employees can leave anywhere from I've
23 seen people leave at 1:30, I've seen people leave at 11:30,
24 it's, you know, how much business we had, how late, ---

25 Q. Yes.

BEN NAUMAN - CROSS-EXAMINATION BY MS. SEAY

1 A. --- and how fast they can clean up and get outta there.

2 Q. And at the time you also had an employee by the name of
3 Demetrius Jackson?

4 A. Uh, yes, we did.

5 Q. And was he a supervisor at your job?

6 A. He was.

7 Q. And did he leave on good terms?

8 A. I have no idea, ---

9 Q. Okay.

10 A. --- I wasn't employed at the time.

11 Q. Alright, sir.

12 MR. SMITH: Your Honor, that's all I have, this witness
13 be excused?

14 THE COURT: Well I think we'll let ---

15 MR. SMITH: Oh, I think ---

16 THE COURT: --- them have cross-examination ---

17 MR. SMITH: --- the cross-exa ---

18 THE COURT: --- first, Mr. ---

19 MR. SMITH: Yes, sir.

20 THE COURT: --- Smith.

21 CROSS-EXAMINATION BY MS. SEAY:

22 Q. Sir, Um, you stated that on the 26th of January 2007
23 Mr. Love got off at 11:56 p.m., is that correct?

24 A. That's what these records indicate.

25 Q. That's what the records indicate, um, but you do not have

LESLIE JACKSON - DIRECT EXAMINATION BY MR. SMITH

1 any idea where Mr. Love went or what he did when he got off
2 work that night, do you?

3 A. I wasn't there at the time.

4 Q. Okay, thank you.

5 THE COURT: Alright. Any objection to releasing him from
6 subpoena?

7 MS. SEAY: Nothing from the State.

8 THE COURT: Alright, thank you. You're released from
9 subpoena, you stand down.

10 MR. SMITH: Your Honor, at this time we call Ms. Leslie
11 Jackson.

12 THE CLERK: Ms. Jackson, please come forward.

13 (Whereupon, the witness came forward.)

14 THE CLERK: If you'll stop at the end a the bench there
15 (indicating). Please place your left hand on the Bible and
16 raise your right hand.

17 LESLIE JACKSON, having been first
18 duly sworn, testified as follows:

19 THE CLERK: Thank you, please be seated. Please state
20 your name for the record.

21 THE WITNESS: Leslie Jackson.

22 THE CLERK: Thank you.

23 DIRECT EXAMINATION BY MR. SMITH:

24 Q. Ms. Jackson, where do you live?

25 A. Right now 217 Haven -- well in Taylors.

LESLIE JACKSON - DIRECT EXAMINATION BY MR. SMITH

1 Q. Are are you married?

2 A. I am.

3 Q. Who are ya married to?

4 A. Demetrius Jackson.

5 Q. How long have ya'll been married?

6 A. Eleven years.

7 Q. And, uh, during the course of those eleven years, ya'll
8 have any children?

9 A. Four.

10 Q. And what's their ages?

11 A. Right now 14, 11 and I have twins that are 9.

12 Q. Alright, and where do you go to church?

13 A. Redemption.

14 Q. And the, uh, in 2007, uh, where do you, where do you
15 work, did I ask you that?

16 A. Right now work for the hospital, um, Greenville Memorial.

17 Q. In 2007, in January 2007 where were you working?

18 A. I worked at Greenville Memorial and St. Francis.

19 Q. And what was your position at those two places?

20 A. Greenville Memorial I was a physician specialist, I work
21 Monday through Friday 8 to 5 and then at, um, St. Francis I
22 worked from 11 to 7 on Friday and, um, Saturday nights.

23 Q. Alright, and, uh, did you, uh, in 2006 or 2007 thereabout
24 did there come a time when a Jerome Love, Kor -- do you know a
25 Jerome Love?

LESLIE JACKSON - DIRECT EXAMINATION BY MR. SMITH

1 A. I do.

2 Q. Do you know a Korey Love?

3 A. I do.

4 Q. Do you know a Kendel Love?

5 A. I do.

6 Q. And how do you know them?

7 A. Because in '06, August of '06, my husband came home, well
8 he called me first and said, um, there's situation ---

9 MS. SEAY: Objection, ---

10 A. --- you got to ---

11 MS. SEAY: --- hearsay.

12 THE COURT: Yep, cannot say what someone else said.

13 BY MR. SMITH:

14 Q. Pursuant to a conversation you had with your husband, did
15 you agree to allow the Loves to come into your home?

16 A. I did.

17 Q. Okay. Do you recall what month they started, uh, living
18 in your house?

19 A. It was the first day of school in 2006.

20 Q. And, uh, and from 2006 until what period a time did they
21 live with you?

22 A. Until him and Orlena got married in April, probably

23 '08 ---

24 Q. Okay.

25 A. --- and no, well, uh, whenever him and Lena got married

LESLIE JACKSON - DIRECT EXAMINATION BY MR. SMITH

1 in ---

2 Q. When ---

3 A. --- April.

4 Q. --- they got married that's when they moved outta your
5 house?

6 A. Um-hum.

7 Q. And, uh, what was the number of your apartment at, was
8 that ---

9 A.

10 Q. --- Churchill Apartments?

11 A. Um-hum, Pelham Road, Churchill Apartment ---

12 Q. Now ---

13 A. ---

14 Q. --- what -- do you recall at, uh, any time in January of
15 2006, I mean, 2007, uh, uh, Korey Love and his dad and his
16 brother they were still livin' at your house?

17 A. Correct.

18 Q. Okay, and would Korey Love, uh, keep your children from
19 time to time?

20 A. Yes.

21 Q. How ---

22 A. With me workin', uh, the weekends and my ---

23 Q. Okay.

24 A. --- husband workin', he worked in restaurant business so
25 he was a manager, he had long hours and he would help with the

LESLIE JACKSON - DIRECT EXAMINATION BY MR. SMITH

1 kids.

2 Q. Alright. On some occasions would you be home, uh, off
3 work or on work?

4 A. Yes, since I worked or since they had me to work weekends
5 if there was a weekend I wanted off they would say just let me
6 know and we'll get someone to fill in because I was like the
7 weekend person at St. Francis but of course I worked the
8 Monday through Friday at, um, Greenville Memorial.

9 Q. Okay, January it's the, uh, 26 and and January 26th
10 2007, ---

11 A. Um-hum.

12 Q. --- uh, were you off work or on or working?

13 A. I was off.

14 Q. And when you were off, did you have a curfew for the
15 children?

16 A. I did.

17 Q. And what was the curfew hours?

18 A. The latest would be midnight but Korey hardly ever left.
19 He would always play the games, he was always with the kids.
20 He would always sit there and play video games and you know.

21 Q. And and the kids how old are your children?

22 A. In '07?

23 Q. '06, uh, January '06 -- well that -- in January '07,
24 yeah, that's correct.

25 A. In '07. See, my twins were 4 'cause they were born in

LESLIE JACKSON - DIRECT EXAMINATION BY MR. SMITH

1 '03, my oldest daughter's 6 and then my oldest son would have
2 to have been 8.

3 Q. Alright. And did you have, uh, did you, did you give
4 keys to the children to ---

5 A. No.

6 Q. --- to leave the house?

7 A. No, there's two, any apartment you get two keys, if you
8 get two keys, and one's for me and one's for my husband.

9 Q. Now what about the arrangement, what room in the house
10 did Korey and others share in the house?

11 A. There was three bedrooms and my kids were small enough to
12 where they could fit in one so it was our bedroom, my kids all
13 shared one and then they all shared the bigger room.

14 Q. Alright. And how high off the ground, if it was, was
15 this room? Was it upstairs?

16 A. It was upstairs, downstairs so woulda been, they woulda
17 been on the second floor.

18 Q. Okay, how many feet in the air would that second floor
19 room have been?

20 A. At least, I'm almost 6 feet so ---

21 Q. Looking ---

22 A. --- 9 ---

23 Q. --- at this room would give us a a idea of looking at it,
24 where that vent is up there (indicating).

25 A. Right, the window sill, the bottom a the window sill

LESLIE JACKSON - DIRECT EXAMINATION BY MR. SMITH

1 woulda been 'bout right there (indicating), ---

2 Q. Okay.

3 A. --- if not taller than that.

4 Q. And so would you have been in a position to know whether
5 or not he woulda snuck outta the bedroom window or not?

6 A. Yes.

7 Q. And with -- okay, now the the other thing, was Korey Love
8 at your home on January, uh, 26 between the hours -- was he at
9 school that day? Was that -- do you recall what day that day,
10 was it a Friday or Saturday or what?

11 A. Um, I know it was a Friday, it woulda been, if it was a
12 Saturday no.

13 Q. Okay, so on school days did he have a curfew on school
14 days?

15 A. He did.

16 Q. What was the curfew on school days?

17 A. School days would be ten o'clock, ---

18 Q. Alright.

19 A. --- um, weekends eleven or twelve.

20 Q. Alright, and then the -- was he at home during the hours
21 between 11 and 1:20, 1:30 on the 27th of 2007?

22 A. Yes.

23 Q. And you know that's certain?

24 A. I know it's certain because I was off ---

25 Q. Now did he, ---

LESLIE JACKSON - CROSS-EXAMINATION BY MS. SEAY

1 A. --- and he di ---

2 Q. --- did he have a key to get back in?

3 A. No, he didn't have any keys.

4 Q. Did he have a ladder to get back up that window?

5 A. We don't even own a ladder.

6 Q. Alright.

7 MR. SMITH: Your witness.

8 MS. SEAY: Thank you.

9 CROSS-EXAMINATION BY MS. SEAY:

10 Q. Ms. Jackson, um, ---

11 A. Yes.

12 Q. --- your husband Demetrius is good friends with Jerome
13 Love, isn't he?

14 A. He became good friends with him.

15 Q. Well they were good enough friends that you and your
16 husband agreed that he and his sons could come live with you,
17 right?

18 A. Um, I don't know -- well this is what happened: He had,
19 his stepmother had I guess been at the restaurant, whatever,
20 knew that her, um, stepson needed a job, two, they had been
21 workin' together for two weeks, my husband has a big heart so
22 he said we have two, there's two kids, there's a guy that
23 works with me, there's two kids that they are gettin' ready to
24 get off the school bus and they don't have anywhere to go.

25 Q. So you let them come live with you.

LESLIE JACKSON - CROSS-EXAMINATION BY MS. SEAY

1 A. Right. So he said I want them, you know, do you mind if
2 they come live with me, no, but if it's okay with you, Twon,
3 then that's fine.

4 Q. Okay. Um, did your husband Demetrius when he would get
5 off work, did he ever go out afterwards?

6 A. Sometimes he did, sometimes he didn't.

7 Q. Okay. Do ya know if he ever went out with Mr. Love?

8 A. Yes. Again, that day or the first day of school in 2006
9 was the first time I had met Mr. Love and the first time I had
10 met the kids so yeah, any point after that if we decided we
11 was gonna go out we would go out, that's correct.

12 Q. Well I'm speaking specifically of your husband Demetrius.
13 When he would get off work at Bonefish Grill ---

14 A. Right.

15 Q. --- would he sometimes go out before coming home?

16 A. Sometimes he would but like I said they had only known
17 each other for two weeks so you're talkin' about prior or
18 you're talkin' about after the fact?

19 Q. I'm talkin' about after. ---

20 A. After him living ---

21 Q. --- the fact.

22 A. --- with us, yeah of course, ---

23 Q. Okay.

24 A. --- we all knew each other.

25 Q. Okay, and they would get home late sometimes, wouldn't

LESLIE JACKSON - CROSS-EXAMINATION BY MS. SEAY

1 they?

2 A. So -- right, and sometimes I would go with 'em.

3 Q. Okay. And, um, did did you know that Korey hung out with
4 Jarod Ransom?

5 A. Jarod had started comin' to -- by the house, yes.

6 Q. Okay. And did you know that Korey also hung out with
7 some people that lived at Mallard Cove Apartments?

8 A. I had heard about that, yes.

9 Q. Okay. Now you were not at the Wendy's during the murder,
10 were you?

11 A. No, I was at home.

12 Q. Okay. And you didn't know that Korey was planning to rob
13 the Wendy's, did you?

14 A. No, ma'am.

15 Q. You work two jobs, correct, ---

16 A. Correct.

17 Q. --- you have four children, ---

18 A. Correct.

19 Q. --- and you specifically remember that Korey wasn't home
20 during the hours that this murder occurred, is that correct?

21 A. Korey hardly ever went out period.

22 Q. Okay, but you specifically remember that he was home
23 durin' the time a this murder, is that what you're saying?

24 A. Yes.

25 Q. Okay. Well, tell me where he was on December the 8th of

LESLIE JACKSON - CROSS-EXAMINATION BY MS. SEAY

1 2006.

2 A. December the 8th, probably at my house.

3 Q. Probably.

4 A. Nine times outta ten yes, he was at my house.

5 Q. Okay, but you don't know that for sure.

6 A. Ninety percent sure.

7 Q. Alright. Tell me where he was on January 14th of 2007.

8 A. My house probably.

9 Q. Probably.

10 A. Um-hum.

11 Q. But you don't know that for sure.

12 A. (Witness shakes head in the negative.)

13 Q. Alright, now you've testified today that he had a curfew,
14 that he didn't have a key ---

15 A. Um-hum.

16 Q. --- and that he was at home during the hours that this
17 murder occurred, correct?

18 A. Correct.

19 Q. And you know that he was arrested for murder, attempted
20 armed robbery, possession of a weapon during the commission of
21 a violent crime and possession of a pistol by a person under
22 18 on March 15th of 2010, isn't that right?

23 A. I know I had gotten a phone call saying that Korey had
24 went to Rashida's mother's house and apparently they weren't
25 there when the police had got there looking for them but they

LESLIE JACKSON - CROSS-EXAMINATION BY MS. SEAY

1 had already been to my house but they didn't, they didn't say
2 Korey that was askin' for dad, his dad Jerome, and then I
3 found out that later when he went his -- on his own will to
4 the police station they kept him so yes, this is ---

5 Q. Okay.

6 A. --- correct.

7 Q. So you knew that he got arrested for these crimes ---

8 A. Right.

9 Q. --- and you knew that he was supposedly home that night.

10 A. I was off work, he was, he was pro -- he had to be
11 there.

12 Q. Okay, and so if we're goin' on three years now ---

13 A. Um-hum.

14 Q. --- you have not come forward with this vital information
15 that could possibly exonerate Korey Love?

16 A. Come forward to whom?

17 Q. To law enforcement.

18 A. Law enforcement never came and asked me anything
19 either.

20 Q. But you never came forward ---

21 A. No, ---

22 Q. --- with this ---

23 A. --- I did not, ---

24 Q. --- information?

25 A. --- I did not.

LESLIE JACKSON - REDIRECT EXAMINATION BY MR. SMITH

1 Q. Okay. Thank you, that's all I have.

2 A. Okay.

3 REDIRECT EXAMINATION BY MR. SMITH:

4 Q. Uh, let me ask this question: ---

5 A. Um-hum.

6 Q. --- Officer Flavell came out to your house to talk to
7 your husband, didn't he?

8 A. Right.

9 Q. But he never talked to you, did he?

10 A. Exactly.

11 MR. SMITH: No further questions.

12 THE COURT: Alright, you can step down. Thank you ---

13 THE WITNESS: Thank you.

14 THE COURT: --- very much.

15 (Whereupon, the witness left the stand.)

16 MR. SMITH: Oh, may she be released from subpoena?

17 THE COURT: Any objection?

18 MS. SEAY: No objection.

19 MR. SMITH: Okay. Dontavius Sullivan.

20 THE CLERK: Mr. Sullivan, please come forward.

21 (Whereupon, the witness came forward.)

22 THE CLERK: Please stop there at the end a the bench and
23 please place your left hand on the Bible and raise your --
24 left hand on the Bible, left hand, thank you.

25 DONTAVIUS SULLIVAN, having been

RONALD CHAPMAN, JR. - DIRECT EXAMINATION BY MR. SMITH

1 first duly sworn, testified as follows:

2 (Whereupon, a bench conference was held off the record.)

3 (Whereupon, Mr. Sullivan returned to the gallery.)

4 MR. SMITH: Call Ronald Chapman.

5 THE COURT: Alright.

6 THE CLERK: Mr. Chapman, please come forward.

7 (Whereupon, the witness came forward.)

8 THE CLERK: Please stop at the end a the bench there
9 (indicating) and place your left hand on the Bible.

10 THE WITNESS: Yes, ma'am.

11 RONALD CHAPMAN, JR., having
12 been first duly sworn, testified as follows:

13 THE CLERK: Thank you, please be seated. Please state
14 you name for the record.

15 THE WITNESS: My name is Ronald Chapman, Jr.

16 THE CLERK: Thank you.

17 DIRECT EXAMINATION BY MR. SMITH:

18 Q. Mr. Chapman, uh, would you state your name.

19 A. My name is Ronald Chapman, Jr.

20 Q. Where do you live?

21 A. Street ---

22 Q. Right.

23 A. ---

24 Q. Alright, how old are ya?

25 A. Twenty-one.

RONALD CHAPMAN, JR. - DIRECT EXAMINATION BY MR. SMITH

1 Q. Are you married?

2 A. No, sir.

3 Q. Single? Single I know it.

4 (Laughter.)

5 A. Yes, sir.

6 Q. It's just lawyers talk. So, uh, uh, you know, you know
7 Korey Love?

8 A. Yes, sir.

9 Q. And you know, uh, do you know Dontavious Sullivan?

10 A. Yes, sir.

11 Q. And Original Mustafa?

12 A. Yes, sir.

13 Q. And Ricky Simmons and Rashad Simmons?

14 A. No, sir.

15 Q. Okay. Did you know anything about a murder that occurred
16 on January 27, ---

17 A. No, sir.

18 Q. --- 2007 involving Mr. Isaac Bass?

19 A. No, sir.

20 Q. Did anybody ever discuss that with you?

21 A. No, sir.

22 Q. Uh, did a Ricky or Rashad Simmons ever discuss it with
23 you?

24 A. I never met them a day in my life.

25 MR. SMITH: No further questions.

RONALD CHAPMAN, JR. - CROSS-EXAMINATION BY MS. SEAY

1 CROSS-EXAMINATION BY MS. SEAY:

2 Q. Mr. Chapman, um, ---

3 A. Yes, ma'am.

4 Q. --- you're good friends with Mr. Love, isn't that
5 right?

6 A. Yes, ma'am.

7 Q. Um, do you have any children?

8 A. I have one and one on the way.

9 Q. Okay, what's your child's name?

10 A. Korey C.

11 Q. You named your child after Korey.

12 A. Yes, ma'am.

13 Q. Thank you.

14 THE COURT: Alright, you can step down. Release him from
15 subpoena?

16 (Whereupon, the witness left the stand.)

17 MR. SMITH: Yes, sir.

18 MR. STEINBERG: Your Honor, may I approach with
19 Mr. Smith?

20 (Whereupon, a witness came forward.)

21 THE CLERK: Sir, if you'll you'll wait right there
22 (indicating), please.. Just wait, just wait now.

23 (Whereupon, a bench conference was held off the record.)

24 THE CLERK: Are we ready, sir?

25 THE COURT: Yeah, ---

ORIGINAL MUSTAFA - DIRECT EXAMINATION BY MR. SMITH

1 THE CLERK: Okay.

2 THE COURT: --- yeah.

3 THE CLERK: Alright, sir, please come at the end -- to
4 the end a the bench. Please place your left hand on the Bible
5 and raise your right hand.

6 ORIGINAL MUSTAFA, having been
7 first duly sworn, testified as follows:

8 THE CLERK: Alright, thank you, please be seated. And
9 would you please state your name for the record.

10 THE WITNESS: Original Mustafa.

11 THE CLERK: Thank you.

12 DIRECT EXAMINATION BY MR. SMITH:

13 Q. Mr. Original, uh, I'm be asking you some questions, okay?
14 Uh, where do you live?

15 A. I stay on 2 -- 221 Fleetwood Drive.

16 Q. And, uh, who do ya live with?

17 A. My mother.

18 Q. How long have you lived there?

19 A. I say about three years now.

20 Q. Alright. How far'd you go in school?

21 A. I graduated.

22 Q. From which which high school?

23 A. Southside High School.

24 Q. Okay. Did you know a Korey Love?

25 A. Uh, yes, sir.

ORIGINAL MUSTAFA - DIRECT EXAMINATION BY MR. SMITH

1 Q. Uh, did you know a Ricky Simmons, I mean, a a Ricky
2 Simmons and a Rashad Simmons?

3 A. Yes, sir.

4 Q. Did you know a Kendel Love?

5 A. Yes, sir.

6 Q. Okay, were were you friends with these people?

7 A. Yes, sir, high school.

8 Q. Did you ever hear a murder be, not not a murder but a
9 robbery being discussed?

10 A. No, sir.

11 Q. Do you know about any robbery that involved a young man
12 by the name of Isaac Bass?

13 A. Could you restate the name.

14 Q. Do you know anything about a murder that involving young
15 man named Isaac Bass?

16 A. No, sir.

17 Q. And did Korey Love ever discuss a robbery with you ---

18 A. No, sir.

19 Q. --- with regard to Mr. Isaac Bass?

20 A. No, sir.

21 MR. SMITH: Your witness.

22 MR. SEAY: I have no questions for this witness.

23 THE COURT: Alright, he's released.

24 (Whereupon, the witness left the stand.)

25 MR. SMITH: Kristina Lockwood.

KRISTINA LOCKWOOD - DIRECT EXAMINATION BY MR. SMITH

1 THE CLERK: Ms. Lockwood, please come forward.

2 (Whereupon, the witness came forward.)

3 THE CLERK: Please stop at the end a the bench there
4 (indicating), place your left hand on the Bible and raise your
5 right hand. If you'll please face the judge.

6 KRISTINA LOCKWOOD, having been
7 first duly sworn, testified as follows:

8 THE CLERK: Thank you, please be seated. Please state
9 your name for the record.

10 THE WITNESS: Kristina Lockwood.

11 DIRECT EXAMINATION BY MR. SMITH:

12 Q. Ms. Lockwood, where do you live?

13 A. Villa Road.

14 Q. And how long have you been livin' there?

15 A. About eight years.

16 Q. And who you live with?

17 A. My mother.

18 Q. And, uh, okay, alright, what's your educational
19 background?

20 A. Um, I graduated from J.L. Mann and I went to Greenville
21 Tech about two years.

22 Q. Okay, where are you employed?

23 A. Century BMW.

24 Q. And how long have you been employed with Century BMW?

25 A. Since March of this year.

KRISTINA LOCKWOOD - DIRECT EXAMINATION BY MR. SMITH

1 Q. What is your position with Century BMW?

2 A. I'm a receptionist.

3 Q. And do you know Korey Love?

4 A. I do.

5 Q. And how do you know Korey Love?

6 A. We went to J.L. Mann and Greenville Tech ---

7 Q. Alright, ---

8 A. --- together.

9 Q. --- and do you know a a Rashad Simmons and a Ricky
10 Simmons?

11 A. I do.

12 Q. How do you know them?

13 A. We won't to J.L. Mann together.

14 Q. Okay. Do you know a Jarod Ransom?

15 A. No.

16 Q. Has a Jarod Ranson ever been to your house on any
17 occasion to your knowledge?

18 A. No.

19 Q. Now what about Ricky and Rashad?

20 A. Yes, they would come over.

21 Q. Okay. Back in January of 2007 do you recall whether or
22 not anybody came to your house after a murder at Wendy's?

23 A. No.

24 Q. Did Ricky Simmons come to your house?

25 A. He ---

KRISTINA LOCKWOOD - DIRECT EXAMINATION BY MR. SMITH

1 Q. --- on that night?

2 A. No, not that I know of.

3 Q. And I think you talked to Officer Flavell and told
4 Officer Flavell the same thing?

5 A. Yes.

6 Q. And, uh, were you shocked by that allegation?

7 A. I was.

8 Q. Uh, now were you Korey Love's girlfriend?

9 A. No.

10 Q. Were you, uh, Jarod Ranson's girlfriend?

11 A. No.

12 Q. And did Korey Love ever discuss any robbery with you?

13 A. No.

14 Q. Did Rashad or Ricky Simmons ever discuss a robbery with
15 you?

16 A. No.

17 Q. And well did it ke -- catch you by complete surprise when
18 a Detective Flavell came and talked to you?

19 A. Yes, it did.

20 Q. Did you consider any allegation that they had come over
21 to your house as a lie that -- for that after a robbery?

22 A. No.

23 Q. You understand my question?

24 A. Can you repeat the question.

25 Q. Right. Was it a lie ---

KRISTINA LOCKWOOD - CROSS-EXAMINATION BY MS. SEAY

1 MS. SEAY: Your Honor, she answered the question.

2 MR. SMITH: I understand but she didn't understand it.

3 MS. SEAY: How ---

4 THE COURT: Go ahead.

5 MS. SEAY: --- how does he know sh ---

6 THE COURT: Go ahe -- ju -- go ahead.

7 BY MR. SMITH:

8 Q. If somebody said they came over to your house after if,
9 uh, that that that this fella, uh, Korey Love and Jarod Ranson
10 came to your house after a murder on January 27, 2007, would
11 that be the truth or a lie?

12 A. A lie.

13 MR. SMITH: Your witness.

14 CROSS-EXAMINATION BY MS. SEAY:

15 Q. Ms. Lockwood, um, you just testified that you don't know
16 anything about the mur -- Wendy's, murder, is that correct?

17 A. Correct.

18 Q. Uh, do you know when it was?

19 A. I knew when it was when detective came to my house.

20 Q. Okay, so the detective told ya about it and he told you
21 that some people were to have come to your house afterwards,
22 is that right?

23 A. Yes.

24 Q. And you said that nobody came to your house.

25 A. No.

KRISTINA LOCKWOOD - CROSS-EXAMINATION BY MS. SEAY

1 Q. 'Cause you wouldn't want anybody that had committed a
2 robbery to come to your house, correct?

3 A. Correct.

4 Q. Okay. Um, now you were dating Rashad, is that right, or
5 talking to him?

6 A. Yeah, we were talking, we were friends but we never
7 dated.

8 Q. Okay, um, and in fact you called Rashad after Detective
9 Flavell came to talk to you because you were mad because your
10 name had been brought up, is that correct?

11 A. Yes, I wanted to know why would he put my name in
12 somethin' that I had no clue about.

13 Q. Okay, thank you.

14 A. You're welcome.

15 MR. SMITH: Your Honor, we ask that she be excused now.

16 THE COURT: Any objection?

17 MS. SEAY: No objection.

18 THE COURT: Alright, you're released from subpoena.

19 (Whereupon, the witness left the stand.)

20 MR. SMITH: Your Honor, we're waitin' on one witness, uh,
21 'cause we thought they were gonna go longer 'cause they
22 had ---

23 THE COURT: Well ya'll come up here.

24 MR. SMITH: Alright, sir.

25 (Whereupon, a bench conference was held off the record.)

MOTIONS AND MATTERS

1 THE COURT: Alright, ladies and gentlemen, we're gonna
2 break for lunch and ask ya'll to be back at two o'clock.
3 We're windin' down, we're gettin' through the case,
4 temptation's great I'm sure a that, remember what I've told
5 you about discussion or any independent research, don't do it.
6 We'll see ya back at two o'clock. Thank you very much.

7 (The following takes place outside the presence of the
8 jury.)

9 THE COURT: Alright, one thing I wanna say is I
10 understand there's some discussion in the gallery when people
11 are leaving or comin' and goin' that can be heard around the
12 courtroom, if I hear of it again I will consider it contempt
13 of court, is that clear? Thank you very much. Alright, we'll
14 see ya'll at two.

15 MR. SMITH: Thank Your Honor.

16 MR. STEINBERG: Your Honor.

17 (Whereupon, a recess was taken.)

18 THE COURT: Thank you very much, please be seated. Ready
19 to go?

20 MR. SMITH: Yes, Your Honor.

21 THE COURT: State ready?

22 MS. SEAY: Yes, sir.

23 THE COURT: Okay. Well has he made a decision?

24 MR. SMITH: Yes, sir.

25 THE COURT: Alright, hold 'em before they come in.

MOTIONS AND MATTERS

1 Mr. Love, you made a decision?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Alright. Now you you have any questions you
4 wanna ask me about?

5 THE DEFENDANT: Uh, no, sir.

6 THE COURT: You fully understand what -- all the rights?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Okay. Alright, good.

9 MR. SMITH: Thank Your Honor.

10 (The following takes place in the presence of the jury.)

11 THE COURT: Alright, welcome back, ladies and gentlemen.

12 Mr. Smith.

13 MR. SMITH: Your Honor, this time we call Mr. Korey Love
14 to the stand.

15 THE COURT: Alright.

16 (Whereupon, the defendant came forward.)

17 THE CLERK: Mr. Love, please pause at the end a the
18 bench, place your left hand on the Bible and raise your right
19 hand.

20 KOREY LAMAR LOVE, having been
21 first duly sworn, testified as follows:

22 THE CLERK: Thank you, please be seated. Please state
23 your name for the record.

24 THE DEFENDANT: Um, Korey Lamar Love.

25 DIRECT EXAMINATION BY MR. SMITH:

KOREY LAMAR LOVE - DIRECT EXAMINATION BY MR. SMITH

1 Q. Mr. Love, uh, I'm be asking you some questions on direct
2 examination. Uh, you've been in, uh, in the Greenville County
3 Detention Center for two and a half years so far?

4 A. Yes, sir.

5 Q. Alright. Mr. Love, you've been indicted on three counts:
6 one for murder of an Isaac Bass, one for attempted armed
7 robbery and another for weapons violation, did you commit any
8 of those offenses?

9 A. No, sir, I have not.

10 Q. Now, Mr. Love, which -- who are you parents?

11 A. Um, Katrina (phonetic) Andrews and Jerome Love.

12 Q. Okay, is your mother in the courtroom with you?

13 A. Yes, sir, she right there (indicating) in the first
14 row.

15 Q. And the the, uh, education, what's your educational
16 background?

17 A. Um, I graduated from, um, Greenville High in 2008 and I
18 went to Greenville Tech, um, 'bout three semesters
19 accountant.

20 Q. Alright, so you were majoring in accounting?

21 A. Yes, sir.

22 Q. And, uh, at some point you were a member, you you lived
23 in New York and then you came down South?

24 A. Yes, sir.

25 Q. And so how long have you been down South here?

KOREY LAMAR LOVE - DIRECT EXAMINATION BY MR. SMITH

1 A. Uh, say about six years now, came 2006 so six years.

2 Q. And after you graduated you decided you wanted to get
3 higher education in accounting?

4 A. Yes, sir.

5 Q. Uh, have ya ever been employed anywhere?

6 A. Um, I worked at, um, Dollar General on Augusta Road and I
7 worked at, um, on Wade Hampton Bowlin' Alley, the bowling
8 alley Wade Hampton.

9 Q. What's the boneall?

10 A. The bowlin' alley, it's on, it's on ---

11 Q. Oh, the bowling ---

12 A. Yeah.

13 Q. --- okay. Uh, I'm gettin' old, I can't hear too good.

14 A. Sorry.

15 Q. But, uh, the, uh, sports, did ya play any sports?

16 A. Uh, when I was in New York I played football. When I
17 came down here, I, um, I ran track but, uh, that's it but some
18 things full.

19 Q. What do you like, what's a subject you like best?

20 A. Oh, math.

21 Q. Now back in 2006 how -- what was your age in 2006?

22 A. 2006 I was, um, 17, actually 17, yeah.

23 Q. Alright. And 2006 did you have a number a friends?

24 A. Yes, sir, I did.

25 Q. Who who were some, who were some a your friends that you

KOREY LAMAR LOVE - DIRECT EXAMINATION BY MR. SMITH

1 had?

2 A. Uh, uh, Ricky, Rashad Simmons, um, Jarod, um, Akshana
3 (phonetic), Doogan, uh, Dontavius, Original, you know, I had a
4 lotta friends though.

5 Q. Ronald Chapman?

6 A. Yeah, Ronald Chapman, yeah, him, yeah.

7 Q. Okay. And did you have any girlfriends?

8 A. Uh, Eva Mills, I I was dating Eva and that's the only
9 girlfriend.

10 Q. And back in 2006, the school year of 2006 and 2007, what
11 high school were ya going to?

12 A. Oh, J.L. Mann Academy.

13 Q. Okay, and did you have to catch the bus in the mornin' or
14 not catch the bus to get to school?

15 A. Oh, I had to catch the bus.

16 Q. Okay. Now on January 6, 2007 between the hours of let's
17 say nine till January the 27th the next mornin', where were
18 you?

19 A. Oh, I was home, was home.

20 Q. Were you anywhere else at the hour of 1:30 a.m. on
21 January the 27?

22 A. Oh, no, sir, I was not.

23 Q. Where were you?

24 A. Home.

25 Q. And when you say "home", whose house were you at?

KOREY LAMAR LOVE - DIRECT EXAMINATION BY MR. SMITH

1 A. Um, Demetrius and Leslie Jacksons' house.

2 Q. Okay, and why were you at Demetrius and Leslie Jacksons'
3 house?

4 A. Um, 'cause we didn't, um, have a home. We had, um, my
5 father we had left, um, Huntington Downs so we had -- they,
6 um, they let us in ---

7 Q. Okay, you got evicted?

8 A. Yeah.

9 Q. And your father where was he working at the time?

10 A. On Bonefish Grill, Woodruff Road.

11 Q. And who else was working at Bonefish Grill?

12 A. Um, Antwon.

13 Q. And who is Antwon?

14 A. That's right. Oh, Demetrius, I'm sorry, I call him
15 Antwon but Demetrius Jackson.

16 Q. Alright, that's the husband of Leslie Jackson?

17 A. Yes, sir.

18 Q. Alright. And what -- did they -- did you -- were -- did
19 you have some sorta curfew to be in at night or not?

20 A. Uh, I did.

21 Q. What was the curfew time?

22 A. Um, ten o'clock. Me, I had to be in at ten, at least ten
23 o'clock.

24 Q. On what, on what days?

25 A. School days that I couldn't be out late school days,

KOREY LAMAR LOVE - DIRECT EXAMINATION BY MR. SMITH

1 no.

2 Q. Okay, now what about on the, uh, Friday, Saturday,
3 Sunday?

4 A. 11:30, 12 that's when I had to come in.

5 Q. And was that strictly enforced?

6 A. Yes, it was.

7 Q. Now did Leslie Jackson or Demetrius Jackson, uh, did they
8 give you a key?

9 A. No, there was no key, I never had a key.

10 Q. And with regard to your dad did he have strict rules?

11 A. Yeah, he did.

12 Q. And who -- you had your brother that lived there?

13 A. Yes, sir.

14 Q. What room of the house did ya'll live in?

15 A. Um, we lived on the top floor. Um, the kids, the kids
16 were livin' in one room, across from they room is, um,
17 Demetrius and Leslie room and then we stayed next door from
18 they room.

19 Q. Okay, and the hallway in order to get to the room that
20 ya'll were in how -- what was the length a that hallway?

21 A. Uh, I mean, we was ---

22 Q. Can you come down from the stand and just walk it off.

23 (Whereupon, the witness left the stand.)

24 A. Alright, um, just come upstairs, walk, this the kids'
25 room right here (indicating) and Leslie, Leslie room and

KOREY LAMAR LOVE - DIRECT EXAMINATION BY MR. SMITH

1 Demetrius right there (indicating), our room is like right
2 between that.

3 Q. So it was just several feet away?

4 A. Yeah, it was several feet, like you just do that
5 (demonstrating).

6 Q. Okay, now high was the, you said upstairs, how high was
7 the upstairs from the downstairs?

8 A. Talkin' about from the whole house, the whole ---

9 Q. From outside.

10 A. Oh, let's see, uh, it's pretty high, uh, it was ---

11 Q. Well did ya ever try to jump out that window?

12 A. No.

13 Q. Now the -- did they have a ladder to get back up the
14 window?

15 A. No, there was no ladder, no ladder down there.

16 Q. Now on January 6 two thousand and -- of January 27, 2007
17 do you know who killed Isaac Bass?

18 A. No, sir, I do not know who killed, no.

19 Q. Did you have any contact with, did you plan any robbery
20 with Ricky Simmons, Rashad and Jarod?

21 A. No, sir.

22 Q. Did Rashida Peters give you any inside information about
23 cameras or anything a that nature about how to assist in
24 robbing that Wendy's?

25 A. No, sir, she didn't.

KOREY LAMAR LOVE - DIRECT EXAMINATION BY MR. SMITH

1 Q. Did you confess this, uh, crime to Rashida Peters?

2 A. No, sir.

3 Q. Did you confess this crime to Ricky and Rashad?

4 A. No, sir.

5 Q. Did you go to Kristine -- Kristina Lockwood's house that
6 night of January 27, 2007?

7 A. No, sir.

8 Q. Did you go to your girlfriend's house, Eva Mills, that
9 night?

10 A. No, sir.

11 Q. Did you run away from the Wendy's that night with Eric
12 Jarod Ranson?

13 A. No, sir.

14 Q. Can you tell the jury whether or not Eric Jarod Ranson
15 ever discussed this attempted robbery/murder with you.

16 A. No, he never discussed anything with a a robbery/murder,
17 no.

18 Q. Did Jalesa Neal come to your house as you can recall on
19 January 27, 2007?

20 A. She never came to the house, no.

21 Q. Did you confess to your father in front of her?

22 A. No, sir.

23 Q. Did you stop confessing when you saw her on the
24 outside?

25 A. No, sir.

KOREY LAMAR LOVE - DIRECT EXAMINATION BY MR. SMITH

1 Q. Was the door on that winter day open?

2 A. No, sir.

3 Q. Was the ro -- bedroom that you lived in on that winter
4 day open?

5 A. Um, bedroom is, bedroom was open.

6 Q. Window?

7 A. Oh, the window, no. The window, thought you said
8 door, ---

9 Q. Okay.

10 A. --- window no.

11 Q. Window to the outside.

12 A. Oh, no, it wasn't open wintertime.

13 Q. Now did they have, uh, heat inside that house?

14 A. Yes, sir, they did.

15 Q. And I imagine they got a heating bill?

16 A. Uh, yeah.

17 Q. And heating' bill's gotta be paid?

18 A. Yes, sir.

19 Q. Okay. Now with regard to, uh, coming in contact with
20 these charges, on some occasion, uh, you went down to the
21 police station?

22 A. Yes, sir, I did.

23 Q. And who went down to the police station with you?

24 A. Uh, it was me, Rashida, her mother and, um, oh, Rashida
25 friend Casey, yeah, ---

KOREY LAMAR LOVE - DIRECT EXAMINATION BY MR. SMITH

1 Q. Oh.

2 A. --- she came down.

3 Q. And did you have an opportunity to speak to the police?

4 A. Yes, sir, I did.

5 Q. Do you recall which police off you -- officer you spoke
6 to?

7 A. Uh, Detective Flavell, yeah, I spoke to him.

8 Q. Alright. Did you have a lawyer present at the time?

9 A. No, sir.

10 Q. Did you want a lawyer?

11 A. No, sir.

12 Q. And did you cooperate with Detective Flavell?

13 A. Yes, sir, I did.

14 Q. And did you tell him what you knew or didn't know about
15 this robbery on January 27, two thousand ---

16 A. Well I told him I didn't know anything about it.

17 Q. Did you give a written statement?

18 A. Yeah. Yeah, I wrote a statement sayin' I didn't know
19 nothin' about it.

20 Q. And that statement was reduced to writing and I believe
21 was introduced into evidence early on this week, is this
22 correct? I'll show you what's been marked as State's Exhibit
23 No. 1 and No. 2, is that your waiver of rights form?

24 A. Yes, sir, it is.

25 Q. Right. Where you gave up your right to remain silent,

KOREY LAMAR LOVE - CROSS-EXAMINATION BY MS. SEAY

1 anything you say could and would be used against you in a
2 court a law, you did all that, right?

3 A. Yes, sir..

4 Q. And you spoke to Detective Flavell in the same fashion
5 you're talking now to the jury?

6 A. Yes, sir.

7 Q. You can understand why that family is upset about their
8 son?

9 A. Oh, yes, sir, I understand and I.I wanna send my
10 condolence out to them, you know, 'cause nobody deserves to
11 lose their life like that, you know, and it's sad that, you
12 know, one family losin' a son or a child, you know, and then
13 the next ---

14 Q. Did you ---

15 A. --- family ---

16 Q. --- do this c -- did you, did you do this crime, son?

17 A. No. No, I have not, uh-uh (negative)..

18 Q. Alright.

19 MR. SMITH: Your witness.

20 CROSS-EXAMINATION BY MS. SEAY:

21 Q. Mr. Love, ---

22 A. Yes, ma'am.

23 Q. --- you testified you're friends or were friends with
24 Jarod, Ricky, Rashad, correct?

25 A. Yes, ma'am.

KOREY LAMAR LOVE - CROSS-EXAMINATION BY MS. SEAY

1 Q. And you obviously are friends with Rashida Peters, ---

2 A. Yes, ma'am.

3 Q. --- she went down to the Law Enforcement Center with you.

4 A. Yes, ma'am.

5 Q. And you and Rashida Peters, you weren't just seein' Eva
6 Mills, you were also seein' Rashida Peters, weren't you?

7 A. Yes, ma'am, I was.

8 Q. Okay. And so you and Rashida were boyfriend and
9 girlfriend in a sense, correct?

10 A. Talkin' about when I came down to law enforcement or
11 back ---

12 Q. No, back in 2007.

13 A. We wasn't boyfriend and girlfriend, we was more friends
14 but we -- it was gettin' there.

15 Q. Um, okay, it was gettin' there.

16 A. Um.

17 Q. And Demetrius and Leslie Jackson -- Demetrius work with
18 your dad at Bonefish Grill, right?

19 A. Yes, ma'am.

20 Q. Okay, and they're good friends of your dad, correct?

21 A. Yes, ma'am.

22 Q. Okay. Jarod and you were friends before your parents
23 ever got married, right?

24 A. Yes, ma'am.

25 Q. And ya'll were like brothers.

KOREY LAMAR LOVE - CROSS-EXAMINATION BY MS. SEAY.

1 A. Yeah, you -- not not really, you know, we ain't get get
2 like brothers until we moved in actually, ---

3 Q. Okay.

4 A. --- we was friends though.

5 Q. You were good friends.

6 A. Yeah, we was friends, yeah.

7 Q. You spent a lotta time together.

8 A. We all did.

9 Q. You and Jarod though spent a lotta time together.

10 A. Yeah, but not like that, not like everybody portray it
11 you know.

12 Q. Not like everybody said.

13 A. That says, yeah.

14 Q. Everybody else is wrong.

15 A. Yeah.

16 Q. Oh, okay. And ya hung out at Mallard Cove ---

17 A. Yes, ma'am.

18 Q. --- with Ricky and Rashad Simmons ---

19 A. Yes, ma'am.

20 Q. --- and sometimes Jarod ---

21 A. Yes, ma'am.

22 Q. --- okay, and you planned and you started talkin' about
23 robbin' the Wendy's, didn't ya.

24 A. No, ma'am, I do not.

25 Q. And then on January 27, 2007 in the early mornin' hours

KOREY LAMAR LOVE - CROSS-EXAMINATION BY MS. SEAY

1 you and Jarod went over there ---

2 A. No, we didn't.

3 Q. --- and you took a gun ---

4 A. No, I didn't.

5 Q. --- and you went and you hid behind those trash cans, you
6 laid in wait for somebody to come out that back door ---

7 A. No, I didn't, ma'am.

8 Q. --- and Mr. Bass, innocent victim, came out the back door
9 and you were gonna rob him, weren't you?

10 A. No, had no reason to.

11 Q. And then when he tried to get away from you you shot him.

12 A. No, ma'am.

13 Q. Racked that gun, you ejected that live round and you shot
14 and killed him, didn't you?

15 A. No, I did not.

16 Q. And while Mr. Bass is strugglin' for his life, goin'
17 around the Wendy's bangin' on the drive-thru window, you ran
18 away.

19 A. No, I didn't.

20 Q. Do you deny that you confessed to your dad that you had
21 shot a man tryin' to rob the Wendy's? Do you deny that?

22 A. Yes, I do, I deny that.

23 Q. So Jalesa just made that up.

24 A. Yeah, she did, she made it up.

25 Q. Okay. And you told Rashad when you got back over to

KOREY LAMAR LOVE - CROSS-EXAMINATION BY MS. SEAY

1 Mallard Cove that you had shot a man because he saw your face,
2 do you deny that?

3 A. Yes, I deny it's, yeah, I deny that.

4 Q. And you told Ricky that you had shot a man tryin' to rob
5 the Wendy's, do you deny that?

6 A. Yes, sir. Yes, I do deny that.

7 Q. So all these people are lyin'?

8 A. Yeah, they came up here and told their lie.

9 Q. All these friends of yours ---

10 A. Yeah.

11 Q. --- have lied?

12 A. Yeah, they told ya, they admitted liars.

13 Q. Alright, let me ask you this: On March the 16th of 2010
14 you met with Detective Flavell ---

15 A. Yes, ma'am.

16 Q. --- and he told you that he was investigating the Wendy's
17 murder and that you were a suspect in that murder, isn't that
18 right?

19 A. Yeah, that's right.

20 Q. And he read you these rights, "Before we ask you any
21 questions you must understand your rights," did he tell ya
22 that?

23 A. Um-hum.

24 Q. "You have the right to remain silent," did he tell ya
25 that?

KOREY LAMAR LOVE - CROSS-EXAMINATION BY MS. SEAY

1 A. Yes, ma'am.

2 Q. "Anything you say can be gan -- used against you in
3 court," did he tell ya that?

4 A. Yes, ma'am.

5 Q. "If you have -- you have the right to talk to a lawyer
6 for advice before we ask you any questions and to have him
7 with you during questioning," he tell ya that?

8 A. Yes, ma'am, he did.

9 Q. "If you have no money to pay a lawyer's fee, the Court
10 will appoint one to represent you without cost if you wish,"
11 he tell ya that?

12 A. Yes, ma'am.

13 Q. "If you decide to answer questions now without a lawyer
14 present, you'll still have the right to stop answering at any
15 time, you also have the right to stop answering at any time
16 until you talk to a lawyer."

17 A. Yes, ma'am, he said ---

18 Q. Okay, so you initialed all those lines, correct?

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

20 Q. Okay. And then down here this waiver of rights, "I've
21 read the statement of my rights and I understand what my
22 rights are. I'm willing to make a statement and answer
23 questions. I do not want a lawyer at this time. I understand
24 and know what I am doing. No promises or threats have been
25 made to me and no pressure or coercion of any kind has been

KOREY LAMAR LOVE - CROSS-EXAMINATION BY MS. SEAY

1 used against me." You signed that, that's your signature
2 right there (indicating).

3 A. Yes, ma'am, that's my signature.

4 Q. Okay. And he told you, "I am investigating a murder and
5 attempted armed robbery at Wendy's and you are a suspect," he
6 told you that, didn't he?

7 A. Yes, ma'am, he did.

8 Q. And in response you said to him, "Detective Flavell asked
9 me to tell him about the Wendy's murder that happened in 2007,
10 I did not have any involvement in the murder and I don't know
11 who was involved in the murder," that's what you told him?

12 A. Yes, ma'am, that's correct.

13 Q. Okay. Show me on here where it says, I was home that
14 night..

15 A. It doesn't say that.

16 Q. Exactly, because you were not home that night, you were
17 at the Wendy's murdering an innocent man and you were a big
18 man then confessin' it to everybody but you're not a big man
19 today 'cause you won't tell the truth.

20 A. I am tellin' the truth. Why would I -- why would
21 somebody go around just braggin' about sumtin' like that,
22 that's crazy so...

23 Q. That's what you did and that's what the witnesses said,
24 isn't it?

25 A. What witness? Everyone one of them ---

KOREY LAMAR LOVE - REDIRECT EXAMINATION BY MR. SMITH

1 Q. Every one of the witnesses.

2 A. Yeah, they all lie, they're all lyin'.

3 Q. Thank you.

4 THE COURT: Anything else?

5 MR. SMITH: One question.

6 REDIRECT EXAMINATION BY MR. SMITH:

7 Q. Did you murder Isaac Bass?

8 A. No, sir, I did not murder Isaac Bass.

9 MR. SMITH: No further questions.

10 THE COURT: Alright, you can step down.

11 (Whereupon, the defendant left the stand.)

12 THE COURT: Alright, call your next witness.

13 MR. SMITH: That's it, Your Honor.

14 THE COURT: Alright, let me talk to the lawyers up here
15 for a second.

16 (Whereupon, a bench conference was held off the record.)

17 THE COURT: Alright, Mr. Foreman, ladies and gentlemen of
18 the jury, if you remember in my opening comments to ya I
19 divided the trial into five parts. We have completed the
20 first two parts, that is the opening statements of the
21 attorneys and now all of the evidence that's gonna be
22 presented has been presented and we are con -- we're finished
23 with the second part of the trial so we're gonna move to the
24 third part of the trial but before we do that I need to go
25 over some legal issues with the attorneys and and we'll get

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1 back with you shortly and I'm gonna tell you one last time, I
2 think it'll be the last time I tell ya, not talk about the
3 case yet, it's gonna be yours very shortly but don't begin
4 yet. Thank you, if you will go with the bailiffs.

5 (The following takes place outside the presence of the
6 jury.)

7 THE COURT: Okay, have any requests to charge?

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

9 MS. SEAY: Yes, sir, Your Honor.

10 THE COURT: Alright.

11 MR. STEINBERG: Your Honor, the State's gonna hand up a,
12 uh, request to charge.

13 THE COURT: Tell me what they are before I ---

14 MR. STEINBERG: I'm sorry, Your Honor, the State has the
15 standard felony murder charge. We're gonna ask that you
16 instruct that attempted armed robbery is a felony, um, as well
17 as murder obviously, uh, that malice may be inferred from the
18 use of a weapon. Under the *State vs. Belcher* case it still
19 applies, uh, cases such as this.

20 THE COURT: Yeah, there is no ---

21 MR. STEINBERG: Yes.

22 THE COURT: --- allegation a self-defense in this.

23 MS. SEAY: Yes, sir.

24 THE COURT: Okay.

25 MR. STEINBERG: And that attempted armed robbery and

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1 murder are violent crimes.

2 THE COURT: Alright, let me see what you got, alright.

3 MR. SMITH: Your Honor, we have, uh, requests for charge
4 for a bias informer of the witness with possible gain, uh, one
5 for bias in immunity, credibility and character and
6 reputation, uh, credibility, character, conviction of a crime,
7 prior inconsistent statement and alibi.

8 MR. STEINBERG: Your Honor, ---

9 THE COURT: Alibi.

10 MR. SMITH: Yes, sir. Alibi is a, uh, a defense. Well
11 it's not a defense in the sense that we have to prove
12 anything, they have to prove the guy was present there but
13 under South Carolina ca -- Roseboro vs. State, failure to
14 request alibi charge constituted ineffectiveness of counsel
15 and State has the burden of proving identity. We can
16 actually, uh, ---

17 THE COURT: Other than your client, who else said he was
18 home?

19 MR. SMITH: Leslie Jackson.

20 MR. STEINBERG: Actually, Your Honor, that's not what she
21 said. She said he should be home, he was probably home.

22 MR. SMITH: No see she said to my questions he was at
23 home.

24 MR. STEINBERG: And then she asked her to answer the rest
25 a the questions. She's never fully said he is at home, um, we

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1 would oppose an alibi. She did not see him. Alibi literally
2 means elsewhere as opposed to our policy is he should be home.

3 MR. SMITH: I take exception to that to you saying that I
4 think we did prove alibi. When I questioned on direct
5 examination I asked him was he at home, were you certain of
6 it, she said yes.

7 THE COURT: Did you -- did -- was there any witness who
8 got their had a prior record?

9 MR. SMITH: Yes, sir, uh, ---

10 THE COURT: You wanna charge on that?

11 MR. SMITH: Yes, sir.

12 MR. STEINBERG: One witness I know of shoplifting.

13 MR. SMITH: Yeah, uh, right, and your witness who you
14 pled guilty t ---

15 MR. STEINBERG: Yes, sir. Um, some of the, some of the,
16 um, charge if I may I don't think are, I think they're more
17 charges on the, on the facts. Um, ----

18 THE COURT: Okay, ya'll take ---

19 MR. STEINBERG: --- it ---

20 THE COURT: --- a minute and look at this.

21 MR. SMITH: Let me hand mine up there.

22 (Whereupon, the attorneys approached the bench.)

23 (Whereupon, a bench conference was held off the record.)

24 THE COURT: Alright, we'll just take take short break
25 about ten minutes or so.

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1 (Whereupon, a recess was taken.)

2 THE COURT: Alright, ya'll ready?

3 MR. SMITH: Yes, sir, Your Honor.

4 MS. SEAY: Yes, sir.

5 (The following takes place in the presence of the jury.)

6 THE COURT: Alright, Mr. Foreman, ladies and gentlemen of
7 the jury, I told you before the break we've completed the
8 first two parts of the trial and we gonna get ready to move
9 into the third part. I wanna thank you for your close
10 attention and your unbiased objectivity in in paying attention
11 throughout the course of the trial and I want you to continue
12 to please pay attention to the closing arguments of these fine
13 attorneys. Alright, Mr. Steinberg.

14 MR. STEINBERG: Thank Your Honor. Ladies and gentlemen
15 of the jury, we are near the end of the trial, I am going to
16 describe for you the laws that you're going to be ru -- uh,
17 looking at today. Defense counsel will then give his closing
18 argument followed by Ms. Seay givin' a State's closing.
19 argument. If you have any understanding of the law other than
20 what the judge gives, you must follow the judge's
21 instructions. Anything you hear from either of the attorneys
22 or from your own life experiences that are in contradiction
23 with Judge Miller's instructions you must follow Judge
24 Miller's instructions.

25 As to murder what is murder? It means the taking of a

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1 human life with malice aforethought. Malice means unlawful or
2 wrongful or evil or without just cause. Malice can be
3 triggered by the mere pulling of a trigger of a firearm, that
4 may infer malice, you made a conscious decision 'cause malice
5 requires and murder requires that it not be an accident. You
6 must make a a decision, it doesn't have to be very long or
7 very pre-planned, it takes only so long as it takes to, for
8 example, push someone off a cliff or decide to stab somebody,
9 that's as long as malice aforethought requires. The judge is
10 also going to instruct on what is known as the "Felony Murder
11 Rule". If you kill someone durin' the course of a felony and
12 that felony is one likely to cause, um, cause death, that may
13 also be a form of malice aforethought. For example, if you
14 kidnap someone, you put them in the trunk of your car, you
15 don't want them to die, you don't desire they die but they do
16 in fact suffocate, that can be an example of the Felony Murder
17 Rule.

18 Attempted armed robbery it means that you're taking
19 something or attempting to take something by use of force or
20 threat of force and that you are armed with or present a
21 deadly weapon such as a firearm.

22 You have two other indictments, one is possession of a
23 weapon during the commission of violent crime, possession of a
24 weapon is simple enough. You will hear from the judge that
25 attempted armed robbery and murder are both violent crimes so

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1 you may not possess a weapon while you are committing those
2 crimes. The final charge is very self-explanatory and that is
3 possession of a pistol by one who is under the age of 18,
4 those are the laws that you will be deciding upon in the case
5 before you. Mr. Smith.

6 MR. SMITH: Thank you very much. Your Honor, may it
7 please the Court.

8 THE COURT: Yes.

9 MR. SMITH: This just a little bit too distant.

10 (Whereupon, defense counsel moves the podium.)

11 MR. SMITH: Members of the jury, I wanna thank you for
12 your participation in this trial durin' the course of this
13 week on behalf of both the State and Mr. Korey Love who's
14 seated over there (indicating) and we appreciate the civic
15 duty that you've provided but basically I'm gonna start this
16 closing statement basically where I I began it. I told you
17 that Korey Love was indicted under three indictments and I
18 told you those were false charges and we proved that each one
19 of those indictments as they pertain to him are false. Every
20 single witness that they've had just about except the police
21 witnesses, the forensics people have been on this witness
22 stand and have lied and the police officer Officer Flavell had
23 to go back to these witnesses several times in order to ferret
24 out the truth but you still don't know what the truth is.
25 There is not one smi -- shred of physical evidence tying Korey

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1 Love to this crime. What you have is witnesses who are facing
2 life in prison under the doctrine of the hand of one is the
3 hand of all who cut a deal in order to have themselves not
4 face a murder charge without parole, that's why this case is
5 so serious because when Officer Flavell right here
6 (indicating) got to speak to Mr. Love with this statement
7 (indicating), he didn't have a lawyer. He didn't have to come
8 back to this man three or four times like he did those
9 witnesses. He never came back to Korey Love three or four
10 times and this man's been in jail two and a half years, some a
11 those years I've been representin' him of course, but in the
12 initial stages when Jalesa Neal lied to you and to the police
13 by saying that the house where the people were staying she
14 happened to be out there that morning and the door was open at
15 the Jackson's house and she could hear the conversation of
16 Korey Love confessing to the crime. Now Korey Love was at
17 home that morning on the second floor. There would be no door
18 open in the winter letting heat out and everybody knows it was
19 the wintertime on January 27, they knew that was a lie that
20 she said in her statement, then I asked her did she rehearse
21 it. She said she rehearsed it in the solicitor's office and
22 she slightly changed her story. Members of the jury, Jalesa
23 Neal was a liar when she gave her statement where she
24 mentioned nothing about her brother's involvement whatsoever
25 and substituted her brother's name for Korey Love's name, she

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1 was a liar then, she was a liar when she testified before you.
2 Now why would she know about the murder in the first place
3 Jalesa Neal the first witness that he started with, why?
4 because when her brother came home that night he confessed to
5 his mother and he confessed to his sister. What was her cover
6 story when she talked to the police? saying that she was down
7 at the Jackson's house rather than her own house. There's two
8 separate houses: the Jackson house and Corliss Smith's house.
9 Now she was ridin' in the car that morning going by the
10 Wendy's to see the tape that was around the Wendy's because
11 her brother confessed and he never and he -- when you te --
12 when he got up on that stand he said he never talked to
13 anybody about it, he never talked to one sole about that
14 murder that night, not Korey Love and not even those twins.

15 We believe, members of the jury, that there's so much
16 doubt in this case that on reasonable doubt alone he should be
17 found not guilty and His Honor's gonna charge you on the issue
18 of reasonable doubt. I told you we were gonna prove that and
19 we did. We proved to you that Ricky and Rashad Simmons were
20 liars. We brought in a lady by the name of Kristina Lockwood.
21 They said they went over to her house that night after the
22 murder. Ricky said Rashad went over there, that Korey went
23 over there and his brother, that's what Rashad said. Ricky
24 said they went to Eva Mills's house. When Officer Flavell
25 investigated it and he testified there was no evidence a that.

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1 They accused everybody else of knowing: Original Mustafa,
2 Ronald Chapman, Dontavius Sullivan. They said all of Korey's
3 friends they knew about this murder, the ones that testified
4 said no they did not. Officer Flavell talked with the rest of
5 'em and he said they did not either. The only witness in this
6 case that Officer Flavell did not think was lying was Korey
7 Love but because these twins came back 'cause after Jalesa
8 gave the twins he started searchin' around for these twins and
9 when he found out about the twins he goes down to Georgia of
10 course. He tells them the hand of one is the hand of all. He
11 just happens to have Korey Love's file out. Now these guys
12 and Eric Jarod Ranson did participate. We believe that the
13 witnesses, the eyewitnesses who saw the people runnin' down
14 the street were the twins. We believe that Eric Jarod Ranson
15 in order to cover up the crime did it alone and solely alone
16 but I'm not out there with a video camera and I asked Officer
17 Flavell did he have any personal knowledge as to who did it.
18 He has no personal knowledge. They have a lack of evidence of
19 anybody who's credible as to who committed this crime. Each
20 one of their witnesses has no credibility. The only ones that
21 have credibility are the forensics off, young man who died,
22 autopsy, the projectiles which I call bullets, statement of
23 Korey Love that they introduced into evidence and the
24 credibility that his father was off a work at twelve o'clock
25 that night from Bonefish, all a that is physical evidence in

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1 here. We have other physical evidence of the direction that
2 each one a those other persons said they ran but, members of
3 the jury, just remember this too: The key component is the
4 State under their own theory isn't credible because the
5 witnesses say they only saw two men running away. Where was
6 the third man 'cause the twins, you know, they waited out in
7 that parkin' lot ten minutes while police officers were
8 circling around searching Mallard Cove after they got
9 notification that two black males had run over into that area
10 away from the area where the young white child had been shot
11 and murdered and they were just walkin' around lollygaggin'
12 and then some said they ran across the golf course and got to
13 Kristina Lockwood, Kristina Lockwood shut that down so we have
14 Barry Jackson who said that we proved that Rashida was a liar
15 but she also told the truth in this sense: She knew nothing
16 about any cameras, that is a key issue in this case, when you
17 heard Ricky and Rashad they said she told 'em where the
18 cameras were inside the Wendy's. Well the Wendy's people say
19 well there's no cameras there. There had been cameras there,
20 they could've brought the evidence in and shown you who
21 committed the murder. They said that Rashida had to tell them
22 how to get across the street but they already knew how to
23 cross the street 'cause they'd been to the Wendy's a number of
24 times.. The twins say that somebody called, used Jarod's cell
25 phone to call them about the robbery's gonna be committed.

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1 Well in order to make it fit with Korey Love they had to say
2 that Korey used Jarod Ranson's phone, cell phone. That's
3 incredible because Jarod Ranson said he didn't have a cell
4 phone. Now if Jarod Ranson didn't have a cell phone then the
5 two guys didn't get the call and they wouldn't be waitin' out
6 there ten minutes to go to the scene to do the robbery with
7 him but Jarod Ranson wants to make sure the murder doesn't
8 shot -- show up with him 'cause he can't say, Yeah, I called
9 the twins, let's be ready to go, with my cell phone. That's a
10 problem.

11 Now they want you to rush to judgment because they put
12 some lying witnesses on the stand that they claim their
13 credibility now because they've come to Jesus and said, Okay,
14 we're tellin' the truth now, don't work that way. It's just
15 like say for an instance you got some stew and you cookin'
16 some stew on your stove common sense like and there's some
17 stew inside the thing that's tainted and you taste it and it's
18 tainted, do ya eat the rest a the stew or does -- do ya push
19 it all the way? You push it all away. They've got not one
20 shred of evidence. All the stew they got is tainted:
21 testimony that is infected with lies, contaminated with
22 perjury. Perjury. A man who dishonored the uniform and the
23 memory of the victims of 9/11, a man who came in here sayin'
24 that he was gonna protect his friend when all he was tryin' to
25 do was protect his skin and he said so to the police. He

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1 said, When the agent was questioning me, he told me he did not
2 believe that I was the one that shot the guy then ten minutes
3 later he was tellin' me that all the evidence was pointing to
4 me, I did not trust the guy, I just made it up, I did not
5 believe that he had any evidence against me. This was not a
6 guy who was protectin' Korey Love, this Eric Jarod Ranson
7 their star witness, this was a guy who was actually protecting
8 his own skin, a guy who actually legally committed the murder
9 but I can't put a video camera to you and give it to ya that
10 way, neither can they. They don't know who committed this
11 murder. Ms. Seay was not out there like a news reporter from
12 the New York Times takin' down notes watching blow by blow
13 what happened, neither was Officer Flavell or anybody else.

14 Now the other thing too is these twins said, uh, that
15 Rashida Peters told them that where the money drop was gonna
16 be. Well I asked the man, I said, Do ya'll take the money to
17 the bank at 1:30 at night, he says, No, we put it in the safe,
18 in the safe at night inside the store then somebody else takes
19 it to the bank so that's a lie that they told there. There so
20 many lies I can't go through all of 'em but there were so many
21 lies that her witnesses incredibly said to you, the jury, to
22 try to have him convicted of murder.

23 Ms. Corlenas Orlena Love she says she only found out
24 about the murder in 2010 and does that make sense that her
25 teenage daughter would be walkin' around the house of the

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1 Jackson's now and not tell her mother that Korey Love said he
2 murdered somebody? Does that make sense? Doesn't make sense
3 at all. Her mother knew in 2007 that her son had committed
4 this murder and when she testified, I asked her under oath, I
5 said, When did you and Mr. Love start datin', she said
6 February 2007. Pretty devious because later on in 2010 what
7 is found out through an anonymous tip they start the
8 investigation against Kendel Love and they ended up accusin'
9 him, they accused two brothers and we brought that out.

10 Now if what I'm sayin' to you is different from what you
11 heard the testimony, you use your collective memory. Not
12 tryin' to do anything improper here but what you remember
13 about the testimony His Honor's gonna instruct you is what's
14 important. We are deeply sorry that that young man lost his
15 life, I mean, no parent should have to bury a child, I mean,
16 earlier than they pass away and all of us know that and we
17 offer our condolences to the family but then you know in our
18 system of justice, nobody should be convicted of a crime they
19 didn't commit and somebody else loses a son based on the
20 perjured testimony of other witnesses.

21 Basically we have a situation where the skin of all --
22 the hand of one is the hand of all and the skin of each one a
23 those witnesses, the two that didn't get quite to the scene,
24 the twins, and then Eric Jarod Ranson who was at the scene are
25 tryin' to save themselves from life in prison without parole

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1 and even Rashida Peters is tryin' to do that too because she's
2 facing in the hand of one is the hand of all. She gave two
3 statements saying that she didn't know anything about it, they
4 discussed it, nothin', didn't discuss it at all and then over
5 a period a time when she was at the police station, and you
6 heard the emotion on the tape that will be played again, she's
7 scared that she's gonna be charged because the twins have lied
8 and said that she planned the murder almost as if she was the
9 ringleader which was a lie. There's too much discrepancies:
10 If she knew that the camera was there, she knew the money
11 drop, she woulda told 'em.

12 Now every one of their witnesses who said they
13 participated, they got two they're not even prosecutin' who
14 helped plan it, the twins from Georgia, and the one guy they
15 know who did plead guilty, they only -- he's only facing 20
16 years and the man who they first talked to is the man they
17 wanna penalize, a man who didn't commit the murder and nobody
18 ever wants to be in his position (indicating the
19 defendant) ---

20 MS. SEAY: Objection.

21 THE COURT: Don't personalize. Well go ahead, go
22 ahead.

23 MR. SMITH: --- being accused of a crime they didn't
24 commit, nobody wants to be in that position so, members of the
25 jury, I'm gonna leave it with you, it's in your hands. I can

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1 tell you now everything I told you that I was going to prove
2 that this this house of lies and cards I've proved it and I
3 hope to the satisfaction of each and every one of you, and the
4 judge I believe will charge you that the credibility of the
5 witness is something that you must take seriously and I know
6 you will and I believe that the demeanor of the witnesses are
7 important he will tell you and the demeanor of that man
8 (indicating the defendant) was not hostile, he answered her
9 questions the way she wanted 'em answered even though she was
10 comin' down hard, so thank you, ladies and gentlemen of the
11 jury, for your attention, appreciate you.

12 (Pause.)

13 MS. SEAY: Mr. Foreman, ladies and gentlemen of the jury,
14 thank you for giving me a moment to get organized. I wanna
15 thank you for you service in this case. At the beginning I
16 told you that I understand and recognize that it's an
17 inconvenience for you but it is an important service that you
18 ren -- render, it's important to both the defendant and to the
19 victim in this case, Isaac Bass, his family is here
20 representing him. Let me tell you how the State proved its
21 case and I told ya at the beginning of this case that the
22 State was gonna present some evidence that you were gonna find
23 shocking and appalling: people who had information and never
24 came forward, people who were up to no good, people who simply
25 did unconscionable things, I told you that and I also told you

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1 that the State does not make the evidence in a case, we simply
2 present the case to you to make a decision. If we could
3 choose our witnesses, we would choose angels as our witnesses,
4 that's not real life, those aren't the people who commit
5 crimes. The people that you heard from are the witnesses to
6 the crime and yes, some of them lied, we told you that, they
7 admitted that, but let me tell you what we do know and how the
8 State has proved its case. You heard from Barry Jackson, the
9 manager at the Wendy's, that on the early morning hours around
10 1:30 January 27th 2007 that he was closing down, he had the
11 money out and was counting it, so what about the safe, so what
12 about the money drop. He had the money out, people knew that
13 he had the money out to count it before he put it, uh, in the
14 safe for deposit so that doesn't disprove anything at all. He
15 told you that he let Isaac Bass out the back door against
16 policy 'cause Isaac had parked near the back door. He told ya
17 that Isaac went out the back door and several seconds later he
18 heard Isaac banging and screaming, banging on that door and
19 screaming and then shortly after that he heard two gunshots
20 and he and Shauntiqua Glenn, the other employee that were
21 there, were scared for their lives and they dove into the
22 office and called 911. Now meanwhile Mr. Bass is outside the
23 restaurant fatally injured but trying to get help, stumbling
24 around the front of the Wendy's the way the br -- blood trail
25 led as you were told by forensics and to the drive-thru where

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1 he banged on the window desperate for help but he couldn't
2 speak because he had a bullet wound through his neck and he
3 was, he was, his lungs and upper airway were filling up with
4 blood and he was trying desperately to get someone to help him
5 and they were afraid to go because they didn't know who was
6 tryin' to get in, somebody had just shot through the back
7 door. Meanwhile, Mr. Bass have stumbles across 291 into the
8 sidewalk and is is waiving, holding his neck trying to waive
9 somebody down. And you heard from the young man who stopped
10 to try to help him, Sebastian Restrepo. You heard him say
11 that he stopped, he didn't stop at first because he wasn't
12 sure what was goin' on but he went on up a little ways and he
13 decided to turn around and see if he could help the man so he
14 turned around and he went back and about the same time the
15 police arrived and Mr. Restrepo told ya somethin' very
16 important, he said, I saw two black males run across 291, two
17 black males. I don't know where this three people thing comes
18 from because it was very clear when he started tryin' to make
19 it into three people that it was cleared up that it was two
20 black males running across 291 and the third person out there
21 was the poor victim Isaac Bass, that's the three people that
22 he was talking about, so let's just be, let's be clear about
23 what we're saying here.

24 The police officers on the scene and the original
25 investigator testified for you, police officer who was there

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1 with Isaac Bass when he took his last breath, you heard from
2 him. You heard from the original investigator Sergeant Dan
3 Fuller and he said that they had inconsistent descriptions
4 from witnesses about the clothing and the hair of these black
5 males, that they realized that they were looking for, and he
6 said this from the stand, they realized they were looking for
7 two pairs of two black males which supports the accounts that
8 were given to you by Ricky and Rashad and Jarod. Ricky and
9 Ricky and Rashad said they crossed 291 and were on that path
10 towards Wendy's when they heard the gunshots and they turned
11 around 'cause that they were scared and they ran back across
12 291 so there goes one pair. And then after Korey Love had
13 shot and killed Isaac Bass, he and Jarod run across 291 back
14 to Mallard Cove. Sergeant Fuller told ya he had no viable
15 leads, no info., he had nothin' left to go on so this case
16 basically was just moved over here (indicating). This murder,
17 this terrible thing that happened to this 22-year-old young
18 man was just unsolved.

19 And you heard from Detective Flavell who has over 20
20 years in law enforcement experience, he's worked over a
21 hundred murders. He was assigned this case in 2009 and he
22 started reviewin' documents and puttin' the file back together
23 and tryin' to figure out if there were any leads, he started
24 reviewin' the file and in 2010 he got a lucky break, somebody
25 called in a tip and he testified, he told ya this tip was

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1 about Jerome Love and Kendel Love. He wasn't out looking' for
2 Korey Love, he told ya, he -- we're the ones that brought that
3 out, not the defense as they claim. Detective Flavell told
4 you, I was lookin' for Kendel Love and Jerome Love based on
5 this tip and it -- that led him to Corlissa Orlena Love and
6 when he went to talk to her, she had told her daughter Jalesa,
7 Get up, get dressed, the police are comin' to talk to me about
8 somethin'. And Jalesa testified and she said, I knew what
9 they were comin' for but they had the names mixed up. And how
10 did she know that? 'cause she overheard Korey tellin' his dad
11 about it and they want you to believe that it's totally
12 impossible for Jalesa to have overheard this conversation. He
13 kept talkin' about the two separate houses and how the door
14 wouldn't be open in January. Well, ladies and gentlemen, I
15 submit to you that first of all, we're talking about an
16 apartment complex, not two separate houses, we're talking
17 about apartment complex. We're also talking about a home
18 where there were four children living, not, that's the four
19 Jackson's children, not counting Korey and Kendel and Jerome
20 and Mr. and Mrs. Jackson so it's not implausible that somebody
21 could've left the door open or cracked, it's not, and Jalesa
22 walked to the complex, you heard her. You you are gonna be
23 the judge of these witness's believability and you heard
24 Jalesa Neal and she didn't know that her brother Jarod was
25 involved because all she heard Korey say was that he was with

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1 the twins and Korey obviously when he confessed to his dad at
2 that time was tryin' to protect his good friend Jarod, it
3 turns out they each tried to protect each other. So does it
4 make sense to you that if Jalesa were trying to not get her
5 brother in trouble, that if she even knew of his involvement
6 does it make any sense for her to tell the police to go talk
7 to the twins who were then gonna say that Jarod was there? no,
8 that doesn't make any sense at all. She had no motive
9 whatsoever if you, if you look at the facts of the case. She
10 testified consistently with her statement. She told ya that
11 the reason she didn't come forward with any information is
12 that she was scared and unfortunately there is a feeling
13 amongst certain generations you shouldn't be a snitch, you
14 shouldn't talk about anything that you know. You heard
15 Detective Flavell how many people he talked to that were
16 supposed to have overheard this robbery plan, nobody knows
17 anything. Nobody's gonna talk about it. Why would they wanna
18 get involved? But Jalesa told him what she knew and that led
19 him to the twins down in Fort Benning, Georgia. And when he
20 went down there, he didn't tell 'em that that he was comin',
21 he just went to their house and Ricky was sittin' there
22 watchin' TV by himself and Detective Flavell testified not
23 that he had a file with Korey Love's, name on it, a big file
24 with Korey Love's name on it like the defense told ya, he
25 said, I had an accordion file that had folder's in it with

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1 everybody's name on that I was lookin' at in this case and
2 that Ricky said, Hey, I know Korey Love, Detective Flavell
3 said, Is that right, well I'm investigatin' this murder, do
4 you know anything about it? And Ricky told him an account
5 where he left himself back at the house, back at the apartment
6 because he didn't want to implicate himself by sayin', I was
7 on my way up there and turned around and came home. It makes
8 sense he was tryin' to protect himself and he readily admitted
9 that to you from the witness stand, readily admitted it,
10 readily admitted it to Mr. Smith but he told Detective Flavell
11 that Korey and Jarod came runnin' back to Mallard Cove and
12 that Korey said he had shot a guy that he was tryin' to rob at
13 Wendy's and that Jarod wasn't saying anything, that Jarod was
14 unsteady and seemed dazed: Well next thing ya know his
15 brother Rashad comes in the house not knowin' that the police
16 were comin', not knowin' what it was about. Detective Flavell
17 interviews Rashad separately from Ricky. Well Rashad just
18 tells him the deal: My brother and I were goin'
19 up there 'cause Korey had been plannin' this thing and had
20 called us and said it's gonna go down and we were on our way
21 up there but we heard gunshots and we turned around and ran
22 back to our apartment and shortly thereafter Korey and Jarod
23 came runnin' back through the cut and Korey said, this is from
24 Rashad's mouth, Korey said, I shot the guy because he saw my
25 face. That, ladies and gentlemen, is malice and I submit to

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1 you that you consider it as such. So the next thing that
2 happens is Detective Flavell's investigation starts leading
3 him to Rashida Peters and Jarod Ransom, after he talks to the
4 twins he gets those two names as possibly bein' involved. So
5 he's investigatin' Korey, Rashida and Jarod and on March the
6 16th 2010, Korey comes to the Law Enforcement Center with
7 Rashida Peters, they wanna distance themselves now, We were
8 just talkin', we we weren't that close, you know. She's right
9 here on the stand testified under oath that she still loves
10 Korey Love; she showed up at the detention center with him.
11 And Detective Flavell went through this (indicating) Rights
12 Waiver, you'll have this back there to look at, and he
13 testified and Korey even admitted this that Detective Flavell
14 told him, I'm investigating a murder at Wendy's and you are a
15 suspect. Korey Love reiterated what the detective told you
16 and then Korey Love gives this statement, Detective Flavell
17 asked me to tell him about the Wendy's murder that happened in
18 2007, I did not have any involvement in the murder and I don't
19 know who was involved in the murder. He had an opportunity as
20 a suspect in a murder case to give a statement and that's what
21 he said? And then today he wants to come in here and tell you
22 and that he was at home and he remembers it that specific
23 night between those hours? That's ridiculous, it is obviously
24 contrived, totally not believable I submit to you.

25 That same day Rashida is interviewed and here's what she

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1 said:

2 (Whereupon, State's Exhibit No. 39, CD-R RP-C of Rashida
3 Peters, was played for the jury.)

4 MS. SEAY: She says the name Isaac and she says in the
5 next sentence, Korey told me he killed somebody. You can
6 listen to it, it's in evidence. She was conveniently not
7 working that night, I just wanna point that out and she was
8 never charged. Detective Flavell told ya he never had any
9 direct evidence, nothin' other than assumptions by people that
10 she had given information, he didn't have any direct evidence
11 to charge her. So on April 22, 2010 Detective Flavell after
12 having talked to Rashad and after having talked to some other
13 people, he knows that Ricky has purposely left himself out of
14 the statement so he goes back down there and he says, I know
15 you lied to me, your own brother said you were on the way to
16 Wendy' and Ricky says, Yes, we were, we were on the way and
17 Korey planned it and Korey called us to come out and we waited
18 about ten minutes 'cause it took us that long to sneak outta
19 the house which these kids were doin' all the time, they all
20 said so, it's not impossible. You heard Jarod say that Korey
21 just walked out the door that night and I suppose he could get
22 back in by just leavin' the door cracked. So Ricky tells the
23 truth. He comes to court and he tells you the truth about his
24 own involvement and Rashad told you the truth about his own
25 involvement. Does it make any sense for them to place

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1 themselves in the kinda position they placed themselves in
2 that we were going to participate in a robbery but turned
3 around? If it weren't true, does that make any sense to you?
4 I submit to you that it does not.

5 So we get to July of 2010, Detective Flavell has now
6 identified Jarod as bein' in the military over in Okinawa,
7 Japan and he asks for the assistance of the Naval Criminal
8 Investigative Services to interview him. They interview him
9 and Jarod told you from the stand this morning, I told him I
10 wasn't involved, I lied. And when asked if he disgraced his
11 country and his uniform he said, Yes, I did. He didn't make
12 any bones about it, he told ya and you're the judge of his
13 credibility and his believability, you and you alone, not the
14 defense attorney, you are and judge is gonna tell you that.
15 So he was interviewed again the next day and he says, Yes, I
16 was there, I was there with this guy named Byrd who did the
17 shooting and he told ya he substituted Byrd for Korey his good
18 friend and Korey had done the same thing earlier when he said
19 the twins were with him instead of sayin' that Jarod was with
20 him. They each protected each other because they were like
21 brothers, that's the testimony you heard, although Korey wants
22 to take the stand today and distance himself from Jarod and
23 Ricky and Rashad, Nah, they're all lyin', all of 'em. It's a
24 grand conspiracy against Korey Love. No.

25 Ricky, Rashad and Jarod are all consistent about the

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1 central facts of this case: The fact that Korey brought up
2 robbin' the Wendy's on more than one occasion. Korey was the
3 one who brought it up, they were all consistent about that.
4 They were all consistent about the fact that Jarod and Korey
5 were the two that went up to Wendy's after somebody, Korey,
6 called the twins. The cell phone, Jarod said he didn't have a
7 cell phone but Korey did so possibly the twins are mistaken
8 about who they got the call, what phone they got the call from
9 but they all said it was Korey that called. So because there
10 are minor inconsistencies in certain details doesn't mean that
11 the incident didn't happen or that you can't believe these
12 witnesses because if they all came in here and told you the
13 same story verbatim, word for word, then the defense would
14 stand up here and say the State has rehearsed these witnesses,
15 the State has met with these witnesses and told them what to
16 say. So we expect minor inconsistencies, everybody doesn't
17 remember things the same way. This was three years after the
18 incident happened when they were finally confronted and forced
19 to tell the truth.

20 Finally, I want you to consider the testimony of Jarod
21 Ransom that you heard this mornin'. He has accepted
22 responsibility for his role in this incident. He has pled
23 guilty to attempted armed robbery and he knows and
24 acknowledges to you that he is going to get a serious amount
25 of time in this case. Nobody's promised him anything else and

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1 the murder charge, yes the murder charge is going to be
2 dismissed. He didn't shoot anybody, Korey Love, Korey Love
3 was the shooter. And Jarod told ya that he did not kill Isaac
4 Bass, that he did not know that Korey had a gun. The twins
5 said they didn't know Korey had a gun. Korey is the one who
6 made the decision to take a gun to what the other kids thought
7 was just a let's go take some money from somebody. Korey made
8 that decision. He took the gun. He made a conscious decision
9 to do so and now a young man, an innocent young man is dead.
10 Jarod today looked Korey straight in the eyes and you heard
11 him and he said, We both know the truth and I loved you like a
12 brother. You're the judge of his sincerity. Ladies and
13 gentlemen, this isn't TV, this is real life. There's no
14 physical evidence to connect this defendant to the scene, he
15 deprived you of the physical evidence, he got rid of the gun.
16 Ricky Simmons told ya he had his good friend Primo Lyles get
17 rid a the gun in the trash bag in a sewer drain which could
18 not possibly ---

19 MR. SMITH: Your Honor, he never mentioned, that wasn't
20 mentioned in the te ---

21 THE COURT: Well what's the objection?

22 MR. SMITH: I object to mischaracterizin'.

23 THE COURT: Well the jury ---

24 MR. SMITH: I never heard Primo ---

25 THE COURT: --- the jury will ---

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1 MR. SMITH: Okay.

2 THE COURT: --- judge the evidence. Go ahead.

3 MS. SEAY: So it's impossible to retrieve somethin' from
4 three years earlier that was thrown away in a sewer drain or
5 pipe. Detective Flavell told ya he investigated that. They
6 went out with cameras, he did a walk down a creek. But Korey
7 Love deprived you of the murder weapon and the other thing
8 about TV is, you know, we get desensitized to violence on TV
9 and with movies but this is real, ladies and gentlemen, this
10 happened at our Wendy's over on North Pleasantburg Drive here
11 in Greenville where we all live.

12 Finally, I just wanna tell you that the defense witnesses
13 didn't help you any and here's why: The records-keeper from
14 Bonefish Grill came and brought Jerome's work records, so
15 Jerome got off at 11:56 or whatever it was p.m. on that Friday
16 night, so what do ya do with that? Jerome wasn't here. They
17 promised you Jerome in their opening statement. They promised
18 you Demetrius Jackson in their opening statement. He wasn't
19 here. This is your opportunity to do justice in this case
20 under the oath that you have taken. You can be instruments of
21 justice for Isaac Bass. His death was not the final chapter
22 of his life, this trial is the final chapter of his life and
23 you heard a lot about reasonable doubt and the judge is gonna
24 tell you what reasonable doubt is. Reasonable doubt means you
25 must be firmly convinced of defendant's guilt and if you're

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1 firmly convinced then you should convict him, it doesn't mean
2 that you can have a doubt or any doubt and just decide to find
3 him not guilty, that's not what it means at all because if
4 that were the case there would never be a criminal defendant
5 convicted in any court anywhere. Your doubt must be
6 reasonable, you must be firmly convinced of his guilt.

7 When I was talkin' about TV a minute ago, I meant to say
8 to you too that the defendant testifying today was not like on
9 TV because on TV the defendants get on the stand and the
10 prosecutor grills 'em and they confess but that's not what
11 happens in real life. People take the stand and they say they
12 weren't there, they didn't do it and I want you to consider
13 his credibility, his believability, just like you do all the
14 other witnesses and what I saw, maybe you saw it too, was
15 flat, emotionless, exactly like Ricky and Rashad described him
16 when he got back from the Wendy's after killing a man, that
17 that was how he acted. There's no premeditation required for
18 murder in this state, only malice aforethought. Malice the
19 judge is gonna tell you can be inferred by the use of a deadly
20 weapon and, ladies and gentlemen, the physical evidence is
21 here. You have two spent shell casings which means two shots
22 were fired which is what the witnesses heard, one was into the
23 door, the back door of Wendy's, that was when Korey Love first
24 tried to shoot Isaac Bass when he was tryin' to get away from
25 him, he missed and then he didn't know he had another bullet

JURY CHARGE

1 in the chamber so he racked that gun and that live round that
2 we have here fell out and he racked it to put another bullet
3 in there so he could shoot the man who was tryin' to get away
4 from him because he had seen his face, so there it is, you
5 will have it in the jury room to look at.

6 Evidence comes in all forms, ladies and gentlemen, and
7 the evidence in this case is not pretty but it proves that
8 that man (indicating the defendant) killed somebody and I ask
9 you to hold him responsible today. Thank you.

10 THE COURT: Alright, ladies and gentlemen, sometimes
11 it's -- you've been seated for a while, uh, I'm gonna ask if
12 you want to to stand and stretch for just a minute then I'll
13 finish, give you the fourth part of the trial which is my
14 charge to you on the law, so if you need to stretch, please
15 stand and stretch.

16 (Whereupon, some members of the jury stood.)

17 (Whereupon, a discussion was held off the record.)

18 THE COURT: Alright, ladies and gentlemen of the jury,
19 during this trial you and I have certain duties to perform and
20 as the trial judge it is my responsibility to preside over the
21 trial of the case and rule on the admissibility of the
22 evidence offered during the trial, it is also my duty to
23 charge you the law applicable to the case and it is your duty
24 as jurors to accept and apply the law as I now state it to
25 you. As I've told ya in my opening comments if you think you

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1 have any idea as to what the law is or what the law should be
2 and it differs from what I now tell you the law is, you have
3 sworn an oath to set aside your own opinion and apply the law
4 precisely as I state it to you. I would also remind you that
5 in every case tried in this court before a jury, the jury is
6 the sole and exclusive judge of the facts and the trial judge
7 is not allowed to have any opinion about the facts or to
8 comment on the facts so don't think by anything I may have
9 said or done throughout the course of the trial that I have an
10 opinion, I do not, the law does not allow it, and you all are
11 the sole judges of the facts.

12 I again instruct you that the fact that the defendant was
13 arrested, charged and indicted in this case is not evidence of
14 guilt nor does it create any presumption or inference of
15 guilt. These documents are simply the formal written
16 instruments which contain the charge made against the
17 defendant and they serve as the formal documents by which the
18 case is processed and brought into court. Now there are three
19 indictments in this case that charge four separate offenses
20 and those are an indictment or a charge for murder, a charge
21 for attempted armed robbery, a charge for possession of a
22 weapon during the commission of a violent crime and possession
23 of a pistol by a person under the age of 18 years. I will
24 tell ya that each charge in in the indictments charges a
25 separate and distinct offense and you must decide each charge

JURY CHARGE

1 separately on the evidence and the law applicable to that
2 charge uninfluenced by your decision as to any other charge
3 against the defendant and then the defendant may be convicted
4 or acquitted on any or all of the offenses charged and you
5 will be asked to write a separate verdict of guilty or not
6 guilty for each charge.

7 Now necebil -- excuse me, necessarily, you must determine
8 the credibility or believability of the witnesses who have
9 testified and it becomes your duty as jurors to evaluate the
10 evidence and determine which evidence convinces you that it is
11 true and in determining the believability of the witnesses,
12 you may believe one over several or several over one. You may
13 believe a part of the testimony of a witness and reject the
14 remaining part. You may believe the testimony of a witness in
15 its entirety or reject that testimony in its entirety and you
16 may consider, excuse me, whether the witness has an interest
17 in the result of the trial, whether the witness is prejudiced
18 towards either the State or the defense and the opportunity
19 for the witness to have seen the matters and things about
20 which the witness has testified. Now, excuse me, there's been
21 evidence presented that witnesses have made prior statements
22 which are not consistent with the witness's present testimony
23 and you may use this evidence to decide whether to believe the
24 witness, you may also use evidence of the earlier
25 contradictory statements to determine the truth of those

JURY CHARGE

1 statements. It is up to you to decide whether to believe the
2 earlier statements or the testimony given at trial. Now a
3 person who has a past criminal record is competent to testify
4 during a trial and a past record does not affect the ability
5 of that witness to testify. The past record may only be
6 considered by you, if at all, in determining a witness's
7 believability. Remember, you are the sole judges of the facts
8 in the case and of the believability of any and all of the
9 witnesses.

10 Now the defendant has pled not guilty to these
11 indictments and that plea puts the burden on the State to
12 prove the defendant guilty. A person charged with committing
13 a criminal offense in South Carolina is never required to
14 prove themselves innocent and I charge you that it is a
15 cardinal and a an important rule of the law that the defendant
16 in a criminal trial will always be presumed innocent of the
17 crime for which an indictment has issued unless guilt has been
18 proven by evidence satisfying you, the jury, of guilt beyond a
19 reasonable doubt. Now a reasonable doubt is the kind of doubt
20 which would cause a reasonable person to hesitate to act and
21 reasonable doubt may arise from the evidence which is in the
22 case or from the lack or absence of evidence in a case and
23 you, the jury, must determine whether or not reasonable doubt
24 exists as to the guilt of this defendant and the State has the
25 burden of proving each and every element of a crime beyond a

JURY CHARGE

1 reasonable doubt and any reasonable doubt that you may have in
2 your deliberations should be resolved in favor of the
3 defendant.

4 The defendant is charged with murder and the State must
5 prove beyond a reasonable doubt that the defendant killed
6 another person with malice aforethought. Malice is hatred,
7 ill will or hostility towards another person, it is the
8 intentional doing of a wrongful act without just cause or
9 excuse and with an intent to inflict an injury or under
10 circumstances that the law will infer an evil intent. Malice
11 aforethought does not require that malice exists for any
12 particular length of time before the act is committed but
13 malice must exist in the mind of the defendant just before and
14 at the time the act is committed; therefore, there must be a
15 combination of the previous evil intent in the act and malice
16 aforethought may be expressed or inferred. These terms
17 "expressed" and "inferred" do not mean different kinds of
18 malice but merely the manner in which malice may be shown to
19 exist, that is either by direct evidence or by inference from
20 the facts and circumstances which are proved. Expressed
21 malice is shown when a person speaks words which express
22 hatred or ill will for another person or when the person
23 prepared beforehand to do the act which was later
24 accomplished. Malice may be inferred from conduct showing a
25 total disregard for human life and inferred malice may also

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1 arise when the deed is done with a deadly weapon and a deadly
2 weapon is any article, instrument or substance which is likely
3 to cause death or great bodily harm and whether an instrument
4 has been used as a deadly weapon depends on the facts and
5 circumstances of each case. If facts are proved beyond a
6 reasonable doubt sufficient to raise an inference of malice to
7 your satisfaction, this inference would be simply an
8 evidentiary fact to be considered by you along with all of the
9 other evidence in the case and you all give it the weight that
10 you think it should receive. Now if a person intentionally
11 kills another during the commission of a felony, implication
12 of malice may arise and if facts sufficient to raise an
13 inference of malice are proved beyond a reasonable doubt, such
14 inference would be simply an evidentiary fact to be taken into
15 consideration by you, the jury, along with other evidence in
16 the case and you, the jury, will give it such weight as you
17 think it should receive.

18 I will tell you under our state law attempted arm
19 robbery, an attempted armed robbery is a felony. Now the
20 defendant is also charged with attempted armed robbery so I
21 will explain to you what armed robbery is. The defendant is
22 charged or with attempted armed robbery. In order to prove
23 armed robbery, the State must first prove beyond a reasonable
24 doubt that the defendant took personal property from the
25 person or presence of another person. Property is in the

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1 presence of a person if it is within the person's reach,
2 inspection, observation or control so that the person could,
3 if not overcome with violence or prevented by fear, keep
4 possession of the property. The State must also prove beyond
5 a reasonable doubt that the defendant carried the property
6 away intending to permanently deprive the owner of the
7 property and to keep the property for the defendant's own use.
8 The slightest removal of the property or the complete
9 possession of the property even for an instant by the
10 defendant is sufficient to show a taking and carrying away of
11 the property and the taking and carrying away of the property
12 must have been done with violence or by putting the owner of
13 the property in fear of violence. Finally, the State must
14 prove beyond a reasonable doubt that the defendant was armed
15 with a deadly weapon during the robbery or alleged that he was
16 either by action or words armed using a representation of a
17 deadly weapon or any object which a person present during the
18 commission of the robbery reasonably would believe to be a
19 deadly weapon and a deadly weapon is any article, instrument,
20 or substance which is likely to cause death or great bodily
21 harm and whether an instrument has been used as a deadly
22 weapon depends on the facts and circumstances of each case,
23 that is armed robbery. The defendant is charged with
24 attempted armed robbery and so I'll define an attempt and that
25 is an attempt is an effort to accomplish a crime which does

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1 not succeed. An attempt includes a specific intent to do a
2 particular criminal act along with an act falling short of the
3 act intended. The State must show more than mere preparation
4 and intent, there must be some overt act committed in the
5 effort to commit the crime and intent means intending the
6 result which actually occurs, not accidentally or
7 involuntarily and intent may be shown by acts and conduct of
8 the defendant in other circumstances from which you may
9 naturally and reasonably infer intent.

10 The defendant is also charged with possession of a weapon
11 during the commission of or attempt to commit a violent crime.
12 Now the State must prove beyond a reasonable doubt that the
13 defendant was in possession of a firearm or visibly displayed
14 what appeared to be a firearm during the commission of a
15 violent crime and a firearm mean -- means any machine gun,
16 automatic rifle, revolver, pistol or any weapon which will, is
17 designed to or may be readily converted to expel a projectile
18 and in order to find the defendant guilty of possession of a
19 weapon during the commission of a violent crime, you must
20 first find the defendant guilty of either committing a violent
21 crime or attempting to commit a violent crime and, ladies and
22 gentlemen, I will tell you that under our statute and laws
23 attempted armed robbery and murder are considered violent
24 crime -- violent crimes.

25 Finally, the defendant is charged with, uh, unlawfully

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1 possessing a pistol by a person under the age of 18 and South
2 Carolina Code of Laws Section 16-23-30 reads in part, Sale of
3 delivery -- sale or delivery of handgun to and possession by
4 a certain person's unlawful. It is unlawful for a person to
5 knowingly sell, offer to sell, deliver, lease, rent, barter,
6 exchange or transport for sale into this state any handgun to
7 any person under the age of 18.

8 Now, the defendant has raised the defense of alibi and in
9 order to establish an alibi it must be shown that the
10 defendant was at another specified place at the time the crime
11 was committed and that it was therefore impossible for the
12 defendant to have been at the scene of the crime. Mere denial
13 of presence at the scene of a crime does not constitute an
14 alibi. There is no burden on the defendant to prove an alibi,
15 the burden is on the State to prove beyond a reasonable doubt
16 that the defendant was actually present at the scene of the
17 crime, actually participated in it and was not somewhere else.

18 Now, Mr. Foreman, ladies and gentlemen of the jury, there
19 are four charges in this case and as to each charge there are
20 two possible verdicts, there's no importance of the order in
21 which I state 'em, one's gotta go first before the other, and
22 they are guilty or not guilty and we have prepared a verdict
23 form which we will send back into the jury room with you for
24 your consideration and also for you to write down the verdict
25 that you reach on each separate charge and I would remind you

JURY CHARGE

1 that each charge stands or falls on its own merits, there's
2 one sort of exception and that is you cannot find the
3 defendant guilty of possession of a handgun during the
4 commission of a violent crime if you do not find him guilty of
5 one of the two violent crimes, either murder or attempted
6 armed robbery. I hope that's clear, okay.

7 Ladies and gentlemen, I wanna tell you that all twelve of
8 you must agree on your verdict, it must be unanimous and your
9 verdict cannot be based on sympathy, passion, prejudice,
10 emotion or any other consideration which is not in evidence in
11 the case; you have no enemies to punish and you have no
12 friends to reward. Now, Mr. Foreman, I'm gonna excuse you all
13 back to your, to the jury room, ask you not to begin your
14 deliberations just yet. I need to go over my charge on the
15 law with the attorneys to make sure I haven't omitted
16 something or misstated something so when the evidence comes
17 back with the verdict form, ya'll may begin your deliberations
18 so I will excuse everyone except Ms. Barrera and
19 Ms. Ballinger, okay.

20 (The following takes place outside the presence of the
21 jury.)

22 THE COURT: Ladies, this is always a difficult part for
23 me, you all are just as qualified as each of those twelve
24 persons, we knew this was gonna be a multi-day trial and so I
25 hope you understand why we needed to have alternates and we --

MOTIONS AND MATTERS

1 it it happens not infrequently that someone takes ill or some
2 emergency comes up but I and I wish I could let you go back
3 there but I can't so you all are free at this time to go home.
4 I I wish I could tell you were done for the week, I have to
5 ask you to call back after six o'clock tonight, okay. Thank
6 you very much.

7 (Whereupon, the alternate jurors left the courtroom.)

8 THE COURT: Alright, any exceptions or objections to the
9 charge from ---

10 MR. SEAY: Nothing from ---

11 THE COURT: --- the State?

12 MS. SEAY: --- the State.

13 MR. SMITH: From the defense?

14 MR. SMITH: Your Honor, out of an abundance a caution on
15 the alibi part you said mere denial, I think we did have a
16 witness that that confirmed what he said so I ---

17 THE COURT: Well I don't think it's an incorrect
18 statement at all, ---

19 MR. SMITH: Okay, alright.

20 THE COURT: --- he can't just say he wasn't there, he's
21 gotta specify where he was.

22 MR. SMITH: Oh, okay.

23 THE COURT: Okay, that's what that's about.

24 MR. SMITH: Alright.

25 THE COURT: Alright. Alright, well ya'll make sure the

MOTIONS AND MATTERS

1 evidence is good.

2 (Whereupon, the attorneys examined the exhibits.)

3 (Whereupon, a discussion was held off the record.)

4 THE COURT: Alright, we'll be at ease. I would like to
5 say to everyone and I'm sorry Mr. Love is not here that they
6 should be well satisfied with the representation of
7 attorneys, this was an excellent trial so alright, ---

8 MR. SMITH: Thank Your Honor.

9 THE COURT: --- with that we'll be at ease.

10 (Whereupon, the jury began deliberations at 4:27 p.m.)

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

12 THE COURT: He -- you can stand right there (indicating
13 to defendant). Just wanna put on the record that when we had
14 a bench conference after the close of the evidence and we
15 talked about a a number of things, one thing that we talked
16 about was Mr. Smith made his his his usual motions at the
17 close of the trial -- do you wanna ---

18 MR. SMITH: Yes, sir, mo ---

19 THE COURT: Yeah.

20 MR. SMITH: To, uh, the charges be dismissed, a directed
21 verdict in favor of the defendant, that all charges be
22 dismissed.

23 THE COURT: Okay, and I told him at that time that I was
24 gonna deny 'em, that we'd put it on the record and we
25 neglected to do that before I charged them on the law so

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1 we're -- just want it to be clear on the record that he made
2 the motions and and they were denied.

3 MR. SMITH: Thank Your Honor.

4 THE COURT: Alright. Thank you.

5 MR. SMITH: Thank you.

6 (Whereupon, a recess was taken.)

7 THE COURT: You ready? Alright, we have a note from the
8 jury, three separate requests: Number one, we would like to
9 hear State's Exhibit 39 played again; two, we would like to
10 hear slash read the transcripts of the Simmons brothers'
11 interview by Detective Fuller at Fort Benning. Is there such
12 a thing?

13 MR. STEINBERG: It was Detective Flavell, Your Honor,
14 and it was not introduced, it was discussed so there would be
15 transcripts. There would be the court reporter's discussion
16 of what was read and what they agreed with. I think both
17 myself and opposing counsel both said, Did you make the
18 statement, did you make that statement and that that might be
19 what they'r talking about I was reading ---

20 MR. SMITH: Yeah, ---

21 MR. STEINBERG: --- and opposing ---

22 MR. SMITH: --- they are right.

23 MR. STEINBERG: --- counsel read it.

24 THE COURT: Alright. And Number 3, transcript for
25 Detective Fuller and Restrepo that lay witness, okay. What is

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1 Exhibit No. 39?

2 MR. STEINBERG: It might be the DVD with co-defendant.

3 THE COURT: You have it, Maggie?

4 COURT REPORTER: Let me check my list. CD RP(C).

5 MS. SEAY: Oh, they should have that, it's in evidence.

6 COURT REPORTER: Um-hum.

7 THE COURT: Yeah, they wanna hear it.

8 MS. SEAY: Oh, okay.

9 THE COURT: And what was it?

10 MS. SEAY: It's the clip of Rashida Peters.

11 THE COURT: Okay. How, uh, -- Maggie, go off the record.

12 (Whereupon, a discussion was held off the record.)

13 THE COURT: Alright, well let's bring 'em in.

14 (Whereupon, a discussion was held off the record.)

15 THE COURT: Is it a video or just a audio?

16 MS. SEAY: It's just that audio clip.

17 (Whereupon, a discussion was held off the record.)

18 THE BAILIFF: Ready?

19 THE COURT: Yeah.

20 (The following takes place in the presence of the jury.)

21 THE COURT: Alright, Mr. Foreman, ladies and gentlemen,

22 we will cue up and play State's Exhibit No. 39 in just a

23 second. With respect to your second request you'd like to

24 hear or read the transcripts of the Simmons brothers'

25 interview by Detective Fuller at Fort Benning, I don't believe

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1 it was Detective Fuller who interviewed them at Fort Benning,
2 it was Detective Flavell, okay. Detective Fuller was the
3 sergeant who appeared in uniform and then Detective Flavell is
4 here in the courtroom but what we can do is just we don't have
5 transcripts, we'll have to try and find it in the record and
6 play it back to you, okay? Your third request is the
7 transcript for Detective Fuller and Restrepo, okay. Sebastian
8 Restrepo we we -- he's about 5 1/2 minutes wortha testimony.
9 Now we need to know is it Detective Fuller or Detective
10 Flavell that you're interested?

11 JURY FOREMAN: Fuller on the third.

12 THE COURT: Fuller, okay. Alright, that is 21 minutes,
13 21:09, okay. So it's six o'clock, I just need to know if you
14 all would like to, uh, so you you can see this is gonna take
15 some time. We've got two of 'em we can do pretty promptly
16 'cause we or or three: We can do Restrepo, Fuller and Exhibit
17 39. The second one we're gonna have to find it in the, in the
18 testimony to play it for ya. Do you want his whole testimony
19 or do you just want the part about the interview at Fort
20 Benning? The question reads, We'd like to hear or read the
21 transcripts of the Simmons brothers' interview by Detective
22 Fuller at Fort Benning.

23 JURY FOREMAN: I think we were just interested in the the
24 interview between ---

25 THE COURT: Alright, will take us a ---

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1 JURY FOREMAN: --- Flavell ---

2 THE COURT: --- little bitta time. We'll go ahead and
3 get started with 39. I'm gonna ask the solicitor's office to
4 to cue that up. And then the other question is knowing how
5 that this is gonna take some time, would you like, all like to
6 order some food to eat or do you -- no? Okay.

7 (Whereupon, Exhibit No. 39, CD RP(C) of Rashida Peters
8 was played for the jury.)

9 THE COURT: Okay. You wanna hear it again?

10 UNIDENTIFIED JUROR: Yes, please.

11 THE COURT: Play it again, please.

12 (Whereupon, Exhibit No. 39, CD RP(C) of Rashida Peters
13 was played for the jury.)

14 THE COURT: Okay? Again or good?

15 UNIDENTIFIED JUROR: I'm good.

16 UNIDENTIFIED JUROR: Good.

17 UNIDENTIFIED JUROR: We're good.

18 THE COURT: Alright, let's cue up now, Maggie, if you can
19 let's do Respe -- Restrepo first. He was the -- oh, you got
20 him, right? Was like the third witness, fourth witness right
21 after, uh, ---

22 COURT REPORTER: Shelton.

23 THE COURT: Shelton.

24 (Whereupon, the testimony of Sebastian Restrepo was
25 played for the jury.)

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1 THE COURT: Okay. Alright, see if you can find Detective
2 Fuller.

3 (Whereupon, the testimony of Daniel C. Fuller was played
4 for the jury.)

5 THE COURT: Do you know what we're lookin' for next,
6 Maggie? It's gonna be in Detective Flavell's.

7 (Whereupon, a discussion was held off the record.)

8 THE COURT: Okay, let me, uh, -- we -- this is gonna take
9 a little bitta time to find so let me excuse you all back to
10 your room, ya'll talk, it's now 6:37 and ya'll decide if you
11 would like to order something, it takes time to get it if
12 that's what you wanna do so we'll get right back with ya,
13 okay, and if ya need anything else, let us know so we can
14 kinda get cued up for it. Okay, thanks.

15 (The following takes place outside the presence of the
16 jury.)

17 (Whereupon, a discussion was held off the record.)

18 MR. SMITH: Can I step out, please, sir?

19 THE COURT: Yeah, we'll be at ease while she looks for
20 this.

21 MR. SMITH: Thank you.

22 (Whereupon, a recess was taken.)

23 (The following takes place in the presence of the jury.)

24 THE COURT: Alright, I think we're ready.

25 (Whereupon, a portion of Collis Flavell's testimony on

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1 direct examination was played for the jury.)

2 THE COURT: I want ya'll to know this -- his te -- his
3 testimony goes for an hour so that there's probably 45 min --
4 30 to 45 minutes left. You all just signal when you want --
5 that that's all there is about the statement so signal if
6 if ---

7 (Whereupon, a discussion was held off the record.)

8 JURY FOREMAN: Alright, I think we're we're good.

9 THE COURT: Okay, alright. You all gettin' some sodas or
10 sumtin' back there? Okay, alright, thank you very much.

11 (The following takes place outside the presence of the
12 jury.)

13 THE COURT: Alright, we'll be at ease.

14 MR. SMITH: Thank Your Honor.

15 THE COURT: Don't go too far I don't imagine.

16 (Whereupon, a recess was taken.)

17 THE COURT: I don't know where they are but, ya know,
18 they haven't asked for dinner but that doesn't mean everybody
19 else who wor -- works here doesn't deserve to have dinner so I
20 I think, uh, what I would propose is that we, uh, I can bring
21 'em back in and just tell 'em, ask 'em if they wanna continue
22 their deliberations tonight or we can come back tomorrow. Is
23 that agreeable?

24 MR. SMITH: Yeah, you the boss, Your Honor, you know.

25 THE COURT: Okay, well ya got any objections to it?

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1 MR.. SMITH: No, sir.

2 THE COURT: How 'bout from the State?

3 MS. SEAY: No.

4 THE COURT: I'd rather get it done tonight but I think we
5 just, ya know, so let's bring...

6 (The following takes place in the presence of the jury.)

7 THE COURT: Okay, I know ya'll are workin' hard, I'm
8 happy to see no torn clothes or black eyes or anything.

9 (Laughter.)

10 THE COURT: I, it's almost quarter of eight and I have as
11 a young lawyer stayed till midnight when I was tryin' a case
12 but we don't do that anymore so I would put it to you all if
13 you think, if you nee -- if you think it's gonna be a a a good
14 while before you come to your unanimous decision on each case
15 then I think we should come back tomorrow. A number of things
16 that go into that; one, I don't want you all to get tired,
17 hungry and it's too late now for the places where we can order
18 food, we have to have an account with 'em, it's too late to
19 order dinner for ya and I also have to think about courthouse
20 staff and all that sorta thing so do you all know if
21 you're gonna need time? If it -- if you thought you'd be done
22 in the, in the very near future, I -- that be fine but if it's
23 gonna ta -- and I don't want you to feel rushed so can ya'll
24 say? Maybe not. Ya'll, I'll tell you what, don't talk in
25 here, ya'll go back and let and then just let the bailiffs

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1 know, okay.

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: Alright, we'll just be at ease for a couple
5 minutes and see what they say.

6 THE BAILIFF: Do you want me to bring them in?

7 THE COURT: Yeah, yeah, I'm sorry, I thought you were.

8 (The following takes place in the presence of the jury.)

9 THE COURT: Alright, Mr. Foreman, ladies and gentlemen of
10 the jury, I understand ya'll would like to to retire for the
11 evening come back tomorrow.

12 (Whereupon, the jury nodded in the affirmative.)

13 THE COURT: Okay, I think that's probly good decision,
14 you'll get rested and collect your thoughts and only your
15 thoughts. Don't talk about it with whoever you see tonight,
16 don't go on the internet, don't visit the site and we'll see
17 you back, what time would ya'll like to come at 9 or 9:30,
18 what would you like?

19 UNIDENTIFIED JUROR: 9:30.

20 UNIDENTIFIED JUROR: 9:30.

21 THE COURT: Nine o'clock.

22 UNIDENTIFIED JUROR: Nine.

23 THE COURT: Okay. We'll look for ya at nine o'clock
24 then. Ya'll have a great night. Thank you very much.

25 (The following takes place outside the presence of the

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1 jury.)

2 THE COURT: Alright, nine o'clock tomorrow.

3 MR. SMITH: Thank Your Honor.

4 THE COURT: See ya'll tomorrow.

5 (Note from the jury marked Court's Exhibit No. 2 for
6 identification.)

7 (Proceedings November 8, 2012)

8 (Whereupon, the jury continued deliberations at 9:05
9 a.m.)

10 MR. SMITH: Your Honor, I apologize. I I had -- I'm
11 sorry.

12 THE COURT: Well ya need to leave your phone on ---

13 MR. SMITH: Yes, sir.

14 THE COURT: --- when you leave the courthouse.

15 MR. SMITH: Yes, sir.

16 THE COURT: We have a question: "Which twin says Korey
17 shot Isaac Bass because Isaac saw Korey's face? Did Ricky or
18 Rashad say that first? Can you answer that for us without us
19 listening to the twins' testimony again?" So, simple answer
20 to that is we have determined in the testimony that it was
21 Rashad, we found it and we can get there, isn't that right,
22 Maggie?

23 COURT REPORTER: Um-hum.

24 THE COURT: Or we can just tell them. Do you have a
25 position from the State?

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1 MS. SEAY: Um, I think it's very short if if we wanted to
2 just play it for them.

3 THE COURT: Is there a position from the defense?

4 MR. SMITH: I have no problem. Uh, yeah, how short is
5 it? Is it ---

6 THE COURT: It's very short ---

7 MR. SMITH: Okay.

8 THE COURT --- but that they only wanna know who said
9 it.

10 MR. SMITH: Okay, I I don't have any problem if we write
11 it down that and say ---

12 THE COURT: No, ---

13 MR. SMITH: --- who s ---

14 THE COURT: --- I will ---

15 MR. SMITH: Okay.

16 THE COURT: The thing is I'm gonna tell 'em whose
17 testimony it is when they ---

18 MS. SEAY: Right.

19 THE COURT: --- come out here if we play it for 'em ---

20 MS. SEAY: Right.

21 THE COURT: --- but ---

22 MS. SEAY: --- yes, sir.

23 THE COURT: --- I'm proposing writing a note to 'em we
24 have located the testimony and and can play it for you, it is
25 very short, and we'll just see how they respond. Okay,

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1 Maggie, would you put a Court's Exhibit sticker on there and
2 we'll send it back in.

3 COURT REPORTER: Sure.

4 (Note from the jury marked Court's Exhibit No. 3 for
5 identification.)

6 THE COURT: If you would just give it to 'em and ask
7 'em -- just wait for their response, see if they wanna hear it
8 or if they want us to tell 'em.

9 THE BAILIFF: Okay.

10 THE COURT: No, just tell 'em we'll just play it for 'em.

11 (Pause.)

12 (Whereupon, a discussion was held off the record.)

13 THE COURT: He, the foreperson says all they wanna know
14 is the name of the person who said it...

15 MS. SEAY: Okay, no objection from the State.

16 MR. SMITH: Objection to this from the defense.

17 THE COURT: Okay.

18 MR. SMITH: That would constitute havin' to replay all
19 the ---

20 THE COURT: We'll we'll -- we're just gonna play the,
21 just gonna tell 'em Rashad Simmons.

22 (Whereupon, a discussion was held off the record.)

23 THE COURT: Okay. Tell 'em that, you know, to keep that.
24 Alright, we'll just be at ease.

25 MR. SMITH: Thank Your Honor.

VERDICT

1 (Whereupon, a verdict was reached at 2:57 p.m.)

2 THE COURT: Alright, this has been a long, well-conducted
3 trial and I understand with the seriousness of the charges
4 that people may feel emotional. I don't know what the
5 outcome's gonna be but if you are unable to restrain your
6 emotions then leave the courtroom now 'cause we will not have
7 any outbursts in the courtroom, okay. Alright.

8 (The following takes place in the presence of the jury.)

9 THE COURT: Alright, Mr. Foreman, I understand you've
10 reached a verdict.

11 JURY FOREMAN: Yes, Your Honor.

12 THE COURT: Would you please hand it to the bailiff.

13 (Whereupon, the jury foreman complied.)

14 THE COURT: Alright. Madam clerk, if you would please
15 publish.

16 THE CLERK: Yes, sir. Your Honor, in the case of
17 2010-GS-23, pardon me, 4509, 4510 and 4508 the State of South
18 Carolina vs. Korey Lamar Love; number one, as to the charge of
19 murder we, the jury, find the defendant guilty; as to the
20 charge of attempted armed robbery, we, the jury, find the
21 defendant guilty; as to the charge of possession of a weapon
22 during the commission of a violent crime, we, the jury, find
23 the defendant guilty; as to the charge of possession of a
24 pistol by a person under 18 years of age, we, the jury, find
25 the defendant guilty. I certify this decision was a unanimous

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1 decision of the jury and is signed by Mr. Smith or foreperson.
2 Ladies and gentlemen, if you all agree these are the verdicts
3 you've reached in your deliberation room, would you please
4 raise your right hand.

5 (Whereupon, the jurors raised their right hands.)

6 THE CLERK: Thank you.

7 THE COURT: Anything further of the jury from the State?

8 MS. SEAY: No, sir.

9 THE COURT: From the defense?

10 MR. SMITH: Just the, uh, motions, uh, post-motions but
11 nothing else.

12 THE COURT: Okay, we'll we'll -- alright, Mr. Foreman,
13 ladies and gentlemen of the jury, I wanna thank you very much
14 for your service, done incredible hard work and I hope that
15 you perhaps not right this moment but in the near future will
16 appreciate the significance of the hard work you performed.
17 There was no other way to resolve this issue than to call upon
18 you all to come listen to the evidence and make this decision
19 which resolved this this case so I thank you very much for
20 your service, excuse you all to your jury room and, Mr. Smith,
21 we do need to get you to sign some documents so you all are
22 welcome to stay and watch sentencing or you're welcome to wait
23 in your jury room, whatever you prefer, okay. Alright. State
24 have the sentencing sheets?

25 MS. SEAY: Yes, sir, I'll be just a moment please.

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1 (Whereupon, some jurors left the courtroom.)

2 (Pause.)

3 THE COURT: Mr. Smith, you wanna go ahead and make ---

4 MR. SMITH: Yes, sir, ---

5 THE COURT: --- your motions?

6 MR. SMITH: --- Your Honor, may it please the Court.

7 THE COURT: Yes.

8 MR. SMITH: Your Honor, at this time we make a, uh, a
9 motion for a directed verdict or judgment notwithstanding the
10 verdict or a motion for a new trial. We believe that the, uh,
11 evidence showed a lack of evidence in terms of any physical
12 evidence to corroborate any of the witnesses who offered
13 testimony against, uh, Korey Love. Also, the State asked for
14 a direct, a direct testimony charge and I think that the State
15 presented during the closing argument a a circumstantial
16 evidence case, uh, we ask that on that basis also that that
17 the, uh, charges, uh, or a new trial be ordered. Also, we
18 believe that the State's witnesses were wholly incredible and
19 that the, uh, even looking at the officer who made the
20 testimony in regards to the issue of two sets of people
21 running down the street that the fact of the matter is the
22 cars were comin' in two different directions and they did not
23 present that witness to the witness stand. The other issue
24 was that, uh, we renew is the issue where the the lady, uh, at
25 the polygraph test we couldn't introduce the, uh, polygraph